


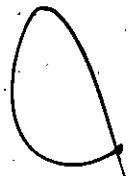
23rd May, 2023

1. Learned counsel for appellant present. Mr. Muhammad Jan,
District Attorney for respondents present.

2. Learned counsel for appellant made a request 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


10th July, 2023

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

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

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Fazle Subhan P.S


182/19

10.02.2023

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

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

SCANNED
KPST
Peshawar


(FAREEHA PAUL)
Member (E)


(ROZINA REHMAN)
Member (J)

26.04.2023

Appellant present through counsel.

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

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

SCANNED
KPST
Peshawar


(Rozina Rehman)
Member (J)

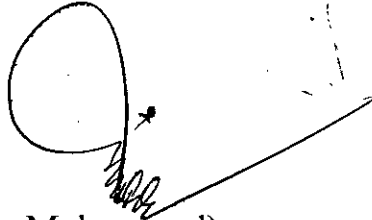
Mutazem Shah

22.12.2022


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

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

SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

04.01.2023

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

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

SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



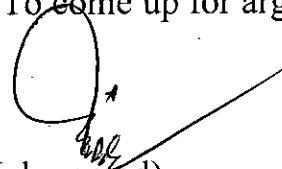
(Salah-Ud-Din)
Member (J)

08.12.2022

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

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

SCANNED
MUST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

13.12.2022

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

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



(Fareeha Paul)
Member (E)

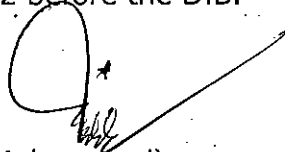


(Rozina Rehman)
Member (J)

20.09.2022

Ms. Uzma Syed, Advocate junior of learned counsel for the appellant present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 30.11.2022 before the D.B.



(Mian Muhammad)
Member (E)

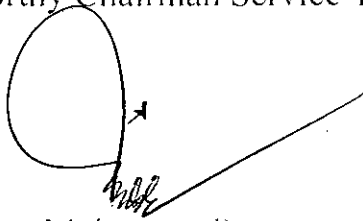


(Salah-Ud-Din)
Member (J)

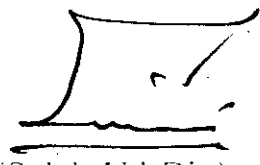
30.11.2022

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

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



(Mian Muhammad)
Member (E)




(Salah-Ud-Din)
Member (J)


23.06.2022

Junior to counsel for the appellant present:

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former submitted an application for adjournment as senior counsel for appellant is busy before Hon'ble Peshawar High Court, Peshawar. Learned counsel for the appellant had sought time to argue the case on the preceding date as well, where-after, last chance was given. Today he is busy in the High Court, therefore junior counsel for appellant is directed to make sure the presence of senior counsel on the next date positively. To come up for arguments on 19.07.2022 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

19.07.2022

Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Former made a request for adjournment as he has not prepared the brief. Adjourned by way of last chance. To come up for arguments on 20.09.2022 before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

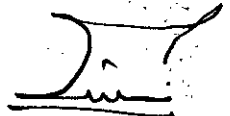
01.02.2022

Clerk of learned counsel for the appellant present. Mr. Arif Saleem, Steno alongwith Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 12.05.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

ORDER
12.05.2022

Deleted. for reconstitution of Bench. To come up for order on 26.05.2022.



Reader.

26th May, 2022

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

Learned counsel for the appellant seeks time to argue the case on the next date. Adjourned but as a last chance. To come up for arguments on 23.06.2022 before D.B.



(Fareeha Paul)
Member(E)





(Kalim Arshad Khan)
Chairman

29.06.2021

Mr. Saad Ullah Khan Marwat, Advocate, for the appellant present. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Arif Saleem Stenographer for the respondents present.

We being Members of Larger Bench, remained busy in hearing arguments in the appeals fixed before the Larger Bench, therefore, arguments in the instant appeal could not heard. Adjourned. To come up for arguments before the D.B on 21.10.2021


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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

21.10.2021

Counsel for appellant present.

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

Request for adjournment was made on behalf of learned counsel; granted. To come up for arguments on 01.02.2022 before D.B.


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

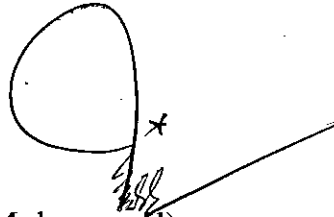

(Rozina Rehman)
Member (J)



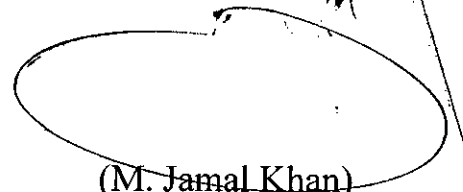
04.01.2021

Miss. Uzma Syed, Advocate counsel for the appellant present. Additional AG alongwith Mr. Arif Saleem, Steno for respondents present.

At the opening of the case at the very outset, the learned Additional AG referred to the impugned order dated 02.03.2012 which has been made efficacious ex-post-fictively and since the issue involved is pending adjudication before the larger bench of this Tribunal, therefore, it would be appropriate to adjourn the present appeal till the decision on the matter by the larger bench. Till then the case is adjourned to 29.03.2021 for further proceedings before D.B.



(Mian Muhammad)
Member(E)



(M. Jamal Khan)
Member(J)

29.03.2021

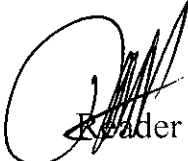
The concerned D.B is not available today, therefore, the appeal is adjourned to 29.06.2021 for the same.



Reader

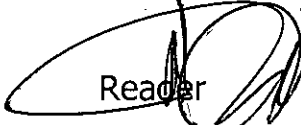
10.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 24.08.2020 before D.B.


Reader

24.08.2020

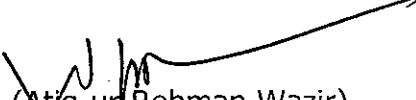
Due to summer vacation case to come up for the same on 28.10.2020 before D.B.


Reader

28.10.2020

Junior to counsel for the appellant and Addl. AG alongwith Arif Saleem, ASI for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 04.01.2021 for further proceedings before the D.B.


(Atiq-ur-Rehman Wazir)
Member


Chairman

14.11.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 17.01.2020 before D.B



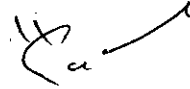
Member



Member

17.01.2020

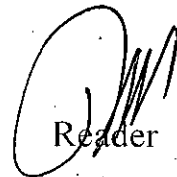
Appellant absent. Learned counsel for the appellant absent. Lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Learned Member (Executive) is not available. Adjourned for 24.03.2020 before D.B.



Member

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 10.06.2020 before D.B.



Reader

06.05.2019

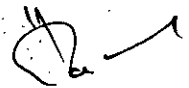
Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Inayatullah, Head Constable for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further time for filing of written reply. Adjourned to 26.06.2019 for written reply/comments before S.B.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

26.06.2019

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Inayat Ullah H.C present. Representative of respondent department submitted written reply/comments. Adjourn. To come up for rejoinder, if any, and arguments on 30.08. 2019 before D.B.



Member

22.03.2019

Learned counsel for the appellant present.
Preliminary arguments heard.

The appellant was enlisted in service in the year 2008. After completion of training in PTC Hangu he was posted in various police station. In the year 2012 he was dismissed from service w.e.f. 28.11.2011 by respondent No. 1. The appellant submitted departmental appeal to respondent No.2 on 20.09.2012 which was rejected on 07.11.2012. The learned counsel for the appellant argued that not only the appellant was dismissed from service on account of absence but many other were also dismissed on the same ground but they all were reinstated vide order dated 30.11.2010, 15.03.2017 and 09.08.2017. Those reinstatement order are placed on file. It was further contended that the dismissal from service was retrospectively apart from converting the absence period as leave without pay which impliedly means that the absence period was regularized as such the very ground of dismissal was regularized rendering the dismissal order as void.

Points raised need consideration. The appeal is admitted for regular hearing. Subject to all legal objections. The appellant is directed to deposit security and process fee within ten (10) days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 06.05.219 before S.B.

