


23rd May, 2023

1. Learned counsel for appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.
2. Learned counsel for appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 10.07.2023 before D.B. P.P given to the parties.

SCANNED
KPSST
Peshawar

Mutazem Shah



(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

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
KPSST
Peshawar


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Fazle Subhan P.S

10.02.2023

Learned counsel for the appellant present. Mr. Nascrud 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.

Muhammad Jan, learned District Attorney 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

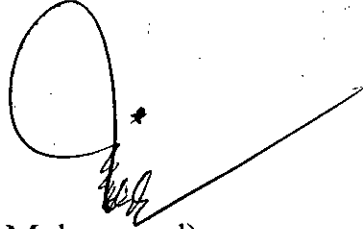
(Rozina Rehman)
Member (J)

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.



(Mian Muhammad)
Member (E)

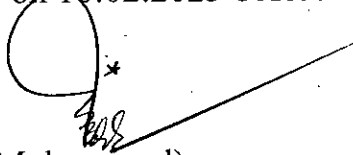


(Salah-ud-Din)
Member (J)

04.01.2023

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

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.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

SCANNED
KPST
Peshawar

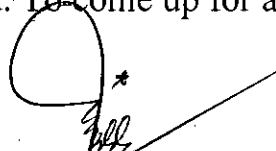
SCANNED
KPST
Peshawar

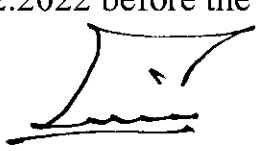
08.12.2022

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

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

SCANNED
K.P.S.T
Peshawar



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

13.12.2022

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

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


(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

30th Nov. 2022

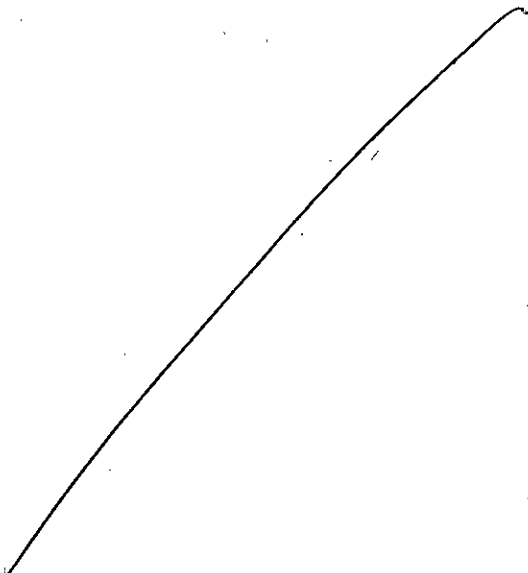
Learned counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

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

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman




30th Nov. 2022

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

File received from the learned D.B-II with the observation that the matter was heard by both of us (the undersigned) but vide order sheet dated 31.05.2022, the bench sought some clarification which were not made, therefore, let it be fixed before any available D.B. To come up for arguments on 08.12.2022 before the D.B.


(Fareeha Paul)
Member (E)

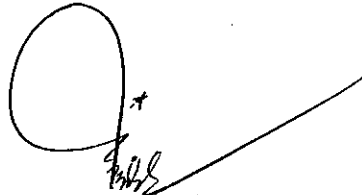

(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

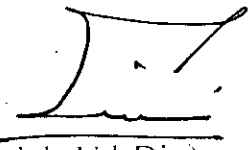
30.11.2022

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

It is evident from the order sheet dated 31.05.2022 that the appeal in hand was heard by a bench comprising of worthy Chairman and Miss. Fareeha Paul learned Member (Executive) and the case was fixed for further arguments/clarification, if any, and order, therefore, the appeal in hand is 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)

19.07.2022

Appellant present through counsel.

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

From the order sheet dated 31.05.2022 it is evident that arguments in the instant appeal were heard by the Bench comprising of learned Chairman and Ms. Fareeha Paul Member (Executive) and was fixed for orders, therefore, this case be put up for further arguments/clarification, if any, and orders before the said Bench on 20.09.2022.



(Fareeha Paul)
Member(E)

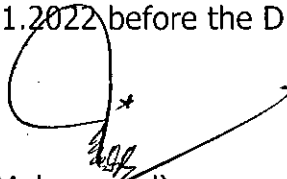


(Rozina Rehman)
Member (J)

20.09.2022

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

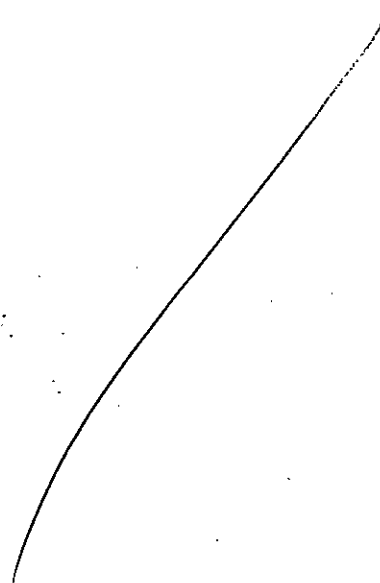
In view of previous order sheet, the appeal in hand may be fixed before the concerned Bench for further arguments/clarification, if any, and order on 30.11.2022 before the D.B.



(Mian Muhammad)
Member (E)




(Salah-Ud-Din)
Member (J)




31.05.2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Panidakhel, Assistant Advocate General for respondents present.

This appeal was heard on 10.05.2022 and judgment was to be recorded but it was found that certain points needed further arguments/clarification, therefore, to come up for further arguments on 22.06.2022 before D.B.


(Fareeha Paul)
Member(E)



(Kalim Arshad Khan)
Chairman

22.06.2022

Counsel for the appellant present.

Noor Zaman Khan Khattak, learned District Attorney for respondents present.

From the order sheet dated 31.05.2022 it is evident that arguments in the instant appeal was heard by the Bench comprising of learned Chairman and Ms. Fareeha Paul, Member (Executive) and was fixed for orders, therefore, this case be put up for further arguments/clarification, if any, and orders before the said Bench on 19.07.2022.

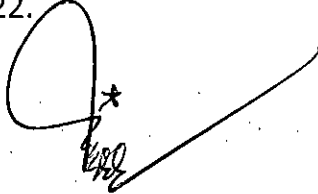

(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

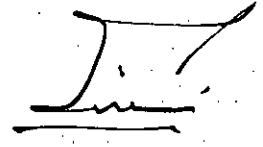
09.05.2022

Learned counsel for the appellant present. Syed Naseer Ud Din Shah, Assistant Advocate General alongwith Mr. Hikmat, HC for respondents present.

Learned counsel for the appellant requested that as similar nature case titled Shah Afzal-vs-DPO and others is fixed for tomorrow therefore, the appeal in hand may be heard alongwith the said appeal. Adjourned. To come up for arguments before the D.B on 10.05.2022.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)

10th May, 2022

Arbab Saif-ul-Kamal Advocate for appellant present. Mr. Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 31.05.2022 before this D.B.



(Fareeha Paul)
Member(E)



Chairman

Stipulated period passed reply not submitted.

15.09.2021

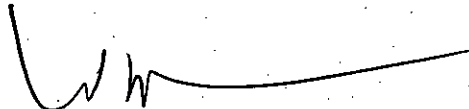
Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

Chairman

11.11.2021

Mr. Saad Ullah Khan Marwat, Advocate, for the appellant present. Mr. Hikmat,, Head Constable alongwith Mr. Javed Ali, Assistant Advocate General for the respondents present.

Reply/comments on behalf of respondents submitted, which is placed on file and copy of the same is handed over to learned counsel for the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments on 02.02.2022 before the D.B.


