

SA 950/2018

10<sup>th</sup> August, 2023

01. Appellant present in person. Mr. Fazal Shah Mohmand, Addl. Advocate General for the respondents present.

02. Former informed that his learned counsel was busy before the Hon'ble Peshawar High Court, Peshawar today and requested for adjournment. Last opportunity is granted. To come up for hearing on 15.11.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
K-5T  
Peshawar


  
(FAREEHA PAIL)  
Member(E)


  
(RASHIDA BANO)  
Member (J)

\*Fazle Subhan, P.S\*

12<sup>th</sup> May, 2023

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.
2. Learned counsel for the appellant seeks adjournment on the ground that she has not prepared the brief. Adjourned. To come up for arguments on 12.06.2023 before D.B. P.P given to the parties.

  
(Fareeha Paul)  
Member (E)


  
(Kalim Arshad Khan)  
Chairman


*\*Kaleemullah\**

12.06.2023

Clerk of learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 14.07.2023 before the D.B. Parcha Peshi given to the parties.


  
(Muhammad Akbar Khan)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

*\*Naeem Amin\**

14<sup>th</sup> July, 2023

1. Learned counsel for the appellant and Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.
2. The Worthy Chairman is on leave, therefore, case is adjourned to 10.08.2023 for arguments before D.B. P.P given to the parties.

  
(Fareeha Paul)  
Member (E)

*\*Mutazem Shah\**

SCANNED  
KPST  
Peshawar


SCANNED  
KPST  
Peshawar


23<sup>rd</sup> Nov. 2022

Counsel for the appellant present. Mr. Kabirullah Khattak,  
Addl. A.G for the respondents present.

Learned counsel for the appellant seeks adjournment in  
order to further prepare the brief. Adjourned. To come up for  
arguments on 30.01.2023 before the DB.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)


  
(Kalim Arshad Khan)  
Chairman

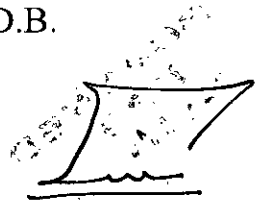
30.01.2023

Learned counsel for the appellant present. Mr. Umair Azam  
Khan, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the  
ground that she is not feeling well today. Last opportunity given. To  
come up for arguments on 12.05.2023 before the D.B.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

14<sup>th</sup> Oct. 2022. Because of strike of the Bar, this matter is adjourned to 27.10.2022. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

*[Handwritten signature]*

(Fareeha Paul)  
Member (E)

*[Handwritten signature]*

(Kalim Arshad Khan)  
Chairman

27.10.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is indisposed of today. Adjourned. To come up for arguments before the D.B on 23.11.2022.

SCANNED  
KPST  
Peshawar

*[Handwritten signature]*

(Mian Muhammad)  
Member (E)

*[Handwritten signature]*

(Salah-ud-Din)  
Member (J)

*[Handwritten mark]*

27-12-2021

Due to ~~unavailability~~ ~~vacation~~ the case is  
adjourned to come up for the  
same as before on 12-04-2022

Reader.

12.04.2022

Appellant alongwith counsel present. Mr. Riaz Ahmed Painsakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that she has not made preparation for arguments. Adjourned. To come up for arguments on 23.05.2022 before the D.B.

(Mian Muhammad)  
Member (E)

(Salah-ud-Din)  
Member (J)

23<sup>rd</sup> May, 2022

Junior to counsel for the appellant present. Mr. Kabeer Ullah Khattak AAG for the respondents present.

Former seeks adjournment due to non availability of learned senior counsel the appeal pertain to year 2018. The appellant is directed to produce his counsel on the next date otherwise the case will be decided on the basis of available record without argument. Case is adjourned to 03.08.2022 before DB.

Fareeha Paul  
Member (E)

(Kalim Arshad Khan)  
Chairman

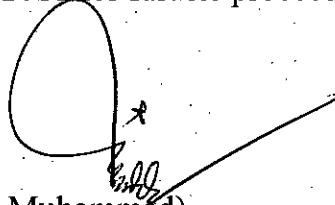
3-8-2022

Proper DB not available the case is adjourned  
to 14-10-2022  
Reader

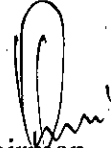
26.11.2020

Appellant in person present. Addl: AG for respondents present.

As the proposition regarding retrospective effect of penalty/order has not yet been settled by the Larger Bench, therefore, the hearing in this appeal is adjourned to 15.02.2021 for further proceedings before D.B.