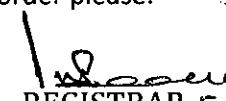

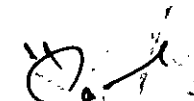
Appellant Deposited
Security & Process Fee


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 182/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/2/2019	<p style="text-align: center;">The appeal of Mr. Sawab Gul presented 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 -</p>
2-	15.03.2019	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;">Learned counsel for the appellant present and seeks adjournment on the ground that similar nature appeals are fixed for 22.03.2019. Adjourn. To come up for preliminary hearing on 22.03.2019 before S.B</p> <p style="text-align: right;"> Member</p>

SCANNED
K-8T
Pesawar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 189 /2019

Sawab Gul (Saub Gul)

versus

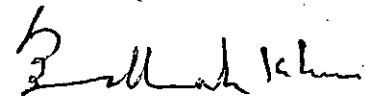
D.P.O & Others

I N D E X

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-3
2.	Dismissal order dated 02-03-2012	"A"	4
3.	Departmental appeal dated 20-09-2012	"B"	5
4.	Rejection order dated 07-11-2012	"C"	6
5.	Reinstatement of other constables	"D"	07-15
6.	Application for condonation		16-17

Appellant

Through



Saadullah Khan Marwat
Advocate.

21-A Nasir Mansion,
Shoba Bazaar, Peshawar.

Ph: 0300-5872676

0311-9266609

Dated.31-01-2019

1

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 1872 /2019

Sawab Gul (Saub Gul)
S/O Sultan Farooq,
R/o Surgul Kohat,
Ex-Constable. No. 1354,
Police Line Kohat Appellant

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 159

Dated 06-02-2019

VERSUS

1. District Police Officer, Kohat.
2. Regional Police Office,
Kohat Region Kohat
3. Provincial Police Officer,
KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST O.B NO. 141 DATED 02-03-2012 OF R. NO.
01 WHEREBY APPELLANT WAS DISMISSED FROM
SERVICE RETROSPECTIVELY OR OFFICE ORDER NO.
NIL / EC DATED 07-11-2012 OF R. NO. 02 WHEREBY
REPRESENTATION OF APPELLANT WAS REJECTED:**

Filed to-day

Q. No. 11
Registrar

6/2/19

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That appellant was enlisted in service in the year 2008 (25-10-2008) as Constable and served the department till the date of removal from service.
2. That appellant was deputed to PTC, Hangu for training in the year 2008 and qualified the same.
3. That thereafter appellant served in various Police Stations for about 4/5 years without any complaint.

4. That on account of absence, appellant was dismissed from service on 00-03-2012 with effect from 28-11-2011 by R. No. 1. (Copy as Annex "A")
5. That thereafter appellant submitted appeal before R. No. 02 on 20-09-2012 for reinstatement in service, which was rejected on 07-11-2012. (Copies as Annex "B" & "C")
6. That not only appellant was dismissed from service on the score of absence but numerous others were also dismissed as such and they were reinstated into their services vide order dated 30-11-2010, 15-03-2017 and 09-08-2017 (Copies as Annex "G")

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

GROUND S:

- a. That appellant was enlisted in service in the year 2008 and served the department till the date of removal from service.
- b. That appellant was ill which medical receipts were submitted before R. No. 01 for necessary action.
- c. That appellant was dismissed from service on 02-03-2012 by R. No. 01 with effect from 28-11-2011 retrospectively. And apart from, absence period was treated as leave without pay meaning thereby that services of appellant were made regularized.
- d. That in the circumstances, the department reinstated numerous constables, etc. into their services and appellant was dropped for no legal reason. The representations of those officials were also not per the mandate of Law.
- e. That similarly and equally placed servants be treated similarly and equally and not to discriminate them inter-se.
- f. That appellant was dismissed from service on the score of absence but such absence was not willful but was due to the compelling circumstances.

- g. That the impugned orders were not served on appellant as is evident from the same. Limitation runs only when the impugned order is served upon the defaulter.
- h. 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.
- i. That no administrative order could be effected with retrospective effect as is done in the case in hand. The impugned orders are ab-initio-void and have no legal effect.
- j. 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 02-03-2012 and 07-11-2012 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.

Sauvik Gul

Appellant

Through

Saadullah Khan Marwat

Saadullah Khan Marwat

Amjad Khan

Amjad Khan
Advocates.

Dated.31-01-2019

ORDER

A 4

This order is passed on the departmental enquiry against Constable Sawab Gul No. 1354 of this district Police under Removal from Service (Special Powers) Ordinance 2000.

Brief facts of the departmental enquiry are that the above named official while posted at Police Lines, Kohat, had absented himself from official duty without any leave or permission from 14.01.2011 to 28.01.2011 and during the enquiry he again absented himself without any leave or permission for the following period:-

- 1 From 01.02.2011 to 04.06.2011 = 04 months and 03 days
- 2 From 28.11.2011 till to date

He was served with charge sheet/summary of allegations and Mr. Mushtaq Hussain, DSP HQrs: Kohat was appointed as Enquiry Officer to proceed against him departmentally. The enquiry officer has submitted his findings and recommended that he is found guilty of the charges leveled against him.

He was served with Final Show Cause Notice and reply of the notice was also perused which was found unsatisfactory.

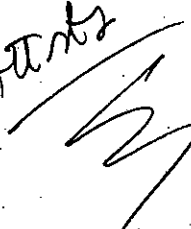
Keeping in view, his Ex Chequer previous service record, his habitual absence, punishments awarded to him for his indifferent insubordination attitude, his present long absence without any leave or permission from his senior officers, the undersigned reached to the conclusion that the official is not interest in his official job, ceased to be inefficient and he is not fit to serve further in the disciplined force like Police department.

He is therefore dismissed from service with effect from 28.11.2011 and his period of absence from 14.01.2011 to 28.01.2011, 01.02.2011 to 04.06.2011 is treated as leave without pay

OB No. 1411

Date 2-03-2012


DISTRICT POLICE OFFICER,
KOHAT

Attends


19.P. 16.P. 3 5

BEFORE THE DEPUTY INSPECTOR GENERAL (OF POLICE
KOHAT REGION, KOHAT

SUBJECT: APPEAL AGAINST THE ORDER OF D.P.O KOHAT BEARING
OB. NO.141 DATED. 02-3-2012 WHEREBY THE APPELLANT
CONSTABLE SAUB GUL NO.1354 OF KCHAT DISTRICT
POLICE WAS DISMISSED FROM THE SERVICE.

Respectfully Shweth,

The appellant submits following for your kind and sympathetic consideration.

Briefly the facts are that the appellant was dismissed from service by DPO Kohat vide the impugned order. (Copy of the order is enclosed)

Grounds:

1. That the appellant was enlisted in police force as constable in the year 2008
2. That the petitioner had produced medical documents before the DPO, Kohat regarding the absence period from 01-2-2011 to 04-6-2011.
3. That the appellant again remained absent from duty w.e.f 28-11-11 till 02-3-2012 due to the sickness of his parents in Sindh. There was none else to have looked after them.
4. That appellant is willing to serve with the assurance that the appellant shall remain punctual in future and serve the department to the entire satisfaction of the seniors.

Prayer:

In view of the above it is requested that the appellant may kindly be reinstated in service w.e.f dismissal and the period of absence counted as leave with out pay.

Dated: 20-9-2012

Yours obediently,

SAUB GUL
Ex-Constable No. 1354
R/O Surgul, Kohat.
P.S. Muhammad Riaz
Shaheed (MRS), Kohat.

Saub Gul

AKAS
[Signature]

C 6

POLICE DEPTT:

KOHAT REGION

ORDER

This order is passed on appeal filed by Ex: constable Saub Gul No.1354 of Kohat district.

Facts arising of the case are that the appellant was proceeded against departmentally by the competent authority (DPO Kohat) on the score of charges absence from duty for the period detailed in the charge sheet issued by the DPO, Kohat. On conclusion of proceedings he was held guilty of the charge, which resulted in his dismissal from service vide DPO ... NO. 507 dated 26.06.2012 and period of absence was treated as leave without pay.

Feeling aggrieved from the above impugned order he preferred the instant appeal on 25.9.2012, requesting therein to set-a-side the impugned order and his re-instatement in service.

