

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR.**

**Execution Petition No.254/2023 in Service Appeal No.26/2018**

**Bakht Amin S/O Umar KHan, R/O Haroon Abad, Odigram Teshil  
Babozai, District Swat ( Ex- Constable No.871 Swat Police).**

----- (Appellant)

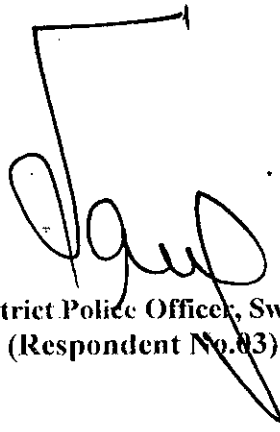
**Versus**

1. Government of Khyber Pukhtunkhwa through Provincial Police Officer/IGP at Peshawar.
2. The Regional Police Officer/DIG, Malakand Region at Saidu Sharif, Swat.
3. District Police Officer, Saidu Sharif, Swat.

----- (Respondents)

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District Police Officer, Swat  
(Respondent No.03)

N.D - 04/10/23

Swat

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

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----- (Respondents)

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.**

**Respectfully shewith:**

**Preliminarily objection:-**

1. That the service appeal is time barred.
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 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. The appellant has not come to this Tribunal with clean hands.

**ON FACTS**

1. Para No.01 regarding enlistment in Police Department and subsequent posting pertains to record. hence need no comments.
2. Incorrect. Being member of disciplined force, every police official/officer is under obligation to perform his duties with zeal, zest and devotion irrespective of harsh, tense and calm environment. The appellant did not performed his duties for certain period and he was proceeded against departmentally on the allegations of absentee, therefore stance of the appellant is not tenable in the eye of law.

3. Incorrect. That no discrimination has been done with the appellant by the respondents. The appellant while posted at Police Station Kabal Swat willfully and deliberately absented himself from his lawful duty vide DD No.09 dated 17/08/2008 followed by DD NO. 12 dated 11/10/2010 without any permission or leave whereupon he was proceeded departmentally and departmental enquiry was initiated against him. During the course of enquiry, the appellant was summoned time and again to join enquiry proceedings for defending himself, but to no avail, Therefore after fulfillment of all codal formalities the appellant was awarded appropriate punishment of dismissal from service. Furthermore, appeal of the appellant was badly time barred, hence appellate authority filed the same as per law/rules.
4. Pertain to record, hence needs no comments.
5. Pertain to record, hence needs no comments.
6. Correct to the extent that the this honorable Tribunal vide Judgment dated 06/07/2022 directed the respondent department to examine the case of applicant with the cases of those constable who were reinstated in service by the Commandant FRP and in case the applicant is found entitled to similar treatment as extended to other constables, then the authority shall also extend the same treatment to the applicant. In compliance of Judgment dated 06/07/2022, RPO Malakand being competent authority examined the case of appellant, wherein he was provided opportunities of self defense and was also heard in person to defend the charges leveled against him but he failed to defend the charges leveled against him, therefore his punishment of dismissal from service was kept up-held vide Region office Order No.2340/E, dated 22/02/2023. **Annexed "A"**.
7. Incorrect. As stated above, in light of directions of this honorable Tribunal, the case of appellant was thoroughly examined by the competent authority, whercin his appeal was filed after completing all legal formalities.
8. Incorrect. That RPO Malakand being competent authority complied with the directions of this honorable Tribunal in its true spirit, whercin case of the appellant was examined in light of Judgment dated 06/07/2022 by

providing ample opportunities of personal hearing and self defense to the appellant.

9. Incorrect. That act of respondents is legal, lawful and in accordance with law/rules.
10. Incorrect. As stated above, respondents complied with the directions of this honorable Tribunal in its true spirit, wherein case of the appellant was examined in light of Judgment dated 06/07/2022.
11. That the respondents also seek permission of this honorable Tribunal to adduce additional grounds at the time of arguments.

**PRAYER:-**

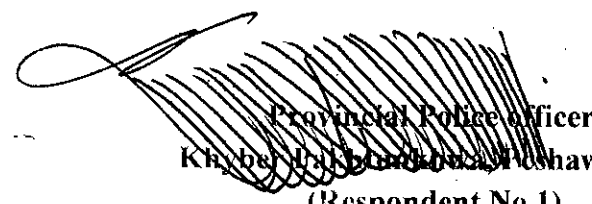
In view of the above comments of answering respondents, it is prayed that instant Execution Application/petition may be dismissed with cost.



District Police Officer, Swat  
(Respondent No.3)



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



Provincial Police Officer,  
Khyber Pakhtunkhwa  
(Respondent No.1)

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2. The Regional Police Officer/DIG. Malakand Region at Saidu Sharif, Swat.
3. District Police Officer, Saidu Sharif, Swat.

