

.Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	13.07.2015	<p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Appeal No.1419/2013</p> <p>1. Service Appeal No. 1419/2013, Sadam Hussain 2. Service Appeal No. 1420/2013, Muhammad Jamil Versus The Regional Police Officer, Mardan Region, Mardan.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Ashraf Ali Khattak, Advocate) and Government Pleader (Mr. Ziaullah) with Ijaz Hussain, SI (Legal) for the respondents present.</p> <p>2. The appellant Saddam Hussain in Service Appeal No. 1419/2013 was enlisted as Constable on 05.04.2013, whereas the appellant Muhammad Jamil in Service Appeal No. 1420/2013 was absorbed as Constable by DPO Nowshera vide order dated 01.04.2010. The said orders of enlistment/ absorption was cancelled vide order dated 30.5.2013. Departmental appeals of the appellants were also rejected by the appellate authority vide order dated 02.10.2013, hence these service appeals which in view of the common facts and legal points involved are proposed to be disposed of by way of this single judgment.</p> <p>3. Appellant Sadam Hussain was enlisted as Constable whereas the appellant Muhammad Jamil was absorbed from the post of SPO (Special Police Officer) and the record shows</p>

that in total eight enlisted/absorbed official were set at naught by way of the impugned order. However, before this Tribunal these two appeals have come up and the rest have not filed any appeals.

4. The learned counsel for the appellant submitted that without any codal formalities of charge sheet, show cause notice, enquiry, the appellants had been penalized. It was further submitted that no chance of hearing was provided to the appellants. It was next contended that the respondent department had shown discrimination. He requested that the appeal may be accepted, the impugned orders may be set aside and the appellant be reinstated into service with back benefits.

5. The learned Government Pleader for the respondents resisted the appeals on the ground that enlistment/absorption of all the officials were made in violation of the rules and regulations which could not be actualized, therefore, the department deemed it proper to cancel the same. He further submitted that no any wrong or a number of wrong can be made basis to justify a legal order. While denying allegations of discrimination he also submitted that the appeals may be dismissed.

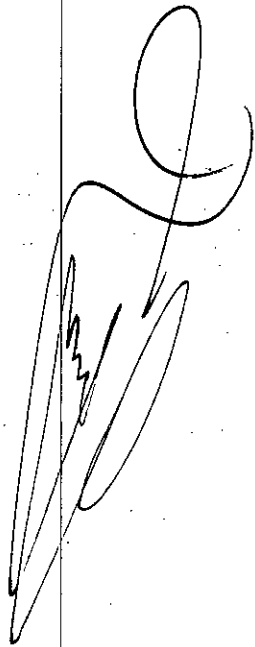
6. We have heard parties through their learned counsel for the appellant and learned Government Pleader and perused the record with their assistance.

7. Fortunately DPO Nowshera in his impugned order

dated 30.5.2013 has given reason for cancellation of his previous order dated 05.4.2013. For facility of reference, relevant para-2 of the same is reproduced here below:-

“Their sources- 1&2 were submitted to the Local Audit Office which were returned vide his office Memo: No. DAO/2511 dated 13.5.2013, with the observations i.e. providing advertisement in News Papers, Constitution of Departmental Selection Committee, clarification of vacancies in the Budget Book and counter-signature of sources- 1&2 by the present DPO Nowshera & after scrutiny, it was found that all the above mentioned enlistment/absorption orders were issued contrary to the Police Rules and other rules and regulations on the subject.”


8. It is thus evident that no Departmental Selection Committee was constituted and that the enlistment/absorption were not made in accordance with the rules and regulations. The record does not show that in pursuance of enlistment/absorption orders, the appellants had ever assumed charge of their duties. The Tribunal is of the considered view that the impugned order was not made under rules entailing disciplinary proceedings because charges of inefficiency or mis-conduct on the part of the appellants were not involved but due to lack of non-observance of codal formalities, such enlistment/absorption orders of the appellants came under objection by the Audit Department. The Audit Department has not been made a party in these appeals. The above situation in view, this may be observed by this Tribunal that appellants were not proceeded against under the E&D rules but under Section 15 of the General Clauses Act, 1956 wherein the competent authority could cancel/withdraw its previous orders if the same were not in accordance with the law/rules.



Perusal of order of the appellate authority shows that opportunity of personal hearing was also provided to the appellant. Hence to conclude the discussion it is held that the appeals being devoid of the legal force are liable to be dismissed. Dismissed accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

13.07.2015.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

23.1.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Counsel for the appellant requested that the case may be fixed for arguments and he will submit rejoinder in the meantime. Request is accepted. To come up for arguments on 13.7.2015. Rejoinder, if any, in the meantime.


MEMBER

19.06.2015

Appellant with counsel and Assistant A.G for respondents present. Arguments of the learned counsel appellant heard. Learned Assistant A.G pointed out that appeal of one Muhammad Jamil has been fixed for 13.7.2015 and the present being identical case may also be fixed for arguments on the said date. Request is accepted. To come up for arguments alongwith connected appeal on 13.7.2015.


