

BEFORE THE HONORABLE,
SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No.1188/2023

Ex-Constable Akbar Khan No.424,
District Hangu

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home,
Civil Secretariat, Peshawar & Others

.....Respondents

I N D E X

S, #	Description of documents	Annexed	Pages
1.	Parawise Comments		1-2
2.	Affidavit		3
3.	Copies of complete inquiry		4-9



Deponent
Incharge Legal Branch,
Hangu

①

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

Service Appeal No. 1188/2023

Ex-Constable Akbar Khan No. 424, District Hangu

..... Appellant

VERSUS

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Case No: 7659
Date: 19/09/23

Government of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat,
Peshawar & others

..... Respondents

Para wise reply/Comments on behalf of respondent No: 1, 2, 3 & 4

Respected Sheweth,

Reply to Preliminary Objection:-

1. That the appellant has got no cause of action locus standi.
2. That the instant Service appeal is badly time barred.
3. That the appellant has concealed material facts from the Hon'able Tribunal in the instant service appeal.
4. That the instant service appeal is against the relevant provisions of law.
5. That the appellant has not come to this Hon'able tribunal with clean hands.
6. That the instant appeal is liable to be dismissed for-joinder & non-joinder of the necessary parties to the present appeal.
7. That the appellant is estopped by his own conduct to file the instant appeal.
8. That the instant service appeal is not maintainable in the present form & circumstances of the case.

Facts Reply:-

- 1: That Para No: 1 is correct up to the extent of year of appointment of appellant remaining Para is denied and wrong.
2. That Para No: 2 the appellant did not produce any satisfactory medical documents during the whole proceedings carried out by the department against him.
3. That Para No 3 is totally incorrect. All the legal requirements were fulfilled and better opportunity was given to the appellant.
4. That Para No; 4 is correct and no need of detail answer.
5. That Para No: 5 is incorrect, appellant is concealing the facts and knocked at the door of this Tribunal with intestinal to pressurize the department.
6. Para No. 6 is incorrect and already replied this fact in detail but in short, the appellant has no reason to file the instant appeal.

Grounds:-

- A. That Para No: A is completely incorrect. The respondents have taken legal action against the appellant as per law.
- B. That Para No: B is incorrect. The order of Respondents No. 3 and 4 are very clear and the appellant have no right to file the instant appeal. All the legal requirements were fulfilled during the enquiry.
- C. That Para No. C is incorrect and completely denied. Respondents No. 3 & 4 are competent authority to have passed such like order.
- D. That Para No. D is incorrect. The appellant is concealing the real facts.
- E. That Para No. E is incorrect. The available record is sufficient for proceedings against the appellant.
- F. That Para No. F is denied. Regular and fair enquiry has been conducted against the appellant.
- G. That Para No. G is incorrect. Detailed answer is already given.
- H. That Para No. H is incorrect. Appellant has not having any good previous history.
- I. That Para No. I is incorrect.
- J. That Para No. J is incorrect.

PRAYER

In the light of the above stating material fact and record the appeal in hand is merit less not maintainable and badly time barred and liable to be dismissed with cost on the score of concealing the material facts before the Hon'able Tribunal.

Govt. of Khyber Pakhtunkhwa,
Through Secretary Home, Civil Secretariat
Peshawar (Respondent No: 1)
Home Secretary,
Khyber Pakhtunkhwa

Inspector General of Police
Khyber Peshawar
(Respondent No: 2)

Regional Police Officer
Kohat Region, Kohat
(Respondent No: 3)

District Police Officer
Hangu
(Respondent No: 4)

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

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

Service Appeal No. 1188/2023

Ex-Constable Akbar Khan No. 424, District Hangu

..... Appellant

VERSUS

(1) Government of Khyber Pakhtunkhwa through
Secretary Home, Civil Secretariat, Peshawar & others

..... Respondents

COUNTER AFFIDAVIT.

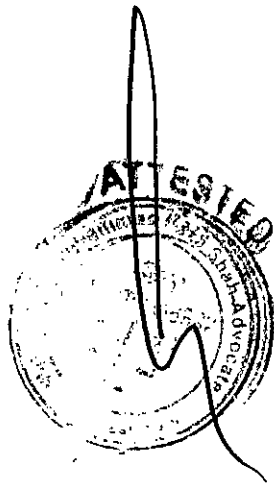
We, the below mentioned respondents do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.