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

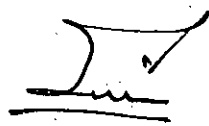

(Salah-Ud-Din)
Member (J)

P
02.02.2022

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment as he has not made preparation for arguments. Adjourned. To come up for arguments on 09.05.2022 before the D.B.


(Rozina Rehman)
Member (J)


(Salah-Ud-Din)
Member (J)

A No. 1369/2018
Farman Ali

17.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 29.06.2021.


Reader

29.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 11.11.2021 before the D.B.


Appellant Deposited
Security & Process Fee

11/7/21


Chairman


07.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 01.07.2020 for the same. To come up for the same as before S.B.


Reader

01.07.2020

Counsel for appellant present and seeks adjournment. Adjourned to 23.09.2020 before S.B in order to avail the outcome of cases pending before the Larger Bench of this Tribunal, regarding retrospective punishment.


Member (J)

23.09.2020

Counsel for the appellant present.

On the last date of hearing instant matter was adjourned to avail the outcome of cases pending before the Larger Bench and having similar nature. The Larger Bench has not yet concluded the proceedings before it, therefore, instant matter is adjourned to 02.12.2020 before S.B.

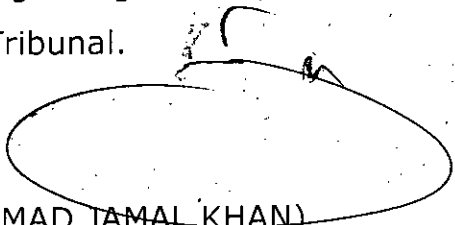

Chairman

02.12.2020

Counsel for appellant is present.

Learned counsel requests for adjournment to a date after the decision of proposition regarding retrospective punishment by a Larger Bench of this Tribunal.

Adjourned to 17.02.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

25.09.2019

Counsel for the appellant present.

Adjourned to 25.11.2019 in order to avail the result of case(s) pending before the Larger Bench regarding retrospective punishment.



Chairman

25.11.2019

Junior to counsel for the appellant present.

Requests for adjournment on account of general strike of the Bar. Adjourned to 22.01.2020 before S.B.



Chairman

22.01.2020

Junior to counsel for the appellant present.

Requests for adjournment due to general strike of the Bar. Adjourned to 20.02.2020 in order to avail the outcome of case(s) pending before the Larger Bench regarding retrospective punishment.



Chairman

21.02.2020

Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 07.04.2020 before S.B.



Member

1369/18

02.05.2019

Counsel for the appellant present.

Learned counsel for the appellant again seeks adjournment in order to further prepare the brief. The record shows that on at least four previous occasions adjournment was sought on similar ground. This time the matter is adjourned but as a last chance.

To come up for preliminary hearing on 21.06.2019 before S.B.


Chairman

21.06.2019

Junior counsel for the appellant present and requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned to 07.08.2019 for preliminary hearing before S.B.


(Muhammad Amin Khan Kundi)
Member

07.08.2019

Counsel for the appellant present.

Learned counsel states that on the issue of retrospective penalty, which is also involved in the matter in hand, a number of cases have been fixed before the Larger Bench for 29.08.2019. In order to avail the outcome in that cases instant matter be adjourned to a date thereafter.


Adjourned to 25.09.2019 before S.B.


Chairman

17.1.2019

Miss Uzma Syed Advocate junior to Mr. Saadullah Khan Marwat Advocate for appellant present.

States that learned senior counsel for appellant is not available due to pre-occupation before the Hon'ble High Court. Adjourned to 21.02.2019 before S.B.

Chairman 

21.02.2019

Junior to counsel for the appellant present and seeks adjournment as senior learned counsel for the appellant is busy before Hon'ble Peshawar High Court Peshawar. Adjourn. To come up for preliminary hearing on 01.04.2019 before S.B.


Member

01.04.2019

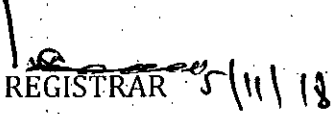


Counsel for the appellant present and seeks adjournment as he has not prepared the case. Adjourned to 02.05.2019 for preliminary hearing before S.B.


(Ahmad Hassan)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1369/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/11/2018	The appeal of Mr. Farman Ali 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.  REGISTRAR 5/11/18
2-	17-11-2018	This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30-11-2018</u>  CHAIRMAN
	30.11.2018	Counsel for the appellant present and seeks adjournment. Granted. Case to come up for preliminary hearing on 17.01.2019 before S.B.  (Ahmad Hassan) Member

SCANNED
BY
Pestawar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWARS.A No. 1369 /2018

Farman Ali

versus

D.P.O & Others

I N D E X

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	Removal order dated 21-01-2016	"A"	5
3.	1 st appeal dated 02-02-2006	"B"	6
4.	Subsequent appeal dated 22-08-16	"C"	7-8
5.	Rejection order dated 27-10-2016	"D"	9
6.	Order on Revision Petition, 23-11-16	"E"	10-11
7.	Reinstatement of other constables	"F"	12-22
8.	Judgments in similar cases	"G"	23-29

Through

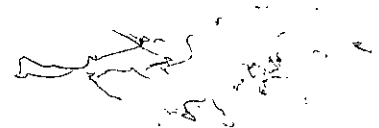
Appellant


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

Ph: 0300-5872676

0311-9266609

Dated.30-10-2018



BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2018

Farman Ali S/O Wali Ahmad,
R/o Abuha, Barikot Swat,
Ex-Constable. No. 1425,
Police Line Swat Appellant

VERSUS

1. District Police Officer, Swat.
2. Regional Police Officer, Malakand
Region at Sadiu Sharif, Swat.
3. Provincial Police Officer,
KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OB NO. 14 DATED 21-01-2006 OF R. NO. 01
WHEREBY APPELLANT WAS DISMISSED FROM
SERVICE RETROSPECTIVELY AND THE PERIOD OF
ABSENCE WAS TREATED AS LEAVE WITHOUT PAY OR
OFFICE ORDER NO. 8931 / E DATED 27-10-2016 OF
R. NO. 02 WHEREBY DEPARTMENTAL APPEAL OF
APPELLANT WAS REJECTED OR OFFICE ORDER NO.
7652 / 16 DATED 23-11-2016 OF R. NO. 03
WHEREBY REVISION PETITION OF APPELLANT WAS
REJECTED:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That appellant was enlisted in service in the year 2002 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 2003 and qualified the same.
3. That thereafter appellant served in various Police Stations for about five (05) years without any complaint.
4. That at the time, Swat Valley was in clutches of the miscreants and it was well in knowledge of every one that they were ruling the area and the government machinery was totally collapsed. Employees were kidnapping, beheading and killing either through guns or bomb blasts. In such a situation employees of almost all of every department let their services, especially of the police department which was in target of the miscreants.
5. That on account of absence, appellant was removed from service on 21-01-2006 by R. No. 1 from the date of absence from duty, 02-07-2005 and the absence period was treated as leave without pay. (Copy as Annex "A")
6. That thereafter appellant appeal before R. No. 02 on 02-02-2006 for reinstatement in service followed by subsequent representation dated 22-08-2016, which was rejected on 27-10-2016. (Copies as Annex "B", "C" & "D")
7. That Revision Petition before R. No. 03 was filed for the aforesaid purpose which was rejected on 23-11-2016. (Copy as Annex "E")
8. 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 "F")
9. That apart from the aforesaid fact, the subject matter came up for consideration before the hon'ble Tribunal and after thorough probe, their appeal's were accepted vide judgments dated 02-05-2016 and 07-12-2017, etc. (Copies as Annex "G")

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


G R O U N D S:

- a. That appellant was enlisted in service in the year 2002 and served the department till the date of removal from service.
- b. That at the time, the Swat Valley was in clutches of the miscreants and it is will in knowledge of every one that they were ruling the area and the government machinery was totally collapsed. Employees were kidnapping, beheading and killing either through guns or bomb blasts. In such a situation employees of almost all of every department let their services, especially of the police department.
- c. That appellant was removed from service on the score of absence but such absence was not willful but was due to the deteriorated situation of the area.
- d. 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.
- e. That in the impugned order dated 21-01-2006, the authority regularized the absence period and in such situation, he cannot be dismissed from service.
- f. That as is evident from the impugned orders none was served upon appellant, so no question of limitation ever arises.
- g. That codal formalities enumerated in the Rules were never observed, being mandatory. The impugned orders not per the mandate of Law and based on malafide.