The appellant was called in OR held on 07.11.2012, and heard in person, but he failed to advance any plausible explanation for his conduct.

Perusal of his service record revealed that the appellant was enrolled in Police department on 30.10.2008 and during his short span of service he remained absent from duty on 05 other occasions i.e total 107 days besides the absence period for which he was awarded the present punishment. He was awarded different kinds of minor punishment, but he did not improve his attitude towards his service.

Therefore, in view of the above and blemished service record of the appellant, the undersigned came to the conclusion that he was a habitual absentee and did not take interest in discharge of his official duty. Hence the punishment order passed by L. Kohat is commensurate with the charge, based on merits and record, which is upheld, the appeal being time bared and not substantiated is hereby rejected.

Announced
07.11.2012

(MOHAMMAD IMTIAZ SHAH)
PSP,QPM
Dy: Inspector General of Police
Kohat Region, Kohat.

No. _____ /EC dated _____ /2012.

Copy for information to the:

- 1. District Police Officer, Kohat, for information and necessary action.
- 2. Appellant.

✓

(MOHAMMAD IMTIAZ SHAH)
PSP,QPM
Dy: Inspector General of Police
Kohat Region, Kohat

D

D

7

ORDER

WHEREAS as per the approval of the Provincial Police Officer, Khyber Pukhtunkhwa 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 Saif Rehman No. 582
3.	Ex-Constable Muhammad Saeed No. 1543
4.	Ex-Constable Fida Hussain No. 751
5.	Ex-Constable Zia-u-din No. 1581
6.	Ex-Constable Sami Ullah No. 103
7.	Ex-Constable Sadiq Akbar No. 310
8.	Ex-Constable Ayaz Ali No. 1182
9.	Ex-PASI Ijaz Ali No. 35 (Shaheed Son)
10.	Ex-Constable Farman Ali No. 757
11.	Ex-Constable Shaifullah No. 298
12.	Ex-Constable Sher Ali Khan No. 413
13.	Ex-Constable Sahir Hussain No. 1121
14.	Ex-Constable Sharafat Khan No. 776
15.	Ex-Constable Faisal Anwar No. 1091
16.	Ex-Constable Asmat Ali No. 1304
17.	Ex-Constable Niaz Mond No. 822
18.	Ex-Constable Abdul Wadood No. 151
19.	Ex-Constable Muhammad Shoaib 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

Atiq

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24.	Ex-Constable Gul Faraz Khan No. 1512
25.	Ex-Constable Fazal Wadood No. 1238
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 Khattam No. 30
44.	Ex-Constable. Naseer-Ullah Khan No. 1428
45.	Ex-Constable Muhammad Zeb Khan No. 371
46.	Ex-Constable Hayat Mughd Khan No. 143
47.	Ex-Constable Subhan Ullah No. 186/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. 130/RR
53.	Ex-Constable Sher Alam Khan No. 144/RR
54.	Ex-Constable Said Mahmood Jan No. 615
55.	Ex-Constable Muhammad Shoaib No. 615
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 Hayeed 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 Zayin No. 1694
82.	Ex-Constable Riaz Muhammad No. 1467
83.	Ex-Constable Zahid Ullah No. 1394
84.	Ex-Constable Bakht Namroz No. 667
85.	Ex-Constable Mian Said Gul No. 344
86.	Ex-Constable Hidayat Ullah Khan No. 335
87.	Ex-Constable Umar Rehman No. 728
88.	Ex-Constable Gohar Ali No. 625
89.	Ex-Constable Said Azam No. 42/RR
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. 990
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

106.	Ex-Constable Mumtaz Ali No. 62
107.	Ex-Constable Shah Wali Khan No. 1502
108.	Ex-Constable Mion Khalq Jan No. 383
109.	Ex-Constable Luqman Ali No. 95
110.	Ex-Constable Jehan Ali No. 195
111.	Ex-Constable Musharat 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 Arnjid 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 Badshah 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-IC 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 Khatab No. 1109
137.	Ex-Constable Ahmad Ali No. 1318
138.	Ex-Constable Rehmat Ali No. 175
139.	Ex-Constable Iqbal Hussain No. 1486
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

147.	Ex-Constable Zakir Hussain No. 308
148.	Ex-Constable Midrarullah No. 533
149.	Ex-Constable Muslim Khan No. 191/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. 1519
157.	Ex-Constable Sher Hassan Khan No. 685
158.	Ex-Constable Muhd Raq No. 131/RR
159.	Ex-Constable Milan Said Farooq No. 333
160.	Ex-Constable Muhammad Tahir No. 1703
161.	Ex-Constable Bahadur Nawab Khan No. 1635
162.	Ex-Constable Amir Khan No. 1604
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. 1666
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 Salman Asghar No. 1575

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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 Ahmad No. 841
195.	Ex-Constable Barkat Ali Khan No. 190/RR
196.	Ex-Constable Nazir Mahmood No. 1771
197.	Ex-Constable Mohim Bgcha 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 Arif 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 Halder Ali No. 1667
228.	Ex-Constable Badshah Muhammad No. 142/RR



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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 on 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 and 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 period in service but not on duty and he will not be entitled for salary of the intervening period. He will remain under special watch for one year.

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

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

SI/1657-64/17.

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, CPQ.

*Limit only placed
similarly to be treated
Dismissed in 2009
Reinstated by Deptt*

*Appellate
Board
order*

ORDER

This order shall dispose of departmental appeal under rule 21 of Khyber Pakhtunkhwa 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 absented 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.

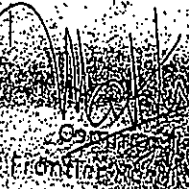
In the light of recommendation of Enquiry Committee and other material available on record he was removed from service by the SP FRP Malakand Range, Swat vide office OB No. 151, dated 14.11.2009.

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, 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. Punjab Province. He further added 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 distinguished service and of a trained soldier, he (Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range) is hereby removed from service and the punishment of major punishment of removal from service is hereby modified and converted into major punishment of deduction in pay as timescale 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 pronounced



From

SP FRP Malakand Range, Swat
No. 21/SC, Dated Peshawar the 27/11/2017

Copy of above is forwarded to the SP FRP Malakand Range, Swat for information and necessary action. His service record same herewith.

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This order shall dispose of departmental appeal under rule 11 of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-constable Taj Bhadar 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 Taj Bhadar 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/arrival for duty nor replied to charge sheet within stipulated period. Thereafter, on 28.04.2009, 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 material available on record he was removed from service by the SP FRP Malakand Range, Swat, vide office OB 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 alongwith his family members were compulsively shifted to other safe place i.e Karachi. He further added that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above, vis-à-vis his unblemished service record, also a trained soldier, he (Ex-constable Taj Bhadar No. 4899 of FRP Malakand Range) is hereby reinstated in service and the punishment of his removal from service is hereby modified and converted into major punishment of deduction in pay as first class 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

Advt
[Signature]

[Signature]

[Signature]
Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshwar

No. 87/13 /EC, dated Peshawar 01/05/2017

Copy of above is forwarded to the SP FRP Malakand Range, Swat for information and necessary action. His service record sent here with.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. _____/2019

IN

S. A. No _____/2017

Sawab Gul (Saub Gul)

versus

D.P.O & Others

APPLICATION FOR CONDONATION OF DELAY:**Respectfully Sheweth,**

1. That applicant filed the subject appeal before this Hon'ble Tribunal.
2. That no order, as is evident from the same was served upon the appellant. Order dated 02-03-2012 was received on 25-08-2012 from the office at personal level.
3. That the impugned order is with retrospective effect, so the same cannot be hit by limitation.
4. That limitation is a technical question, while justice demands to decide the matter on merit and not on technicality, limitation.

It is, therefore, most humbly requested that the delay, if any, be condoned in the interest of justice and the case be decide on merit.

Sawab Gul

Applicant

Through

Saadullah Khan

Saadullah Khan Marwat
Advocate

Date: 31-01-2019

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. _____/2019

Sawab Gul (Saub Gul)

versus

D.P.O & Others

AFFIDAVIT

I, Sawab Gul (Saub Gul), Applicant do hereby solemnly affirm and declare that contents of **Application** are true and correct to the best of my knowledge and belief.