Member


Member

13.07.2015

Appellant with counsel and Mr. Ziaullah, GP with Ijaz Hussain, SI (Legal) for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day and placed on file, this is dismissed. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
13.07.2015


MEMBER


MEMBER

24.6.2014

Appellant with counsel and Mr. Hidayat Shah, Inspector (Retd.), representative on behalf of respondents with Mr. Muhammad Jan, G.P present. Written reply received, but the reply bears signature of CCPO, Peshawar instead of Regional Police Officer, Mardan, beside DPO Nowshera; as copy of the appeal received by the respondents had CCPO, Peshawar as respondent No.1. The learned counsel for the appellant explained that they had prepared the appeal impleading CCPO, Peshawar as respondent No.1 ^{but} when they came to know that the appellate authority in the case was Regional Police Officer, Mardan Region, Mardan, the appeal was redrafted which was lodged in the Tribunal but inadvertently copies of the earlier drafted appeal were provided with the appeal which were sent to the respondents alongwith notices. The written reply was therefore returned to the respondents with copies of the appeal for written reply/comments alongwith connected appeal on 16.10.2014.


Chairman

16.10.2014

Appellant in person and Mr. Ijaz Hussain, S.I (Legal) on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Written reply received on behalf of the respondents, copy whereof is handed over to the appellant for rejoinder alongwith connected appeal on 23.01.2015.


Chairman

Appeal No. 1419/2013
Mr. Saad Hussain

01.01.2014

Appellant with counsel present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned the order of respondent No.1 dated 02.10.2013 vide which the departmental appeal of the appellant against the order of respondent No.2 dated 30.05.2013 was rejected. Perusal of the case file reveals that the appellant was initially appointed as Constable vide order dated 05.04.2013, however vide order dated 30.05.2013 the appointment order of the appellant was canceled on the ground that the same was issued contrary to the Police Rules and other rules and regulations on the subject.

Appellant deposited security & process fee Rs 160/- Bank receipt is attached with file

Shed
1108

The instant appeal filed by the appellant on 09.10.2013 is within time and the matter required further consideration, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 27.03.2014.

Member

01.01.2014

This case be put before the Final Bench I for further proceedings.

Chairman

27.3.2014



Appellant with counsel and Mr. Hidayat Shah, Inspector (legal) on behalf of respondents with Mr. Ziaullah, G.P present. Written reply has not been received. To come up for written reply/comments positively, on 24.6.2014.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1419/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/10/2013	<p>The appeal of Mr. Sadam Hussain resubmitted today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	28-10-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>1-1-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Saddam Hussain son of Umer Gul received today i.e. on 09.10.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Heading of the appeal is incomplete which may be completed.
- 2- Address of the appellant is incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Annexures of the appeal may be attested.
- 4- Departmental appeal having no date, be dated.
- 5- Copy of rejection order of departmental appeal dated 30.5.2013 mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 1432 /S.T,

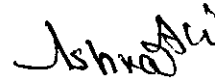
Dt. 10/10 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ashraf Ali Khattak Adv. Pesh.

Re - submitted.

1. Re - submitted after completion.



BEFOR THE K.P.K SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1419/2013

Sadam Hussain S/o Umer Gul
R/o Wazir Garhi District
Nowshera
.....Appellant

Versus

The Regional Police Officer
(CCPO), Peshawar Region and
one other and others
.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-3
2.	Affidavit			4
3.	Copy of Testimonials		A	5-8
4.	Copy of appointment Order	05-04-2013	B	9
5.	Copy of extract from service book		C	10-13
6.	Copy of impugned cancellation order	30-05-2013	D	14
7.	Copy of departmental appeal		E	15-16
8.	Copy of Rejection Order	02-10-2013	F	16
9.	Islakalatnama			

S Hussain
Appellant

Through

Ashraf Ali Khattak

And

Nawaz Khan Khattak
Advocates, Peshawar
Cell:0332-9931676.

Dated: _____ / 10/ 2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1419 /2013

Ex-Constable Sadam Hussain S/o Umer Gul No.29 R/o
Wazir Garhi District NowsheraAppellant.

1450
09-10-13

Versus

1. The Regional Police Officer Mardan Region, Mardan.
2. The District Police Officer, Nowshera
.....Respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
ACT, 1974 AGAINST THE FINAL ORDER OF
RESPONDENT NO 1 DATED 02-10-2013, WHO VIDE
THE SAME REJECTED THE DEPARTMENTAL
APPEAL OF THE APPELLANT PREFERRED
AGAINST THE ORDER DATED 30-05-2013 OF THE
RESPONDENT NO.2 AND SET ASIDE THE SAME BY
RE INSTATING THE APPELLANT WITH ALL BACK
BENEFITS.

Respectfully Sheweth,

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

1. That appellant is the offspring of a poor family and qualified to be enlisted as constable as per minimum prescribed qualification in the Police Force (Annexure-A).
2. That appellant was enlisted as constable vides order dated 05-04-2013 (Annexure-B) on regular basis and his service book was also maintained (Annexure-C). Appellant after successfully going through the prescribed nomination was

Co-submitted to
and filed.

22/10/13

post at Police Line, Nowshera.

