

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CAMP COURT SWAT.

Service Appeal No.425/2016

Date of Institution ... 28.03.2016

Date of Decision ... 01.07.2019

Anwar Salam, Constable No. 683, Police Station, Timergara, R/O Village,
Malakand, Near Degree College, Timergara, District, Dir (Lower).

... (Appellant)

VERSUS

District Police Officer, at Timergara District Dir Lower and four others.

... (Respondents)

MR. IMDAD ULLAH,

Advocate

For appellant.

MIAN AMIR QADAR,

District Attorney

For respondents

MR. AHMAD HASSAN,

MR. MUHAMMAD HAMID MUGHAL

MEMBER(Executive)

MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the
parties heard and record perused.

ARGUMENTS.

2. Learned counsel for the appellant argued that he was inducted as Constable in the Police Department in District Lower Dir in 2010 and performed duty regularly. Due to some compelling circumstances, he submitted an application for grant of leave which was not entertained by the respondents. He joined duty and again submitted an application for grant of two months leave to resolve personal issues, which remained unanswered. He was subjected to departmental enquiry and thereafter major penalty of dismissal from service was imposed on him vide impugned order dated 18.03.2015. Feeling aggrieved, he filed departmental appeal on 30.03.2015 which was dismissed vide order dated 26.06.2015. Thereafter he filed review petition under Rule 11-A of Police Rules 1975 but

was turned down vide order dated 08.02.2016 followed by the present service appeal. Proper enquiry was not conducted and opportunity of defense and fair trial were denied to the appellant. Record of charge sheet/statement of allegations, show cause notice and enquiry report was not available on the case file nor produced during the course of hearing. Furthermore, penalty awarded to the appellant was not in accordance with the quantum of guilt and quite harsh.

3. Learned District Attorney argued that on account of willful absence from duty which constituted mis-conduct, disciplinary proceedings were initiated against the appellant and finally major penalty of dismissal from service was awarded to him. Proper application was never submitted for grant of leave to the competent authority alongwith medical prescriptions. He was treated in accordance with law and rules.

CONCLUSION.


4. Allegations of willful absence from duty w.e.f 11.11.2014 to 17.11.2014 (6 days) and 08.12.2014 to 03.02.2015 (fifty seven days) had been leveled against the appellant. Total absence period comes to sixty three days. As it constituted serious misconduct, therefore, disciplinary proceedings were conducted and finally major penalty of dismissal from service was awarded to him vide impugned order dated 18.03.2015. It is pointed out that the record of charge sheet and statement of allegations was neither available on case file nor any documentary evidence was provided by the respondents to substantiate that the same were served on the appellant. It transpired that disciplinary proceedings were conducted at the back of the appellant. Moreover, before imposing penalty, show cause notice was not served on the appellant. It tantamount to serious illegality and was a sufficient ground to render the subsequent proceedings as illegal and unlawful. To cut the long story short, it appeared that opportunity of defense and fair trial to the appellant were denied, rather condemned unheard.

5. It is worth mentioning that in departmental appeal preferred by the appellant ~~contained~~⁴ cogent reasons for absence from duty were mentioned and the competent authority was required to properly scrutinize/examine it and thereafter, appropriate order could be passed. However, the same was dismissed through a stereotype order. Even review petition under Rule-11-A of Police Rules 1975 was turned down on the above grounds which were against the rules/invogue procedure.

6. Perusal of record would further reveal that punishment awarded to the appellant does not commensurate with the charge leveled against him. Penalty awarded to him appeared to be very harsh. This Tribunal in numerous cases of identical nature granted relief to the petitioners by modifying the penalty awarded to them. The present case squarely falls in the ambit of cases referred to above and strong justification is available for modifying the penalty. The principle of consistency also demands that he should be treated in the similar manner.

7. As a sequel to above, the appeal is partially accepted, the appellant is reinstated in service and the penalty of dismissal from service is converted/modified into stoppage of three annual increments for three years. The period of absence and intervening period may be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.


(MUHAMMAD HAMID MUGHAL)
Member


(AHMAD HASSAN)
Member
Camp court Swat


Order


01.07.2019

Counsel for the appellant and Mr. Mian Amir Qadir, District Attorney alongwith Mr. Zahir Shah, S.I for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is partially accepted, the appellant is reinstated in service and the penalty of dismissal from service is converted/modified into stoppage of three annual increments for three years. The period of absence and intervening period may be treated as leave without pay. Parties are left to bear their own cost. File be consigned to the record room.


Announced:
01.07.2019



(Muhammad Hamid Mughal)
Member


(Ahmad Hassan)
Member
Camp Court Swat

02.04.2019

Appellant alongwith counsel present. Mr. Mian Ameer Qadir, District Attorney alongwith Mr. Zawar Khan, S.I (Legal) for the respondents present and seeks adjournment to furnish all the relevant record of inquiry. Adjourn. To come up for record and arguments on 07.05.2019 before D.B at Camp Court Swat.