Sawab Gul
DEPONENT

بعدالت جناب سرسٹریٹ ٹریبیونل صوبہ سرحد پشاور

مخاتب ایملٹ
تواگل بنام محکمہ ٹولس رجسٹر
دعوی اپیل

باعضرت سربراہ ایملٹ

© ————— ©

مستندہ سند جسے عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیسٹ اسٹڈی ایڈس خان سرور نے ایڈوکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے باطنی نامہ و تقریر ثالث و فیصلہ بر عطف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی 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 مستثنیٰ نیز دائر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ منکوحہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تکرر کا اختیار ہوگا اور صاحب مقرر شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پورا ساختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و پر جانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا عدت باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔
لہذا نکالت نامہ رکھ دیا کہ سند ہے۔

الرقوم 1/31

العبد
العبد
العبد
محمد کوثر
محمد انیس خان مراد
Sauli Cui
ایڈوکیٹ
ایڈوکیٹ
ایڈوکیٹ

عن رؤیتہ تاریخ
ایڈوکیٹ

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service appeal No. 182/2019
Sawab Gul (Saub Gul)

.....Appellant

VERSUS

District Police Officer, Kohat & others

..... Respondents

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**DISTRICT POLICE OFFICER,
KOHAT**
(Respondent No. 1)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service appeal No. 182/2019
Sawab Gul (Saub Gul)

.....Appellant

VERSUS

District Police Officer, Kohat & others

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments on behalf of respondents are submitted as under:-

Preliminary Objections:-

- a. That the appellant has got no cause of action.
- b. That the appellant has got no locus standi.
- c. That the appeal is not maintainable in the present form and under section 4 of Khyber Pakhtunkhwa, Service Tribunal Act.
- d. That the appellant has not approached this Honorable Tribunal with clean hands.
- e. That the appeal is badly time barred for the period of about **07 years** and liable to be dismissed in limine.

ON FACTS:-

1. Correct to the extent of recruitment of appellant as constable. The remaining para is incorrect, the appellant was found inefficient, habitual absentee. During shot service of about **03 years 02 months**, the appellant remained willful absent from duty on different occasions. List is **annexure A**.
2. Incorrect, the appellant **failed basic recruit training / course** ending term 20.06.2009. Copy is **annexure B**.
3. The appellant was habitual absentee as replied in para No. 1 of the fact.
4. The appellant, willfully absented himself from lawful duty, therefore, proceeded with departmentally, which culminated with his dismissal from service. Copy of charge sheet alongwith statement of allegations are **annexure C & D**.

5. The appellant was dismissed from service on 02.03.2012, while he filed a departmental appeal delayed about 06 month, which was correctly rejected by respondent No. 2, on the grounds of his previous conduct, merit and charge established against the appellant.
6. The list referred by the appellant in this para has no concern with appellant case / appeal, as each and every case has its own merits, facts. Therefore, the case of appellant is distinct with others.

ON GROUNDS:-

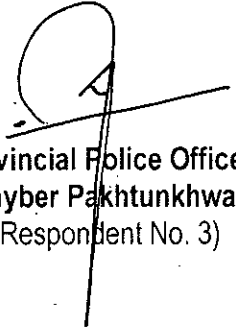
- a. The enlistment of appellant pertains to record. However, the appellant during his initial stage of service about 04 years had willful absented himself from duty on 11 occasions and awarded different kind of punishment. The appellant did not improve his conduct, therefore, lastly, he was a found a burden on public exchequer and dismissed from service.
- b. Incorrect, the appellant participated the enquiry proceeding, wherein he admitted / confessed his willful absence. The appellant took plea of his illness, but did not produce any document / evidence in support of his plea. Copy of reply to charge sheet and show cause notice as **annexure E & F**.
- c. The appellant was a habitual in default for the performance of his duties, which was a serious violation of rules. Moreover, the appellant was serving in a disciplined force. The appellant has no right to claim leave, being an essential service of Police. The conduct of the appellant was detailed / mentioned in enquiry report. Copy of **annexure G**.
- d. Incorrect, the officials reinstated in service referred by the appellant relates to other Region / districts and their cases were distinguish from the appellant. Furthermore, each and every case has its own circumstances/facts, merits.
- e. Irrelevant, reply has been submitted in para No. d of the grounds.
- f. Incorrect, there are numerous bad entries i.e willful absence from duty earned in a short period of about 04 years. The plea of the appellant i.e illness is not substantiated on record, nor the appellant produced any documents during the enquiry proceedings or with the present appeal.
- g. Incorrect, copy of the orders were provided to the appellant, against which the appellant filed mercy petition to respondent No. 3 which was filed on 23.01.2014. This reflects that the appellant was in knowledge of impugned orders, but willfully delayed to file the department 1st appeal and service appeal as well. Copy of respondent No. 3 order is **annexure H**.
- h. Incorrect, the Police service is a disciplined force and an essential service. The appellant willfully violated the rules, by absenting himself on different occasions. Therefore, the act of the appellant was a serious misconduct.

- i. Incorrect, the appellant was proceeded with departmentally, under the law / rules. The orders were passed in accordance with law and rules as well.
- j. Incorrect, all codal formalities were fulfilled during the enquiry proceedings and awarding punishment.

In view of the above and available record, it is submitted that the appeal is devoid of merits, without any substantiate and badly time barred for about 07 years. Therefore, it is prayed that the appeal may graciously be dismissed with cost.


Regional Police Officer,
Kohat
(Respondent No. 2)


District Police Officer,
Kohat
(Respondent No. 1)


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

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 182/2019
Sawab Gul (Saub Gul)

.....Appellant


VERSUS


District Police Officer, Kohat & others

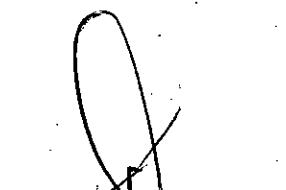
..... Respondents

COUNTER AFFIDAVIT

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


Regional Police Officer,
Kohat
(Respondent No. 2)


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


District Police Officer,
Kohat
(Respondent No. 1)

LIST OF ABSENCE PERIOD OF EX-CONSTABLE SAWAB GUL (SAUB GUL)

S #	Period of absence	Days / months
1.	01.09.2009	20 hours
2.	04.02.2010 to 06.02.2010	02 days
3.	14.02.2010 to 18.02.2010	04 days
4.	23.06.2010 to 26.06.2010	03 days
5.	01.07.2010 to 08.07.2010	08 days
6.	11.09.2010 to 06.12.2010	02 months 25 days
7.	07.08.2011 to 26.08.2011	18 days
8.	18.10.2011 to 15.11.2011	27 days
9.	01.02.2011 to 04.06.2011	04 months 03 days
10.	14.01.2011 to 28.01.2011	14 days
11.	28.11.2011 to date of dismissal i.e 02.03.2012	03 months 04 days

Attested
MA
 Dy: Superintendent
 of Police Legal
 Kohat

Reason of termination (such as suspension, transfer, dismissal, etc)	Initials of attesting officer in attestation of columns 9 and 10	Leave taken: - nature and duration and rate of leave salary drawn, with the initials of the attesting officer	Reference to any recorded punishment or censure, reward or praise of the Government servant as well as to any interruption in service. If suspended whether period of suspension will count towards leave and pension with signature of the attesting officer	Remarks
10	11	12	13	14
		<u>Failed Recruit Course</u>		
		Failed Recruit Course Exam ending 20 ⁶ / ₀₉		
		Failed subject PT and S.F.		
		Vide Comdt P.T.C Hangu	M/No 2658-80/s 15-12-09	
		O 13 No 6 dt 12-1-10.	Signature Dy S.P. Kota	
			Signature Dy Superintendent of Police Kangra	

Annexure 'C'

Annexure E

(8)

CHARGE SHEET

I, MUBARAK ZEB, DISTRICT POLICE OFFICER, KOHAT as competent authority, hereby charge you Constable Soawab Gul No. 1354 while posted at Police Lines Kohat committed the following irregularities:

You had absented yourself from duty without any leave or permission from 14.01.2011 to 28.01.2011


Your above act amounts to gross misconduct on your part, punishable under the Removal from Service (Special Powers) Ordinance 2000.