3. That respondent No.2 vide Order dated 30-05-2013 (Annexure-D) cancelled the appointment order without any legal and justifiable reason and without providing any opportunity of defense to the appellant.
4. That being aggrieved from the cancellation Order, appellant submitted appeal (Annexure-E) before the respondent No.1, who vide order dated 02-10-2013 (Annexure-F) maintained the order of respondent No.2 dated 30-05-2013.
5. That petitioner, being aggrieved of the impugned order and the acts and actions of Respondents and having no other adequate and efficacious remedy, files the instant Service Appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated Appellant 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. Appellant has been appointed on regular basis therefore, he had Constitutional Safeguards and is not governed by principle of master and servant, as he is possessor of a legal character and for the enforcement of which he can bring an action....Employer in such cases would be bound to follow the procedure provided for, in the statute and statutory rules before terminating the service of the employee...In absence of conformity to such procedure, the termination of service will not be clothed with validity and the employee would be entitle to an action for his re instatement. On this score the impugned order of termination/cancellation is liable to be set aside.
- B. That to complete the procedural formalities was the duty of departmental authorities and employee could not be blames for any lapse on the part of employer. In the instant case if there is/was any procedural lapse on the part of respondents; appellant could not be blamed for the same, rather action should have been taken against those who have made such negligence.

but no head has been paid and rejected by respondent No.2 vide order dated 30-05-2013 (Annexure-F).

5. That petitioner, being aggrieved of the impugned order and the acts and actions of Respondents and having no other adequate and efficacious remedy, files the instant Service Appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated Appellant 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. Appellant has been appointed on regular basis therefore, he had Constitutional Safeguards and is not governed by principle of master and servant, as he is possessor of a legal character and for the enforcement of which he can bring an action....Employer in such cases would be bound to follow the procedure provided for, in the statute and statutory rules before terminating the service of the employee...In absence of conformity to such procedure, the termination of service will not be clothed with validity and the employee would be entitle to an action for his reinstatement. On this score the impugned order of termination/cancellation is liable to be set aside.
- B. That to complete the procedural formalities was the duty of departmental authorities and employee could not be blames for any lapse on the part of employer. In the instant case if there is/was any procedural lapse on the part of respondents; appellant could not be blamed for the same, rather action should have been taken against those who have made such negligence.
- C. That the principle of Locus Poenitentiae is fully applicable in the case of appellant. A regular order of appellant's appointment has been issued and the same has been acted upon, therefore, the same cannot be cancelled or withdrawn subsequently.
- D. That appointment order of probationer could not be cancelled arbitrarily; appellant is/was entitled for show cause

- C. That the principle of Locus Poenitentiae is fully applicable in the case of appellant. A regular order of appellant's appointment has been issued and the same has been acted upon, therefore, the same cannot be cancelled or withdrawn subsequently.
- D. That appointment order of probationer could not be cancelled arbitrarily; appellant is/was entitled for show cause notice and fair opportunity of defense.
- E. That appellant is jobless since his termination/cancellation Order therefore, entitle for back benefits.
- F. That word cancellation has not been used in the service law.
- G. That appellant has been deprived from his service under wrong law and wrong concept of law.
- H. That appellant has been condemned unheard. No show cause or other prescribed procedure has been adopted by the penal authority.
- I. That petitioner would like to seek the permission of this Honourable Court to advance some more grounds at the time of hearing.

For the aforesaid reasons, it is therefore, humbly prayed that on acceptance of this Service Appeal, this Hon'ble Tribunal may graciously be pleased to declare the impugned order is illegal, without lawful authority and void ab initio and set aside the same and also re instate the appellant with all back benefits.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioner.

Through *S. Hussain*
Appellant

and *Ashraf*
Ashraf Ali Khattak

Nawaz
Nawaz Khan Khattak
Advocates, Peshawar.

Dated: _____ / 10/ 2013

BEFORE THE K.P.K SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. _____/2013

Sadam Hussain S/o Umer Gul R/o Wazir Garhi District
Nowshera.....Appellant.

Versus

The Regional Police Officer (CCPO), Peshawar Region and
one otherRespondents.

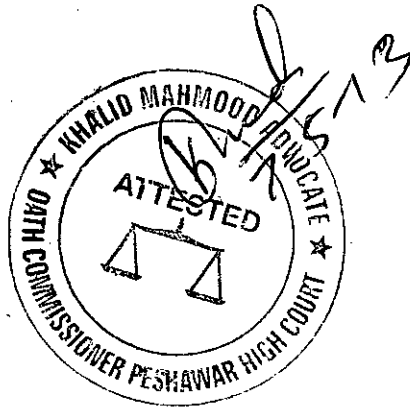
Affidavit

I, Sadam Hussain S/o Umer Gul R/o Wazir Garhi District
Nowshera, do hereby solemnly affirm and declare on oath
that the contents of this Service Appeal are true and correct to
the best of my knowledge, and nothing has been concealed
from this Hon'ble Tribunal.

S Hussain
Deponent

Identified by

Ashraf Ali Khattak
Advocate, Peshawar




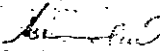
F/Name : Umar Gul
Date Of Appointment : 08 / 04 / 2013
Identification Mark : Nil
Height : 5, 8"
Date Of Issue : 01 / 15 / 2013
Eyes : Black
Bld Group : N/L
**NOWSHERA
POLICE**
DISTRICT POLICE NOWSHERA

Attested
[Signature]
To be true copy,
Advocate

Govt High School Wazir Garhi NSR
CHARACTAR CERTIFICATE

Certified that SADDAM HUSSAIN S/O UMAR GUL
Was a regular student during session 2009-2010 I found him a hard
working student. He bears good moral character.