(M. Amin Khan Kundi)
Member
Camp Court Swat


(M. Hamid Mughal)
Member
Camp Court Swat

07.05.2019

Learned counsel for the appellant and Mr. Mian Amir Qadir learned District Attorney alongwith Zahir Shah SI present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 01.07.2019 before D.B at Camp Court, Swat.


Member


Member
Camp Court, Swat.

04.10.2018

Appellant Noor Islam in person present. Mr. Usman Ghani, District Attorney for the respondents present. Appellant made a request for adjournment as his counsel is not in attendance. Granted. Case to come up for arguments on 06.12.2018 before D.B at camp court Swat.


Member


Chairman
Camp Court Swat

06.12.2018

Appellant in person and Mr. Usman Ghani learned District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned by way of last chance. To come up for arguments on 08.01.2019 before D.B at Camp Court Swat.



Member


Member
Camp Court, Swat

08.01.2019

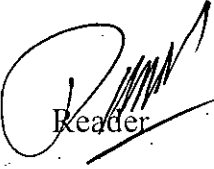
Counsel for the appellant Mr. Imdad Ullah, Advocate present and submitted Vakalat Nama which is placed on record. Mr. Rasheed, DSP (Legal) alongwith Mr. Mian Ameer Qadir, ^{District} Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 02.04.2019 before D.B at camp court Swat.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member
Camp Court Swat

09.05.2018


The Tribunal is non-functional due to retirement of the Worthy Chairman. To come up for the same on 05.07.2018 before the D.B at camp court, Swat.


Reader

05.07.2018

Appellant Anwar Islam in person present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Appellant requested for adjournment. On the ground that his counsel is not in attendance. Granted. To come up for arguments on 03.09.2018 before D.B at camp court Swat.


Member


Chairman
Camp Court, Swat

03.09.2018

Appellant in person present. Mr. Akhtar Saeed, H.C alongwith Mr. Usman Ghani, District Attorney for respondents present. Arguments could not be heard due to in complete bench. Case to come up for arguments on 04.10.2018 before D.B at camp court Swat.


(AHMAD HASSAN)
MEMBER
Camp Court Swat

08.11.2017

Appellant in person and Addl. AG alongwith Zewar Khan, S.I (Legal) for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 29.01.2018 before the D.B at camp court, Swat.


Member


Chairman
Camp court, Swat

29.01.2018

Appellant in person present and Addl: AG alongwith Mr. Zewar Khan, S.I (Legal) for the respondents present. Appellant seeks adjournment as his counsel is not attendance today. Granted. To come up for arguments on 02.04.2018 before D.B at Camp Court, Swat.


Member


Chairman
Camp Court, Swat

02.04.2018

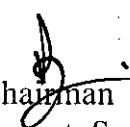
Appellant in person, Mr. Usman Ghani, Distrit Attorney alongwith Zewar Khan, S.I (Legal) for the respondents present. Due to strike of bar, counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 10.05.2018 before D.B at camp court, Swat.


Member


Chairman
Camp court, Swat

08.12.2016


Appellant in person and Mr. Muqaddar Khan, S.I (Legal) alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 04.04.2017 at camp court, Swat.


Chairman
Camp court, Swat

04.04.2017

Appellant in person present. Mr. Zewar Khan, S.I (legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents also present. Appellant requested for adjournment on the ground that one senior counsel has died and his counsel is busy in Quran Khawani. Adjourned. To come up for rejoinder and arguments on 08.08.2017 before D.B at Camp Court Swat.

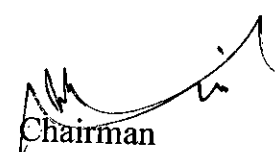

(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat.

08.08.2017

Clerk of counsel and Mr. Muhammad Zubair, District Attorney alongwith Mr. Zewar Khan, SI (Legal) for the respondents present. Clerk of counsel for the appellant seeks adjournment as his counsel is not in attendance due to strike of the bar. Adjourned. To come up for rejoinder and arguments on 8.11.2017 before the DB at camp court, Swat.


Member


Chairman
Camp court, Swat

425-16

13.7.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as constable when dismissed from service on 18.3.2015 on the allegations of willful absence from duty communicated to the appellant on 29.09.2016 where-against the appellant preferred departmental appeal which was not responded and hence the instant appeal on 28.03.2016:

That the procedure for enquiry was neither followed nor any opportunity of hearing afforded to the appellant and as such the impugned order is nullity in the eyes of law.


