


Cost of Rs. 5000/- received in Service Appeal No. 1650/2022,  
Titled Muhammad Javed vs. FRP

in the office of Assistant Registrar, Vide Order 19-06-23, submitted on 21/09/2023.

  
Assistant Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
**ASSISTANT REGISTRAR**  
Khyber Pakhtunkhwa  
Service Tribunal Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 1650/2022.**

**Mr. Muhammad Javed, Ex-constable No. 7369, FRP Bannu Range, Bannu**  
.....Appellant.

**VERSUS**

**Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar &**  
others.....Respondents.

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**RESPONDENTS**

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.....Appellant.

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others.....Respondents.

**PARAWISE REPLY BY RESPONDENTS 1 to 3.**

Office of the Provincial Police Officer  
Peshawar

**RESPECTFULLY SHEWETH.**

Entry No. 7738

**PRELIMINARY OBJECTIONS:-**

Date 21/09/23

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 is correct to the extent that the appellant was enlisted in this department as admitted. However, perusal of his service record reveals that he was remained absent from lawful duty on different occasion for a long period of 102 days, which he was awarded different punishments and in this regard there are 02 bad entries with no good entry in his credit.
2. Incorrect. On transfer posting to FRP Bannu Range, the appellant was relieved with the direction to report arrival at his new place of posting i.e FRP Bannu Range. In this regard, his service record alongwith LPC were also sent to the office of SP FRP Bannu Range, respectively vide memo No. 1581, dated 18.11.2013 and vide No. 1591, dated 20.11.2013. However, the appellant failed to report arrival at his new place of posting and remained absent from his lawful duty without any leave or prior permission of the competent authority for a long period of more than 09 years.
3. Incorrect. Perusal of his service record show that the appellant has found an irresponsible and habitual absentee in the line of duty as he was also remained absent from lawful duty on different occasions for a long period of 102 days previously.
4. Incorrect. His appeal was thoroughly examined as the relevant record was obtained and found that the appellant was transferred to FRP Bannu Range on

31.10.2013, but he deliberately failed to report his arrival in his new place of posting and after lapse of more than 09 years the appellant preferred the instant appeal. In this regard, the **ESTA CODE/Revised Edition 2011** provided that **"After 05 years of continuous absence, service of a civil servant shall automatically stand terminated under FR.18 and Rules 12 of NWFP (Now KP) civil servant revised leave rules 1981. In the light of rules 12 ibid, a willful absence of more than five years shall not be converted into leave without pay"**. Hence in the light of above quoted rule, his appeal is liable to be dismissed accordingly.

5. Incorrect. 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 impugned order dated 24.10.2022 is legally justified and in accordance with law/rules.
- B. Incorrect. The Para has already been explained in the preceding Para No. 04 of facts. However, the appellant was dealt with the relevant and applicable law i.e ESTA CODE/Revised Edition 2011, which is still in force.
- C. Incorrect. As the appellant was transferred and posted to FRP Bannu Range in the year 2013, he instead to comply with the order of competent authority, remained absent from lawful duty without any valid leave or prior permission of his seniors for a long period of more than 09 years. Hence, he was automatically stood terminated from service after 05 years of continuous absence from service under the law i.e ESTA CODE/Revised Edition 2011. Moreover, the judgment of Supreme Court of Pakistan mentioned by the appellant in the para is not applicable to the case of the appellant as he was already stood terminated before attaining to the age of superannuation and the respondent just considered him under the law/procedure, exist for Government Employee, who remained absent from lawful duty for a long period of 05 years.
- D. Incorrect. The Para has already been explained in the preceding Para No. 03 of facts.
- E. Incorrect. The action so far taken by the respondent in the case of appellant is legally justified and in accordance to law.
- F. Incorrect. As discussed the appellant was dealt under General Rules i.e ESTA CODE/Revised Edition 2011 and under the instant rule there is no need of Show Cause Notice.
- G. Incorrect. The appellant absolutely treated in accordance with law/rules.
- H. Incorrect. As explained in the preceding Para F above.
- I. Incorrect. As the appellant was already treated under the applicable and valid law/rules.

- J. Incorrect. The judgment of Federal Shariat Court mentioned by the appellant is not related to the case of appellant.
- K. Incorrect. As the appellant was absolutely treated under the law provided by ESTA CODE, wherein the formality of Show Cause Notice is not exist. Thus the respondents are not committed with any violation of the Constitution of Pakistan. Besides, the authorities of Supreme Court of Pakistan produced by the appellant are not applicable to the case of appellant.
- L. Incorrect. As the appellant was willfully absented from lawful duty for a long period of more than 09 years. Hence, he was committed with grass misconduct due to his own conduct and insubordination act which he becomes automatically terminated from service under the law. (copy of order attached herewith as annexure "A").
- M. The respondents 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 devoid of merits may kindly be dismissed with costs please.

  
**Superintendent of Police FRP,**  
 Bannu Range, Bannu  
 (Respondent No. 03)

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

  
**Provincial Police Officer,**  
 Khyber Pakhtunkhwa, Peshawar.  
 (Respondent No. 01)

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.....Appellant.

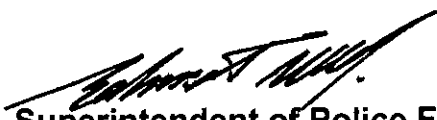
**VERSUS**


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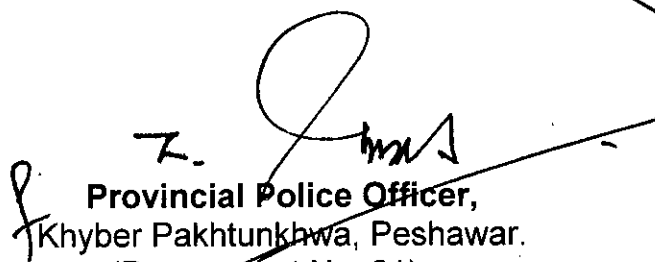
**AFFIDAVIT**

We respondents No. 1 to 3 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 as party nor their defense has been struck off.*

  
**Superintendent of Police FRP,**  
Bannu Range, Bannu  
(Respondent No. 03)

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

  
**Provincial Police Officer,**  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 01)

**ATTESTED**

  
AZMAT ALI  
Notary Public  
Complex Peshawar

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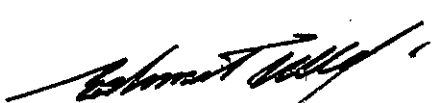
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others.....Respondents.

**AUTHORITY LETTER**

Respectfully Sheweth:-

We respondents No. 1 to 3 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.

  
**Superintendent of Police FRP,**  
Bannu Range, Bannu  
(Respondent No. 03)

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

**Provincial Police Officer,**  
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