It is, therefore, most humbly prayed that on acceptance of appeal, orders dated 21-01-2006, 27-10-2016 and 23-11-2016 of the respondents be set aside and appellant be reinstated in service with all consequential / back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Appellant

Through



Saadullah Khan Marwat

Dated 30-10-2018

Amjad Khan
Advocates.

U
A
5
21/01/06

Order

This order shall dispose off the departmental enquiry carried out against the defaulter Constable Farman No.1425 of this District Police.

Brief facts are that while the defaulter official posted at Police Lines Swat absented himself from the duty with effect from 02/07/2005 till now. Hence a panel of enquiry committee consisting upon Mr. Akbar Ali Khan DSP Headquarters and Fazal Subhan Khan, RI Police Lines was constituted with giving directions to probe into the matter and submit the finding report as soon as possible. After thorough probe into the matter, the enquiry committee submitted the finding report wherein they clearly mentioned that the defaulter Constable has left for foreign country, and has settled there in connection with earning his livelihood and therefore his return back as well as rejoining the service is hopeless. Hence they recommended the defaulter official for awarding major punishment with his removal from service. Besides this, necessary verification was also carried out through local Police, who supported the vision of finding report submitted by the enquiry committee.

On the receipt of the finding report along with the relevant enquiry papers, the same were perused and reached at the conclusion that actually the defaulter official has left for abroad since the date of his absence and his return back to join the service is hopeless according to reports/ verification received in this regard. Hence at the moment there is no alternative way to decide the departmental enquiry which is pending process against him except taking exparty action against him.

Therefore while exercising the powers vested in me under rules Removal from Service (Special Powers) Police Order 2002, the defaulter Constable is hereby dismissed from the service from the date of his absence. The period of his absence is counted as leave without pay.

District Police Officer, Swat

Exc-

J.B. No. 14
Dated 21/01/2006

محترم صاحب ذی القربی حاجی صاحب مالکنڈ ڈویژن مالکنڈ

درخواست نامہ پانچالی پور پلڈز

پانچالی

مورد بیان گزارش ذیل ہے

کہ سائیل 2002 میں پولیس میں پانچالی پور 2003 میں
پانچالی پور سے تعلق رکھنے والے ایک شخص نے مختلف
تھانوں میں خدمات سر انجام دیں۔

صاحب کو مجموعی معلوم ہے کہ وادی سموات شورش کی امانگاہ
تھی۔ یہ طرف افرا تھی۔ شہر پور عام دن ٹانے پورے تھے
اور سرکاری ملازمین عموماً اور پولیس فوجیوں کو مارا گیا تھا۔ حکومتی
مشینوں کا مکمل طور پر زلزلہ تھا۔

ان حالات میں پلڈز میں کئی چھوڑ رکھے تھے اور پورے
پانچالی کو ذی القربی اور صلیب سروس سے بلا تائی تائی اور وادی طرف

کے
خواب والے۔ پانچالی کو سروس سے بونفٹ 1-2 کو پانچالی پور
2-2 سے طرف لیا ہے۔ جو پانچالی ہے، پلڈز درمیانی وقت کو پانچالی پور
شمار لیا ہے۔

اس کے بعد کہ حکم وارم 1-2 جاری کر دیا گیا ہے اور
مستوح فرمائیں تمام سبب سے معاملات کے ساتھ سروس پانچالی پور کا مکمل
صاف کریں۔ پانچالی پور

بونفٹ 02-2-06

الکوارچک

ذیشان علی ولد ولی احمد ساکن ابوالخیر پورکوت سوات
سابقہ پانچالی پور 1925 پولیس اسٹیشن سوات

22-8-16

BEFOR THE HONORABLE INSPECTOR GENENRAL OF POLICE KPK.

Application for re- instatement in the service

SE SECRET

Registrar

Pl. process

Respectfully Sheweth,

Pl. process

Jimmy

1. That the applicant is residing at Swat and enjoying his peaceful life and belongs to a very poor family.

19/8, 22/8/16

2. That applicant is appointed in 2002 as Constable in Police department.

3. That during his service applicant has performed his duty with full zeal and zeast.

4. Before and during his service applicant received calls from different numbers which threatening his life to death.

5. In this regard the applicant has been lodge FIR No 191 dated 07.04.2000 under section PPC 324/427/34 against three accused, which act of the applicant is the practical prove of those threats calls that he had received. (copy of FIR attached)

6. That even after captioned FIR applicant again receives different threats calls during service in such case applicant decided to go abroad to avoid all these threats.

7. That in the meanwhile your department has initiated departmental inquiry in which all proceeding were carried out in his absence and finally awarded with major penalty. (copy of order attached)

Office of the IGP KPK, Peshawar
(Secret Group)
2938/16
22-8-16

8. That it is evident from the record that all proceeding has been carried out in his absence, and applicant has not been given any hearing opportunity.
9. That absence from the service of the applicant was not willful but due to reasons mentioned above.

It is therefore respectfully prayed that on acceptance of this application applicant may please be reinstated in service.


Applicant

Farman Ali Belt No 1425 s/o Wali Ahmad
r/o Mohalla Khatoon Khel, Abuha, Tehsil
& Distt Swat.

CNIC No: 15602-0244282-3

Mobile No: 0343-9041505

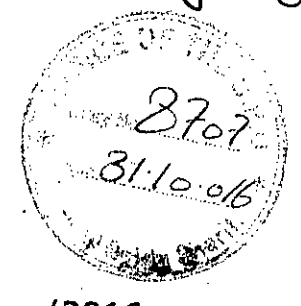
0340-9242931

appeal
File
id
my

D

9

27-10-16
By Rege



From : **The Regional Police Officer,
Malakand, at Saidu Sharif, Swat.**

To : **The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.**

No. 8931 /E, dated Saidu Sharif, the 27-10 /2016.

Subject: **APPEAL (EX FC FARMAN ALI NO. 1425)**

Memorandum:

Kindly refer to CPO, Peshawar memo No. S/5823/16, dated 29/08/2016.

The District Police Officer, Swat has intimated vide his office memo No. 12567/E, dated 17/10/2016 that Ex Constable Farman Ali No. 1425 while posted in Police Line Swat absented himself from lawful duty without permission or leave w.e.f 02/07/2005 to 21/01/2006 (Total 05 Months and 21 days) as per report of Line Officer, Police Line Swat.

He was issued Charge Sheet alongwith statement of allegations and DSP / HQrs accompanied by RI Police Line were deputed as Enquiry Officers. The Enquiry Officers conducted proper departmental enquiry against the delinquent Officer and recorded the statements of all concerned officers. After conducting proper departmental enquiry, the enquiry officers submitted their finding wherein they recommended the delinquent officer for major punishment.