Points urged need consideration. Admit subject to limitation. Subject to deposit of security and process fee within 10 days. notices be issued to the respondents for written reply/comments for 06.10.2016 before S.B at camp court Swat.

Appellant Deposited
Security & Process Fee


Chairman
Camp Court, Swat

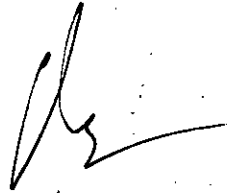
06.10.2016

Appellant in person and Mr. Muqaddar Khan, S.I (Legal) alongwith Mian Amir Qadir, GP for the respondents present. Requested for adjournment. To come up for written reply/comments on 08.12.2016 before S.B at camp court, Swat.


Chairman
Camp Court, Swat

19.05.2016

Appellant in person present. Due to strike of the Bar learned counsel for the appellant is not available today before the Court, therefore, case is adjourned for preliminary hearing to ~~15.06.2016~~ before S.B.



Member

15.06.2016




None for appellant present. The appeal pertains to territorial limits of Malakand Division. Notices be issued to appellant and his counsel for preliminary hearing at camp court, Swat on 13.07.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 425/2016

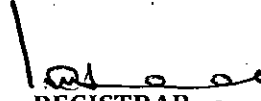
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20.04.2016	<p>The appeal of Mr. Anwar Salam resubmitted today by Mr. Hazrat Said Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p>
2	25-04-2016	<p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>28-04-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	28.4.2016	<p>Appellant in person present. Seeks adjournment due to strike of the bar. Adjourned for preliminary hearing to 19.5.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Anwar Salam Constable No.683 Police Station Timergara received to-day i.e. on 28.03.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of respondent No. 4 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copy of charge sheet, statement of allegations, show cause notice and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of impugned dismissal order is not attached with the appeal which may be placed on it.
- 4- Copies of departmental appeal and mercy petition mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal may be attested.

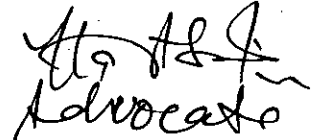
No. 499 /S.T,

Dt. 29/3 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Hazrat Said Khan Adv. Pesh.

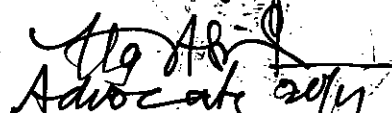
13/04/2016: Re-submitted with a request to extend the time for re-submitting the appeal as the appellant is arranging the required documents.



Advocate

7 days time extended.

20/04/2016:

Re-submitted with partial compliance, while Affidavit is also submitted with the appeal about some of the documents, therefore the appeal may please be put before the Court for order.


Advocate


13/4/16

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

In Re:
Service Appeal No. 425 /2016

Anwar Salam.....**Appellant**

V E R S U S

District Police Officer,
At Timergara District Dir Lower & others.....**Respondents**

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-5
2.	Affidavit		6
3.	Address of parties		7
4.	Copy of Departmental Enquiry report	A	8
5.	Copy of the order dated 26.06.2015	A-1	9
6.	Copy of the order dated 23.02.2016	B	10
7.	Wakalatnama		11

Appellant
Through



Hazrat Said Khan

Advocate

Supreme Court of Pakistan

Cell No.0300-5907014

Dated 28.03.2016

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

In Re:
Service Appeal No. 425 /2016

D.W.P Province
Service Tribunal
Diary No. 275
Case No. 28-3-2016


Anwar Salam Constable No.683,
Police Station, Timergara
R/o Village, Malakand,
Near Degree College, Timergara
District ~~Malakand~~ Dir (lower).....**Appellant**

V E R S U S

1. District Police Officer, at Timergara District Dir Lower
2. Regional Police Officer Malakand at Saidu Sharif Swat
3. Additional Inspector General of Police, Establishment, Central Police, Peshawar
4. D.I.G Police Khyber Pakhtunkhwa at Peshawar
5. I.G.P Police Khyber Pakhtunkhwa at Peshawar.....**Respondents**

SERVICE APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT 1974 FOR SETTING ASIDE BOTH THE ORDERS OF DISMISSAL FROM SERVICE OF THE APPELLANT BY THE RESPONDENT NO.1 AND 2 AND TO RESTORE ^{RE-INSTATE} THE APPELLANT ON HIS POST WITH ALL BACK BENEFITS.

~~Signature~~
~~Signature~~
28/3/16

re-submitted to-day
and filed,

Registrar

Prayer

On acceptance of this appeal the order dated 26.06.2015 and 23.02.2016 may please be declared illegal, unlawful, without lawful authority and jurisdiction and void ab-initio and the appellant be reinstated.