Head Master
GHS Wazir Garhi
Nowshera

Attested

To be true copy
Advocate



1479

SL. No.

OFFICE OF THE DISTRICT OFFICER REVENUE & ESTATE/COLLECTOR NOWSHERA (DOMICILE CERTIFICATE)

I Declare that I was born of parents who are permanently domiciled in N.W.F.P.
having belonged to it by birth / setteled in it.

I belong by birth to village / Mohallah village WAZIR GHARI

Tehsil NOWSHERA District NOWSHERA

119-17201-2324877-7

Saddam Hussain
Signature of the applicant

Date Dec 2009

No 45
Date 2/01/2010
office of the
District Officer Revenue
Nowshera

Purification dated 30/12/09
filled by Mr/Miss/Ms SADDAM HUSSAIN S/D of UMAR GUL

Domiciled in the N.W.F.P. It is here by certified that the said SADDAM HUSSAIN
is born of parents who are permanent resident of the N.W.F.P. Having belonged to
it by birth / setteled in it.

I have satisfied my self from my ~~personal knowledge~~ / overleaf verification that
the above declaration is true and certify.

This 30 day of Dec 2009

DEPUTY/DISTRICT REVENUE
OFFICER NOWSHERA

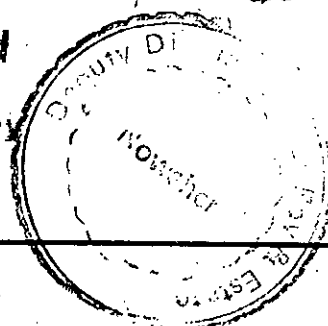
COUNTER SIGNED BY

Attested

To be true copy
Advocate

Saddam Hussain
DISTRICT REVENUE OFFICER
Nowshera

DISTRICT OFFICER
Revenue & Estate Collector
Nowshera



تصدیق کی جاتی ہے کہ کسی ایسی شخصیت کے والدین محمد حسین ولد اختر احمد صاحب محمد علی صاحب کو نوشہ کا رہائشی باشندے ہیں۔

سکونتی باشندہ ہے۔ اور اس کے والدین اشوہر بھی علاقہ مذکورہ کے رہائشی و سکونتی باشندگان ہیں۔ میں ان کو ذاتی طور پر جانتا ہوں۔

محمد اور خان

General Councillor
Union Council Day Basoo
Wasir Garh

پٹواری حلقہ اگر داور سرکل انمبر دار دیہہ ایونین کونسلرز / محلہ دار

12/11/2012

11/11/2012

جناب عالی!

حسب تصدیق اذاتی طور پر جانتا جاتی ہوں کہ

محمد حسین ولد اختر احمد صاحب محمد علی صاحب کو نوشہ کا رہائشی باشندے ہیں۔

میں نے اس شخص کو ذاتی طور پر جانتا ہوں۔ اس کے والدین اشوہر بھی علاقہ مذکورہ کے رہائشی و سکونتی باشندگان ہیں۔

NAZIM

تحصیل دار انائب تحصیلدار انانیم ناظم یونین کونسل

NAZIM
Union Council Day Basoo
Wasir Garh

Attested
To be true copy
Advocate



(8)

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION MARDAN KHYBER PAKHTUNKHWA PAKISTAN

S.No.MB 0069133

Roll No 78133

Enrolment No 1010-B/WGN-08

Group SCIENCE

PROVISIONAL AND DETAILED MARKS CERTIFICATE
SECONDARY SCHOOL CERTIFICATE EXAMINATION
Session 2010 (Annual)



Sadam Hussan

Son/Daughter of Umar Gul

of Institution/District Govt. High School Wazir Garhi Nowshera

has secured the marks shown against each subject in the Secondary School Examination held in the month of March/April as Regular Candidate

Subject	Marks			MARKS OBTAINED					In Words
	Theory	Pract	Total	9Th		10Th			
				Th	Pract	Th	Pract	Total	
1. English	75	-	150	25	-	41	-	66	Sixty-Six
2. Urdu	75	-	150	54	-	58	-	112	One Hundred Twelve
3. Islamiyat (Comp)	75	-	75	36	-	-	-	36	Thirty-Six
4. Pakistan Studies	75	-	75	-	-	41	-	41	Forty-One
5. Physics	65	10	150	35	9	30	5	79	Seventy-Nine
6. Chemistry	65	10	150	29	7	48	5	89	Eighty-Nine
7. Biology	65	10	150	40	8	30	7	85	Eighty-Five
8. Maths	75	-	150	40	-	36	-	76	Seventy-Six

Total 1050

584-C Five Hundred Eighty-Four Only

Date of Birth (In Figures) 13 January, 1994

(In Words) Thirteen, January, One Thousand Nine Hundred Ninety-Four

Remarks

Prepared by [Signature]

Result Date 16-JUN-10

Checked by

Issue Date 15-JUN-10

Note:- Error & Omissions are excepted. Any mistake in above particulars must be intimated within 30 days after declaration of result.