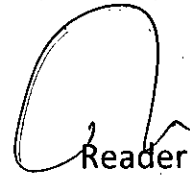
(Mian Muhammad)  
Member (E)



Chairman

15.02.2021

Due to Pandemic of Covid-19, the case is adjourned to 24m.05.2021 for the same.



Reader

24.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 01.09.2021 for the same as before.



Reader

Due to non availability of DB to come up for the same on 27/12/21.



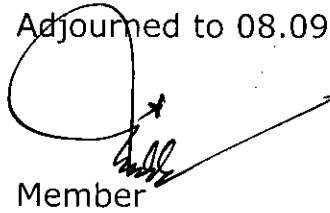
Reader

22.06.2020

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

Learned counsel states that in the instant appeal the impugned order<sup>was</sup> passed against the appellant with retrospective effect. She, therefore, requests for posting of instant matter to a date after hearing of similar proposition by a larger Bench.

Adjourned to 08.09.2020 before D.B.



Member



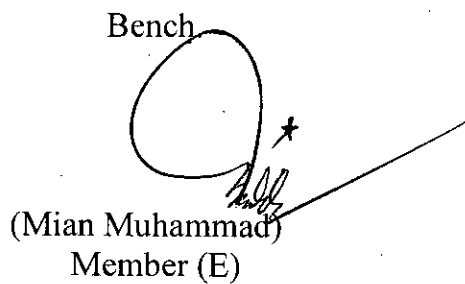
Chairman

08.09.2020

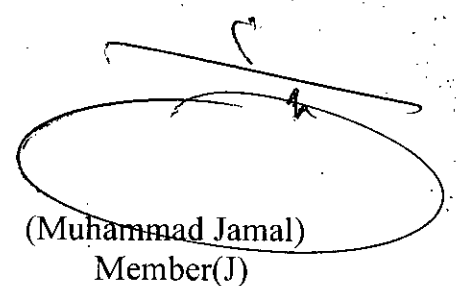
Mr. Shaaz Ullah Yousafzai, Advocate on behalf of the appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Since the proposition of giving effect in order passed by the Authority with retrospective effect is pending consideration with the Larger Bench of this Services Tribunal and since similar issue is involved in the instant appeal, therefore, it be submitted before the Larger Bench.

Adjourned to 26.11.2020 for arguments before Larger Bench



(Mian Muhammad)  
Member (E)



(Muhammad Jamal)  
Member(J)

26.11.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned AAG present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 29.01.2020 before D.B.

  
Member

  
Member

29.01.2020

Junior to counsel for appellant and Addl. AG for the respondents present.


Former requests for adjournment due to general strike of the Bar. Adjourned to 31.03.2020 for arguments before the D.B.

  
Member

  
Member

31.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 22.06.2020 before D.B.

  
Reader




06.05.2019

Appellant with counsel and Mr. Ziaullah, DDA for respondents present.


Learned counsel for the appellant requests for adjournment as she <sup>has</sup> not prepared the brief of the matter. Adjourned to 28.06.2019 for arguments before D.B.


  
Member

  
Chairman

28.06.2019


Counsel for the appellant and Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 12.09.2019 for arguments before D.B.

  
Member

  
Member

12.09.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondent present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 26.11.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M Hamid Mughal)  
Member

04.12.2018

Appellant with counsel present. None for the respondents.

The respondents shall be issued fresh notices for 16.01.2019 on which date they should submit their reply/comments.



Chairman

16.1.2019

Counsel for the appellant and Adol. AG alongwith Ihsanullah, ASI for the respondents present.

The representative of respondents has submitted written reply. To come up for arguments before D.B on 15.03.2019. The appellant may furnish rejoinder within a fortnight, if so advised.



Chairman

15.03.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 06.05.2019 before D.B

  
Member  
Member

11.09.2018

Since 12<sup>th</sup> September 2018 has been declared as public holiday, by the Provincial Government on account of 1<sup>st</sup> Mukharram-ul-Haram, therefore the case is adjourned to 18.10.2018 for preliminary hearing before S.B.

  
Chairman

3/10/18

18.10.2018

Learned counsel for appellant present. Preliminary arguments heard.

The appellant (Ex-Constable) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 23.02.2009 whereby he was discharged from service on the ground of absence. The appellant has also challenged the order dated 18.05.2010 through which his departmental appeal was rejected. Learned counsel for the appellant argued inter-alia that the appellant was discharged from service with retrospective date, hence the impugned order is a void order and no limitation would run against the same.

