

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1554 /2022

AJMAL KHAN

VERSUS

CAPITAL CITY POLICE OFFICER PESHAWAR & others

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Dated: 26-09-2023

Through

Appellant



HAMZA JEHangIR

Advocate High Court

Peshawar

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

In Service Appeal No. 1554 /2022

Diary No. 7921

Dated 26-09-23

AJMAL KHAN S/O ARAB JAN R/O MUHALLAH GHAREEB GUL, SORIZI
PAYAN DISTRICT PESHAWAR.

.....APPELLANT

Versus

1. CAPITAL CITY POLICE OFFICER, PESHAWAR.
2. SUPERINTENDENT OF POLICE HEADQUARTERS, PESHAWAR.
3. PAY OFFICER, DISTRICT ACCOUNTS OFFICER CAPITAL CITY
POLICE, PESHAWAR.
4. INSPECOR GENERAL OF POLICE KPK PESHAWAR.
5. GOVERNMENT OF KPK THROUGH CHIEF SECRETARY PESHAWAR.

.....RESPONDENTS

AMENDED APPEAL

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHAWA SERVICE TRIBUNALS ACT, 1974 AGAINST
THE ORDER/ OB NO. 1858 DATED. 04-06-2014 AND OB NO.
3989 DATED. 18-12-2014 PASSED BY RESPONDENT NO 2
WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE
AND RESPONDENT NO. 4 DID NOT DECIDE THE REVISION
PETITION DATED 27/05/2022 WITHIN THE STATUTORY
PERIOD

Prayer in Appeal:

On acceptance of this appeal the order/ vide OB No. 1858 dated 04-06-2014 along with OB No. 3989 dated 18-12-2014 may be declared as illegal, against the law and justice, and not binding upon the rights of the appellant further more the Respondents may please be directed to withdraw the said order and further more the appellant be Re-instated into service, it may please also be declared that the appellant is entitle for the payment of salaries and other allowances for the period of his absence and treat the same period as spend on duty with full pay and allowances.

Respectfully Sheweth!

1. That the appellant is a law abiding citizen of Pakistan and resident of above mentioned address and served as a civil servant in capital city police Peshawar on the rank of constable since 2007. **(Copy of CNIC along with service card is attached as Annexure "A")**.
2. That the appellant was issued with a show cause notice Vide No. 72, dated. 08-11-2013 by respondent No. 2 for the omission of absentee from service upon which the appellant submitted his reply which was not brought into consideration. **(Copy of show cause notice along with reply is attached as Annexure "B")**.
3. That the appellant was then charged by respondent No. 2 whereby disciplinary action was taken against appellant and enquiry was conducted vide no. 257 dated. 26-11-2014. **(Copy of charge sheet and enquiry is attached as Annexure "C")**.
4. That therefore the appellant was dismissed from service on the charge of absence from 07-10-2012 to 29-04-2013 vide OB No. 1858 dated. 04-06-2014, thereafter the appellant moved an application to respondent No. 1 vide R/HQrs No. 1932 Dated. 10-07-2014. **(Copy of order and application is attached as Annexure "D")**.
5. That lastly the final order of dismissal from service was passed by respondent No. 2 vide OB No. 1858 dated. 04-06-2014 and finally vide OB No. 3989 dated.

18-12-2014 and appellant was removed from service. **(Copy of order dated. 18-12-2014 is attached as Annexure "E")**.

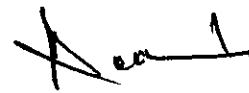
6. That the appellant time to time visited the office of respondents and requested to re-instate him on the genuine reason of absence due to severe illness but all in vain. **(Copy of medical reports is attached as Annexure "F")**.
7. That lastly the appellant moved a revision petition along with the copy of order whereby another constable was re-instated on service. To the respondent No. 4 but no order passed till date. **(Copy of review along with office order is attached as Annexure "G")**.
8. That the appellant being mortally aggrieved from the OB No. 1858 dated. 04-06-2014 and OB No. 3989 dated. 18-12-2014 of the Respondent No. 2 and not deciding the revision petition dated. 27-05-2022 by respondent No. 4 hence challenges the same on the following grounds amongst other:

Grounds:

- A. That Respondent's have not treated Appellant in accordance with law.
- B. That the Appellant during his entire service has never been found guilty of any misconduct.
- C. That the reason for absence of appellant from service is totally genuine as he was positive for hepatitis-B and due to the reason he couldn't join the service during his illness. **(Copy of reports are annexed)**.
- D. That the impugned order has been passed without appreciating the fact that the appellant was not able to join service for his absence period.
- E. That enquiry was not properly conducted by the respondents and so no report is provided to the appellant which proves there malafide towards appellant.
- F. That the impugned order herein is illegal and against the law.

- G. That vested rights of the Petitioner are involved. As he is solely source of income for his family and he along with his family are suffering huge losses.
- H. That the impugned order is without jurisdiction, illegal and without authority.
- I. That the impugned order OB No. 3989, dated. 18-12-2014 is issued without prior notice to the Appellant.
- J. That the Appellant is condemned unheard.
- K. That it is also pertinent to mention here that doctor strictly advised the appellant not to go on service as his disease was contagious and could affect other officers at work so he was kept on bed rest.
- L. That other grounds will be raised at the time of arguments with the prior permission of the Court.

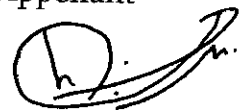
It is, therefore, prayed that on acceptance of this appeal the OB No. 1858 dated. 04-06-2014 and OB No. 3989 dated 18-12-2014 may kindly be declared illegal, against the law and justice, and not binding upon the rights of the appellant further more the Respondents may please be directed to re-instate the appellant on service. And the absent period be treated as spent on duty with full pay and allowances for the said period.



Appellant

Date: 04-09-2023

Through



HAMZA JEHANGIR
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL
PESHAWAR

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AFFIDAVIT

I, Ajmal Khan S/O Arab Jan R/O Muhallah Ghareeb Gul, Sorizi Payan District Peshawar, do hereby solemnly affirms and declare on oath that the contents of the instant amended appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT
CNIC NO. 17301-3103338-7
CELL NO.

IDENTIFIED BY

HAMZA JEHANGIR
Advocate, High Court
Peshawar.



23/9/22