[Signature]
Controller of Examinations
BISE Mardan

Attested

[Signature]
To be true copy
Advocate

Admit - B



Admit B₃

ENLISTMENT ORDER

(9)

Mr. Sadam Hussain s/o Umar Gul r/o Wazir Garhi PS Pabbi District Nowshera is hereby enlisted as constable time scale on three year probation period in BPS-05, with effect from 4/4/08 and allotted constabulary No. 29.

His particulars are as under:-

Height 5 Feet 7 1/2 inch

Chest 33 X 34 1/2

Date of Birth 13-01-1994

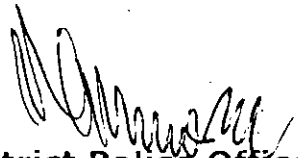
Age on enrolment year 19 Months 02 Day 21

Qualification 10th

His services are purely on temporary basis and would be liable to terminate at any time without any notice.

OB No. 456

Dated 5.4 /2012

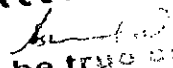

District Police Officer,
Nowshera

OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA

No 3902-7 /OHC, Dated Nowshera the 08-04 /2012.

Copy to the:-

- 1 District Accounts Officer, Nowshera.
- 2 Accountant.
- 3 E,C NSR.
- 4 F.M.C, NSR.
- 5 G.H.C

Attested

To be true copy
Advocate

CHARACTER AND SERVICE ROLL OF

CONSTABULARY NO. (29) in Nowshera

DISTRICT

CONSTABULARY NO. () in

DISTRICT

CONSTABULARY NO. () in

DISTRICT

1	Name	Father's Name	Tribe or Caste	Village or Town	Post and Telegraph Office	Police Station	District	Province	Date of Birth	Height	Chest Measurement	Date of Enrolment	Age on Enrolment	Distinctive Marks
	Sadeem Hussein	Umair Gul	Afghan	Wazir Gherhi		Perbi	Nowshera	K.P.K	13-01-1994	5-7 1/2	33 x 34 1/2	04-04-2013	21 02 19	
2.	Verification Roll No.		Dated		Received back and attached to the Fauji Misal									
3.	Government Service prior to present employment, which is approved for pension service.													
	Service or Department	Rank or Grade	Pay of last appointment	From	To	Period								
						Years	Month	Days						
4.	Cause of and character on discharge from above service.				Reference to orders approving above service for pension service in the Police Department.									

Agreement. — I understand that I have been appointed under section 7 of the Police Act (V of 1861), and the purport of that section and the provisions of the Act and of the Rules issued under it and now in force, by which my discipline and conduct are governed have been explained to me. I agree to serve faithfully under the provisions of the said Police Act and to obey all lawful orders issued to me by my Superior Officers and undertake not to resign my appointment within three years from the date of my enrolment. I have received a certificate of appointment issued under section 8 of the Police Act (V of 1861).






Date _____

Attested
To be true copy
Advocate

Attested
Signature
Sadeem Hussein

District Police Officer
Nowshera

5. Rolled impression of fingers and thumb of left hand.

Left Little	Left Ring	Left Middle	Left Index	Left Thumb
				

11

CHARACTER AND SERVICE ROLL OF

CONSTABULARY NO. (29) in Nowshera

DISTRICT

CONSTABULARY NO. () in

DISTRICT

CONSTABULARY NO. () in

DISTRICT

1	Name	Father's Name	Tribe or Caste	Village or Town	Post and Telegraph Office	Police Station	District	Province	Date of Birth	Height	Chest Measurement	Date of Enrolment	Age on Enrolment	Distinctive Marks
	Sadeem Hussein	Umair Gul	Afghan	Wazir Gherhi		Perabi	Nowshera	K.P.K	13-01-1994	5-7 1/2	33 X 34 1/2	04-04-2013	21 02 19	
2.	Verification Roll No.		Dated		Received back and attached to the Fauji Misal									
3.	Government Service prior to present employment, which is approved for pension service.													
	Service or Department	Rank or Grade	Pay of last appointment	From	To	Period								
						Years	Month	Days						
4.	Cause of and character on discharge from above service.				Reference to orders approving above service for pension service in the Police Department.									

Agreement. - I understand that I have been appointed under section 7 of the Police Act (V of 1861), and the purport of that section and the provisions of the Act and of the Rules issued under it and now in force, by which my discipline and conduct are governed have been explained to me. I agree to serve faithfully under the provisions of the said Police Act and to obey all lawful orders issued to me by my Superior Officers and undertake not to resign my appointment within three years from the date of my enrolment. I have received a certificate of appointment issued under section 8 of the Police Act (V of 1861).