----- (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.3)

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

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.1)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR.**

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Babozai, District Swat ( Ex- Constable No.871 Swat Police).

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2. The Regional Police Officer/DIG, Malakand Region at Saidu Sharif, Swat.
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----- (Respondents)

**AUTHORITY LETTER**

We, the above respondents do hereby authorize Mr. Nacem 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.3)

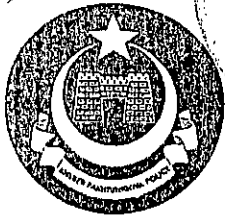
  
Regional Police Officer,  
Malakand Region  
(Respondent No.2)

**ATTESTED**



  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar,  
(Respondent No.1)

ANX "A"



2371  
24/02/23

(18)

3844  
24/2/23

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

Ph: 0946-9240388 & Fax No. 0946-9240390

Email: [ebmalakandregion@gmail.com](mailto:ebmalakandregion@gmail.com)

ORDER

This order will dispose of appeal of Ex-Constable Bakht Amin No.871 of Swat District, in compliance with judgement dated 06-07-2022 in Service Appeal No.26/2018 titled "Bakht Amin VS RPO, Malakand and others" wherein the Honorable Tribunal directed to examine the case of appelliant with the cases of those constables who were re-instated in service by the Commandant, FRP, Khyber Pakhtunkhwa in case the appelliant found entitled to similar treatment as extended to other Constables, then the said authority shall also extend the same treatment to the present appelliant. The Honorable Tribunal also directed that the appelliant shall be afforded opportunity of hearing during the proceedings which shall be conducted and concluded within a period of 60 days from the date of receipt of copy of this judgement.

Guidance was also sought from AIG/Legal, CPO, Peshawar vide Letter No.6034/legal, dated 24-11-2022, wherein the competent authority accorded approval to approach your office that the departmental appeal of the appelliant may be placed before the Regional Police Officer, Malakand Region for decision as the Service Tribunal has remanded the case to the appelliate authority then there is no need for re-instatement of appelliant. However, as directed by the Tribunal, the appelliate authority may provide opportunity to the appelliant.

In light of above directions received form Honorable Tribunal vide Judgement dated 06-07-2022 and CPO, Peshawar directions vide Letter No.6034/legal. dated 24-11-2022, the appelliant namely Ex-Constable Bakht Amin No.871 was called in Orderly Room on 09-02-2023 and heard him in person by providing opportunity of personal hearing, but he could not produce any cogent reason to defend the charges leveled against him. Therefore, the punishment awarded to him is upheld and his appeal is hereby filed.

**ATTESTED**

Deputy Superintendent of Police Legal  
Swat.

Regional Police Officer,  
Malakand Region Swat

No. 2340 /E,  
Dated 22-02-2023.

Copy to the District Police Officer, Swat for information and necessary action with reference to his office Memo: No.756/Legal, dated 06-01-2023.

\*\*\*\*\*

FC / DSP Legal  
Inform Ex-Constable  
Concerned  
W. Y. [Signature]  
24/02/2023

PLG on file  
[Signature]  
DSP Legal Swat  
27/4/23

CJC  
[Signature]

121-2  
21.10.10

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**DISCIPLINARY ACTION**

I Mr. Qazi Ghulam Farooq, District Police Officer, Swat as competent authority, am of the opinion that **Constable Bakht Amin No. 871** has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section 3 of the N.W.F.P Removal from Service (Special Powers Ordinance, 2000.

**STATEMENT OF ALLEGATIONS**

That he Constable Bakht Amin No. 871 while Posted to Javed Iqbal Shaheed Police lines Swat absented himself from duty with effect from 17/08/2008 till to date with out any permission or leave vide DD No. 12 dated 11/10/2010.

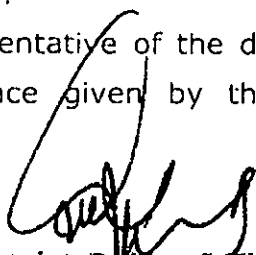
All these based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

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.

1. Mr Habib ur Rahman khan DSP/ Hqrs Swat
2. \_\_\_\_\_

3. 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, 25 Days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place given by the enquiry Committee.

  
 District Police Officer, Swat  
 No. 287 /E, Dated Gulkada the, 18/10 2010.

Copy of above is forwarded to the:-

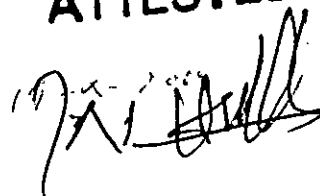
1. Mr Habib ur Rahman khan DSP/ Hqrs Swat
  2. \_\_\_\_\_
- } for initiating proceeding against the Officer/ Official under the provisions of the NWFP/Removal from Service (Special Powers) Ordinance 2000.