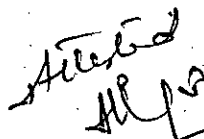
And I, hereby direct you further as laid down in section-60 of the said Ordinance to put in a written defence with in 7 days of the receipt of this charge sheet as to why you should not be awarded with one or more Major Punishment including Removal from Service as defined under section 3 (I) (C) of the said Ordinance and also stating at the same time as to whether you desire to be heard in person.

Your written defence, if any, should reach to the Enquiry Officer/ Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-part action shall be taken against you.

A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT


Soawab Gul
1354 / 10-10-11
2/6/11


Dy. Superintendent
of Police Legal
Kohat

9
Annexure No- 457/
2-25-11
'D'

DISCIPLINARY ACTION

I, MUBARAK ZEB, DISTRICT POLICE OFFICER, KOHAT, as competent authority, am of the opinion that Constable Soawab Gul No. 1354 while posted at Police Lines Kohat himself liable to be proceeded against as he committed the following acts/ omissions within the meaning of section - 3 of the NWFP (Removal from Service) Special Power Ordinance 2000.

STATEMENT OF ALLEGATIONS

You had absented yourself from duty without any leave or permission from 14.01.2011 to 28.01.2011

Your above act amounts to gross misconduct on your part, punishable under the Removal from Service (Special Powers) Ordinance 2000.

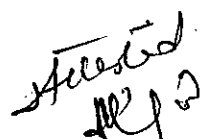
For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Mushtaq Hussain, DSP HQrs, Kohat is appointed, as Enquiry Officer shall in accordance with the provision of Ordinance provide reasonable opportunity of hearing to the Official and complete the enquiry findings within the stipulated period of the receipt of this order.

No. 2392-93/PA
Dated. 24-3-2011


**DISTRICT POLICE OFFICER,
KOHAT**

Copy of the above is forwarded to: -

1. Mr. Mushtaq Hussain, DSP HQrs, Kohat The committee for initiating proceedings against the accused under the provisions of the NWFP. Removal from Service (Special Power) Ordinance - 2000 and submit finding within in 15 days.
2. Constable Soawab Gul No. 1354 while posted at Police Lines Kohat. The concerned official's with the directions to appear before the Enquiry Committee, on the date, time and place fixed by the Committee, for the purpose of the enquiry proceedings.


By Superintendent
of Police Legal
Kohat

Annexure 'A'

10

BEFORE THE DISTRICT POLICE OFFICER,
KOHAT

SUBJECT: REPLY TO THE CHARGE SHEET.

Respected Sir,

Kindly with reference to the charge sheet and summary of allegation issued vide your office No.2392-93/PA dated 24-3-2011, and receipt by the undersigned on 02-6-2011 I, it is submitted that the undersigned while posted at Police Line Kohat got seriously sick and unable to attend to his official duties and therefore left for his home.

The undersigned has now recovered and is willing to continue the police service with the assurance that no such like mistake shall be repeated in future.

It is therefore, very humbly requested that lenient view of the matter may kindly be taken and the undersigned may be given a chance to reform himself. My whole family shall pray for your long life and prosperity.

Dated: 04-8-2011.

Yours obediently,

Handwritten signature
R.O.

Saoab Gul
Ex-Constable
No. 1354,
Police Line, Kohat
R/O Sur Gul,
Tehsil & District
Kohat.

Receipt today
on 4/8/11 at 13.00 hrs.
Signature

Accepted
Signature
Dy Superintendent
of Police Legal
Kohat

Saoab Gul 5/8/11

میں نے 24 مارچ 2011 کو پولیس لائن کوہاٹ میں سب سے پہلے اس کی طرف سے ایک چارج شیٹ اور خلاصہ تیار کیا گیا تھا۔ اس کی کاپی میرے پاس ہے۔
میں نے اس کی کاپی 02 جون 2011 کو آپ کے دفتر میں پیش کی تھی۔
میں نے اس کی کاپی 04 اگست 2011 کو آپ کے دفتر میں پیش کی ہے۔

P70

سوال = ۱۷ پیما رہا کہ دورانِ تمیز سے پہلے جنین کو اندر دیکھا گیا؟

جواب = جی ہاں، جنین کو لڑیہ خرد لہنہ تھا۔ اس کا جسم سے تھان کر اظہار ہو سکتا۔
تاہم صحت مند ہونے پر صاحبزادی۔ فریڈرک لہنہ سے بننے کے بعد دن آگے لہجھا۔
انہ اب حد مسلسل کی ہوگا کر رہا ہوں۔

اپنی کتاب سے

۱

Annexure 'P' -

(11)

جانب عالی

اجو نر فائنل نیو کانسٹریکشن نمبر 94/PA

9-9

مقررہ قیمت میں۔

جو جواب دیا گیا۔

20 - اور اس بار معائنہ کے حاتم

آئندہ ضابطہ

Sauha Aul

24/11/2011

Handwritten signature

Dy Superintendent of Police, Legal Konat.

Annexure 'G'

12

FINDING
IN DEPARTMENTAL ENQUIRY AGAINST CONST SAWAB GUL NO.1354

This is a finding in the departmental enquire against constable Sowab Gul No.1354 who was allegedly absented himself from duty while posted at police lines Kohat w.e.from 14.1.2011 to 28.1.2011.

On receipt of enquiry file he was called so many times to collect copy of statement of allegations and charge sheet for reply on it but in vain. Atlast on 2.6.2011 he came and received copy of charge sheet. On expiry of stipulated period he was again asked so many times to submit his reply about the alleged absence but of no avail. At last local police of PS Jarma where the said constable is residing was asked in written to intimate him about appearance in the said enquiry and to submit the requisite reply. The local police properly served upon him intimation but till date he not appeared, which proved him an un-willing worker and warrants punitive action, on his this attitude too.

As per report of lines MHC staff during the instant enquiry he was again absented himself for more then 04 months vide DD No.38, dated 1.2.2011 and reported arrival vide DD No. 5, dated 4.6.2011 , which clearly proved him that he he is a habitual absentee, un-willing worker and not interested in police service.

On repeated calling, he appeared and furnished his reply to the charge sheet on 4.8.2011, after more then two months which is an-other gross misconduct on his part. In reply he explained that he was become ill and was not able to perform the duty.

When he was questioned that what reason about the more 04 months absence? He replied that in these days he was again become ill.

He did not produce any supportive evidence, which clearly proved that he is not interested in police service.

Keeping in view of the above facts he is found guilty of the charges and all the absence periods.

Submitted please.

Sub-Divisional Police Officer,
HQrs Kohat.

NO. 208/HO
Date 15/8/11

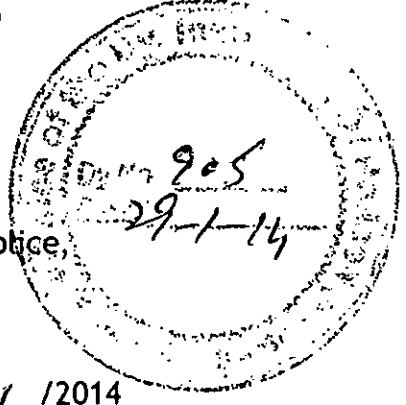
Dy. Superintendent
of Police Legal
Kbhat

13

EC Annexure 'H'

From: The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

To: The Deputy Inspector General of Police,
Kohat Region.



No. 2171 /E-II, dated Peshawar the 23/01/2014

Subject: **APPEAL AGAINST THE ORDER OF DEPUTY INSPECTOR GENERAL OF POLICE KOHAT DATED: 07.11.2012 WHEREBY THE APPEAL OF APPELLANT (CONSTABLE SAUB GUL NO. 1354 OF KOHAT) WAS REJECTED.**

Memo: Please refer to your Memo No. 10193/EC, dated: 27.12.2013.
The mercy petition of Ex-Constable Saub Gul No. 1354 of District Police Kohat for re-instatement in service has examined & filed by this office as there is no provision in the rules for 2nd appeal /mercy petition.
The petitioner may be informed accordingly.