Respectfully Sheweth:-

1. That the appellant was selected as constable in the police of lower Dir in 2010.
2. That the appellant went through the long, trying and difficult Training. After successful training he was posted as constable in Dir police and perform duties in different police station while lastly posted in police station Timergara District (Lower) Dir.
3. That the appellant performed his duties efficiently, without any stigma since his posting and has never disobeyed the senior officials of the Department for such long years which is more^{than} five (05) years.
4. That on 11.11.2014 the appellant come across with a personal problem in which he went in hiding for some days but submitted an application for leave.

5. That on confirmation through some friends that the leave has not granted the appellant joined duties and later on submitted another application with a verbal request to the respondent No.1 for long leave as the appellant was not in a position ~~of~~^{to} perform duties.
6. That the appellant was unable to perform his duties as such application was submitted for leave, so after 2 months on resolving personal problem the applicant resumed his duties and performed it till 23.02.2016.
7. That the appellant was served with a report ~~of~~ departmental enquiry letter/report on which the respondent No.1 has written with pen "dismissed from service". The appellant submitted an application to the respondent No.2 which was also dismissed on 26.06.2015. (Copy is attached as Annex ~~2~~^{"A" & "A-1"})
8. That having no other way the appellant submitted a petition to the respondent No.3 which was also dismissed on 23.02.2016. (Copy is annex ^{"B"})
9. That the appellant repeatedly approached to the respondents for the photocopies of the required documents but they straightway refused to do so

and further commented that it is the job of the court to pass order for the requisitioning of the record as such the appellant could not procure the record to be attached/annexed with the appeal.

Hence no other adequate remedy the appellant submit the instant appeal on the following grounds inter alia:

GROUND S:

- A. That the respondents have not given any wattage to the problem faced by the appellant and not granting "leave" on the application for leave is illegal, without lawful authority and jurisdiction.
- B. That the respondents have not even considered the past history of service of the appellant as there is no stigma even on him in the whole of his service record to have violated the settled principals of services laws.
- C. That the respondents have not considered the reason advanced by the appellant for his defence at the time of his appearance nor it has been mentioned in the dismissal order.

(5)

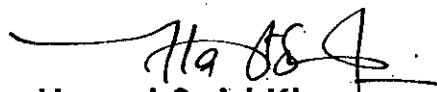
D. That the appellant has neither violated any rules of services laws in his service career in the past nor even can't think to do so in future, while imposing the major punishment is against the law, settled principles of service rules and arbitrary as such is illegal, based on the wishes/whims of the respondents hence need the interference of the Honourable Tribunal.

It is therefore humbly prayed that on acceptance of this service appeal the dismissal order mentioned in the heading of appeal may please be declared illegal, unlawful, without lawful authority and the appellant be re-instated with all back benefit.



Appellant

Through



Hazrat Said Khan

Advocate

Supreme Court of Pakistan

Dated 28.03.2016

(6)

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

In Re:
Service Appeal No. _____/2016

Anwar Salam.....**Appellant**

V E R S U S

District Police Officer,
At Timergara District Dir Lower & others.....**Respondents**

A F F I D A V I T

I, Anwar Salam Constable No.683, Police Station, Timergara R/o Village, Malakand, Near Degree College, Timergara District Division Dir (lower), do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

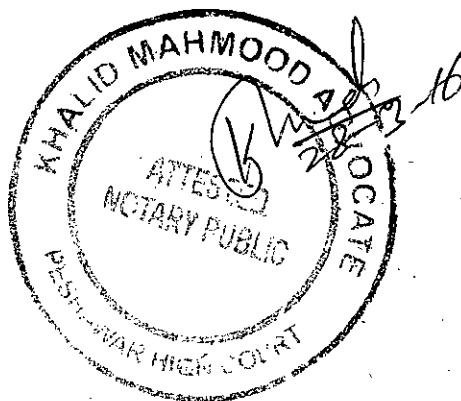
Deub

DEPONENT

Identified by:

Hazrat Said Khan
Hazrat Said Khan

Advocate Supreme Court



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

In Re:
Service Appeal No. _____/2016

Anwar Salam.....Appellant

V E R S U S

District Police Officer,
At Timergara District Dir Lower & others.....Respondents

ADDRESSES OF PARTIES

APPELLANT:

Anwar Salam Constable No.683,
Police Station, Timergara
R/o Village, Malakand,
Near Degree College, Timergara
District Division Dir (lower)

RESPONDENTS:

1. District Police Officer, at Timergara District Dir Lower
2. Regional Police Officer Malakand at Saidu Sharif Swat
3. Additional Inspector General of Police, Establishment, Central Police, Peshawar
4. D.I.G Police Khyber Pakhtunkhwa at Peshawar
5. I.G.P Police Khyber Pakhtunkhwa at Peshawar

Appellant
Through



Hazrat Said Khan

Advocate

Supreme Court of Pakistan

Dated 28.03.2016

(8)

Amir A

POLICE DEPARTMENT

DISTRICT DIR LOWER

DEPARTMENTAL ENQUIRY REPORT

References:

Charge sheet No.4316-17/EC, dated 27-02-2015 and 4318/EC, dated 27-02-2015.