Being found guilty of the charge the District Police Officer, Swat dismissed him from service from the date of his absence under Removal from Service (Special Power) Ordinance 2002 vide OB No. 14 dated 21/01/2006. The applicant has not lodged an appeal before the Undersigned, moreover the appeal of the applicant is time barred.

His Service Roll + Fuji Missal are submitted herewith as desired please.

Encls! S-Roll
F-Missal

**Regional Police Officer,
Malakand, at Saidu Sharif Swat**

No. 8932 /E, ✓

Copy to District Police Officer, Swat with reference to his office memo quoted above.

EC
Link with the
Corr.

DS
18/10

**Regional Police Officer,
Malakand, at Saidu Sharif Swat**



25-11-16
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/ 7652

16. dated Peshawar the 23/11/2016.

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 Farman Ali No. 1425. The appellant was dismissed from service w.e.f. 02.07.2005 by DPO/Swat vide OB No. 14 dated 21.01.2006 on the charge of absence from duty for 06 months and 19 days.

Meeting of Appellate Board was held on 17.11.2016 wherein appellant was heard in person. During hearing petitioner contended that his absence was not deliberate but due to threats of terrorists in Swat. Petition also contended that he was also family feud and he was once attacked by the unknown person.

Perusal of record reveals that the impugned order of dismissal from service of petitioner was passed vide order dated 21.01.2006. The instant petition filed on 19.08.2016 is badly time barred. Thus his appeal is rejected on grounds of limitation and merit as well.

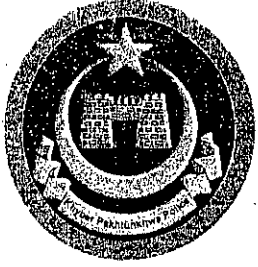
This order is issued with the approval by the Competent Authority.

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

No. SI/ 7653-59 /16.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat.
2. District Police Officer, Swat.
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. Office Supdt: E-IV CPO Peshawar.
7. Central Registry Cell, CPO.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. SI 7882 /16, dated Peshawar the 05/12/2016.

To : The Regional Police Officer,
Malakand Region, Swat.

Subject: SERVICE RECORD (EX-FC FARMAN ALI NO. 1425)

Memo :

Please refer to your office memo: No. 8931 / E, dated 27.10.2016.

Service Record in r/o Ex-Constable Farman Ali No. 1425 is returned herewith for your office record please.

Encl: Service Roll
Fauji Missal

Pluse
OFFICE SUPDT: SECRET
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

10-10423/E
14-12-2016

D/o: Swat.

E.C
for m/action
[Signature]
Office Supdt:
For: Regional Police Officer,
Malakand Region Swat

For m/action, the S. Roll,
F. Missal of Ex Constable Farman Ali
No. 1425 is returned herewith for record
in your office. The receipt of which may
please be ack. This is in c/o this office
Encl: No. 8932/E, dt: 27-10-016, and Encl:
No. 10039/E, dt: 30-11-016.

Encls: S-Roll
F. Missal
[Signature]
RPO MKd.
14/12/16

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 Bahade Khan No: 1322
2.	Ex-HC Mian Said Rehman No.582;
3.	Ex-Constable Muhammad Saeed No. 1543
4.	Ex-Constable Fida Hussain No. 751
5.	Ex-Constable Zia-u-din No.1581
6.	Ex-Constable Sami Ullah No. 103
7.	Ex-Constable Sadiq Akbar No. 340
8.	Ex-Constable Ayaz Ali No. 1482
9.	Ex-PASI Ijaz Ali No.3 5 (Shaheed Son)
10.	Ex-Constable Farman Ali No.757
11.	Ex-Constable Shafiqullah No. 298
12.	Ex-Constable Sher Ali Khan No. 443
13.	Ex-Constable Sabir Hussain No. 1421
14.	Ex-Constable Sharafat Khan No. 776
15.	Ex-Constable Fazal Anwar No. 1091
16.	Ex-Constable Asmat Ali No. 1304
17.	Ex-Constable Niaz Mond No. 822
18.	Ex-Constable Abdul Wadod 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

24.	Ex-Constable Gul Farriz 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 Muhammd 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 Muehd. 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. 83/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. 645
56.	Ex-Constable Ajab Khan No. 172
57.	Ex-Constable Tariq No. 1534
58.	Ex-Constable Karim Ullah Khan No. 608
59.	Ex-Constable Shafi Ullah No. 1506
60.	Ex-Constable Bashir Ahmad No. 1457
61.	Ex-Constable Izzat Mond No. 1244
62.	Ex-Constable Shehzada No. 364
63.	Ex-Constable Umar Zaib No. 1448
64.	Ex-Constable Majee Khan No. 81

14

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 Mumd 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 Zarin 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 Alta Ullah No. 1514
93.	Ex-Constable Feroz Khan No. 961
94.	Ex-Constable Ubaid Ullah No. 190
95.	Ex-Constable Akbar Bach No. 852
96.	Ex-Constable Sher Alam No. 996
97.	Ex-Constable Muhammad Ayaz No. 488
98.	Ex-Constable Anwar-ul-Haq No. 572
99.	Ex-Constable Muhammad Iqbal No. 369
100.	Ex-Constable Gohar Ali No. 642
101.	Ex-Constable Rizwan Ullah No. 1454
102.	Ex-Constable Yousaf Khan No. 350
103.	Ex-Constable Farooq No. 13
104.	Ex-Constable Muhammad Shoaib No. 1528
105.	Ex-Constable Ali Muhammad No. 1456

15

106.	Ex-Constable Mumtaz Ali No. 62
107.	Ex-Constable Shah Wali Khan No. 1502
108.	Ex-Constable Mian Khaliq Jan No. 383
109.	Ex-Constable Luqman Ali No. 95
110.	Ex-Constable Jehan Ali No. 195
111.	Ex-Constable Musharraf Khan No. 1113
112.	Ex-Constable Amir Muhammad No. 176/RR
113.	Ex-Constable Alam Khan No. 1078
114.	Ex-Constable Sher Shah No. 862
115.	Ex-Constable Arhjid 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-HC Asghar Khan No. 31
129.	Ex-Constable Ali Rasheed No. 1480
130.	Ex-Constable Fazal Rehman No. 784
131.	Ex-Constable Bakhtaj No. 1329
132.	Ex-Constable Ibrar Hussain No. 420
133.	Ex-Constable Zafar Alam No. 653
134.	Ex-Constable Muhd Rafiq No. 1633
135.	Ex-Constable Sajjad Khan No. 1518
136.	Ex-Constable Umar 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 Sadiq 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. 198/RR
150.	Ex-Constable Zafar Ali Khan No. 74
151.	Ex-Constable Najib Ullah Khan No. 1439
152.	Ex-Constable Rahim Khan No. 571
153.	Ex-Constable Azam Khan No. 45
154.	Ex-Constable Mian Said Bacha No. 1362
155.	Ex-Constable Hazrat Alam No. 1570
156.	Ex-Constable Irfan Ud Din No. 1549
157.	Ex-Constable Sher Hassan Khan No. 685
158.	Ex-Constable Muhd Raafiq No. 131/RR
159.	Ex-Constable Mian Said Farooq No. 333
160.	Ex-Constable Muhammad Tahir No. 1703
161.	Ex-Constable Bahadur Nawab Khan No. 1635
162.	Ex-Constable Amir Khan No. 1604
163.	Ex-Constable Sami Ullah No. 1588
164.	Ex-Constable Muhammad Qasim No. 1688
165.	Ex-Constable Muhd. Ayif 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 Fayooq 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 Pijal 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 Sar iullah No. 1600
186.	Ex-Constable Samin Khan No. 1724
187.	Ex-Constable Salman Ashar No. 1575

