

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1772/2022.

Muhammad Sohail Khan S/o Shakir Ullah R/o Dawat Khel, District Swabi (Ex-constable No FRP 1031)Appellant.

VERSUS

Commandant FRP, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

INDEX

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE No.
1.	Para-wise Comments		02
2.	Charge Sheet	A	03
3.	Enquiry Report	B	04
4.	Final Show Cause Notice	C	05
5.	Affidavit		06
6.	Authority Letter		07
Total			07


RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1772/2022.

Muhammad Sohail Khan S/o Shakir Ullah R/o Dawat Khel, District Swabi (Ex-constable No FRP 1031)Appellant.

VERSUS

Commandant FRP, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

PARAWISE REPLY BY RESPONDENTS 1 to 2.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS:-

File No. Peshawar
Service Tribunal

Entry No. 7597

Dated: 18/09/23

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has no cause of action and locus stand 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 the material facts from this Honorable Tribunal.

FACTS:-

1. Para No. 01 relates to the appellant personal record.
2. Correct to the extent that the appellant was recruited in police department as constable.
3. Incorrect. Perusal of service record the appellant found a habitual absentee as previously he remained absent from lawful duty on different occasions for a period of 55 days, which he awarded several punishment and in this regard there are 02 bad entries with no good entry in his credit.
4. Incorrect. The appellant while transferred and posted to City Traffic Police Peshawar vide order dated 25.03.2022 deliberately failed to report his arrival at his new place of posting and remained absent from lawful duty with effect from 31.03.2022 till the date of his removal from service i.e 08.08.2022 for total period of 04 months and 18 days, without any leave or prior permission of the competent authority. The plea of his illness taken by the appellant is a propounded story and he is supposed to have taken this plea before the Enquiry Officer or before the competent authority during the course of enquiry.
5. Incorrect. The appellant has found a disobedient Police Officer as he failed to submit his report arrival at City Traffic Police Peshawar by denying the lawful order of the competent authority and remained absent from his duty for a long period of 04 months & 18 days. In this regard, he was proceeded against proper departmentally and after fulfillment of all codal formalities, he was awarded major punishment of removal from service in accordance to law/rules.
6. Incorrect. Departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.


7. The appellant has not come to this Honorable Tribunal with clean hands, hence this appeal being devoid of merits may kindly be dismissed on the following grounds.


GROUND:-

- A. Incorrect. The respondents have not deprived the appellant from his legal right.
- B. Incorrect. The allegations are false and baseless as the respondents does not committed with any discrimination or violation of the Constitution of Islamic Republic of Pakistan.
- C. Incorrect. The cases mentioned by the appellant in the Para are not at par with the case of the appellant. Moreover, the appellant was not deprived by the respondents from his fundamental right.
- D. Incorrect. In fact the appellant has deprived himself from his fundamental right. In fact, the appellant was remained absent from his lawful duty, which he was proceeded against proper departmentally as he was issued Charge Sheet and Statement of Allegations and Enquiry Officer was nominated. The Charge Sheet was properly served upon him by the Enquiry Officer, but he failed to submit his reply or to appear before the Enquiry Office. After completion of enquiry, The Enquiry Officer submitted his findings report, wherein the appellant was found guilty of the charges leveled against him. Upon the findings of enquiry, the appellant was issued/served with Final Show Cause Notice, but he failed to submit his reply. (Copies of Charge Sheet, Enquiry report & Final Show Cause Notice attached herewith as annexure "A, B & C"). Besides, a sufficient opportunity for defense in the shape of personal hearing was also provided to the appellant, but he deliberately failed to appear before the competent authority by meaning thereby that he was no more interested in the service of Police Department. Hence, the appellant was removed from service under the law/rules on the basis of his willful absence otherwise the respondents have no personal grudges with him.
- E. Incorrect. All the orders passed by the respondents in the case of the appellant are legally justified and in accordance to law/rules.
- F. The respondent may also be permitted to raise additional grounds at the time of arguments.

PRAYERS:-

Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being not maintainable may kindly be dismissed with costs please.


Deputy Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)


Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)

A
Ri

**CHARGE SHEET U/S 6 (1) (A) OF THE KHYBER PAKHTUNKHWA POLICE
RULES 1975, AMENDED 2014.**

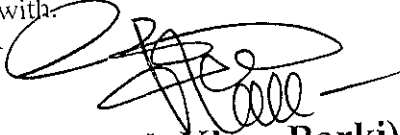
You, Constable Sohail No. 1031 of FRP HQrs: are hereby charged for committing the following omissions / commissions.

You, while posted City Traffic Police Peshawar on loan basis absented yourself from lawful duty w.e.f 31/03/2022 till date without taking any leave / permission of the competent authority.

You are hereby called upon to submit your written defense against the above charges before the Inquiry Officer.