Handwritten notes: No 1256 / EC, DT 28/01/14

Handwritten notes: DPO Kohat For objection



(JAVED IQBAL)
Registrar
For provincial Police Officer,
Khyber Pakhtunkhwa
Peshawar

Handwritten signature and stamp: DIG POLICE KOHAT, 28/1/14

Handwritten notes: O.A. No. / SRC, Inform the above named constable accordingly

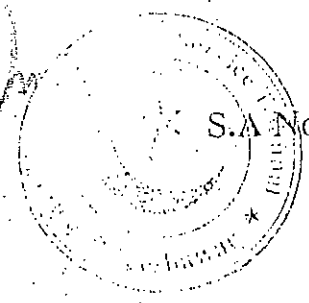
Handwritten signature and stamp: Dy. Insp. General of Police Kohat

Handwritten notes at bottom left: اورغسل اور SRC اور... 28-1-14

ثوابت
BEFORE KPK SERVICE TRIBUNAL PESHAWAR

Retired case

Pages 7, 8, 9
mp
copy



S.A No. 1569/2011

RECEIVED
15/11/2011
12/10/11

Abdur Rehman S/o Saeed Khan,
R/o Banda Hassan Abad, Shahpur, Kohat
ex- C.No.1124, Police Line, FRP, Kohat. Appellant

Versus

1. Superintendent of Police, FRP, Kohat
2. Additional IGP, FRP, KPK, Peshawar
3. Commandant, FRP, KPK, Peshawar Respondents

APPEAL AGAINST OFFICE ORDER OB NO.73,
DATED 21.02.2009 OF R.NO.1 WHEREBY
APPELLANT WAS DISCHARGED FROM
SERVICE WITH EFFECT FROM 08.01.2009 OR
OFFICER ORDER NO. 4932-33/EC, DATED
28.07.2011 OF R.NO.2 WHEREBY
REPRESENTATION OF APPELLANT WAS
REJECTED FOR NO LEGAL REASON.

g.m.s

Filed to-627
L. Saeed

31.10.2016

Counsel for the appellant and Mr. Ihsanullah, ASI alongwith Mr. Muhammad Jan, Government Pleader for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today in connected Service Appeal No. 1570/2011 titled "Muhammad Farooq-Vs- Superintendent of Police, FRP, Kohat and others", this appeal is also disposed of as per the said detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.10.2016

Certified to be true copy
15/10/2016
KPK Service Tribunal Peshawar

(P/S Bakht Shah) (Abdul Latif)

2

ORDER

My this order will dispose off de-novo departmental enquiry conducted against Constable Abdur Rehman No. 1116/FRP under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 (Amended in 2014).

The defaulter Constable Abdur Rehman No. 1116/FRP while posted at FRP Lines Kohat, had absented himself from official duty w.o.f 08.01.2009 vide DD No. 09 dated 08.01.2009 to 19.02.2009 (Total absence period is 42 days) without any prior permission of the competent authority.

Departmental proceedings were initiated against him by the then SP FRP Kohat. Charge sheet with summary of allegations was issued to him vide office No. 137/PA dated 09.02.2009 and the then Inspector FRP Gul Raees Khan was appointed as enquiry officer. The defaulter official did not submit reply to charge sheet. Therefore, a general advertisement was published in Daily Mashriq dated 16.02.2009 with the directions to all absentee constables to report their arrival for duty otherwise ex-parte proceedings will be taken against them. Even then the defaulter constable did not join duty. Hence ex-parte action was taken against him and he was discharged from service under Removal from Service Special Powers Ordinance, 2000 vide OB No. 74 dated 21.02.2009. Against that order he preferred an appeal before the appellate authority but his appeal was rejected being time barred by the appellate authority vide office order Endst. No. 4932-33/EC dated 28.07.2011.

Thereafter, he approached Service Tribunal Khyber Pakhtunkhwa Peshawar by filing service Appeal No. 1569/2011. The honorable Service Tribunal vide judgment dated 31.10.2016 accepted appeal of the defaulter official by setting aside both the said orders and leaving the competent authority at liberty to proceed against the appellant (defaulter official) afresh if deems appropriate.

In compliance with judgment of Honorable Service Tribunal, defaulter official was reinstated in service by Worthy Commandant FRP Khyber Pakhtunkhwa Peshawar vide order No. 502/SI, Legal dated 17.01.2017 with the direction to this office to conduct de-novo enquiry against him.

Accordingly, after making arrival report at FRP Lines Kohat, defaulter constable was issued charge sheet with summary of allegation vide this office No. 40/PA dated 27.01.2017 and R.I FRP Shaukat Hayat was appointed as enquiry officer to unearth the real facts. The enquiry officer submitted his finding report wherein he recommended the said official for suitable punishment.

A final show cause notice No. 54/PA dated 03.02.2017 was issued to the defaulter constable. He replied to final show cause notice wherein he stated that he was severely ill due to which he was unable to report back in his place of duty. He also produced medical documents in this regard. He was called in orderly room on 14.02.2017 and heard in person.

Service record perused which revealed that he was appointed as Constable on 20.10.2004 in FRP Kohat Range. He has unblemished service record as during whole service of about two years he had remained absent only for 03 days. In such circumstances lenient view is taken.

Therefore I, Mian Imtiaz Gul SP, FRP Kohat Range, Kohat in exercise of powers vest in me under Rule 5(5) of Khyber Pakhtunkhwa Police Rules-1975 (Amended in 2014), award him a minor punishment of forfeiture of two years approved service. His absence period of 42 days is treated as absence from duty.

OB No. 123

Dated: 17-02 /2017

(Mian Imtiaz Gul)
SUPERINTENDENT OF POLICE, FRP
KOHAT RANGE, KOHAT

Copy to of above is forwarded to the:-

1. Worthy Commandant FRP Khyber Pakhtunkhwa, Peshawar with reference to Order No. 502/SI, Legal dated 17.01.2017 for favour of information please.
 2. Pay Officer
 3. Reader
 4. SRC
 5. OHC
- } For further necessary action.

(Mian Imtiaz Gul)
SUPERINTENDENT OF POLICE, FRP
KOHAT RANGE, KOHAT

Mian Imtiaz Gul
after de-novo proceedings
ofc.

3

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 1570/2011

Mohammad Farooq S/o Muhammad Kamal,
R/o Sulaiman Talaab, Shahpur, Kohat
ex- C.No.1116, Police Line, FRP, Kohat.



1570
18/9/11

Appellant

Versus

1. Superintendent of Police, FRP, Kohat
2. Additional IGP. FRP. KPK, Peshawar
3. Commandant. FRP, KPK, Peshawar Respondents

APPEAL AGAINST OFFICE ORDER OB NO.78,
DATED 21.02.2009 OF R.NO.1 WHEREBY
APPELLANT WAS DISCHARGED FROM
SERVICE WITH EFFECT FROM 01.09.2008 OR
OFFICER ORDER NO. 4846-47/EC, DATED
23.07.2011 OF R.NO.2 WHEREBY
REPRESENTATION OF APPELLANT WAS
REJECTED FOR NO LEGAL REASON.

Filed to Copy

[Signature]

12/9/11

Respectfully Sheweth,

1. That appellant was appointed as constable in the year 2004 and was performing his duties to the best of his abilities and devotion.
2. That mother of the appellant became seriously ill and was no one except appellant to carry her look after. So appellant was unable to perform his official duty for 45 days. *[5 months]*
3. That on 21.02.2009, appellant was discharge from service by R.No.1 with effect from 01.09.2008 retrospectively. (Copy as annex "A")

ACCEPTED

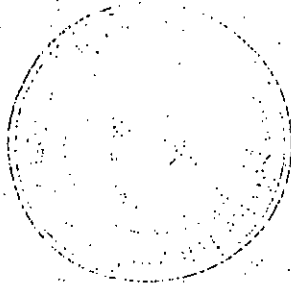
[Signature]

(4)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO. 1570/2011

Date of institution ... 12.09.2011
Date of judgment ... 31.10.2015



*Mohd. Rehman
as well*

Mohammad Farooq S/o Muhammad Kamal,
R/o Sulaiman Talaab, Shahpur, Kohat
EX-Constable No. 1116, Police Line, FRP, Kohat.