188.	Ex-Constable Hayat Ali No. 1614
189.	Ex-Constable Liaqat Ali Khan No. 1414
190.	Ex-Constable Yaqub Khan No. 1601
191.	Ex-Constable Farman Ali No. 1069
192.	Ex-Constable Rehmat Zaib No. 1679
193.	Ex-Constable Fayaz Ali No. 914
194.	Ex-Constable Wali Ahmad No. 841
195.	Ex-Constable Barkat Ali Khan No. 190/RR
196.	Ex-Constable Nazir Mahmood No. 1771
197.	Ex-Constable Mohim Barcha 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 Zai Ullah No. 104/RR
205.	Ex-Constable Naeem Iqbal No. 1716
206.	Ex-Constable Amjid 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 Haider Ali No. 1667
228.	Ex-Constable Badshah Muhammad No. 142/RR

18

229.	Ex-Constable Sher Zaman No. 1167
230.	Ex-Constable Muhammad Jan No. 1708
231.	Ex-Constable Mian Gul Bacha No. 1696
232.	Ex-Constable Saif Ullah No. 1769
233.	Ex-Constable Zahir Ullah No. 1644
234.	Ex-Constable Parveez Khan No. 65/RR
235.	Ex-Constable Muhammad Naeem No. 1746
236.	Ex-Constable Fazal Bacha No. 605
237.	Ex-Constable Barkat Ali No. 1312
238.	Ex-Constable Amir Zeb No. 1787
239.	Ex-Constable Kalim Ullah Jan No. 1656
240.	Ex-Constable Zai-ur-Rehman No. 1694
241.	Ex-Constable Muhammad Alam No. 1730
242.	Ex-Constable Fazal Hayat No. 1658
243.	Ex-Constable Hazrat Nawaz Khan No. 721
244.	Ex-Constable Ikram Ullah No. 1606
245.	Ex-Constable Tariq Rahim No. 1782
246.	Ex-Constable Wali Khan No. 212/RR
247.	Ex-Constable Abdali Khan No. 188/RR
248.	Ex-Constable Muhammad Parvez No. 63/RR
249.	Ex-Constable Muhammad Zahid No. 71/RR
250.	Ex-Constable Sardar Ali No. 45/RR
251.	Ex-Constable Luqman No. 95
252.	Ex-Constable Bahad Ali No. 4688/FRP
253.	Ex-Constable Sher Afzal No. 4388/FRP

Order announced.

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

No. 102/14-16/E,
Dated 30/11/2010.

Copy for information and necessary action to the:-

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

OFFICE ORDER

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

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

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

S.No	Name and No.
1.	Ex-Constable Minhaj-ud-Din No.139
2.	Ex-Constable Zahoor Hussain No.1738
3.	Ex-Constable Ali Baz No.501
4.	Ex-Constable Muhammad Israr No.118
5.	Ex-Constable Attaullah No.924
6.	Ex-Constable Muhammad Ali No.1653
7.	Ex-Constable Fazal Hanan No.1504
8.	Ex-Constable Ikram No.1189
9.	Ex-Constable Qaisar Ali Shah No.675
10.	Ex-Constable Bashir Ahmad No.270
11.	Ex-Constable Parwanat Khan No.30
12.	Ex-Constable Fazal Rabbi No.579

Order announced.

(AKHTAR HAYAT KHAN)
Deputy Inspector General of Police
Malakand Region, Khyber Pakhtunkhwa, Peshawar

No. _____ /E,

Dated 07/02/2012

Copy for information and necessary action to the

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

AKHTAR HAYAT KHAN

[Handwritten signature]



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 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.

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

No. S/ 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.

(Signature)
Appellate Board
(Signature)

ORDER

This order shall dispose of departmental appeal under rule 11 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 report/arrival 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 03.02.2017, 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 unblemished service record of a trained soldier he (Ex-constable Sadiq-ur-Rehman No. 4881 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 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 announced

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

No. 2944 /EC Dated Peshawar, the 09/11/2017

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

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 Parwar, 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 03.08.2017, 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 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-a-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 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 announced

Commandant
Frontier Reserve Police

Khyber Pakhtunkhwa, Peshawar

No. 5913/EC, dated Peshawar, 21.07.2017.

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

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 588 /2012

Handwritten notes: 562, 23/05/12

Murad Ali S/o Muhammad Mashal Khan,
R/o Char Bagh, Ex-C. No. 4708, FRP,
Police Station Matla, Swat



Appellant

Versus

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

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

Handwritten notes and signatures on the left margin.

Respectfully Showeth,

1. That on 25.07.2007, appellant was enlisted as FRP constable in Malakand Range by R.No.1.
2. That it was an admitted fact that the whole Swat valley was under the control of miscreants/Faliban. General HR was absolutely ineffective. Miscreants/Faliban were kidnaping, illing and harassing Government employees, especially of

Alcetos

Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
02.05.2016	<p style="text-align: center;"> <u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>CAMP COURT SWAT.</u> APPEAL NO. 588/2012 (Murad Ali Vs. Commandant FRP, KPK Peshawar & 2 others.) <u>JUDGMENT</u> <u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u> Appellant with counsel and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mushtaq Ahmad, Inspector (Legal) for the respondents present. </p> <p> Murad Ali son of Muhammad Mashal Khan hereinafter referred to as the appellant has preferred the instant appeal against order dated 09.4.2012 communicated to the appellant on 02.5.2012 vide which his departmental appeal against original order dated 10.10.2008 of removal from service was regretted. </p> <p> Brief facts giving rise to the present appeal are that the appellant was appointed as Constable in FRP Mafakand Range vide appointment order dated 25.07.2007. While serving so he was found absent from duty for a period of 3 months and 8 days and after conducting enquiry removed from service vide order dated 10.10.2008 where-against departmental appeal of the appellant was rejected on 09.4.2012 and hence the instant service appeal on 23.05.2012. </p>

Adverses

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

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

Since the appellant was subjected to enquiry wherein neither prescribed procedure was followed nor appellant associated with the same as such we deem it more appropriate to set aside the impugned original order dated 10.10.2008 as well as impugned order dated 09.01.2012 and as a consequence thereof reinstate the appellant in service, placing the respondents at liberty to departmentally proceed against the appellant afresh, if need be, and that the plea of the appellant in respect of reinstatement of similarly placed persons in service shall also be taken into account during the enquiry which shall be concluded within the period of 2 month from the date of receipt of this judgment. In case the

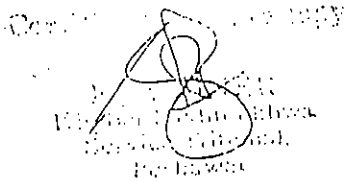
Handwritten signature and stamp of the court.

Attested
Handwritten signature and initials.

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

Announced sdt/- M. Azim Khan Afsidi,
02.05.2016 Chairman

sdt/- Abdul Latif,
Member



10-05-2016

1600
10

10

12-05-2016
12-05-2016

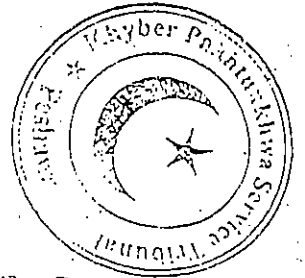
Attar Singh
[Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 957/2016

Date of Institution... 04.08.2016

Date of decision... 07.12.2017



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

Versus

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

ARBAB SAIFUL KAMAL,
Advocate

For appellant.