Points raised need consideration. The present appeal is admitted for regular hearing subject to all just legal objections including the issue of limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 04.12.2018 before S.B.

Appellant Deposited  
Security & Process Fee

  
Member

Form-A

FORM OF ORDERSHEET

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

Case No. 950 /2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24/07/2018	<p>As per direction of the Worthy Chairman this case is submitted to the S. Bench for decision on office objection. To be put up there on <u>31/7/2018</u></p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	31.07.2018	<p>Appellant Noor Saeed in person alongwith his counsel Syed Noman Ali Bukhari, Advocate present and heard in respect of objection raised by the office.</p> <p>Contends that no charge sheet or statement of allegations were served on the appellant, therefore, he could not attached with the memo of appeal.</p> <p>In view of the above stated, circumstances the objection for the time being is removed at the risk of the appellant. To come up for preliminary hearing on <u>12.09.2018</u> before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> <b>Chairman</b></p>

The appeal of Mr. Noor Saeed Ex-Constable 1509 FRP Kohat Range Kohat received today i.e. on 12.07.2018 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 3- Copy of dismissal order is illegible which may be replaced by legible/better one.

No. 1430 /S.T,

Dt. 13/07 /2018.

  
REGISTRAR 13/7/18  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Uzma Syed Adv. Pesh.

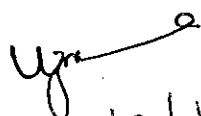
Sir,

1. charge sheet, statement of allegations, show cause notice never served upon the appellant. So, the Appellant has no copy of the same.
2. Copy of Departmental is not available with the appellant same may be requisite from the Deptt.
3. Remand.

Objectors Remand a file, Re-submitted

Sir,

The objection of this office and reply of counsel for the appellatant is sub-attached for order please.

  
19/7/18

Humble chair-man.

  
24/7/18.

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 950 /2018

*Noor Saeed*  
~~Ishtiaq Ahmad~~

V/S

Police Deptt:

**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-3
2.	Copy impugned order	-A-	04
3.	Copy of rejection order	-B-	05
4.	Vakalat Nama	-----	06

*نور سید*  
**APPELLANT**  
Noor Saeed

THROUGH:

*Uzma Syed*  
**(UZMA SYED)**

&

**(SYED NOMAN ALI BUKHARI)**  
ADVOCATES, HIGH COURT  
PESHAWAR

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2018

NOOR SAEED, EX- Constable, 1509,  
FRP, Kohat Range Kohat.

.....(Appellant)

**VERSUS**

1. The Commandant Frontier Reserve Police, KP, Peshawar.
2. The Superintendent of police FRP kohat.

.....(Respondents)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER of RESPONDENT NO. 2 DATED 23.02.2009 WHEREBY, THE APPELLANT HAS BEEN DISCHARGE FROM SERVICE AND AGAINST THE REJECTION ORDER DATED 18.05.2010 WHEREBY THE DEPARMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.**

**PRAYER:**

**THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDERs DATED 23.02.2009 AND 18.05.2010 NEVER COMMUNICATED TO THE APPELLANT MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPOPRIATE THAT MAY ALSO BE AWARADED IN FAVOUR OF APPELLANT.**

## RESPECTFULLY SHEWETH:

### FACTS:

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

1. That the appellant was the employe of the Police force and was on the strength of Elite Force Peshawar.
2. That the appellant had been some serious domestic problems and illness due to which appellant didn't performed his duties so the absentia of the appellant was not willingfull but due to above mentioned reasons.
3. That, thereafter, the appellant was departmentally proceeded, without charge sheet, statement of allegation, regular inquiry and even without showcause notice, the impugned order dated 23.02.2009 was passed against the appellant whereby the appellant was discharge from service with retrospective effect. The appellant been agrrieved from the impugned dismissal order preffered departmental appeal, the same was also rejected vide order dated 18.05.2010 which was also never communicated to the appellant. The appellant recived the same on 13.06.2018 through its own efforts. **(Copy of impugned order and departmental appeal is attached as Annexure-A & B).**
4. That now the appellant come to this august Tribunal on the following grounds amongst others.