Govt. of Khyber Pakhtunkhwa
Through Secretary Home, Civil
Secretariat, Peshawar
(Respondent No. 2)
Home Secretary,
Khyber Pakhtunkhwa

Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 2)

Regional Police Officer,
Kohat Region, Kohat,
(Respondent No. 3)

District Police Officer,
Hangu,
(Respondent No. 4)



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

19/8/23



DSP/HQ Hangu
Duty No. 656
Date: 9.6.22

OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU
Tel No. 0925-623878 & Fax No. 0925-620135
Email: dpohangu8@gmail.com

CHARGE SHEET

I, **MR. ASIF BAHADER, PSP, DISTRICT POLICE OFFICER, HANGU**, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you **Constable Akbar Khan No. 424** rendered yourself liable to be proceeded against, as you have omitted the following act/omissions within the meaning of Rule 3 of the Police Rules 1975:-

- i. You, Constable Akbar Khan No. 424 while posted at Police Post City Hangu have absented yourself from official duty with effect from 28.05.2022 to till date without any leave or prior permission vide DD No.06, dated 28.05.2022 of Police Post City, Hangu.
- ii. Your absentee shows your disinterest, negligence and amount to gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
HANGU

Attested

am

0333-5019441



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel No. 0925-623878 & Fax No. 0925-620135
Email: dpohangu8@gmail.com

DISCIPLINARY ACTION

I, MR. ASIF BAHADER, PSP, DISTRICT POLICE OFFICER, HANGU, as competent authority, am of the opinion that you, Constable Akbar Khan No. 424 have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

- i. You, Constable Akbar Khan No. 424 while posted at Police Post City Hangu had absented yourself from official duty with effect from 28.05.2022 to till date without any leave or prior permission vide DD No.06, dated 28.05.2022 of Police Post City, Hangu.
- ii. Your absentee shows your disinterest, negligence and amount to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations DSP HANGU is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

DISTRICT POLICE OFFICER,
HANGU

No. 29 /EC, dated 06 / 06 /2022.

Copy of above to:-

1. _____ :- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. The Accused official:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

مورخہ 23/06/2022

انکوائری ازاں کنسٹیبل اکبر خان نمبر 424 متعینہ پولیس لائن ہنگو

جناب عالی!

بجوالہ ڈائری نمبر EC/29 مورخہ 06.06.2022 دفتر جناب DPO صاحب ہنگو، انکوائری برخلاف کنسٹیبل اکبر خان نمبر 424 متعینہ پولیس لائن ہنگو معروض خدمت ہوں۔ کہ چارج شیٹ ہذا میں مذکورہ ریکروٹ کنسٹیبل کیخلاف ذیل الزام لگایا گیا ہے۔

الزام:-

مذکورہ کنسٹیبل بجوالہ مد 06 روز نامچہ 28.05.2022 پولیس چوکی شی ہنگو مورخہ 28.05.2022 سے بغیر کسی اجازت ارخصت کے اپنی سرکاری ڈیوٹی سے تاحال غیر حاضر ہے۔

انکوائری پراسیس:-

اس سلسلے میں کنسٹیبل اکبر خان نمبر 424 متعینہ چوکی شی ہنگو حسب طلبی دفتر ہذا آ کر جس نے اس بارے میں تحریری بیان پیش کیا جولف ہذا ہے۔
کنسٹیبل اکبر خان نمبر 424:-

نے اپنے بیان میں ظاہر کیا کہ وہ گھر کا ایک ذمہ دار شخص ہے۔ اسکے علاوہ گھر پر کوئی دوسرا ذمہ دار شخص موجود نہیں ہے۔ چونکہ اسکی بیوی کی ڈیلیوری سے پہلے اچانک طبیعت خراب ہو گئی تھی۔ اور پھر ڈیلیوری کے بعد بھی کئی دنوں تک اسکی حالت انتہائی خراب تھی۔ بیوی کی دیکھ بھال اور رشتہ داروں کی بیمار پری اعیادت کے سلسلے میں گھر آنا جانا لگا ہوا تھا۔ بدیں وجہ مجبوراً اس کی گھر پر موجودگی نہایت ضروری تھی۔

جناب والد!

انکوائری ہذا کے سلسلے میں حسب ضابطہ کار وائی شروع کرتے ہوئے کنسٹیبل اکبر خان نمبر 424 متعینہ پولیس لائن ہنگو حسب طلبی دفتر ہذا آ کر جس نے اس بارے میں تحریری بیان پیش کیا۔ جولف ہذا ہے

مذکورہ کنسٹیبل مورخہ 28.05.2022 تا 17.06.2022 بغیر کسی اجازت اور رخصت کے غیر حاضر رہا ہے۔ اور مذکورہ کنسٹیبل کی عرصہ غیر حاضری تقریباً 20 یوم بنتی ہے۔ جبکہ مذکورہ کنسٹیبل نے اپنی غیر حاضری کی وجہ اسکی بیوی کی ڈیلیوری، بیوی کی دیکھ بھال اور بیوی کی عیادت کیلئے آنے والے رشتہ داروں کی خدمت کرنا ظاہر کی ہے۔ مگر دوران انکوائری مذکورہ کنسٹیبل سے اسکی بیوی کی ڈیلیوری/بیماری کے متعلق میڈیکل کاغذات طلب کیے گئے۔ جس پر مذکورہ کنسٹیبل نے میڈیکل کاغذات پیش کرنے کی یقین دہانی کرائی۔ مگر اب تک اس نے کسی قسم کے میڈیکل کاغذات پیش نہیں کیے ہیں۔ جس سے مذکورہ کنسٹیبل کی بیوی کی ڈیلیوری/بیماری کی تصدیق ہو سکے۔