MR. KABIRULLAH KHATTAK,
Addl Advocate General

For respondents.

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

CHAIRMAN
MEMBER

JUDGMENT

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

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

FACTS

3. The appellant Shaukat Ali, Umar Ali and Afzal Khan were removed
from service on 28.08.2015, the appellant Fazal Yaseen was removed from

ATTESTED

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

ARGUMENTS

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

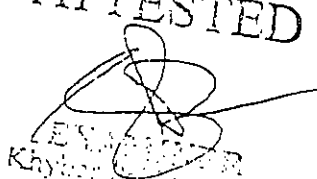
5. On the other hand the learned Addl. Advocate General argued that the departmental appeals are hopelessly time barred. That the revision within the meaning of Rule 11 -A of Khyber Pakhtunkhwa Police Rules, 1975 could not enlarge the period of limitation. That all the codal formalities were fulfilled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

CONCLUSION

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

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

ATTESTED


 Khyber Pakhtunkhwa
 Service Tribunal

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

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

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


sdf- M. Hamid Mughal
Member

Certified true copy
07/12/2017
F. A. 1234
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Petition 13-12-17
Number of Petitions 1200
Copying Charges 8
Urgent 8
Total 8
Name of Counsel M. A.
Date of Court 15-12-17
Date of Delivery of Copy 15-12-17

25.1.2019

Counsel for the appellant requests for adjournment on account of further preparation of brief. Adjourned to 20-02-19 before S.B.


Chairman

20.02.2019

Learned counsel for the appellant present.

Learned counsel for the appellant contended that he appellant was removed from service through order dated 14.01.2010, however, it was given effect from 07.01.2009, while, no executive order could operate retrospectively. It was further argued that a number of similarly placed person were reinstated into service by the respondents through recommendations of committee on 30.11.2010. On the other hand, the appellant was denied such treatment and his departmental appeal was rejected being barred by time. It was also the contention of learned counsel that the codal formalities were not fulfilled in the case of proceeding against the appellant whose absence from duty was attributable to the prevailing law and order situation in the Swat Valley. She relied on 1985 SCMR-1178, PLD 2008 Supreme Court 663 and a judgment of this tribunal passed in appeal No. 385/17.

In view of the above, the appeal in hand is admitted for regular hearing subject to all just and legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments for 08.04.2019 before S.B.


Chairman

2007 SCMR 729
2012 PLC CS 701

بنی جملوں سے مزین اور دلچسپ

No order could be given retrospective effect.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1369/2018

Farman Ali S/O Wali Ahmed R/O Abuha Barikot Swat Ex-Constable No.1425
Police Lines Swat.

----- (Appellant)

Versus

District Police Officer, Swat & others.

----- (Respondents)

INDEX

S.No:	Description of Documents	Annexure	Page
1	Para-wise Comments	-	1-3
2	Affidavit	-	4
3	Authority Letter	-	5


**District Police Officer, Swat
(Respondent No.01)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1369/2018

Farman Ali S/O Wali Ahmed R/O Abuha Barikot Swat Ex-Constable No.1425
Police Lines Swat.

----- (Appellant)

Versus

District Police Officer, Swat & others.

----- (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully shewith:

Preliminarily objection:-

1. That the service appeal is barred by law and limitation.
2. That the service appeal is not maintainable in its present form.
3. The instant appeal is bad due to mis-joinder and non-joinder of necessary parties.
4. That the appellant is estopped due to his own conduct.
5. That the appellant has concealed the material facts from this Honorable Tribunal.
6. That the appellant has got no cause of action and locus standi to prefer the instant appeal.
7. That the appellant has not come to this honorable Tribunal with clean hands.

FACTS

1. Para to the extent of employment in Police Department pertains to record. hence need no comments.
2. Pertain to record, appellant has performed duty in various Police Stations but his performance was not up to the mark.
3. Pertain to record, hence needs no comments.
4. Incorrect. The appellant in this para admitted himself that at the time of insurgency in Swat, had runaway/left his job which showed cowardice on his part. Being a member of discipline force, appellant was required/duty bound to protect the live, liberty and property of public but he failed to do so which lasted bad impact and demoralized the Police Department. The appellant showed cowardice, left his duty and proceeded abroad at the

time when his services were direly needed by the department at the time of insurgency in Swat.

5. Correct to the extent that appellant was dismissed from service after fulfillment of all legal and codal formalities as appellant while posted at Police Lines Swat willfully and deliberately absented himself from lawful duty and proceeded abroad without prior permission/leave of the competent authority. The act of appellant showed his cowardice by leaving his place of duty due to the fear of miscreants.
6. Departmental appeal of the appellant was thoroughly examined by the respondent No.02 and was filed on convincing and cogent reasons.
7. Only one appeal is allowed under the law against the parent order, second departmental appeal has no value under the law as first departmental of the appellant was examined and filed by the respondent No.02 accordingly.
8. Incorrect. Each and every case has its own facts and circumstances, hence plea of the appellant is not plausible.
9. As stated above each and every case has its own facts and circumstances, hence plea of the appellant is not plausible. Appeal of the appellant is liable to be dismissed on the following grounds.


GROUND

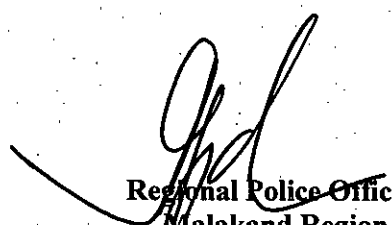
- a. Pertain to record.
- b. Incorrect. Already explained above at para No.04 of facts.
- c. Incorrect. As stated above, the appellant willfully and deliberately absented himself from his lawful duty without prior permission or approved leave and proceeded abroad. The act of appellant by leaving his place of duty showed his cowardice which is not acceptable to Police department.
- d. Incorrect. The appellant was dismissed from service on allegation of his willful absence from duty which was gross misconduct on his part. Being a part of discipline force he was required approved leave and prior permission of his officers but he failed to do so and absented himself from duty without any permission or approved leave.

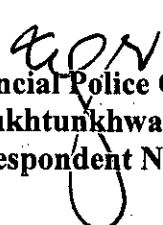
- e. Incorrect. This para does not make sense, therefore it would be appropriate to explain the same by the appellant at the time arguments.
- f. Incorrect. The appellant was dismissed from service after completing all codal formalities under the law/rules. The appellant was summoned time and again to join enquiry proceeding and defend the charges leveled against him, however the appellant proceeded abroad did not come back to join his duty.
- g. Incorrect. The order of respondents are legal and in accordance with law/rule. All the codal formalities have been fulfilled during departmental enquiry conducted against the appellant.

PRAAYER

In view of the above comments of answering respondents, it is prayed that instant appeal being badly barred by law and limitation may kindly be dismissed with cost.


District Police Officer, Swat.
(Respondent No.1)


Regional Police Officer,
Malakand Region
(Respondent No.2)
Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.


Provincial Police Officer,
Khyber Pukhtunkhwa, Peshawar
(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1369/2018

Farman Ali S/O Wali Ahmed R/O Abuha Barikot Swat Ex-Constable No.1425 Police Lines Swat.

..... Appellant

VERSUS

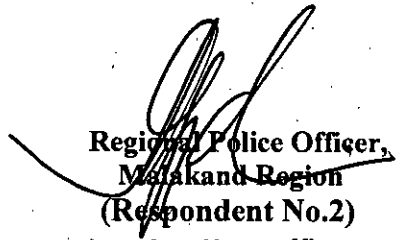
District Police Officer, Swat & others.