### GROUND:

- A) That the impugned orders dated 23.02.2009 and 18.05.2018 is against the law, facts, norms of justice and void-ab-initio as has been passed with retrospective effect and material on record, therefore not tenable and liable to be set aside.
- B) That the impugned order was retrospective order which was void in the eye of law and according to Superiors Court Judgment reported as 2002 SCMR, 1129 and 2006 PLC 221. And no limitation run against the void order.
- C) That there is no order in black and white form to dispense with the regular inquiry which is violation of law and rules and without charge sheet, statement of allegation and proper inquiry the appellant was dismissed from the service vide order dated 23.02.2009, without given personal hearing which is necessary and mandatory in law and rules before imposing major penalty. So the



whole procedure conducted has nullity in the eye of law. So the impugned order is liable to be set aside.

- D) That the appellant has been condemned unheard and has not been treated according to law and rules.
- E) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- F) That the absent of the appellant was not intentionally but due to some domestic problem and serious illness. So the penalty imposed upon the appellant was so harshed.
- G) That no chance of personal hearing was provided to the appellant and as such the appellant has been condemned unheard throughout.
- H) That the appellant is young and efficient but due to some serious problems he can't attend the duties, the department taken so harsh view, may kindly be taken lenient view and reinstate the appellant in to service.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

  
**APPELLANT**  
Noor Saeed

THROUGH:

  
**(UZMA SYED)**

&

**(SYED NOMAN ALI BUKHARI)**  
ADVOCATES, HIGH COURT  
PESHAWAR

No. 1704

Date 2-3-07

CORPORAL

Const. No. Sec. 1509 of this District has absented  
himself without any leave or prior permission with effect from  
5-9-05 till today.

Instead of proper service and also through the  
absence (Washrig) he did not returned nor replied.  
Ex. part which has been taken and he is hereby  
discharged from the service with effect from his absence  
5-9-05 under special power ordinance 2000.

CASINO 108  
By: [Signature]

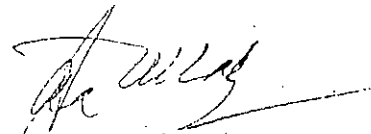
Superintendent of Police, Raj  
Khat

ORDER.

This order shall dispose off on the appeal of Ex-Constable Noor Saeed No.1509 FRP Kohat Range Kohat against the order of SP FRP Kohat Range wherein he was discharged from service.

Brief facts of the case are that he absented himself from duty with effect from 05.09.2008 till the date of discharge from service for a total period of 05 months and 18 days without any leave/permission of the competent authority. He was issued charge sheet/statement of allegation and Inspector Gul Raees of FRP Kohat Range was appointed as enquiry officer but no reply has been received. He was informed thorough daily "Mushriq" dated 16.02.09 but he did not bother to assume duty. Therefore he was discharged from service from the date of his absence by the SP FRP Kohat Range vide his OB No.108 dated 23.02.2009.

However, from the perusal of record and findings of Enquiry Officer, there are no cogent reasons to interfere in the order of SP FRP Kohat Range. ~~Therefore his appeal is rejected.~~



COMMANDANT

FRONTIER RESERVE POLICE

KPK PESHAWAR. *all*

No. *3689-90* /EC dated Peshawar the *17-5* *18/05/10*

Copy of above is forwarded for information and w/a to:-

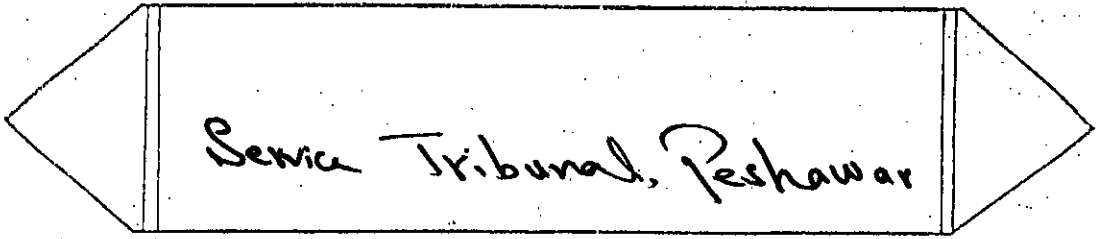
Superintendent of Police-FRP-Kohat Range w/r to his Memo: No.550/EC dated 05.05.2010. His service roll and departmental enquiry file are returned herewith for record in your office.

2.

Ex-Constable Noor Saeed No.1509 S/o Khan Bahadur R/o Village Darband Police Station Hangu District Hangu.