Date _____

Attested
To be in copy
Advocate

Attested
Signature
Sadeem Hussein

District Police Officer
Nowshera

5. Rolled Impression of fingers and thumb of left hand.

Left Little	Left Ring	Left Middle	Left Index	Left Thumb
				

6. CHARACTER ROLL OF APPOINTMENTS, PROMOTIONS, REDUCTIONS, DISCHARGES, ETC. (Continued)

1 Appointment, promoted, suspended, reduced, discharged, dismissed, resigned or died.	2 To what grade and pay appointed, promoted or reduced.	3 Date	4 No. of District Order	5 Full Signature of Superintendent of Police
	<p>Enlisted as a regular constable time scale on three probation in BPS⁵ (5400-260-1320) purely on temporary basis with effect from 04-04-2013.</p> <p>OB $\frac{454}{5-04-13}$</p>	<p>Pay fixed Rs:- 5400 P.M.</p>		<p><i>[Signature]</i> District Police Officer Nowshera</p> <p>Attested <i>[Signature]</i> To be true copy Advocate</p>

7. TRANSFERS BEYOND THE DISTRICT



1 Date	2 From	3 To	4 Authority for transfer

6. CHARACTER ROLL OF APPOINTMENTS, PROMOTIONS, REDUCTIONS, DISCHARGES, ETC. (Continued)

1	2	3	4	5
Appointment, promoted, suspended, reduced, discharged, dismissed, resigned or died.	To what grade and pay appointed, promoted or reduced.	Date	No. of District Order	Full Signature of Superintendent of Police
	<p>Enlisted as a regular constable time scale on three probation in P.S. (5400-260-1320) purely on temporary basis with effect from 04-04-2013.</p> <p>OB <u>454</u> 5-04-13</p>	<p>Pay fixed Rs. 5400 P.M</p>		<p><i>[Signature]</i> District Police Officer Nowshera</p> <p>Attested <i>[Signature]</i> To be true copy Advocate</p>

7. TRANSFERS BEYOND THE DISTRICT

1	2	3	4
Date	From	To	Authority for transfer

(14)   - D

ORDER

The following person/officials were enlisted/absorbed as constable/Cook Constables/Computer operator Constables/Orderly Constables by the then DPO Nowshera vide this office OB No. mentioned against their names:-

S.No	Name Rank & No.	OB No & date
1. ✓	Sadam Hussain No.29	454 dt:05/04/2013
2. ✓	SPO Noor Ali No.129/895	457 dt:05/04/2013
3. ✓	SPO Muhammad Jamil No.483	473 dt:05/04/2013
4. ✓	SPO Astandyar No.150/135	456 dt:05/04/2013
5. ✓	SPO Hazrat Ali No.44//475	455 dt:05/04/2013
6. ✓	SPO Iltikhar Ahmad No.49/232	472 dt:05/04/2013
7. ✓	SPO Umar Khan No.245	138 dt:30/01/2013
8. ✓	Danish Ahmad Cook No.322	470 dt:05/04/2013

Their sources-1&2 were submitted to the local Audit Office which were returned vide his office Memo. No. DAO/2511 dated 13/05/2013, with the observations i.e. providing advertisement in News Papers, constitution of Department Selection Committee, clarification of vacancies in the Budget Book and counter-signature of sources-1&2 by the present DPO Nowshera & after scrutiny, it was found that all the above mentioned enlistment/absorption orders were issued contrary to the Police Rules and other rules and regulations on the subject.

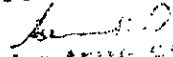
Therefore, all the above mentioned orders are hereby canceled.

OB No. 703
Dated 30/5 /2013.


District Police Officer
Nowshera

No. 5433-36/OHC, dated 20.5. /2013.

Copy to DAO Nowshera, EC, PO and FMC for information and necessary action.

Attested

To be true copy
Advocate



Annex (E)

BEFORE THE HON'ABLE CAPITAL CITY POLICE OFFICER, PESHAWAR.

Representation against
order No.5433-36 dt. 20.5.2013.

Respected Sir,

With profound veneration and due regard, I respectfully submit the following few justifications for sympathetic consideration:-

- 1- I belong to respectable family of village Wazir Garhi and possess the qualification of Higher Secondary Education with good physique and good repute.
- 2- I applied for the post of constable and after fulfilling all the prescribed criteria, I was enlisted as constable time scale on 03 years probations with allotting constabulary No.29.
Vide O.B No.454 dated 5.4.2013.
- 3- On my enlistment, I joined my duty and reported arrival in Police Lines Nowshera on 5.4.2013 and started my duties.
- 4- The worthy District Police Officer Nowshera with a single pin stroke cancelled the order of enlistment vide OB No.703 dt.30.5.2013, without my personal hearing.
- 5- While appointing me, the competent authority if not followed the codal formalities meant for enlistment was the subject issue for him i.e. competent authority and nothing adverse effect. can be attributed to me.
- 6- I am a poor young boy and on enlistment was the earning source of my family but removal from service has caused irreparable loss to me and my family.
- 7- I should not be punished for the act and irregularity, committed by the competent authority.

In view of above, it is humbly prayed that I may kindly be re-instated in service.

Yours Obediently,

S Hussain

(Sadam Hussain)

s/o

Umar Gul r/o Wazir Garhi.

Attested

[Signature]
To be true copy
Advocate

ORDER ANX - F



16

This order will dispose-off the appeals preferred by the following Ex-Police Officials of Nowshera District Police against the order of their dismissal from service passed by the District Police Officer, Nowshera vide OB: No. 703 dated 30.05.2013.

1. Ex-Constable Computer Operator Danish Ahmad No. 322
2. Ex-Constable Saddam Hussain No. 29
3. Ex-SPO Muhammad Jamil No. 483

Brief facts of the case are that these officials were enlisted/absorbed in different category by the then District Police Officer, Nowshera detail below:-

1. Sadam Hussain No. 29 OB: No. 454 dated 05.14.2013.
2. SPO Muhammad Jamil No. 483 OB: No. 473 dated 05.04.2013
3. Danish Ahmad Cook No. 322 OB: No. 470 dated 05.04.2013.