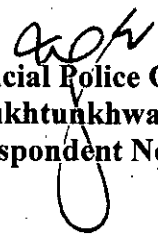
....Respondents

AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.


District Police Officer, Swat.
(Respondent No.1)


Regional Police Officer,
Malakand Region
(Respondent No.2)
Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.


Provincial Police Officer,
Khyber Pukhtunkhwa, Peshawar
(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1369/2018

Farman Ali S/O Wali Ahmed R/O Abuha Barikot Swat Ex-Constable No.1425 Police Lines Swat.

..... Appellant

VERSUS

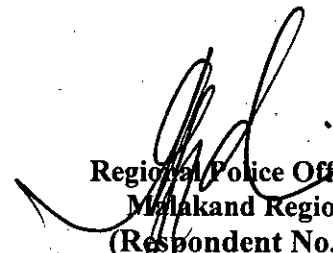
District Police Officer, Swat & others..

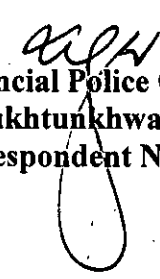
.....Respondents

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Naeem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.


District Police Officer, Swat.
(Respondent No.1)


Regional Police Officer,
Malakand Region
(Respondent No.2)
Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.


Provincial Police Officer,
Khyber Pukhtunkhwa, Peshawar
(Respondent No.3)

Judge-I

S.A # 1369/2018

Enquiry Report

OFFICE OF THE DSP/Hqrs:SWAT.

No. _____/R.Dt: _____/20

Subject :-

DISCIPLINARY ACTION AGAINST CONSTABLE
FARMAN ALI NO.1425.

Me no:

Dated 14.1.2006.


Kindly refer to your office memo:No.129/

Constable Farman Ali No.1425 of Police
Lines absented from duty with effect from 2.7.2005 till
now.

The enquiry committee called the delinquent
constable in c/w the enquiry but he was reported still
absent. Later on, on 18.1.2006 his father namely Wali Ahmad
s/o Abdul Ghafoor R/O Aboha Police Station Ghaliqay has
stated that his son constable Farman Ali No.1425 has been
proceeded to Sharja Dubai for labourhood. This means
that the constable concerned is unwilling of Police
services in future. Beside this the constable is also a
habitual absentee.

Keeping in view of the above circumstances,
the enquiry committee has recommended the alleged constable
Farman Ali No.1425 for Major punishment i.e dismissal from
service.

Submitted please.


(AKBAR ALI KHAN)
Deputy Supdt: of Police, Hqrs:
Swat.

(FAZAL SUBHAN KHAN)
R.I/Swat.

OFFICE OF THE DSP/Hqrs:SWAT.
No. _____/R,Dt: _____/20

Subject :-

DISCIPLINARY ACTION AGAINST CONSTABLE
FARMAN ALI NO.1425.

Me no:

Dated 14.1.2006.

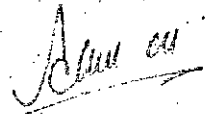
Kindly refer to your office memo:No.129/

Constable Farman Ali No.1425 of Police
Lines absented from duty with effect from 2.7.2005 till
now.

The enquiry committee called the delinquent
constable in c/w the enquiry but he was reported still
absent. Later on, on 18.1.2006 his father namely Wali Ahmad
s/o Abdul Ghafoor R/O Aboha Police Station Ghaligay has
stated that his son constable Farman Ali No.1425 has been
proceeded to Sharja Dubai for labourhood. This means
that the constable concerned is unwilling of Police
services in future. Beside this the constable is also a
habitual absentee.

Keeping in view of the above circumstances,
the enquiry committee has recommended the alleged constable
Farman Ali No.1425 for Major punishment i.e dismissal from
service.

Submitted please.


(AKBAR ALI KHAN)
Deputy Supdt: of Police, Hqrs:
Swat.

(FAZAL SUBHAN KHAN)
R.I/Swat.

OFFICE OF THE DSP/Hqrs:SWAT.
No. _____/R,Dt: _____/20

Subject :-

DISCIPLINARY ACTION AGAINST CONSTABLE
FARMAN ALI NO.1425.

Me no:

Dated 14.1.2006.

Kindly refer to your office memo:No.129/

Constable Farman Ali No.1425 of Police
Lines absented from duty with effect from 2.7.2005 till
now.

The enquiry committee called the delinquent
constable in c/w the enquiry but he was reported still
absent. Later on, on 18.1.2006 his father namely Wali Ahmad
s/o Abdul Ghafoor R/O Abaha Police Station Ghaligay has
stated that his son constable Farman Ali No.1425 has been
proceeded to Sharja Dubai for labourhood. This means
that the constable concerned is unwilling of Police
service in future. Beside this the constable is also a
habitual absentee.

Keeping in view of the above circumstances,
the enquiry committee has recommended the alleged constable
Farman Ali No.1425 for Major punishment i.e dismissal from
service.

Submitted please.

Ali
(AKBAR ALI KHAN)
Deputy Supdt: of Police, Hqrs:
Swat.

(FAZAL SUBHAN KHAN)
R.I/Swat.

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

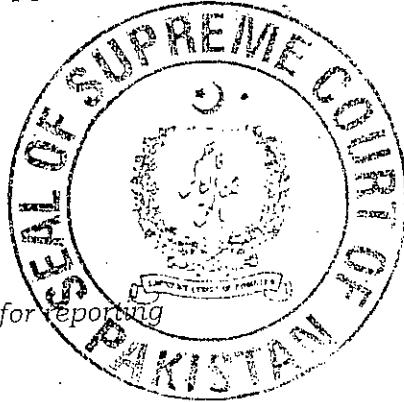

Assistant Registrar
Supreme Court of Pakistan
Peshawar.

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).

Govt vs Adman

644-P/2020
No. of prescriptions of
Application, 10/10/2020
No. of items 600
..... 6
..... 5.00
..... 3.72
..... 8.72
..... 21/10/2020
..... 22/10/2020
Compared by
Received by, Mr. M. Tahir, Khan, ACR
Total Amount
Advance Rs
Balance



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 508/2018

Date of Institution ... 11.04.2018

Date of Decision ... 24.01.2022



Muhammad Ayub S/o Sher Ali Khan R/o Navay Kalay Mingora Swat, Ex-Constable
No. 1460, PS, Imam Dhery, Swat. (Appellant)

VERSUS

District Police Officer, Swat and others.

(Respondents)

Arbab Saiful Kamal,
Advocates

For Appellant

*w/ful
absence*

Asif Masood Ali Shah,
Deputy District Attorney

For respondents

*Para 5
loss of time*

MUHAMMAD SULTAN TAREEN
ATIQ-UR-REHMAN WAZIR

CHAIRMAN
MEMBER (EXECUTIVE)

E-D 201

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are

that the appellant while serving as Constable in Police Department was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 21-02-2009. Feeling aggrieved, the appellant filed departmental appeal dated 20-03-2009, which was rejected vide order dated 18-09-2017. The appellant filed revision petition dated 27-09-2017, which was also rejected vide order dated 03-10-2017 communicated to appellant on 20-03-2018, hence the instant service appeal with prayers that the impugned orders dated 21-02-2009, 18-09-2017 and 03-10-2017 may be set aside and the appellant may be re-instated in service with all back benefits.