*Received on*  
*18/5/2010*

بعدالت



2۰۱۸ء منجانب  
بنام

موزخہ  
مقدمہ  
دعویٰ  
جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کاروائی متعلقہ

آن مقام Peshawar کیلئے ملاحظہ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

Attested  
&  
Accepted

المرقوم ۱۲ ماہ ۶ ۲۰۱۸

المقام  
Peshawar کے لئے منظور ہے۔

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 950/2018.

Noor Saeed Ex-constable No. 1509/FRP, Kohat.....Appellant

**VERSUS**

1. Addl: IGP/Commandant FRP Khyber  
Pakhtunkhwa Peshawar & Others.....Respondents.

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1.	Para-wise Comments		03
2.	Charge sheet	A	01
3.	Enquiry report	B	01
4.	Final Show Cause Notice	C	01
5.	Advertisement Newspaper daily Mashriq	D	01
<b>Total</b>			07

**RESPONDENTS**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 950/2018.

Noor Saeed Ex- Constable No. 1509/Kohat Range ..... Appellant.

VERSUS

1. Commandant, Frontier Reserve Police,  
Khyber Pakhtunkhwa, Peshawar.
2. Superintendent of Police,  
FRP Kohat Range, Kohat..... Respondents.

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has no cause of action to file the instant appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant is trying to conceal material facts from this Honorable Tribunal.

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

RESPECTED SHEWETH.

FACTS:-

1. Correct to the effect that he was employee in Police Department, but the remaining Para is incorrect as there is no entry of his qualifying Elite Course in his service record.
2. Incorrect and rejected. There is nothing on receipt to show that he was ill etc. In case he was ill or having any problem he was required to have applied for grant of proper leave.
3. Incorrect and rejected. The appellant was issued Show Cause Notice by the then SP FRP Kohat vide No. 24/PA, dated 25.10.2008, copy of which was received by him on 28.10.2008, but he failed to submit reply to it within stipulated period. Thereafter he was issued Charge Sheet vide No. 104/PA, dated 09.02.2009, and Inspector Gul Rais Khan the then Line Officer was appointed as Enquiry Officer to conduct departmental enquiry against him who in his finding found him guilty of the charges leveled against him and recommended him for major punishment. In the light of Enquiry Officer, he was received by him at his home address but he did not bother to submit reply to it. To meet the end of justice, a final notice was published in newspaper "Daily Mashriq" on 16.02.2009 direct him to report his arrival but in vain.

Grounds:-

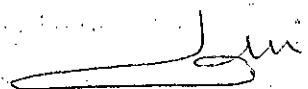
- A. Incorrect and rejected. Both the orders dated 23.02.2009 and 15.05.2018 passed by respondents against the appellant were in accordance with law & rules. No injustice was done to the appellant rather the subject punishment was result of his own negligence and long absence period.
- B. Incorrect and rejected. The order of punishment to appellant was passed in the light of provisions of "Removal from service under Special Ordinance 2000" which was in force at the relevant time.
- C. Incorrect and rejected. The appellant was given full chance to defend himself by issuing Show Cause Notice by the then SP FRP Kohat vide No. 24/PA, dated 25.10.2008, copy of which was received by him on 28.10.2008, but he failed to submit reply to it within stipulated period. Thereafter he was issued Charge Sheet vide No. 104/PA, dated 09.02.2009, and Inspector Gul Rais Khan the then Line Officer was appointed as Enquiry Officer to conduct departmental enquiry against him who in his finding found him guilty of the charges leveled against him and recommended him for major punishment. In the light of Enquiry Officer, he was received by him at his home address but he did not bother to submit reply to it. To meet the end of justice, a final notice was published in newspaper "Daily Mashriq" on 16.02.2009 direct him to report his arrival but in vain.
- D. Incorrect and rejected. The appellant was given full chance to defend himself but he did not bother to join enquiry proceedings or appear before the competent authority.
- E. Incorrect and rejected. The appellant was punished under "Removal from service under Special Ordinance 2000" which was in force at the relevant time.
- F. Incorrect and rejected. Had the appellant been seriously ill or stuck in domestic problems, being an official of a disciplined force he was supposed to communicate it to the high ups and was required to have applied for proper leave instead of remaining absent till the date of his dismissal from service.
- G. Incorrect and rejected. The appellant was directed to appear for personal hearing before competent authority through newspaper "Daily Mashriq" on 16.02.2009, but he did not bother to do so, hence this Para is unreasonable.
- H. Incorrect and rejected. the appellant had adopted negligent and irresponsible attitude towards departmental proceedings which makes him inefficient for being a part of a disciplined force.
- I. Not concerned.