Accused Police man:- Constable Anwar Salam No. 683

Statement of allegation

"That while posted at Police Station Timergara, you have absented himself from his lawful duty without any leave or permission from his superior officer w.e.f 11-11-2014 to 17-11-2014 (06 days) and 08-12-2014 to 03-02-2015(57 days) total 63 days, which is gross misconduct on your part"

During the course of enquiry statement of the following officials recorded:

- Roshan Zada Insp/SHO Police Station Timergara.
- Mahboob Shah MASI Police Station Timergara.
- Accused Constable Anwar Salam No. 683.

The following documents collected

- DD report No.43, dated 11-11-2014 (absence report).
- DD report No. 30, dated 17-11-2014 (arrival report).
- Application by MASI, dated 11-11-2014 for stoppage of salary of the accused constable Anwar Salam No.683.
- DD report No.47 dated 08-12-2014(absence report)
- Application by MASI, dated 22-12-2014 for stoppage of salary of the accused constable.
- DD report No. 26, dated 03-02-2015 (arrival report).
- Parwanas for collecting DD report and production of the constable.

He was called and heard.

He remained absent from duty for 63 days, and he did not give any cogent reason for his unlawful absence.

His service record shows that he does absence habitually and an increment was stopp'd due his previous absence from duties vide O.B No.1081, dated 16-10-74.

Recommendation

Keeping in view his absence from 11-11-2014 to 17-11-2014 and 08-12-2014 to 03-02-2015, and his previous blemish record, he is recommended for major punishment please.

Amir A

Dismissed
in service

OB No 265
19/3/2015

Amir Hussain 19/3

9

Amex (A/1)

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION,
AT SAIDU SHARIF SWAT

ORDER:

This order will dispose off appeal of Ex-Constable Anwar Salam No. 683 of Dir Lower District for reinstatement in service.

Brief of the case is that Ex-Constable Anwar Salam No. 683 while posted to Police Station Timergara absented from his duty without any leave or permission from his superior with effect from 11/11/2014 to 17/11/2014 (06 days) and 08/12/2014 to 03/02/2015 (57 days) total 63 days. Consequently he was proceeded against departmentally. Mr. Aqiq Hussain DSP Hqrs: was appointed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the defaulter constable and recorded the statements of all concerned, including the defaulter constable and found him guilty. The Enquiry Officer in his finding recommended him for major punishment. Therefore, the District Police Officer, Dir Lower agreeing with the recommendation of the Enquiry Officer, dismissed him from service vide his office OB No. 265 dated 18/03/2015.

He was called in Orderly Room on 23/06/2015 and heard in person. The appellant did not produce cogent reason for absence from duty. Therefore, I uphold the order of District Police Officer, Dir Lower, whereby the appellant has been awarded punishment of dismissal from service. The appeal is rejected.

Order announced

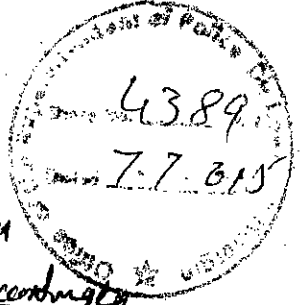
(Signature)
(AZAD KHAN) Tst, PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat

No. 5253 /E,
Dated 26-6- /2015.

Copy to the District Police Officer, Dir Lower for information with reference to his office Memo: No. 8289/EB, dated 16/04/2015.

NO 14524/E H 9-7-2015

EC Copy to SHO PS Badambot to inform the Ex constable Anwar Salam No, 683 s/o Noor Islam village Malakand Bala according to 7/7/15



Attested
(Signature)

(Signature)
DPO/Dir Lower
9/7

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtankhwa Police Rule-1975 submitted by Ex-Constable Anwar Salam No. 683. The appellant was awarded punishment of Dismissal from Service by DPO/Dir Lower vide OB No. 265 dated 8.03.2015, on the charges of absence for a period of 02 months and 03 days.

He preferred an appeal before the RPO/Malakand against the order of DPO/Dir Lower which was filed vide order issued endst: No. 5253/E, dated 26.06.2015.

Meeting of Review Petition Board was held on 31.12.2015, wherein appellant was heard in person. Record revealed that he was a habitual absentee and 30 bad entries have been recorded in his service dossier. He could not advance any plausible reason or ground for his absence. Thus his appeal was rejected on grounds of limitation and merit as well.

