

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1467/2023.

Mr. Naseeb Zaman Ex-constable No. 6328 FRP Bannu Range,
.....Appellant

VERSUS

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

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RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1467/2023.

Mr. Naseeb Zaman Ex-constable No. 6328 FRP Bannu Range,
.....Appellant.**VERSUS**Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar &
others.....Respondents.**PARAWISE REPLY BY RESPONDENTS 1 to 3.**

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS:-

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.

Khyber Pakhtunkhwa
Service Tribunal

Dir. 7753

Date 22/09/23

FACTS:-

1. Correct to the extent that the appellant was enlisted in police department as admitted, while the rest of Para is incorrect as perusal of his service record reveals that in past he was found remained absent from lawful duty on different occasions for a long period of 1127 days, which he awarded several punishments including tow times dismissal from service. (Copies of punishment orders attached herewith as annexure "A & B").
2. Incorrect. The appellant was remained absent from lawful duty with effect from 05.11.2021 till the date of his removal from service i.e 14.03.2022, for total period of 04 months & 09 days, without any leave or prior permission of the competent authority. The plea of illness of his mother as well as submission of leave application is a propounded story.
3. Incorrect. On the allegations of willful absence the appellant was proceeded against proper departmentally as he was issued Charge Sheet alongwith Summary of Allegations and an Enquiry officer was nominated to conduct enquiry into the matter and to unearth the actual facts. The Charge Sheet was served upon him by the Enquiry Officer and his tomb impression was obtained as a token of receipt, but he deliberately failed to submit his reply or to appear before the Enquiry Officer to defend himself. (Copy of Charge Sheet attached herewith as annexure "C").
4. Incorrect. As the appellant was failed to report his arrival or to join his duty, despite the fact he was summoned time and again by the Enquiry Officer.

However, after fulfillment of all codal formalities required as per law he was awarded major punishment of removal from service.

5. Correct to the extent that departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds. The revision petition of the appellant was also thoroughly examined and rejected.
6. 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.

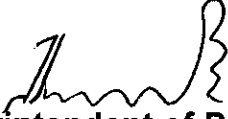
GROUND:-


- A. Incorrect. The impugned orders dated 14.03.2022 and 15.07.2022 are legally justified and in accordance to law/rules hence, the instant appeal is liable to be dismissed.
- B. Incorrect. The allegations are false and baseless. As proper departmental enquiry has already been initiated against him and it is evident from Charge Sheet and summary of allegations, which were properly served upon him during the course of enquiry, but he failed to submit his reply. Besides, the appellant was also contacted by the Enquiry Officer through his cell phone No.03329737687 time and again, but he did not bother to join the Enquiry proceedings by meaning thereof that he was no more interested in the service of Police Department hence, the Enquiry Officer found him guilty of the charges leveled against him and recommended for major punishment. Moreover, the appellant further failed to approach for obtaining of the findings of enquiry. As such the whole proceedings against the appellant were adopted in accordance to law/rules. (D)
- C. Incorrect. The allegations are false and baseless. The Charge Sheet and Summary of Allegations were issued and served upon him and his tomb impression was obtained on duplicate copy of Charge Sheet as a token of receipt, but he failed to submit his reply. The copy of such Charge Sheet has already annexed with Para No. 3 of facts as annexure "C".
- D. Incorrect. Upon the findings of Enquiry Officer the appellant was issued a The Final Show Cause Notice however, he deliberately refused from the receiving of said notice. (E)
- E. Incorrect. The appellant was remained absent from lawful duty with effect from 05.11.2021 till the date of his removal from service i.e 14.03.2022, for total period of 04 months & 09 days, without any leave or prior permission of the competent authority. The plea of illness of his mother and submission of is a propounded story and he supposed to have taken this plea before the Enquiry Officer or before the competent authority.
- F. Incorrect. The penalty of removal from service awarded to the appellant is legally justified and commensurate with the gravity of his gross misconduct.

