

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 10 of 2021.

Jamal-ud-din s/o Niamatullah R/o Gujaro Kass, Sheringal, District Dir Upper.

(Appellant)

Versus

1. District Police Officer Dir Upper.
2. Deputy Inspector General of Police Malakand Region at Saidu Sharif Swat..
3. Inspector General of Police at Civil Secretariat Peshawar.
4. District Account Officer Dir Upper.

(Respondents)

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Inspector Legal,
Dir Upper.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No 10/2021

Jamal-ud-din s/o Niamat Ullah r/o Gujaro Kass, Sheringal, District Dir
Upper.....Appellant

VERSUS.

- 1) District Police Officer Dir Upper
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 4) District Account Officer Dir Upper.....Respondents.

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

- 1) That the service appeal is not maintainable in its present form and liable to be dismissed.
- 2) That the Appellant has got no cause of action and locus standi to file the instant Appeal.
- 3) That the appellant is estopped due to his own conduct to file the instant appeal.
- 4) That the appellant has concealed the material facts from the honourable Service Tribunal.
- 5) That jurisdiction of this honorable service Tribunal has wrongly been invoked.
- 6) That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- 7) That the appeal is barred by law & limitation.

ON FACTS:

1. Pertain to record, hence needs no comments.
2. Incorrect, the appellant and others were dispatched for security duties at PS Sheringal in official vehicle, duly armed, but they instead of staying there returned back to police lines on his own, without any leave or permission from seniors. Being member of disciplined force, he was bound under Police Rules 1934, and police Act 2017, to performed duty at any place on the direction of high ups but he failed to obey the orders of high ups. The act of appellant affects the morale of other member of police force by leaving the assigned duty without permission. The

competent authority issued charge sheet, statement of allegation and order for departmental inquiry against him. As per recommendation of inquiry office, the competent authority dismissed the appellant from service. (Copy of charge sheet, statement of allegation, and order enclosed as annexure A-B-C)

3. Pertain to record of service tribunal, hence need no comments.
4. Correct and need no comments.
5. Pertain to service record of Umara Khan, hence needs no comments.
6. Incorrect, each and every case has its own facts and merits, the case of the appellant is completely different from other cases and the departmental appeals found meritless, hence, filed by the competent authority (finding report attached as annexure D).
7. The appellant has no, cause of action to file the instant appeal. Furthermore, the appellant filed the appeal with unsound grounds.

GROUNDS

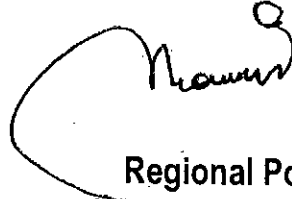
- A. Incorrect, the actions of the respondents are lawful, and is in accordance with law/ rules.
- B. incorrect, the respondents cannot dare/ think to disregard the guide lines of apex court and the act of respondents are based on facts.
- C. Incorrect, no discrimination has been done and all the actions of respondents are legal and lawful.
- D. Incorrect, the enquiry officer in his finding clearly recommended that the interning period be treated as leave without pay as per general principle "No work no pay" he has not entitled to any back benefits.
- E. As discussed above.
- F. Incorrect, no violation of the fundamental right and abuse of powers has been committed by the respondent.
- G. Incorrect, the appellant was treated in accordance with law and the concept of bonded labor is wrong and beyond the facts.
- H. Irrelevant needs no comments.
- I. As discussed in preceding paras.
- J. That the appellant wrongly invoked the jurisdiction of this Honorable Tribunal with unsound ground.
- K. The respondents also seek leave of this honorable Tribunal to rely on additional grounds at the time of arguments/ hearing.

PRAYER:

It is therefore humbly prayed that on acceptance of this Para-wise reply, the appeal may graciously be dismissed with cost.