**3. Constable Bakht Amin No. 871**

With the direction to appear before the enquiry Committee on the date, time and place fixed by the Committee for the purpose of enquiry proceeding.

\*\*\*\*\*

**ATTESTED**

D O A 

Deputy Superintendent of Police Swat



**CHARGE SHEET**

I Mr. Qazi Ghulam Farooq, DPO Swat as competent authority, hereby charge you, **Constable Bakht Amin No. 871** as following that you, while posted in GIS Police Lines Swat committed the following irregularities:

You Constable Bakht Amin No. 871 while Posted to Javed Iqbal Shaheed Police lines Swat absented yourself from duty with effect from 17/08/2008 till to date with out any permission or leave vide DD No. 12 dated 11/10/2010.

All these based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part

2. By reasons of the above, you appear to be guilty of misconduct under Section-3 of the NWFP (Removal from Service) Special powers ordinance 2000, and have rendered yourself liable to all or any of penalties specified in section-3 of the ordinance.

3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry officer / Committee, as the case may be.

4. Your written defense, if any, should reach the Enquiry Officer/ Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall follow against you.

5. Intimate whether you desire to be heard in person.

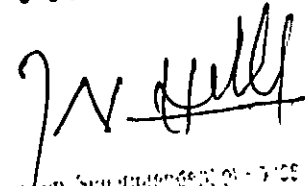
6. A statement of explanations is enclosed.

  
District Police Officer, Swat  
\*M.Ali\*

No. 287 /EB

Dated 12/10 / 2010

**ATTESTED**

  
Deputy Superintendent of Police Swat

(D. J. J. J.)

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**FINAL SHOW CAUSE NOTICE**

You Constable Bakht Amin No. 871 of Police Station Matta absented himself from duty with effect from 17/08/2008 till to dated vide D.D No. 09 dated 17/08/2008 followed by D.D No. 12 dated 11/10/2010 of Police Line without any prior permission or leave. As per finding report of Enquiry Officer DSP/Hqrs: Swat dated 11/11/2010 intimated that you have gone to Saudi Arabia for labour and not present in home, as per written verification of local elders namely Hazrat Bilal s/o Umar Khan r/o Odigram NIC No. 15602-8944617-3 and Itbar Ali s/o Mazang r/o Odigram NIC No. 15602-0454062-7. The charges leveled against you were proved and the enquiry officer recommended you for dismissal from service.

You are therefore served with this Final Show Cause Notice to Show Cause with in 03 days of the receipt of this notice as to why the proposed action, which may included you dismissal from Service should not be taken against you. This notice is being sent on your home address by post. In case your written reply is not received with in 03 days, you will be definitely dismissed from service.

*[Signature]*  
District Police Officer, Swat.  
\*\*irfan\*\*  
*[Signature]*  
27/11/10

**ATTESTED**  
*[Signature]*  
Deputy Superintendent of Police Legal  
Swat

No. 287 /E

Dated. 1/12 /2010

**Constable Bakht Amin No. 871**  
**s/o Umar Khan r/o Odigram**  
**Police Station Rahim Abad Swat (By Post Registered).**

Dr. /  
 قریب مناسبتاً تقبل کرنا  
 INP/SHO-PS-R-Abad  
 5-12-2020

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 er

جنا عالی

میں مسیحا نے داخل محکمہ ہر جہاں کی رو سے اختیار کرتے ہوئے میرے  
 کر سکتا ہے کہ میں ولد محمد خان ساکن باریون آباد اتر  
 کسٹم ممبر کے ساتھ چلا گیا ہے۔ دیکھ کر خود غور سے موجودہ  
 میں دونوں تکرار کرتے ہیں۔

روستہ خان

دوست محمد خان ولد محمد شہین ساکن باریون آباد اتر  
 No. 15602-0417335-3

محمد

محمد امین ولد محمد خان ساکن باریون آباد اتر  
 No. 15602-0284908-9

جنا عالی

میں نے جو کچھ ماری ہوئی  
 شو کاس نوٹس جہاں میں  
 علم باریون آباد گیا۔ میں نے پتہ بہاری  
 معلوم ہوا۔ کہ محنت مہموری میں  
 چلا گیا ہے۔ دیکھ کر خود غور سے  
 جہاں متعلق مہموری باریون آباد  
 اصل شو کاس نوٹس میں  
 موجود ہے۔

جنا عالی

دیکھ کر خود غور سے  
 اصل شو کاس نوٹس میں  
 جہاں متعلق مہموری باریون آباد

INP/SHO-PS-R-Abad  
 5-12-2020

Dr. PS-R-Abad  
 5-12-2020