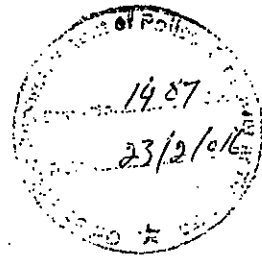
This order is issued with the approval by the Competent Authority.

(NAJEEB-UR-RAHMAN BUGVD)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtankhwa, Peshawar.

No. SI 1010-17/116, Dated Peshawar, the 08-02-2016.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand Region, Saidu Sharif, Swat.
2. District Police Officer, Chitral.
3. PSO to IGP/Khyber Pakhtankhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtankhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtankhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtankhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry, CPO.



No 1619 IE ECI DPO/Dir Lower
Date 15-2-2016 For information

MALAKAND
This is in the file No. 6570/E dated 19-8-15

Memo
DIA/Min
23/2/2016

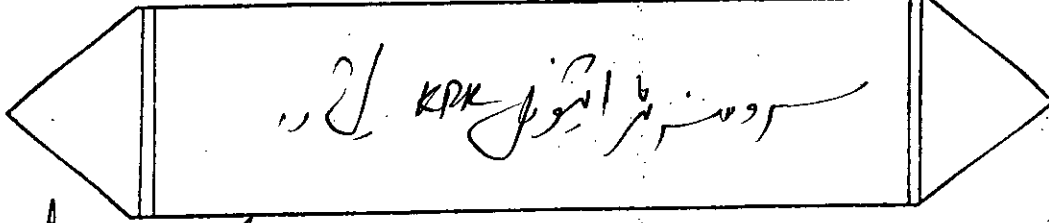
No 11487 IEB
Dt 29-02-2016

Copy to Ex-FC Anwar Salam for
information

29/02/2016

Attested
Halep

بعد الت



Appellant 2016ء پنجاب
الوٹسٹریٹوٹول بنام ڈی جی او ریسٹو

موزخه
مقدمه
دعوى
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کیلئے حضرت سید صاحب ریسٹو
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
ذکیل صاحب کو راضی نامہ کرنے و تقریر ثالثہ 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
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی 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 تقریر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ 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 داکالت نامہ لکھ دیا کہ سندر ہے۔

ACCEPTED
Alleged

المرقوم 28 ماہ جاریہ 2016

بمقام
کے لئے منظور ہے۔

الدرسد

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 425/2016.

Ex. Constable Anwar Salam No. 683 r/o Dir Lower.....
.....Appellant.

VERSUS

- 1) Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) Additional Inspector General of Police Establishment Central Police, Peshawar.
- 4) District Police Officer Dir Lower.....Respondents.

PARA WISE REPLY ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

- 1) That the present service appeal is not maintainable in its present form.
- 2) That the appellant has not come to this August Tribunal with clean hands.
- 3) That the present appeal is badly time barred.
- 4) That this Honorable Service Tribunal has no jurisdiction to entertain the present service Appeal.
- 5) That the appellant has got no cause of action.
- 6) That the appellant has suppressed the material facts from this Honorable Tribunal.

ON FACTS:

1. Pertains to record and needs no comments.
2. Pertains to record and needs no comments.
3. Incorrect, the appellant is habitual absentee and oftenly remained absent from duty without seeking any leave from his superiors. (Previous absence record is attached as annexure-A).
4. Incorrect, the appellant absented himself from duty without any leave or permission and also not moved any application for leave to the competent authority and thus violated the spirit of discipline.

5. *Incorrect, no such proper application has been submitted by the appellant to competent authority nor any verbal request through proper channel has been made to respondent. Moreover no such medical documentary proof has been produced by appellant in favour of his illness.*
6. *Incorrect, the appellant had left the station without seeking proper leave. Being member of disciplined force, he was bound to inform his superior officer about the problem faced to him.*
7. *Pertains to record and needs no comments.*
8. *Pertains to record and needs no comments.*
9. *Incorrect, all the required documents for preferring an appeal was provided to the appellant accordingly.*

ON GROUND

- (A). *Incorrect, no proper application was moved by the appellant before the respondents, nor the applicant disclose the problem faced to him before his superior officers and thus no illegality has been made with appellant.*
- (B). *Incorrect, the service record of appellant is full of bed entries and due to his past history of blemish record, the respondent has rightly dismissed him from service. No such violation of the settled principle of service laws has taken place. (previous record is attached as annexure-B).*
- (C). *Incorrect, the Enquiry Officer in his enquiry mentioned that the appellant was called and heard in person, but he did not give any cogent reason in self defense. Moreover he was proceeded according to law/rules and all legal formalities has been fulfilled accordingly. (Inquiry report is attached as annexure-c)*
- (D). *Incorrect, the appellant always remained absent from duty, and keeping in view, his previous record, habitual absente, he was rightly dismissed from service by the respondent.*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 425/2016.