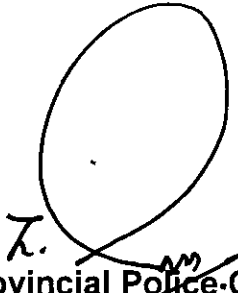
- G. Incorrect. The absence period of the appellant was correctly treated as leave without pay by the competent authority as according to Police Rules 1975 amended in 2014, leave without pay is not fallen in the ambit of punishment. Hence, the appellant was imposed only the punishment of removal from service as per law.
- H. Incorrect. The appellant was absolutely treated in accordance with law within the meaning of Article 4 of the constitution by giving him sufficient and proper opportunities at every level of defense and that the entire proceedings were carried out in accordance with existing laws and rules.
- I. 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)

(4) ✓ "A"

ORDER

This order shall dispose of the enquiry proceedings pending against Constable Naseeb Zaman No.6328/FRP as the official was charged for commission of the following miss-conduct.

Reported to have reported to have found absent from duty w.e.from 22-02-2021 to 19-07-2021 for the total absence period of (147) days without any leave or legal permission of the competent authority.

On the above charges he was properly charge sheeted & appointed as Enquiry Officer with the directions to conduct enquiry into the matter within stipulated period.

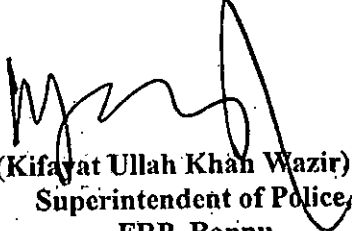
Enquiry Officer conducted enquiry into the allegation and submitted his findings, wherein defaulter official have found guilty of the charges leveled against him. That defaulter official replied to the charge sheet within stipulated period. In reply to the charge sheet he took the plea of his domestic problems. Finally Enquiry Officer declared him willful and habitual absentee and recommended him for imposition of Punishment. Consequently he was issued with Final Show Cause Notice vide No.1084 dated 17-07-2021, which was properly served upon his on 15-09-2021. Moreover, previously you had remained absent for (929) days and were awarded punishment for the same but you did not mend your trend.

He was also heard in person, during the course of hearing he advanced cogent reason in his defense, his plea was found plausible and satisfactory.

Keeping in view the above facts and as well as his poor family back ground I, take a lenient view he (Naseeb Zaman No.6328/FRP). However the absence period (90) days treated as without pay & and remaining (57) days absence period treated as Earned Leave, stoppage of One (01) Increment without cumulative for one year and pay released.

OB No. 468

Dated: 29/10/2021


(Kifayat Ullah Khan Wazir) PSR,
Superintendent of Police,
FRP, Bannu

(5)

'B'

ORDER

This order shall dispose of the enquiry proceedings pending against Constable Naseeb Zaman No.6328/FRP as the official was charged for commission of the following /miss-conduct.

Reported to have found absent from duty w.e from 02-01-2021 to 22-02-2021 for the total absence period of (51) days without any leave or legal permission of the competent authority.

On the above charges he was properly charge sheeted & appointed as Enquiry Officer with the directions to conduct enquiry into the matter within stipulated period.

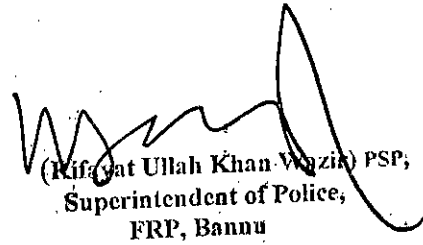
Enquiry Officer conducted enquiry into the allegation and submitted his findings dated 24-02-2021, wherein defaulter official have found guilty of the charges leveled against him. That defaulter official replied to the charge sheet within stipulated period. In reply to the charge sheet he took the plea of his domestic problems. Finally Enquiry Officer he was rendered guilty for the allegation and recommended him for the imposition of punishment. Moreover, previously you had remained absent for (929) days and were awarded punishment for the same but you did not mend your trend.

He was also heard in person, during the course of hearing he advanced cogent reason in his defense, his plea was found convincing and satisfactory.

Keeping in view the above facts and as well as his poor family back ground I take a lenient view he (Naseeb Zaman No.6328/FRP). However the absence period (15) days treated as without pay & remaining (36) days absence period treated as Earned Leave and stoppage of One increment without cumulative for one year and pay release.

OB No. 88

Dated: 24/02/2021.


(Rifaat Ullah Khan Wazir) PSP;
Superintendent of Police,
FRP, Bannu

(6)

"C. 1"

CHARGE SHEET

I, Abdul Sattar, Superintendent of Police FRP, Bannu as competent authority, hereby charge you Constable Naseeb Zaman No. 6328/FRP for the purpose departmental enquiry proceedings as follows.