**PRAYERS:-**

▲ it is therefore, most humbly prayed that in the light of aforesaid facts/submission the service appeal may kindly be dismissed with cost.



Commandant, FRP,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.2)



Superintendent of Police FRP  
Kohat Range, Kohat  
(Respondent No.2)



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3


CHARGE SHEET

1. I. ABDUL MAJEED AFRIDI SP FRP KOHAT  
as competent authority, hereby charge you Const Noor Saeed 1509  
committed the following irregularities: -

a.

He has absented his self with out any leave or prior permission from the Cometant authority with effect from 5-9-08 till todate.

- 2. By reasons of the above, you appear to be guilty of misconduct under section - 3 of the NWFP (Removal from Service) Special Power Ordinance 2000, and have rendered yourself liable to a or any of the penalties specified in section - 3 of the Ordinance ibid.
- 3. You are, therefore, required to submit your written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer/ Committees, as the case may be.
- 4. 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- parte action shall be taken against you.
- 5. Intimate whether you desire to be heard in person.
- 6. A statement of allegation is enclosed.

  
Superintendent of Police, FRP,  
% Kohat Range Kohat  
9-2-09

No. 104 /PA  
Dated 9/2 /2009

DISCIPLINARY ACTION

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9

1. I, ABDUL MAJEED AFRIDI SP FRP KOHAT as competent authority, am of the opinion that Const Noor Saeed 1509 has rendered 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

He has absented his self with out any leave or prior permission from the Competent authority with effect from 5-9-08 till todate

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Committee consisting of the following is constituted under section-3 of the Ordinance:-

i. Insp: Gul Raees Khan

13. The Enquiry Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

14. The accused and a will conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Committee.

[Signature]  
Superintendent of Police, FRP,  
Kohat Range Kohat

o/e 9-2-09

A copy of the above is forwarded to:-

11. Insp: Gul Raees Khan The committee for initiating proceedings against the accused under the provisions of the NWFP, Removal from Service (Special Power) Ordinance - 2000.

12. Const Noor Saeed 1509 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.

Issued sen. to Two Persons

(21)

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SHOW CAUSE NOTICE

WHEREAS You Const: Noor Saeed No. 1509 while posted at District Hangu absented himself w.e.f. 05.09.2008 till now. This clearly indicated you lack of interest in the discharge of official duty.

YOUR above act amounts to grave misconduct under the N.W.F.P. Removal from service (Special Power) Ordinance 2000.

NOW therefore, I Gulna Khan, SP/FRP, Kohat in exercise of the power vested upon me under the aforesaid Rules, hereby call upon you Const: Noor Saeed, 1509 to Show Cause as to why departmental action fro Major Punishment be not taken against you under the aforesaid Rules.

Yours reply to the Show Cause Notice must reach to the office of the undersigned within seven days of the receipt of this show cause notice. In case of your reply is not received within the stipulated period, it shall be presumed that you have no defence to offer and ex-parte departmental action will be taken against you. Also state in writing whether you desire to be heard in person or otherwise.

Superintendent of Police,  
FRP, Kohat.

No. 24/PA,  
Dt. 25/10/2008.

Issued S.C.N.

Ri jic

20.10.08

FINAL SHOW CAUSE NOTICE

24 7

I, Gul Ma Khan, SP/FRP, Kohat Kohat  
as competent authority, under the North West Frontier Province Removal from Service  
(Special Power) Ordinance, 2000 do hereby serve upon Const: Noor Saeed No: 1509  
follows:-

(i) That consequent upon the completion of enquiry conducted against you by  
the enquiry officer for which you were given opportunity of hearing vide  
office communication No. 24/PA / dated 25.10.08 and

(ii) On going through the finding and recommendation of the enquiry  
committee, the material on record and other connected papers including  
your defence the said committee

I am satisfied that you have committed the following acts/ omissions  
specified in section 3 of the said Ordinance:-

Constable Noor Saeed No. 1509, while posted at District  
Hangu, remained absented himself w.e. from 05.09.2008  
till now.

No: 55/PA,  
Dt. 19/11/09  
As a result thereof, I, as competent authority, have tentatively decided to  
impose upon you the penalty of punishment under section 3 of the said Ordinance

You are therefore required to show cause as to why the aforesaid penalty  
should not be imposed upon, also intimate whether you desire to be heard in person.