لہذا دوران انکوائری مذکورہ کنسٹیبل نے اپنی غیر حاضری کے متعلق کوئی معقول عذر پیش نہیں کیا ہے۔ تاہم مذکورہ کنسٹیبل کو چاہیے تھا کہ وہ غیر حاضر ہونے سے قبل یا دوران غیر حاضری متعلقہ مسنیر افسر سے رخصت منظور کرتا۔ ڈسپلین فورس کا حصہ ہوتے ہوئے بھی اپنی مرضی سے اتنی عرصہ تک غیر حاضر رہنا مذکورہ کنسٹیبل کی غیر ذمہ داری اور لاپرواہی ثابت کرتی ہے۔

لہذا مذکورہ کنسٹیبل کو عرصہ غیر حاضری تقریباً 20 یوم پر Minor Punishment دینے کی سفارش کی جاتی ہے۔

DSP/Hq: HANGU

Accepted



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: 0925-623878 Fax: 0925-620135

No. 135 /EC dated Hangu the 21 /07/2022

FINAL SHOW CAUSE NOTICE

1. I, Asif Bahader, (PSP), District Police Officer, Hangu as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, Constable Akbar Khan No. 424 while posted at Police Post City, Hangu as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer in which you have given full examination opportunity of hearing, but you failed to submit any reasonable response in your self defence and recommended you for awarding a minor punishment vide his office finding No. 876/DSP Hq., dated 23.06.2022.
- ii. From going, through the finding and recommendations of the inquiry officer, the material on record and other documentary proof including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

- i. You, Constable Akbar Khan No. 424 while posted at Police Post City Hangu have absented yourself from official duty with effect from 28.05.2022 to till date without any leave or prior permission vide DD No.06, dated 28.05.2022 of Police Post City, Hangu.
- ii. Your absentee shows your disinterest, negligence and amount to gross misconduct on your part.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules ibid.

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

4. If no reply to this notice is received within 07 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 as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.

Attested

DISTRICT POLICE OFFICER,
HANGU

جناب عالی
شوکانز نوشی عزاکی اید کا پی
موصول شد۔

الو امیر خان ولد وزیر خان سید گلگت بلتستان

1-83-9491-14101 H/L

MOB. 0333-5019441



جناب عالی کا

تعمیل حسب ضابطہ گنگلی بعد تعمیل کے
19 دس ارسال فرماتے ہیں۔

Qued

DPC P.S. city

02/8-022

جناب عالی
نتیجہ حسب ضابطہ گنگلی
19 دس ارسال فرماتے ہیں۔

Handwritten signature

02/8/22



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: 0925-623878 Fax 0925-620135

ORDER

This order is passed on the departmental enquiry against Constable Akbar Khan No. 424 while posted at Police Post City Hangu under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).

Brief facts of the case are as under:-

- i. Constable Akbar Khan No. 424 while posted at Police Post City (Rescue-15), Hangu has absented himself from official duty with effect from 28.05.2022 to till date without any leave or prior permission vide DD No. 06, dated 28.05.2022 of Police Post City, Hangu.
- ii. His above this act shows his disinterest, negligence and amount to gross misconduct on his part.

He was served with charge sheet and statements of allegations vide this office No. 29/EC, dated 06.06.2022, to which he submitted his reply to the DSP HQrs, Hangu who was appointed as Enquiry Officer to conduct departmental enquiry against him. After completion of enquiry, the Enquiry Officer submitted finding vide his office No. 876/DSP HQ; dated 23.06.2022 in which the defaulter Constable Akbar Khan No. 424 was summoned for further proceedings into the matter. He was heard in person by providing full cross examination opportunity in his self defence. In due course of enquiry, no reasonable response regarding his prolong absence from 28.05.2022 to 17.06.2022 could be given by the alleged Constable in his self defence thus, held him guilty for the charges leveled against him therefore, the enquiry officer recommended him for awarding a minor punishment, but the undersigned was not agreed with his finding.

Consequently, Final Show Cause Notice was issued to him vide No. 135/EC, dated 21.07.2022 to which he submitted his reply and was found unsatisfactory.

Subsequently, he was called in orderly room on 31.08.2022 and heard in person, but he failed to submit any plausible reply in his self defence.

Keeping in view of above and having gone through available record, the undersigned has arrived at the conclusion that defaulter Constable Akbar Khan No. 424 has deliberately absented himself from lawful duty showing in discipline manner, gross misconduct, irregularities, and non-professionalism, which

(9)

indicates that he was not interested to serve further in a disciplined force. Since, in such circumstances his retention in Police Department is burden on public exchequer, therefore, I, Asif Bahader, (PSP), District Police Officer, Hangu in exercise of the powers conferred upon me under the Rules *ibid*, dispense with general proceedings and **awarded him a major punishment of Dismissal from Service from the date of his absence.**

Order Announced.

OB No. 340

Dated 5/19/2022

DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 4941-43 /EC, dated Hangu, the 06/09/2022

Copy of above is submitted to the Regional Police Officer, Kohat Region, Kohat for favour of information, please.

- 2. Pay Officer, EC, Reader & OASI for necessary action.

DISTRICT POLICE OFFICER,
HANGU

Attested

mm