(Appellant)

VERSUS

1. Superintendent of Police, FRP, Kohat.
2. Additional SP, FRP, KPK, Peshawar.
3. Commandant, FRP, KPK, Peshawar.

(Respondents)

APPEAL AGAINST OFFICE ORDER NO. 78 DATED 21.02.2009 OF
RESPONDENT NO. 1 WHEREBY APPELLANT WAS DISCHARGED FROM
SERVICE WITH EFFECT FROM 01.09.2008 AND OFFICE ORDER NO. 4876-
4780 DATED 23.07.2011 OF RESPONDENT NO. 2 WHEREBY
REPRESENTATION OF APPELLANT WAS REJECTED FOR NO LEGAL
REASON.

Mr. Arbab Saif-ul-Kamal, Advocate.
Mr. Muhammad Jai, Government Pleader

For appellant.
For respondents.

MR. ABDUL LATIF
MR. PIR-BAKHSI SHAH

MEMBER (EXECUTIVE)
MEMBER (JUDICIAL)

JUDGMENT

ABDUL LATIF, MEMBER:- Facts giving rise to the instant appeal are that the appellant was appointed as constable in the year 2004. That the mother of the appellant became seriously ill and was no one except appellant to carry her look-after and that the appellant was unable to perform his official duty for 45 days. That on 21.02.2009, appellant was discharged from service by respondent No. 1 with effect from 01.09.2008 retrospectively. That thereafter appellant submitted representation before the authority for reinstatement in service which was rejected on 23.07.2011 and hence the instant service

appeal with a prayer that on acceptance of this service appeal order dated 21.02.2009 of respondent No. 1 and order dated 23.07.2011 of respondent No. 2 be set-aside and appellant be reinstated in service with all back benefits.

2. The learned counsel for the appellant argued that the absence of the appellant from service was neither willful nor intentional but was due to the compelling circumstances of illness of the mother of the appellant. He further argued that the appellant was not served with any notice nor any regular inquiry was conducted into the allegation and hence the impugned order was void-ab-initio and of no legal effect adding further that the appellant was discharged from service on 21.02.2009 with retrospective effect from 01.09.2008. He further argued that the appellant was proceeded against under Removal from Service (Special Powers) Ordinance, 2000 and the word "discharge from service" was alien to the said law adding further that the appellant had served for more than three years and such penalty of discharge could only be awarded during the period of probation. He further argued that penalty of discharge from service was very harsh as the appellant was deprived of his livelihood on the allegation of absence of 45 days which was due to illness of the mother of the appellant. He further argued that publication of notices in the newspaper was not done in accordance with the procedure laid down under the law/rules. He prayed that on acceptance of this appeal the impugned orders dated 21.02.2009 and 23.07.2011 may be set-aside and the appellant may be reinstated into service with all back benefits.

3. The learned Government Pleader while resisting the appeal argued that the appellant remained absent for five months without permission of the competent authority and was proceeded against and department inquiry was conducted but he failed to submit reply to the charge-sheet and also did not appear before the inquiry officer to defend himself. On completion of inquiry report final show-cause notice was served on him but again he failed to submit reply to the show-cause notice. A notice was there-after served on the appellant and other similar absented officials in daily Mashriq dated 16.09.2009 which remained un-responded and consequently order of his dismissal was passed by the competent authority. He further argued that all codal formalities were fulfilled and prayed that the appeal being devoid of any merits may be dismissed.

6

4. Arguments of learned counsels for the parties heard and record perused.

5. From perusal of the record it transpired that the appellant was proceeded against on the allegation of absence from duty. An inquiry was conducted against the appellant who did not join the same on the plea that charge-sheet was not served on him and action was taken against him ex-parte. The record reveal that the inquiry officer submitted his report in the absence of the appellant and based on the said report the appellant was discharged from service under Removal from Service (Special Powers) Ordinance, 2000. The impugned order was agitated by the appellant before the appellate authority who upheld the order passed by the competent authority and rejected the departmental appeal of the appellant. In the above scenario, we are of the considered view that ends of justice were not met by taking ex-parte action and without associating the appellant with the inquiry proceedings thereby depriving him of his constitutional rights of defence and fair trial. In the circumstances, the impugned orders dated 21.02.2009 and 23.07.2011 are set-aside and the appellant is reinstated in service, leaving the competent authority at liberty to proceed against the appellant afresh if he deem appropriate but strictly in accordance with law and rules. The de-novo proceeding if required to be conducted shall be completed within three months of the receipt of this judgment and if not conducted and concluded within the stipulated period then in that case the appellant shall stand reinstated in service and the intervening period since his discharge/dismissal from service till date will be treated as extra ordinary leave without pay. The appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

6. Our this judgment will also dispose of connected Service Appeal No. 1569/2011 titled "Abdur Rehman-Vs-Superintendent of Police, FRP, Kohat and others" where common questions of law and facts are involved therein.

ANNOUNCED
31.10.2016

Self Abdul Latif, Member

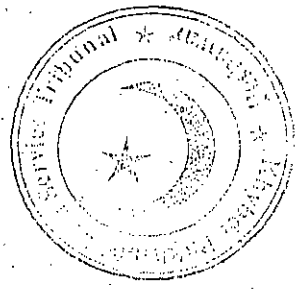
Self Pir Bakhtish Shah, Member

Certified true copy
31.10.2016

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 660/2017



Date of Institution... 30.05.2017

Date of decision... 22.01.2018

Muhammad Qasim son of Farid Khan, R/O Thanda Dam, Kohat Ex-Constable No. 52.
District Police, Kohat. (Appellant)

Versus

1. District Police Officer Kohat and two others. (Respondents)

Arbab Saiful Kamal, Advocate. For appellant.

Mr. Kabeerullah Khattak, Addl. Advocate General For respondents.

MR. NIAZ MUHAMMAD KHAN, MR. GUL ZEB KHAN, CHAIRMAN MEMBER

ATTEST

[Signature]
Khyber Pakhtunkhwa Service Tribunal

Arguments of the Respondents

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN:-

learned counsel for the parties heard and record perused.

FACTS

9 months absent

2. The appellant was dismissed from service on 04.05.2009 w.e.f. 06.08.2008. Against this order he filed a departmental appeal (undated) which was rejected on 24.3.2013 and thereafter, the appellant filed revision under Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975 which was rejected on 17.5.2017. Thereafter he filed the present service appeal on 30.05.2017.

ARGUMENTS

3. The learned counsel for the appellant argued that the very order of dismissal was passed retrospectively and in view of so many judgments delivered by this

Tribunal retrospective order has been declared to be a void order. That no limitation would run against void order. That under the law void order cannot be sustained:

4. On the other hand the learned Addl. Advocate General argued that the present appeal is time barred because the appellant in order to gain time filed second appeal/revision which was not permissible under the law. That the whole proceedings were completed in accordance with the law.

CONCLUSION

5. The impugned order was given retrospective effect and in view of judgment reported as 1985-SCMR-1178, such order is void order. That no limitation would run against such order. This Tribunal in a number of appeals has followed this dictum and has declared such orders as void. This appeal is therefore, accepted, the appellant is reinstated in service. However, the department is at liberty to hold denovo proceedings within a period of ninety days of the receipt of this judgment. The issue of back benefits etc. shall be subject to the final outcome of denovo proceedings. Parties are left to bear their own costs. File be consigned to the record room.

Announced *Self-Niaz Muhammad Khan,*
22-01-2018 *Chairman*

Self Gulzar Khan,
Member

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 30-01-18
Number of Words 800
Copying Fee 6-
Urgent 2-
Total 8-
Name of Copy [Signature]
Date of Completion of Copy 30-01-18
Date of Delivery of Copy 30-01-18



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No. _____ /PA dated Kohat the _____ / _____ /2018

ORDER

This order will dispose of de-novo departmental proceedings initiated against Constable Muhammad Qasim No. 52/702 of this District Police under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

The essential facts arising of the case are that he while posted at Police Lines Kohat had absented himself from official duty vide DD No. 31-A dated 06.08.2008 till date without any leave or permission from the competent authority.