Ex. Constable Anwar Salam No. 683 r/o Dir Lower...Appellant.

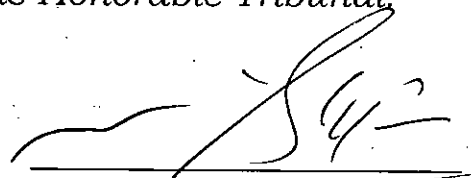
VERSUS

- 1) Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 2) Regional Police Officer Malakandat Saidu Sharif, Swat.
- 3) Additional Inspector General of Police Establishment CPO Peshawar.
- 4) District Police Officer Dir Lower.....Respondents.

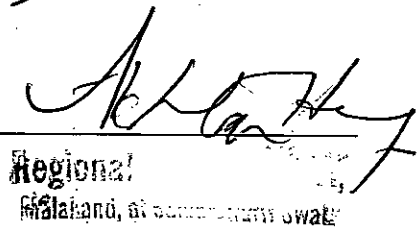
AFFIDAVIT

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

Provincial Police-Officer,
Khyber Pakhtunkhwa Peshawar.



Regional Police Officer,
Malakand at Saidu Sherif, Swat.

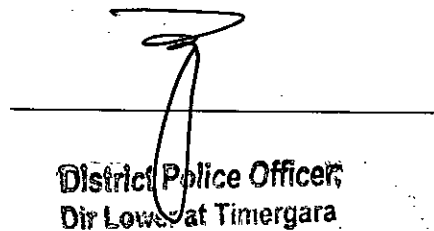


Regional
Malakand, at Saidu Sherif Swat

Additional Inspector General of Police,
Establishment CPO Peshawar.



District Police Officer,
Dir Lower



District Police Officer
Dir Lower at Timergara

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 425/2016.

Ex. Constable Anwar Salam No. 683r/o Dir Lower.....Appellant.

VERSUS

1)Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.

2)Regional Police Officer Malakand at SaiduSherif, Swat.

3)Additional Inspector General of Police Establishment CPO
Peshawar.

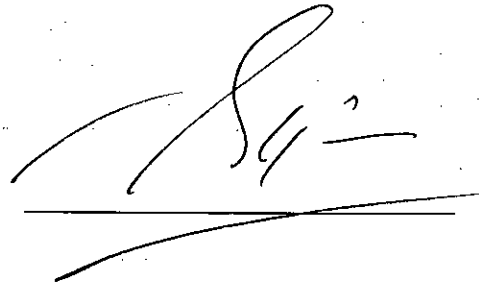
4)District Police Officer Dir Lower.....Respondents.

POWER OF ATTORNEY

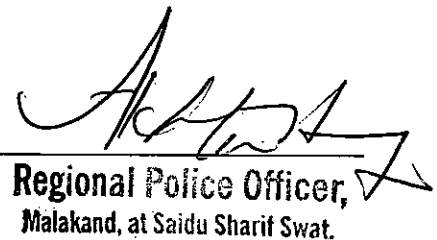
We the following respondents do hereby authorize Mr. Muqdar Khan SI Legal Dir Lower to appear on our behalf before the Honourable service Tribunal in the above Service appeal and pursue the case on each and every date.

He is also authorized to submit all the relevant documents in connection with the above case.

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.



Regional Police Officer,
Malakand at SaiduSherif, Swat.

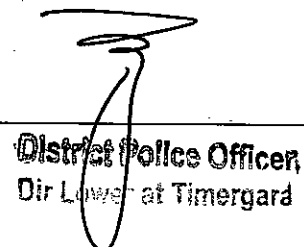


Regional Police Officer,
Malakand, at Saidu Sharif Swat.

Additional Inspector General of Police,
Establishment CPO Peshawar.



District Police Officer,
Dir Lower.



District Police Officer,
Dir Lower at Timergard

Annex - "B"

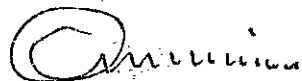
OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

ORDER

This order will dispose of the departmental enquiry conducted against Constable Anwar Salam No.683 who while posted at Police Station Talash absented himself from his lawful duty without any leave or prior permission from his superior with effect from 03/07/2014 to 17/08/2014 total 45 days, therefore he was issued charge sheet with coupled of statement of allegations and SDPO Adenzai was appointed as Enquiry Officer. The defaulter constable is habitual absentee and not able in Police Force but due to humanitarian basis and poor family background, the enquiry officer in his finding report recommended the absence period of constable be counted as Medical leave.