*Para 9
1973 E-D
8A*

ATTESTED

[Signature]
EXAMINER
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

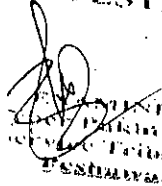
02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated; that the impugned order is against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that absence of the appellant was not willful, but was due to compelling reason of terrorism in the area and which does not constitute gross misconduct entailing major penalty of dismissal; that the penalty so awarded is harsh, which does not commensurate with gravity of the guilt; that the appellant has been discriminated as similarly placed employees were re-instated but case of the appellant was not considered.

Learned Deputy District Attorney for the respondents has contended that the appellant willfully absented himself from lawful duty and did not turn up despite repeated summons; that the appellant while posted at Imam Dheri check post Police Station Kanjo absented himself without permission of the competent authority vide daily diary No 11 dated 17-10-2008; that the appellant was issued charge sheet/statement of allegation and proper inquiry was conducted; that the appellant was summoned repeatedly but he did not turn up, hence he was proceeded ex-parte; that after fulfillment of all codal formalities, the appellant was awarded with major punishment of dismissal from service vide order dated 2-02-2009; that the appellant filed departmental appeal with delay of more than seven year, which was considered but was rejected vide order dated 11-09-2017 being barred by time.

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

05. Placed before us is case of a police constable, who alongwith many other police personnel had deserted their jobs in the wake of insurgency in Malakand division and particularly in District Swat. Police department had constituted a committee for cases of desertion and taking humanitarian view, re-instated such

ATTESTED

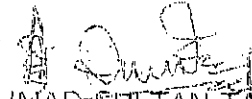

 District Attorney
 District Swat


personnel into service in large number. Placed on record is a notification dated 30-11-2010, where 253 similarly placed employees had been re-instated on the recommendation of the committee constituted for the purpose. Vide another order dated 07-02-2012, batch of another 12 employees had been re-instated in service. Yet another order dated 15-03-2017 would show that similarly placed employee had been re-instated upon his revision petition on the ground of length of his service and threats from Taliban. Other cases of similar nature are available on record, which would suggest that the provincial government had taken a lenient view keeping in view the peculiar circumstances in the area at that particular time. Even this tribunal has already granted relief in similar nature cases on the principle of consistency. Appellant is also one among those, who had deserted his job due to threats from terrorists. Coupled with this are dents in the departmental proceedings, which has not been conducted as per mandate of law, as the appellant in case of willful absence was required to be proceeded under general law i.e. Rule-9 of E& D Rules, 2011. Regular inquiry is also must before imposition of major punishment of dismissal from service, which also was not conducted.

05. In view of the situation mentioned above and keeping in view the principle of consistency, we are inclined to partially accept the instant appeal by converting the major penalty of removal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.01.2022

Certified to be true copy


 (AHMAD SULTAN TAREEN)
 CHAIRMAN


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

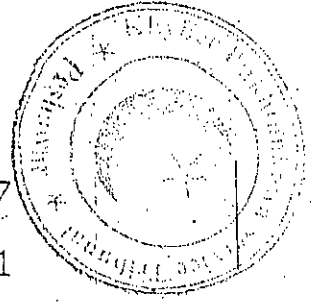
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 1420/2017

Date of Institution ... 13.12.2017

Date of Decision ... 07.12.2021



Asmat Ullah S/O Zarwali Khan, R/O Zahid Abad Township, Bannu,
Ex-Constable No. 1381, Police Station, Township, Bannu.

... (Appellant)

VERSUS

District Police Officer, Bannu and two others.

(Respondents)

MR. ARBAB SAIF-UL-KAMAL,
Advocate

For appellant.

MR. NOOR ZAMAN KHATTAK,
District Attorney

For respondents.

MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN

CHAIRMAN
MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant while serving as Constable in Police Station Township, District Bannu, was proceeded against departmentally on the allegations of his absence from duty and was dismissed from service vide order dated 30.12.2009. The departmental appeal of the appellant was disposed by the Regional Police Officer vide order dated 18.10.2017 with the remarks as seen and filed. The appellant then submitted revision petition to the Inspector General of Police Khyber Pakhtunkhwa Peshawar, which was rejected on

ATTESTED

03.11.2017 and intimation was conveyed to the appellant through cell phone on 14.11.2017, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the absence of the appellant from duty was not willful rather he was unable to attend his duty due to severe illness; that the prescriptions regarding illness of the appellant were handed over to the departmental Authority, however the appellate Authority did not consider the plea of the appellant and decided the departmental appeal in a cursory manner, that no charge sheet or statement of allegations as well as final show-cause notice was issued to the appellant and whole of the proceedings were conducted at the back of the appellant without affording him any opportunity of self defense or personal hearing; that the appellant was dismissed from service vide order dated 30.12.2009 with retrospective effect from 24.10.2008, therefore, the impugned order is void ab-initio, hence no limitation would run against the same; that the charge sheet as well as statement of allegations and final show-cause notice was not at all served upon the appellant and even no publication regarding the alleged absence of the appellant was made in the newspaper; that the impugned order being wrong and illegal may be set-aside and the appellant may be reinstated into service with all back benefits. Reliance was placed on 2019 SCMR 648 and 2000 SCMR 75 as well as judgment dated 07.12.2017 passed by this Tribunal in Service Appeal No. 967/2016.

4. On the other hand, learned District Attorney for the respondents has contended that the appellant remained absent from duty without leave or seeking permission of the competent Authority, therefore, disciplinary action was taken against him; that charge sheet as well as statement of allegations were issued to the appellant, however he did not

ATTESTED

SECRETARY
Service Tribunal
Kathmandu

bother to attend the inquiry proceedings; that on completion of the inquiry, final show-cause notice was issued to the appellant, however he failed to submit the reply of the same, therefore, he has rightly been awarded the punishment of dismissal from service; that the departmental appeal of the appellant was time barred, therefore, his service appeal is not maintainable; that the inquiry proceedings were conducted by complying all legal and codal formalities, therefore, the impugned orders may be kept intact and the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the appellant as well as learned District Attorney for the respondents and have perused the record.

6. A perusal of the record would show that disciplinary action was taken against the appellant on the allegations that he absented himself from duty with effect from 24.10.2008 without any leave or permission from the competent Authority. Charge sheet as well as statement of allegations were issued to the appellant and DSP Headquarter Bannu was appointed as inquiry officer for conducting inquiry against the appellant under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. Nothing is available on the record which could show that the charge sheet, statement of allegations as well as final show-cause notice were served upon the appellant. The respondents did not comply the relevant codal formalities for serving of charge sheet, statement of allegations as well as final show-cause notice upon the appellant, therefore, the ex-parte action taken against the appellant by depriving him of self defense and personal hearing is void ab-initio and nullity in the eye of law.

7. Moreover, the appellant agitated in his departmental appeal that he has not been treated in accordance with law and that his absence was not willful, rather he was unable to attend his duty being suffering from severe illness of jaundice. The appellate Authority, however dismissed the appeal in a cursory manner without considering the point agitated by the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Bannu

appellant in his appeal. In these circumstances, in order to meet the ends of justice, conducting of de-novo inquiry into the matter is necessary.

8. In light of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with the directions to the respondents to conduct de-novo inquiry in accordance with relevant law/rules within a period of 60 days of receipt of copy of this judgment. The issue of back benefits shall be subject to final outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.12.2021

(AHMAD SULTAN TAREEN)
CHAIRMAN

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Date of Presentation of Application 20/4/22
 Number of Words 1600
 Copying Fee 18/-
 Urgent 18/-
 Total 18/-
 Name of Copyist _____
 Date of Receipt of Copy 21/4/22
 Date of Delivery of Copy 21/4/22

Certified to be true copy

Khyal Dakhil
Service Tribunal,
Peshawar