If no reply to this notice is received within fifteen (15) days of its delivery  
in the normal course of circumstances, it shall be presumed that you have no defence to  
put in and in that case an ex parte action shall be taken against you.

The copy of the findings of the enquiry committee is enclosed.

R1 For  
inquiry & report

SUPERINTENDENT OF POLICE,  
FRP, KOHAT

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http://dailymashriq.com.pk

اللہ ہی کیلئے ہیں مشرق و مغرب (قرآن حکیم)

Daily MASHRIQ Peshawar

روزنامہ عہد نو کے بانی سید تاج میر شاہ پشاور

# مشرق

مستقل اشاعت کے 42 سال

ABC CERTIFIED

پشاور اور اسلام آباد سبیک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

جلد 42

پیر 20 مئی 1430ھ 16 فروری 2009ء 3 ماہ کی قیمت 9 روپے پوائے ای دو درہم

شمارہ 181

## نوٹس غیر حاضری

جملہ پولیس کاٹھان اور کیرولس ایف آر بی کوہاٹ رج کوہاٹ جو کہ بغیر کوئی وجہ تانے عمر و دلا سے مسلسل نوکری سے تامل غیر حاضر ہیں ان تمام غیر حاضر اہلکاروں کو بذریعہ نوٹس پنا مطلع کیا جاتا ہے کہ اس نوٹس کے شائع ہونے کے ایک ہفتہ کے اندر 20/02/2009 سے پہلے اپنی ذیوائی پر حاضر ہو کر اپنی غیر حاضری کی وجہ بیان کریں بصورت دیگر ان کے خلاف یکطرفہ عملداری کا ردائی جو کہ ملازمت سے برطرفی پر توجہ ہو سکتی ہے عمل میں لائی جائیگی۔

انتہی - عبدالحمید آفریدی، ایس پی ایف آر بی کوہاٹ رج کوہاٹ

2

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

Service Appeal No. 950/2018

Noor Saeed

VS

Police Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

- (1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

1. Incorrect. While para-1 of the appeal is correct as mentioned in the main appeal of the appellant.
2. Incorrect. While para-2 of the appeal is correct as mentioned in the main appeal of the appellant.
3. Incorrect. While para-3 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the charge sheet and final show cause notice was never served upon the appellant.
4. No comments.

**GROUND:**



- A) Incorrect. While Para-A of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained in above paras.
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.

- C) Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained in above paras.
- D) Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, As explained in above paras.
- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant. As explained in above paras.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained in the above paras.
- H) Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant.
- I) Legal.

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

**APPELLANT**

Through:

  
(SYED NOMAN ALI BUKHARI)  
&  
  
(UZMA SYED)  
Advocates High Court

**AFFIDAVIT**

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

  
**DEPONENT**

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

Service Appeal No. 950/2018

Noor Saeed

VS

Police Deptt:

.....  
**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

- (1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

1. Incorrect. While para-1 of the appeal is correct as mentioned in the main appeal of the appellant.
2. Incorrect. While para-2 of the appeal is correct as mentioned in the main appeal of the appellant.
3. Incorrect. While para-3 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the charge sheet and final show cause notice was never served upon the appellant.
4. No comments.

**GROUND:**

- A) Incorrect. While Para-A of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained in above paras.
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.





- C) Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained in above paras.
- D) Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, As explained in above paras.
- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant. As explained in above paras.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, as explained in the above paras.
- H) Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant.
- I) Legal.

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

**APPELLANT**

Through:

  
(SYED NOMAN ALI BUKHARI)  
&  
  
(UZMA SYED)  
Advocates High Court

**AFFIDAVIT**

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

  
**DEPONENT**

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

C. M. No \_\_\_\_\_/2022  
In  
Service Appeal No 178/2022

Noor Saeed.....Applicant/Appellant

**V E R S U S**


Govt of KP and others.....Respondents


**I N D E X**

S. No	Description of documents	Annexure	Pages
1.	Application for additional documents with Affidavit		1
2.	Copy of Notification dated 12-10-2021	A	2-3

Dated:- 25.05.2022

Through

  
Applicant/Appellant

  
**Fazal Shah Mohmand**  
Advocate,  
Supreme Court of Pakistan

①  
**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

C. M. No \_\_\_\_\_/2022  
In  
Service Appeal No. 178/2022

Noor Saeed.....Applicant/Appellant

**V E R S U S**

Govt of KP and others.....Respondents

**Application on behalf of the Appellant for placing on record additional documents which may be read as part and parcel of captioned Service Appeal.**

**Respectfully Submitted:-**


1. That the titled Service Appeal is pending before this honorable Tribunal wherein next date of hearing is fixed for 03-06-2022.
2. That on last date of hearing i.e. 22-04-2022, the appellant was directed to place on record Copy of Notification dated 12-10-2021 duly signed by the Competent Authority. **(Copy of Notification is attached as Annexure A).**
3. That hence as per the directions of this honorable Tribunal, the applicant may be allowed to place on record copy of the same which is essential for the just decision of the titled case.