Therefore, I **Mr. Ghulam Habib Khan**, District Police Officer, Dir Lower in exercise of power vested to me under P (E & D) Rules 1975, not agree with finding of enquiry officer and awarded him a minor punishment of stoppage of one annual increment without accumulative effect, absence period with effect from 03/07/2014 to 17/08/2014 total 45 days is treated as leave without pay, awarded him last warning to be remain careful in future and pay released.

ORDER ANNOUNCED



District Police Officer,
Dir Lower at Timergara

OB No. 1081 AEC.

Dated 16-10- /2014.

Annex - "C"

POLICE DEPARTMENT

DISTRICT DIR LOWER

DEPARTMENTAL ENQUIRY REPORT

References:

Charge sheet No.4316-17/EC, dated 27-02-2015 and 4318/EC, dated 27-02-2015.

Accused Police man: - Constable Anwar Salam No. 683

Statement of allegation

"That while posted at Police Station Timergara, you have absented himself from his lawful duty without any leave or permission from his superior officer w.e.f 11-11-2014 to 17-11-2014 (06 days) and 08-12-2014 to 03-02-2015(57 days) total 63 days, which is gross misconduct on your part"

During the course of enquiry statement of the following officials recorded:

- Roshan Zada Insp/SHO Police Station Timergara:
- Mahboob Shah MASI Police Station Timergara.
- Accused Constable Anwar Salam No. 683.

The following documents collected:

- DD report No.43, dated 11-11-2014 (absence report).
- DD report No. 30, dated 17-11-2014 (arrival report).
- Application by MASI, dated 11-11-2014 for stoppage of salary of the accused constable Anwar Salam No.683.
- DD report No.47 dated 08-12-2014(absence report)
- Application by MASI, dated 22-12-2014 for stoppage of salary of the accused constable.
- DD report No. 26, dated 03-02-2015 (arrival report).
- Parwanas for collecting DD report and production of the constable.

He was called and heard.

He remained absent from duty for 63 days, and he did not give any cogent reason for his unlawful absence.

His service record shows that he does absence habitually and an increment was stopped due his previous absence from duties vide O.B No.1081, dated 16-10-14.

Recommendation

Keeping in view his absence from 11-11-2014 to 17-11-2014 and 08-12-2014 to 03-02-2015, and his previous blemish record, he is recommended for major punishment, please.

Dismissed from service
18/3

OB No 265
18/3/2015

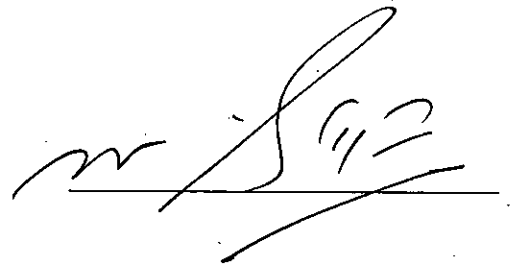
Aqiq Hussain
DSP HQrs

14/3/15

PRAYER:

It is therefore humbly prayed that on acceptance of this Para-wise reply the service appeal may graciously be set aside along with costs.

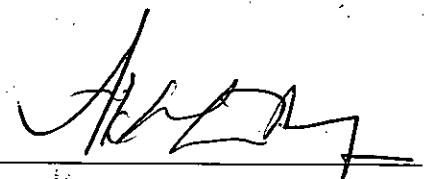
1) Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.



2) Assistant Inspector General of Police
1) Establishment Central Police, Peshawar.

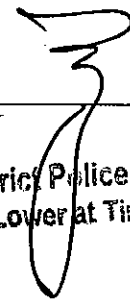


3) Regional Police Officer,
Malakand at Saidu Sherif, Swat.



Regional Police Officer,
Malakand, at Saidu Sherif Swat.

4) District Police Officer,
Dir Lower.



District Police Officer,
Dir Lower at Timergara.

10

the matter of:-

Anwar Said

Appellant

VERSUS

The P.P.O.K.P. and Others

Respondent

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH

Advocates High Court

To be the advocate for the Appellant in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 10 day of 08 2016.

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

AZIZ-UR-RAHMAN

Advocate High Court

Office: Khan Plaza, Gulshone Chowk

G.T. Road Mingora, District Swat.

Cell No. 0300 907 0671

(IMDAD ULLAH)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk,

G.T. Road, Mingora, District Swat

Cell No. 0333 929 7746

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In the matter of:-

Anwar Salam

Appellant

VERSUS

The PPO K.P & Others

Respondent

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH

Advocates High Court

Parti Appellant

To be the advocate for the Parti Appellant in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
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And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 8 day of 01 2018.

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk

G.T. Road Mingora, District Swat.

Cell No. 0300 907 0671

(IMDAD ULLAH)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk,

G.T. Road, Mingora, District Swat

Cell No. 0333 929 7746