Their sources-1&2 forms were submitted to the local Audit office which were returned vide his office Memo: No. DAO/2511 dated 13.05.2013, with the observations for providing advertisement in News papers, constitution of Department Selection Committee, clarification of vacancies in the Budget Book and counter signature of sources-1&2 by the present DPO Nowshera & after scrutiny, it was found that all the above mentioned enlistment /absorption orders were issued contrary to the Police rules/other rules and regulations on the subject. Therefore, all the above mentioned orders were cancelled.

I have perused the record and also heard the appellants in person in Orderly Room held in this office on 25.09.2013. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeals and do not interfere in the order passed by the competent authority vide OB: No. 703 dated 30.05.2013, thus the appeals are filed.

ORDER ANNOUNCED.

(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 6445 /ES, Dated Mardan the 02 /10 /2013.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office memo: No. 4341/PA dated 09.09.2013. They may be informed accordingly.

Their Service Roll & Service Book are returned herewith.
Service Roll 03 ✓
Service Book 01 ✓

(*****)

Attested
To be true copy
Advocate

Attested
District Police Officer
Nowshera

Accepted
J. Hussain
8/11/71

Accepted

Accepted

13

وہی ہے جس نے ... اس کے لئے ...
بہتر ہے ... اس کے لئے ...
جس نے ... اس کے لئے ...

جس نے اس کے لئے

جس نے اس کے لئے

جس نے اس کے لئے

جس نے اس کے لئے

J. Hussain

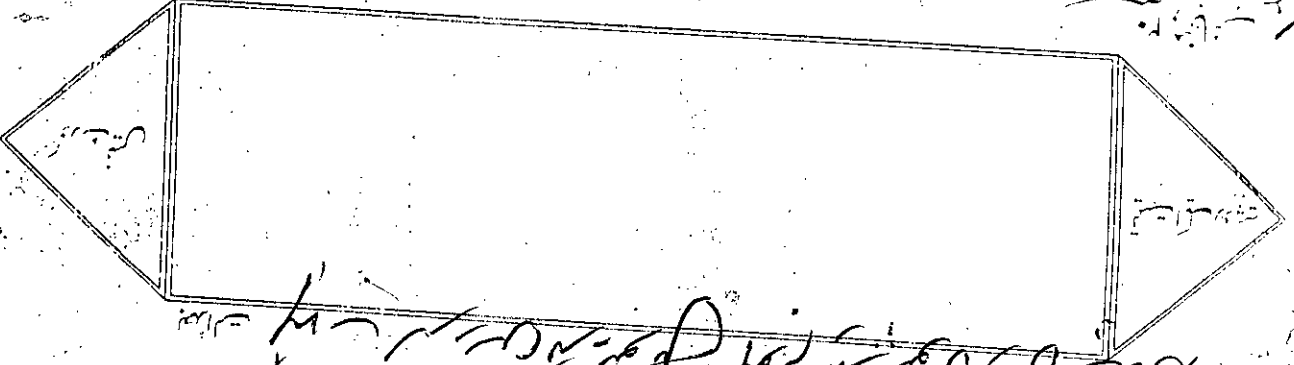
J. Hussain

جس نے اس کے لئے



جس نے اس کے لئے

جس نے اس کے لئے



جس نے اس کے لئے

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

SERVICE APPEAL NO.1419/2013

Sadam Hussain S/o Umer Gul r/o Wazir Garhi District
Nowshera.....Appellant.

Versus

The Regional Police Officer, Mardan Region Mardan and
othersRespondants.

Preliminary objections

Preliminary objections raised by answering respondents are erroneous and frivolous as having no factual and legal backing. The answering respondents have failed to explain as why appellant has got no cause of action and locus standi; how the appeal suffers from limitation and laches; how appellant is estopped by his conduct, how the appellant is not an aggrieved person within the meaning of section 4 of the Service Tribunal Act, 1974 and how the appeal is not maintainable; what material facts have been concealed by the appellant and why the appeal is not maintainable; why the appeal liable to be dismissed in limini. No plausible explanation has been provided/submitted by the answering respondents? No specific and due objection regarding the controversial question of fact involved in the instant service appeal has been raised therefore, appellant is unable to submit proper rejoinder to the preliminary objection raised by the answering respondents.

Facts:

1. That reply to Para No.1 & 2 of the appeal by the answering respondents is incorrect, hence denied. The respondents have failed to point out any rules or law which has been violated while enlistment of the appellant in regular policy. Probationary period does not mean to through out any employee with any fault on his part and without affording him opportunity of being heard.

2. That reply to Para No.3 of the appeal by the answering respondents is incorrect, hence denied. The respondents have failed to point out any sort of reservation of Local Audit Officer. The question is what was the observation of Local Audit Officer? Whether the observation has been scrutinized as per requirements of law and rules? What law and rules have been violated while enlisting the appellant in regular police? So far the annexure-a of the reply is concerned it humbly submitted that the District Account Officer has required certain documents i. e (i) Advertisement (ii) Minutes of the DPC meeting (iii) Countersigned of the DPO (iv) budget book regarding the cook constable and computer operator. More over it is also not mentioned that against whom the said requirement has been asked?