**It is therefore prayed, that on acceptance of this application, the petitioner may please be allowed to submit/file the annexed documents before this honorable Tribunal and be read as part and parcel of the captioned Service Appeal and may be treated accordingly.**

**Dated:- 25.05.2022**

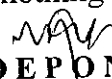
Through

  
**Applicant/Appellant**

  
**Fazal Shah Mohmand**  
Advocate,  
Supreme Court of Pakistan

**AFFIDAVIT**

I, Noor Saeed, Superintendent (BPS-17), Office of the Deputy Commissioner Kurram, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal. —

  
**DEPONENT**



GOVERNMENT OF KHYBER PAKHTUNKHWA,  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT.

091-9213989

Peshawar Dated the 12/10/2021

091-9214208

**NOTIFICATION**

No. Estt:/DPC/Tehsildar/2021/ \_\_\_\_\_

Consequent upon the recommendation of

Departmental Promotion Committee meeting dated 09.09.2021, the Competent Authority is pleased to order the promotion of the following Assistants of the offices of Deputy Commissioners to the post of Tehsildar (BS-16) on regular basis with immediate effect:-

S#	Name of officials	Remarks
1.	Mr. Fahim Akhtar, (Assistant) DC office Hangu	Promoted as Tehsildar on regular basis
2.	Mr. Naseem Abbas, (Assistant) DC office Hangu	Promoted as Tehsildar on regular basis
3.	Mr. Azmatullah, (Assistant) DC office Hangu	Promoted as Tehsildar on regular basis
4.	Mr. Naveed Akhtar, (Assistant) DC office Haripur	Promoted as Tehsildar on regular basis
5.	Mr. Abid Raza, (Assistant) DC office Haripur	Promoted as Tehsildar on regular basis
6.	Mr. Ihsanullah, (Assistant) DC office Tank	Promoted as Tehsildar on regular basis

2. On their regular promotion, the above officers will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule 15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules – 1989.

3. On promotion as Tehsildar on regular Basis, they are placed under Revenue / Settlement Training for a period of six (06) months as required under Rule – 53 of the Tehsildar and Naib Tehsildar Departmental Examination and Training Rules – 1969. The officers shall undergo training under the supervision of following Settlement Officers as per attached training program.

S#	Name of Officer	Proposed Training with Settlement Officer
1.	Mr. Fahim Akhtar, (Assistant) DC office Hangu	Nowshera
2.	Mr. Naseem Abbas, (Assistant) DC office Hangu	Nowshera
3.	Mr. Azmatullah, (Assistant) DC office Hangu	Nowshera
4.	Mr. Naveed Akhtar, (Assistant) DC office Haripur	Abbottabad
5.	Mr. Abid Raza, (Assistant) DC office Haripur	Abbottabad
6.	Mr. Ihsanullah, (Assistant) DC office Tank	Nowshera

4. Their order will be treated as temporary posting in respective districts for a period of six (06) months. In this context, Settlement and Revenue Training program is attached. During the said training, they will not be entitled for any kind of TA/DA.

**With the approval of  
Competent Authority**

No. Estt: I/DPC/Tehsildar/2021/26923-33

Copy forwarded to the: -

1. Accountant General, Khyber Pakhtunkhwa.
2. Deputy Commissioners of the respective Districts.
3. District Accounts Officers of the respective Districts.
4. Settlement Officer Nowshera and Abbottabad.
5. Budget & Accounts Officer Board of Revenue Khyber Pakhtunkhwa for necessary action.
6. PS to Senior Member, Board of Revenue.
7. PS to Member-III, Board of Revenue.
8. PA to Secretary-I, Board of Revenue.
9. Officers concerned.
10. Bill Assistant Board of Revenue.
11. Personal File.

-   
Assistant Secretary (Estt)