- That you Constable Naseeb Zaman No. 6328/FRP absented yourself from lawful duty without any sanctioned leave or prior permission of the competent authority vide Daily Diary No.45 dated 05-11-2021 to till date, at Police Line Mansehra. Pay has been stopped to this effect.
- Such act on your part is against service discipline and amounts gross misconduct/ negligence in duty.

1. By reason of the above you appear to be guilty of misconduct under the Police Rules 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27th of August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
2. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.
3. Your written defense, if any, should reach to the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
4. You are directed to intimate whether you desire to be heard in person.
5. A statement of allegation is enclosed.

S. Sattar

Superintendent of Police;
FRP, Bannu

6328 ناسیب زمان

11101-3165293-7 CNIC

دستخط ناسیب زمان

نشان انگوشه

03329737687 موبائل

20-01-2022 عودت

STATEMENT OF ALLEGATIONS

I, Abdul Sattar Superintendent of Police FRP, Bannu as competent authority, to initiate departmental proceedings against Constable Naseeb Zaman No. 6328/FRP, who has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27th of August 2014).

SUMMARY OF ALLEGATIONS

- That you Constable Naseeb Zaman No. 6328/FRP absented yourself from lawful duty without an sanctioned leave or prior permission of the competent authority vide Daily Diary No.45 date 05-11-2021 to till date, at Police Line Mansehra. Pay has been stopped to this effect.
 - Such act on your part is against service discipline and amounts gross misconduct/ negligence in duty.
1. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation: Mr. SI/PC Mira Khan is appointed as Enquiry Officer.
 2. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc. and findings within the targeted days after the receipt of this order.
 3. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


Superintendent of Police,
FRP, Bannu

No. 1929-30 Dated: 22/12/2021

Copy to:

1. The Enquiry Officer
2. The Accused Officer/Official.

جناب عالی!

معلوم ہے کہ شہرہ سہری اور اسٹیٹ بینک 1929-30، انوائٹری کاغذات پر معلقہ کیلنگ
 6328
 نصیب نہ مانا جائے۔ ضرورتوں کے تحت۔ جو کہ کانٹریبل مذکورہ بالا کے پاس رہیں۔ مابقیہ
 سے غیر حافی مدد 45 روز نامہ 55 11/21 سے بدستور ملنے حافی حیدر اریا کے کیلنگ مذکورہ
 ملنے حافی مدد 45 روز نامہ 55 11/21 سے بدستور ملنے حافی حیدر اریا کے کیلنگ مذکورہ
 مورخ 11/21 کے تحت شہرہ اور شہرہ شہرہ شہرہ شہرہ شہرہ شہرہ شہرہ شہرہ
 اسٹیٹ بینک شہرہ 1929 (مورخ 21/2) کیلنگ مذکورہ پر مورخ 25/22 کو تقسیم کر کے
 تاکہ انحصاراً بالا کے اکاؤنٹ کی تفصیل سے ہے۔ بعد از تفصیل کارروائی کیلنگ مذکورہ
 کا حال کیلنگ مذکورہ کے اندر عیاد جواب شہرہ شہرہ شہرہ شہرہ شہرہ شہرہ شہرہ شہرہ
 سے حافی کی رپورٹ کی ہے۔ نیز کیلنگ مذکورہ کا مجموعہ انگریزی آرڈر نمبر 14-116-116-116
 مورخ 12/21 کے تحت FRP سے فرینج بینوں سے FRP کے لئے فرینج ٹرانسفر کے آرڈر
 میں سے ہے۔

SRE کے بارے میں جناب عالی کیلنگ مذکورہ سابقہ SRE کے بارے میں 25/27 سال
 کاغذات شدہ ہے۔ کیلنگ مذکورہ کا ٹوٹل سروس 14 سالہ 07 ماہ اور 21 دن بنتی ہے۔ کیلنگ مذکورہ
 کے بعد رات سروس ختم ہونے کے وقت میں (1127) سے غیر حافی کی ہے۔ کیلنگ مذکورہ کے
 55 انگریزی کے ساتھ 55 انگریزی کے ساتھ، شیڈول برقی سٹیٹ پر 07 سال 07 ماہ
 اور 15 کیلنگ مذکورہ کے موجودہ سروسوں میں سے انگریزی شدہ ہے۔