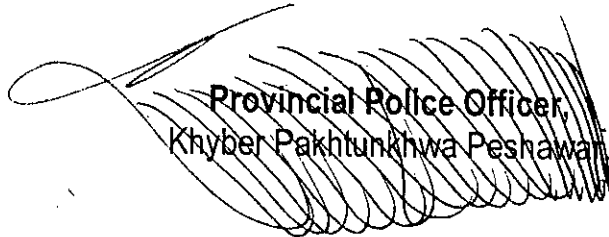


District Police Officer,
Dir Upper.



Regional Police Officer,
Malakand at Saidu Sharif Swat.

Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.



Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar

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(Appellant)

Versus

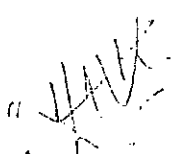
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(Respondents)

Power of Attorney

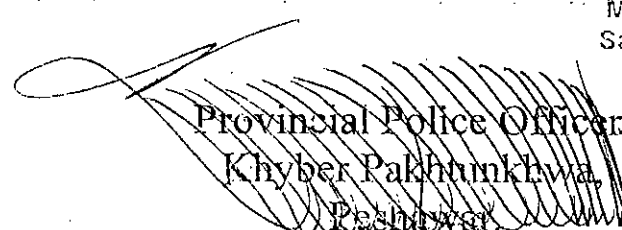
We, the undersigned do hereby authorized Gull Zamin Khan, Inspector Legal to appear on our behalf before the honorable Service Tribunal in the cited above case on each and every date.

He is also authorized to file para wise comments/ reply, prefer appeal and to submit the relevant documents before the Honorable Tribunal.


District Police Officer,
Upper Dir.


Regional Police Officer,
Malakand at Saidu Sharif, Swat.

Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

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(Appellant)

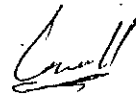
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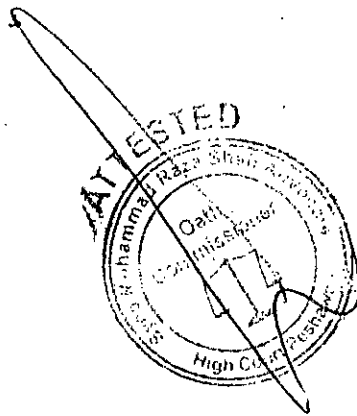
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4. District Account Officer Dir Upper.

(Respondents)

Affidavit

I, Gul Zamin Khan, Inspector Legal do hereby solemnly affirm and declared that the contents of parawise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.


DEPONENT
Gul Zamin Khan,
Upper Dir.



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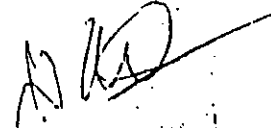
ORDER.

On 16.6.2009 Constables Rahim Ullah No.80, Muzafar No.577, Umra Khan No. 549, Abid Ullah No.650, Jamal-ud-Din No.778 and Muhammad Islam No.683 were dispatched to Police Station Sheringal in Govt. vehicle for emergency duty. On reaching Sheringal they denied to come out of the vehicle and not only refused duty in Police Station Sheringal but they even did not report their arrival in Police Station Sheringal. Head Constable Muhammad Qayoum being Incharge brought the matter into the notice of the high-ups and then other 06 constables were dispatched for the same duty. Being members of disciplined force this covered act of above constables amounts to gross misconduct on their parts. In the prevailing situation such irresponsible/ covered attitude affect the morale and self-confidence of the force. On their returned to Police Lines they were directed by the DSP/HQrs to produce written defence regarding their irresponsible act but they once again denied the orders of DSP/HQrs and out of the above Constables Muzafar No.577 and Umra Khan No. 549 absented their self vide DD No.25 dated 16.6.2009 without any leave or permission of the high-ups.

As the prevailing situation demands a high morale of the force and the attitude showed by the above constables affect the performances of other Constables, therefore, they are hereby ~~is~~ dismissed from the service under Section 3 of the Removal From Service (Special Powers) ordinance 2000 with immediate effect.

OB NO 251

Dated 17/2009.


DISTT. POLICE OFFICER,
DIR UPPER.