In compliance with the judgement of Service Tribunal dated 22.01.2018, denovo departmental proceedings initiated after approval. The SP FRP Kohat, Range was appointed as enquiry officer by the competent authorities. Charge Sheet alongwith statement of allegations issued to the accused official. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The accused official was held guilty of the charges vide finding of the enquiry officer.

Final Show Cause Notice alongwith copy of enquiry finding was served upon the accused official. Reply received unsatisfactory, without any plausible explanation.

Therefore, the accused official was called in Orderly Room, held on 19.04.2018 and heard in person, but he failed to submit any explanation to his gross professional misconduct.

Record gone through, which indicates that the accused official had committed himself for willfully absented w.e. from 06.08.2008. The service record of the accused official also found indifferent.

In view of the above and available record, I agreed with the finding of enquiry officer, therefore, in exercise of powers conferred upon me under the rules ibid I, Abbas Majeed Khan Marwat, District Police Officer, Kohat impose a minor punishment of stoppage of increment for one year without cumulative effect on accused constable Muhammad Qasim No. 52/702. He is reinstated in service, the intervening period is treated as leave without pay and pay is hereby released.

Announced
19.04.2018

DISTRICT POLICE OFFICER,
KOHAT

OB No. 420
Date 25-4 /2018

No. 4135-37 PA dated Kohat the 26-4-2018.

Copy of above is forwarded for information and necessary action to the Reader, Pay officer, SRC and OHC.

Done by R

75

Said in

in violation

*Minor punishment
after de novo enquiry*



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No. _____ /PA dated Kohat the _____ / _____ /2018

ORDER

This order will dispose of de-novo departmental proceedings initiated against Constable Muhammad Asif No. 1084/1250 of this District Police under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

The essential facts arising of the case are that he while posted at (PS Gumbat had absented himself from official duty vide DD No. 26 dated 21.06.2013 till date without any leave or permission from the competent authority.

In compliance with the judgement of Service Tribunal dated 10.01.2018, denovo departmental proceedings initiated after approval. The SP Investigation Wing, Kohat was appointed as enquiry officer by the competent authorities. Charge Sheet alongwith statement of allegations issued to the accused official. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The accused official was held guilty of the charges vide finding of the enquiry officer.

Final Show Cause Notice alongwith copy of enquiry finding was served upon the accused official. Reply received unsatisfactory, without any plausible explanation.

Therefore, the accused official was called in Orderly Room, held on 19.04.2018 and heard in person, but he failed to submit any explanation to his gross professional misconduct.

Record gone through, which indicates that the accused official had committed himself for willfully absented w.e. from 21.06.2013. The service record of the accused official also found indifferent.

In view of the above and available record, I agreed with the finding of enquiry officer, therefore, in exercise of powers conferred upon me under the rules *ibid* 1, Abbas Majeed Khan Marwat, District Police Officer, Kohat impose a major punishment of reduction from higher stage to lower stage in the same time scale of pay for the period of 03 years on accused constable. He is reinstated in service, the intervening period is treated as leave without pay and pay is hereby released.

Announced
19.04.2018


DISTRICT POLICE OFFICER,
KOHAT 19/4/18

OB No. 426
Date 26/4/2018

No. 1194-96/ PA dated Kohat the 26-4-2018.

Copy of above is forwarded for information and necessary action to the Reader, Pay officer, SRC and OHC.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI 739 /17, dated Peshawar the 16/02/2017.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of the Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Adeel Ahmad No. 3963. The appellant was removed from service w.e.f 05.05.2013 by Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar vide order No. 16034-41/EF, dated 27.11.2013 on the charge of absence from duty for 05 months and 24 days.

His appeal was filed by Addl: IGP/Elite Force vide Memo: No. 1501/EF, dated 30.01.2014.

Facts of the case in brief are that appeal of applicant Ex-Constable Adeel Ahmad No. 3963 was initially discussed in the Appellate Board meeting held on 26.11.2015 as he has preferred service appeal in the Service Tribunal, therefore, the Board decided that his appeal shall be kept pending till the decision of Service Tribunal. Now Service Tribunal vide judgment dated 30.11.2016 passed in his service appeal No. 283/2014, directed that departmental appeal of the appellant be decided by the proper appellate authority and further that opportunity of hearing be provided to the appellant and appeal be decided within a period of two months.

The petitioner appeared in person. The petitioner remained absent for a period of 05 months and 24 days. During the proceedings, petitioner contended that his absence was not deliberate but he was suffering from serious illness. He also produced medical documents to substantiate his claim.

In the light of judgment of Service Tribunal, credible evidence of his illness and long service record, 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 period in service but not on duty and he will not be entitled for salary of the intervening period. He will remain under special watch for one year.

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

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

No. SI 740-47 /17.

Copy of the above is forwarded to the:

1. Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
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-V CPO Peshawar.
8. Central Registry Cell, CPO.

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE YAHYA AFRIDI

Civil Petition No. 549-P of 2014

(Against the order dated 02.07.2014 passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeal No. 572 of 2012)

**Additional IGP/Commandant FRP, Government of KPK
Peshawar, etc.** ... Petitioners

Versus

✓ **Adnan** ... Respondent

For the petitioner:

Mr. Atif Ali Khan, Addl. Advocate-
General, KPK

For the respondents:

Mr. Javed A. Khan, ASC
Mr. M. Ajmal Khan, AOR


Date of hearing:

09.10.2020

ORDER

YAHYA AFRIDI, J.- Adnan, a Constable in Frontier Reserve Police (FRP) ("the respondent") was proceeded against departmentally for his absence from duty for three months and 21 days without any leave of the competent authority. The inquiry so initiated was finally culminated in his removal from service *vide* order dated 18.02.2009. The respondent, who was charged and tried for murder in case FIR No. 705, dated 08.11.2008 under sections 302 and 34, PPC registered at Police Station Rustam, on his acquittal by the competent court *vide* judgment dated 12.10.2012 moved the petitioner

ATTESTED

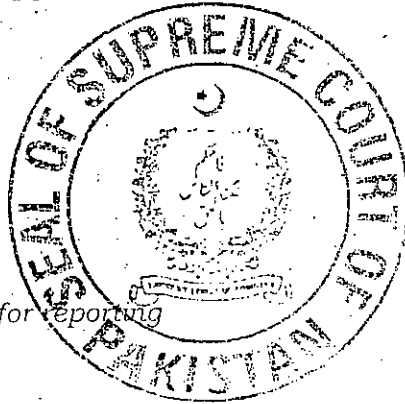

Assistant Registrar
Supreme Court of Pakistan
Peshawar.

for his reinstatement. The departmental representation of the respondent was not allowed, however, the period of his absence was treated as leave without pay. Aggrieved, the respondent filed an appeal before the Khyber Pakhtunkhwa Service Tribunal, which was accepted. Hence, the present petition.

2. The only allegation of misconduct against the respondent, as reflected in the statement of allegations, was his absence from duty without valid permission. And, when the competent authority treats the said absence from duty as leave without pay, then, the allegation of misconduct would not remain in the field.¹

2. Accordingly, for the reasons stated hereinabove, it is noted that no question of public importance within the contemplation of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973 is raised in the instant petition for any positive exercise of jurisdiction by this Court. Consequently, this petition, being bereft of merit, is dismissed and leave to appeal is refused.

Sd- Umar Ata Bandial, J
Sd- Yahya Afridi, J



Peshawar
09.10.2020
Not approved for reporting
Arif

Certified to be true copy
Assistant Registrar
Supreme Court of Pakistan
Peshawar.

21/10/2020

¹ Lahore Development Authority and others v. Muhammad Nadeem Kachloo and another (2006-SCMR 434).

Before the Hon'ble Bench of Service Tribunal, Peshawar.

S.A. No. 182/19.

Jawab Gul vs Police Department.

Application for adjournment.

R/s,

- 1) That the subject appeal is pending disposal before the Hon'ble Tribunal and is fixed for today i.e. 23-06-22.
- 2) That Counsel for appellant is busy before the Hon'ble Peshawar High Court Peshawar, so request for adjournment of the subject appeal.

It is therefore most humbly requested that the application be accepted as prayed for.

Dtd. 23-06-22.

Appellant
Through
Anwar Ahmad
Adv.