3. That reply to Para No.4 of the appeal by the answering respondents is incorrect, hence denied. The departmental appeal of the appellant has been rejected in violation of Rule No.5 of the appeal rules, 1986.



[Handwritten signature]
Deponent

conceded from this Hon'ble Tribunal
of my knowledge and belief and nothing has been
contents of this report are true and correct to the best
District Magistrate and declare on oath that the
I Sadaiah Hussain S/o Sumer Chai No Warar Chari

Witness

Date: _____ 08/12/2012

Tribunal

Advocate, Bangalore
A Sri Aji Krishna

Appellant
[Handwritten signature]

court
the appeal is filed for may functionally be accepted with
answering respondents may functionally be rejected and
It is, therefore, humbly prayed that the reply of
authorities
employees could be penalized for the act of
employing him in regular police. How could a petty
person, who has not done any wrong while
justice would permit any person to penalized the
If it is not then whether the rule of law is really
satisfied and been penalized for such illegal...
appeal in regular police has been proceeded
for violation of law and rules while employing the

4. That No plausible reply has been submitted by the answering respondents in response to Para No.5 of the appeal, hence the contention of the respondents are denied in toto.

Grounds:

A-G: The replies to grounds A-G of the appeal are mere repetition of the facts, hence no need of further elucidation. Appellant rely on his grounds already submitted in his memo of appeal.

The question is, whether the available record establishes the contention of the respondents? The respondents have failed to establish!

- i). Violation of any law and rules in the enlistment of appellant in regular police.
- ii). Termination of appellant during the course of probationary period is not a valid ground in the eyes of law, justice, fair play, equity and law laid down by the Honourable Supreme Court of Pakistan.
- iii). The so called observation is not on ground. What kind of observation has been made by the Local Audit officer?
- iv) What sort of scrutiny has been adopted by the answering respondents, while re-opening the enlistment of the appellant? And
- v). what law and rules have been violated by the answering respondents?

Whether there is any evidence on court file which could show that the authority, who is responsible

for violation of law and rules while enlisting the appellant in regular police has been proceeded against and been penalized for such illegality.....!

If it is not than whether the rule of law, fair play, justice would permit any person to penalized the person, who has not done any wrong while enlisting him in regular police. How could a petty employee could be penalized for the act of superior?

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Sadique

Appellant

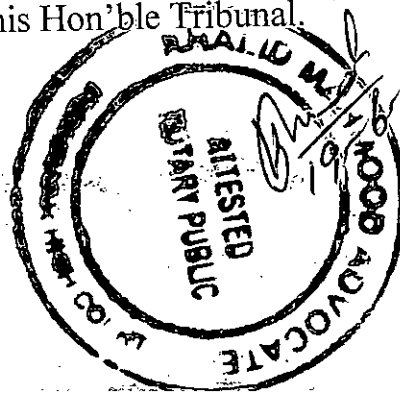
A. Ali Khattak

Ashraf Ali Khattak
Advocate, Peshawar.

Dated: _____ / 06/ 2015

Affidavit

I, Sadam Hussain S/o Umer Gul r/o Wazir Garhi District Nowshera affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

Sadique

ENLISTMENT ORDER

In compliance of the order of Provincial Police Officer Khyber Pakhtunkhwa Peshawar vice his office Endst: No.28737/E-II, dated 21-11-2013. Maulana Sajjad Khan s/o Sar Zamin Khan r/o Moh: Bazar Khat Kallay PS Aza Khel District Nowshera is hereby enlisted as Constable time scale on three year probation period in BPS-05, with effect from 28-11-2013 and allotted constabulary No. 372.

He will work as Inam Masjid Police Lines Nowshera.

His particulars are as under:-

Height 5 Feet 5 1/4 inch
Chest 36 1/2 X 37 1/2
Date of Birth 06-01-1983
Age on enrolment year 30 Months 10 Day 22
Qualification F.A

His services are purely on temporary basis and would be liable to terminate at any time without any notice.

OB No. 189P

Dated 29.11. /2013


District Police Officer,
Nowshera

OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA

No. 1028-31 /OHC, Dated Nowshera the 3-12- /2013.

Copy to the:-

- 1 District Accounts Officer, Nowshera.
- 2 Accountant.
- 3 E,C NSR.
- 4 F.M.C, NSR.

(6)

ORDER

Mr. Sohail Khan s/o Sher Dad Khan R/o Jan. Abad, Pir Pai Tesil & District Nowshera is hereby appointed as skilled Constable in BPS No. 5 (5400-260-12940) with usual allowances, with immediate effect; subject to the Medical fitness and local verification of Character/antecedents.

On the appointment he is transferred to Nowshera District.

Awal Khan

(AWAL KHAN)

DIG/HQrs:

For Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar

No. 11050-S/ET dated Peshawar the 14 / 5 /2013.

Copy of above is forwarded for information to the:-

1. PSO to Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Mr. Sohail Khan s/o Sher Dad Khan R/o Jan Abad Pir Pai Tesil & District Nowshera

10/11/13