Your reply should reach to the Inquiry Officer within seven (07) days from date of receipt of this Charge Sheet, failing to which, ex-parte action shall be taken against you.

Summary of allegations is enclosed herewith.


(Jehan Zeb Khan Barki) PSP
Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

ۛ

Sohail

11/05/2022

دستور العمل مطابقاً مع ضابطہ نمبر 1031، جنم

ادینہ 11/05/2022

Nic # 1620189201299

mb/o = 0315 5566674

Attested



A/2

ORDER

UNDER SUB-SECTION-3 & SECTION 5 POLICE RULES, 1975

I, **Jehan Zeb Khan Barki PSP**, Deputy Commandant FRP, Khyber Pakhtunkhwa Peshawar being Competent Authority charge **Constable Sohail No. 1031** of FRP HQrs: Peshawar because he is prima facie guilty of the following acts to be dealt with u/s 5 (3) of the Khyber Pakhtunkhwa Police Rules, 1975 amended 2014.

He while posted City Traffic Police Peshawar on loan basis absented himself from lawful duty w.e.f 31.03.2022 till date without taking any leave / proper permission of the competent authority.

The act of accused official falls within the ambit of gross misconduct and is liable to be proceeded under the Khyber Pakhtunkhwa Police Rules 1975, amended.

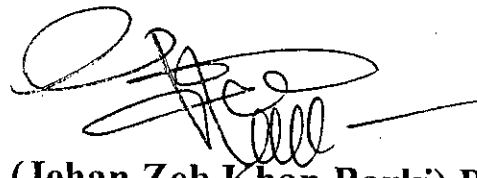
For the purpose of scrutinizing the conduct of the above said accused official with reference to the above allegations, I, Deputy Commandant FRP, Khyber Pakhtunkhwa, being authorized Officer hereby nominate Inquiry Officer as below to inquire into the charges within the meaning of Section 2 (iii) under the Khyber Pakhtunkhwa, Police Rules 1975, amended 2014.

Amjad Khan, LO F.R.P, HQrs: Peshawar

The Inquiry Officer after completing all inquiry proceedings should submit findings to the undersigned within the stipulated period of (10) days u/s 6 (5) of the Khyber Pakhtunkhwa Police Rules, 1975, amended 2014.


Charge Sheet and Statement of Allegations are issued against the accused official separately. Reply should be submitted before the Inquiry officer within the period of (07) days from the date of receipt.

Encl: Papers () in Original.



(Jehan Zeb Khan Barki) PSP
Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

No. 870 /PA, dated Peshawar the 09 / 05 /2022.

Attested


فائنل رپورٹ

جناب عالی!

بحوالہ مشمولہ انکوائری کاغذات برخلاف کنسٹیبل سہیل بلٹ نمبر 1031 FRP/HQrs پشاور مغروض خدمت ہوں کہ مذکورہ کنسٹیبل جو کہ حکم افسران بالا صاحبان بحوالہ آرڈر نمبری 61-2959 مورخہ 25-03-2022 پر FRP/HQrs پشاور سے سٹی ٹریفک پشاور تبدیل ہو چکا ہے اور لائن FRP/HQrs پشاور سے بحوالہ مد 08 روز نامچہ 31-03-2022 سٹی ٹریفک پشاور روانہ کر کے حاضری کے متعلق ہدایات ہوئے لیکن مذکورہ نے سٹی ٹریفک پشاور میں بروقت حاضری نہ کرنے پر مذکورہ کنسٹیبل کو بحوالہ مد 12 روز نامچہ 15-04-2022 از مورخہ 31-03-2022 سے غیر حاضر تصور کر کے رپورٹ غیر حاضری سٹی ٹریفک پشاور درج روز نامچہ ہو کر تہمد غیر حاضری افسران بالا صاحبان کے خدمت میں ارسال ہوئی۔ جس پر جناب ڈپٹی کمائنٹ صاحب FRP/KP پشاور نے مذکورہ کنسٹیبل کے خلاف چارج شیٹ جاری کر کے کاغذات برائے انکوائری من لائن افسر FRP/HQrs پشاور کو مارک کر کے حوالہ ہوئے۔ دوران انکوائری معلوم ہوا کہ مذکورہ کنسٹیبل مورخہ 31-03-2022 سے بدستور غیر حاضر چلا آ رہا ہے۔ مذکورہ کنسٹیبل پر حسب ضابطہ چارج شیٹ دوسری آف ایگیشن تقسیم کی گئی۔ جو کہ مذکورہ نے بذات خود وصول کر کے چارج شیٹ کے جواب میں کسی قسم کی کوئی تحریری بیان وغیرہ پیش نہیں کیا اور نہ ہی دفتر ہذا پیش ہوئے۔