مذکورہ ٹیکہ 3 سے جناب عالی کیلنگ مذکورہ میں رہیں۔ مابقیہ 45 روز نامہ 55 11/21
 سے بدستور ملنے حافی حیدر اریا کے کیلنگ مذکورہ سے بدستور ملنے حافی حیدر اریا کے
 میں ہے۔ کیلنگ مذکورہ حافی حیدر اریا کے کیلنگ مذکورہ کا سابقہ SRE کے بارے میں
 ثابت ہے۔ انحصاراً ہے۔ کیلنگ مذکورہ کا ٹوٹل (1127) سے غیر حافی کا سابقہ SRE کے بارے میں انگریزی
 شدہ ہے۔ کیلنگ مذکورہ سرکاری نوکری میں رہیں۔ مابقیہ 45 روز نامہ 55 11/21 سے بدستور
 جمع نہ کرنا۔ انحصاراً بالا کے اکاؤنٹ کی تفصیل نہ کرنا۔ مورخ 11/21 کو قائم ہے۔ بدستور
 ملنے حافی مدد سے پر ممبر یا شہرہ کا حافی حیدر اریا کے کیلنگ مذکورہ بالا کے تفصیل ہے۔

FRP.Ban
 01312022

Issue final show
 case notice.
 03/3/22

(9)

"E"

No. 378

Dated. 03 /03/ 2022

FINAL SHOW CAUSE

I, **Abdul Sattar**, Superintendent of Police, FRP Bannu Range, Bannu as competent authority, under Rule 5(3) of the Khyber Pukhtunkhwa Police rules (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27th of August 2014) for the following misconduct hereby serve upon you **Naseeb Zaman No.6328** this final show cause notice.

- That Constable **Naseeb Zaman No.6328 /FRP** has absent himself from lawful duty without any sanctioned leave or prior permission of the competent authority w.e.from 05-11-2021 till date at Police Line Mansehra. Your pay has been stopped to this effect.
- Such act on your part is against service discipline and amounts gross misconduct/ negligence in duty.

That consequent upon the completion of enquiry conducted through enquiry officer FRP, Bannu submitted findings report and reported that the allegations contained in the charge sheet have fully been proved against the defaulter Constable **Naseeb Zaman No.6328 /FRP** is proved.



As a result. I, as a competent authority, have tentatively decided to impose upon you one for more punishments including dismissal as specified the rules.

You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.

If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

The copy of the findings of the Enquiry Officer is enclosed.

Sattar
Superintendent of Police,
FRP, Bannu



اللہ -

آج صبح 10/3/22 کو وقت 10:57 ع
مذکورہ کے ذیلی فائل نمبر 0332 9737 687
پر اطلاع دی گئی کہ ریکارڈ لاپرواہی سے
یہ بھی فائل سٹوفاؤنڈیشن میں
کر رہے ہیں
AEO
14.3.22

اللہ -

آج صبح 23/3/22 کو وقت 09:40 ع
مذکورہ کے ذیلی فائل نمبر 0332 9737 687
پر اطلاع دی گئی کہ ریکارڈ لاپرواہی سے
یہ بھی فائل سٹوفاؤنڈیشن میں
کر رہے ہیں
AEO

اللہ -

آج صبح 29/3/22 کو وقت 12:12 ع
مذکورہ کے ذیلی فائل نمبر 0332 9737 687
پر اطلاع دی گئی کہ ریکارڈ لاپرواہی سے
یہ بھی فائل سٹوفاؤنڈیشن میں
کر رہے ہیں
AEO
29.3.22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1467/2023.

Mr. Naseeb Zaman Ex-constable No. 6328 FRP Bannu Range,
.....Appellant.

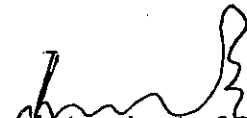
VERSUS


Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar &
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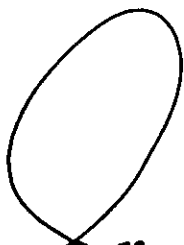
AFFIDAVIT

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 ex-parte nor their defense has been struck off/costs.


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


Notary Public
Peshawar
69 - 2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1467/2023.

Mr. Naseeb Zaman Ex-constable No. 6328 FRP Bannu Range,
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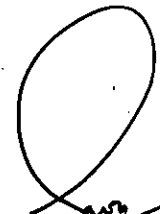
AUTHORITY LETTER

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.


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)