اندریں سلسلہ میں محرر سٹی ٹریفک پولیس سے ایک تحریری بیان لیا گیا جس میں محرر بیانی ہے کہ کنسٹیبل سہیل نمبر 1031 کو بحوالہ آرڈر نمبری 61-2959 مورخہ 25-03-2022 پر FRP/HQrs پشاور سے سٹی ٹریفک پشاور تبادلہ ہو کر لائن FRP/HQrs پشاور سے سٹی ٹریفک پشاور روانہ کر کیا گیا تھا جو کہ حاضر نہ آیا اور مورخہ 31-03-2022 سے بدستور غیر حاضری چلا آ رہا ہے۔ تہمد ہمراہ لف انکوائری ہے۔

لہذا مذکورہ کنسٹیبل کی سیکورس انکوائری مکمل ہو کر بغرض مناسب حکم احکام کیلئے پیش خدمت ہے۔ دیگر حکم افسران بالا صاحبان کا افضل ہے۔ رپورٹ گزارش ہے۔


لائن افسر

ایف آر پی ہیڈ کوارٹرز

Issue Final
Show Cause
notice
26.5.22

D.No/ 71 /LO Dated: 23/05/2022

Attendant



C 7

**FINAL SHOW CAUSE NOTICE UNDER THE KHYBER PAKHTUNKHWA
POLICE RULES 1975, AMENDED 2014.**

I, Jehan Zeb Khan Barki, PSP Deputy Commandant FRP Khyber Pakhtunkhwa being competent authority do hereby serve this Final Show Cause Notice to you. Constable Sohail No. 1031 of FRP / HQs: Peshawar.

(1) i. That, you Constable Sohail No. 1031 of FRP / HQs: Peshawar absented yourself from lawful duty w.e.f 31.03.2022 till date without taking any leave / proper permission of the competent authority. In this connection an inquiry was entrusted to L.O, F.R.P, HQs: Peshawar, who after conducting proper departmental inquiry recommended for taking ex-parte action against you.

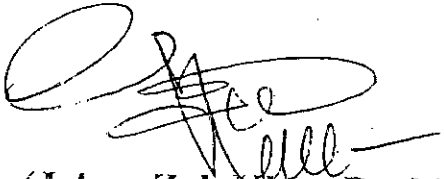
ii. That consequent upon the completion of inquiry conducted against you by L.O, FRP HQs: Peshawar for which you were given full opportunity of hearing but you failed to submit any reply to the Charge Sheet / statement of allegation and recommended for taking ex-parte action against you.

iii. On going through the findings / recommendations of the Inquiry Officer as well as other material available on record and other connected papers, I am satisfied that you have committed the above acts / omissions under the Khyber Pakhtunkhwa Police Rules 1975, amended 2014.

(2) Therefore, I Jehan Zeb Khan Barki, PSP Deputy Commandant, FRP, Khyber Pakhtunkhwa being competent authority have tentatively decided to impose upon you Major / Minor penalty including Dismissal from Service under the said Rules.

(3) You are, therefore, required to Show Cause to this final notice as to why not the aforesaid penalty should be imposed upon you.

(4) If no reply to this Final Show Cause Notice is received within seven (07) seven days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and consequently, ex-parte action shall be taken against you.


(Jehan Zeb Khan Barki) PSP
Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

AH estep
J

No. 939 /PA, dated Peshawar the 31 /05 /2022.

سکتھ دعوت جن کسین وضع ہو الی غیر ادینہ
1031 ولد ریتہ ستارہ
17-6-2022 03139224754
16202-3344047-?
N/C

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1772/2022.

Muhammad Sohail Khan S/o Shakir Ullah R/o Dawat Khel, District Swabi (Ex-constable No FRP 1031)Appellant.


VERSUS


Commandant FRP, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

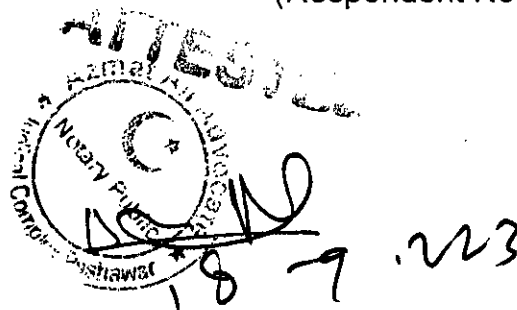
AFFIDAVIT

We respondents No. 1 to 2 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of our knowledge and belief that nothing has been concealed from this Honorable Court.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/costs.


Deputy Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)


Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1772/2022.

Muhammad Sohail Khan S/o Shakir Ullah R/o Dawat Khel, District Swabi (Ex-constable No FRP 1031)Appellant.


VERSUS


Commandant FRP, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

AUTHORITY LETTER

Respectfully Sheweth:-

We respondents No. 1 to 2 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs; to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.


**Deputy Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)**


**Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)**