

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 1200/2014

Date of institution ... 30.09.2014

Date of judgment ... 17.06.2016

Aziz-Ur-Rehman, Ex-Constable No.2393,
District Police, Mardan.

... (Appellant)

VERSUS

1. Deputy Inspector General of Police, Mardan Region-I, Mardan.
2. District Police Officer, Mardan.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER OF RESPONDENT NO.1, VIDE HIS ORDER NO. 5231 OF 08.08.2014, WHEREBY HE REJECTED APPEAL OF THE APPELLANT AGAINST THE ORDER OF RESPONDENT NO.2 DATED 27.05.2014.

Haji Shamsul Qamar, Advocate.

.. For appellant.

Mr. Kabir Ullah Khattak, Assistant Advocate General

.. For respondents.

MR. MUHAMAMD AAMIR NAZIR

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: The appellant Aziz-Ur-Rehman ex-constable through instant appeal under section 4 of Khyber Pakhtunkhwa service Tribunal Act, 1974 has impugned order dated 27.05.2014 vide which the appellant was dismissed from service. The appellant has also impugned order dated 08.08.2014 vide which the departmental appeal filed by the appellant was rejected by the appellate authority.

2. Brief facts of the case giving rise to the instant appeal are that the appellant joined Police Department as constable on 25.11.2008 and thereafter started his duties with full devotion and to the satisfaction of the higher authorities. That the appellant while posted in Police Station Sheikh Maltoon, suffered from Hepatitis-C and he started medical treatment from Mardan Medical Complex. That due to his ailment, the appellant remain absent from duty.


Handwritten signature and date:
17.06.16

w.e.f 22.02.2014 to 12.03.2014. That respondent No.2 charge sheeted the appellant due to his absence from duty and thereafter, once sided enquiry was conducted without considering the genuine cause of the absence of the appellant. That the respondent No.2 dismissed the appellant vide impugned order dated 27.05.2014 against which the appellant filed departmental appeal. That the appellate authority without proper application of mind, rejected the departmental appeal, hence the instant appeal.

3. We have heard arguments of learned counsel for the appellant and learned Assistant Advocate General for the respondents and have gone through the record available on file.

4. Learned counsel for the appellant argued before the court that the appellant suffered from Hepatitis-C and was treated in Mardan Medical Complex as evident from the medical prescriptions available on file. That the doctor has advised bed rest as per medical prescriptions, therefore, the absence from duty of the appellant was genuine. Learned counsel for the appellant submitted before the court that the enquiry officer did not consider the medical prescriptions submitted by the appellant and illegally recommended the appellant for major penalty of dismissal from service. That the impugned dismissal order is based on malafide, therefore, the same be set aside and the appellant be reinstated into service. Learned counsel for the appellant further contended that the instant appeal has been filed with a delay of twenty days and the appellant has prayed for condonation of delay as the appellate authority did not communicate the final order to the appellant within time, similarly the impugned order is illegal, therefore, no limitation runs against the said order.

5. The learned Assistant Advocate General while rebutting the arguments advanced by the learned counsel for the appellant, argued before the court that the appeal in hand is hopelessly time barred as no justification for filing this time barred appeal has been given by the appellant. That the appellant has willfully absented himself without intimation to his higher authorities therefore, he was rightly charge sheeted and enquiry officer has rightly recommended him for major penalty. That the impugned dismissal order is not suffering from any illegality, therefore the instant appeal may be dismissed.


17.06.16

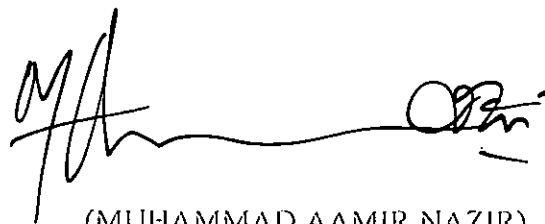
6. Perusal of the case file reveals that the appellant was awarded major penalty of dismissal from service due to his absence from duty without prior permission/leave vide impugned order dated 27.05.2014. It is pertinent to note that as per medical prescriptions available on file, the appellant was advised bed rest by authorized Medical Officer of Mardan Medical Complex. This aspect of absence from duty of the appellant was not enquired by the enquiry officer who recommended major punishment to the appellant due to his absence from duty. It was mandatory upon the enquiry officer to have properly enquired about the reason of the absence from duty of the appellant and should have given his finding, keeping in view the justified claim of the appellant for his absence from duty. Moreover, the appellate authority has also not considered the medical prescriptions of the appellant and has passed a non-speaking order dated 08.08.2014. Perusal of the impugned order dated 27.05.2014 vide which the appellant was dismissed from service reveals that the appellant was awarded two punishment for single act of absence from duty. Firstly, his absence period was converted into leave without pay and secondly, he was dismissed from service which falls in the ambit of double jeopardy. It is an admitted dictum of law that no limitation runs against illegal order, so instant appeal cannot be defeated on the point of limitation on the basis of illegal order. Moreover, availing of medical leave without permission could not be consider as an act of gross misconduct entailing major punishment of dismissal from service. The major punishment of dismissal from service was harsh and did not commensurate with a nature of the charge. Reliance in this respect is placed on 2008 SCMR 214. Hence, by modifying the impugned order dated 27.5.2014, we convert the penalty of dismissal from service into reduction of two steps in time scale for a period of two years. The absence period of appellant may by treated as a leave of the kind due. Appellant is hereby reinstated into service from the date of his dismissal with back benefits. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED

17.06.2016



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

Ph: 9220581

Fax: 9220406

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 204

Dated 15-3-17

REGISTERED

No.C.P.455-P/2016-SCJ

SUPREME COURT OF PAKISTAN

Islamabad, dated ~~February 20~~, 2017

March, 11, 2017

From

The Registrar
Supreme Court of Pakistan,
Islamabad.

To

The Registrar
K.P.K. Service Tribunal,
Peshawar. *CTO DR (P)*

Subject: Civil Petition NO. 455-P OF 2016

Deputy Inspector General of Police, Mardan Region-I, Mardan and another
Versus

Aziz Ur Rehman,

(On appeal from the Judgment/Order of the K.P.K. Service Tribunal, Peshawar dated 17-06-2016, in Service Appeal.1200/2014)

Dear Sir,

I am directed to enclose herewith a certified copy of the Order/ of this Court dated 03.02.2017 **dismissing** the above civil petition in the terms stated therein for information and further necessary action.

Please acknowledge receipt of this letter alongwith its enclosure immediately.

Yours faithfully,

Encl: Order:

(Signature)
(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

Do the needful.

(Signature)
Copy

(Signature)
15/3/17

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE DOST MUHAMMAD KHAN
MR. JUSTICE QAZI FAEZ ISA
MR. JUSTICE FAISAL ARAB

CIVIL PETITION NO. 455-P OF 2016

(On appeal against the judgment dated
17.06.2016 passed by the KPK Service Tribunal,
Peshawar in Service Appeal No. 1200/2014)

Deputy Inspector General of Police, Mardan Region-I, Mardan and
another

... Petitioners

VERSUS

Aziz ur Rehman

... Respondent

For the Petitioners: Mr. Umer Farooq, Addl. A.G, KPK
Mian Saadullah Jandoli, AOR (Absent)

For the Respondent: N.R.

Date of Hearing: 03.02.2017

ORDER

DOST MUHAMMAD KHAN, J.- Petitioners have filed
this petition, under Article 212(3) of the Constitution, against the
judgment of the KPK Service Tribunal, Peshawar dated 17.06.2016,
whereby the respondent was restored as Constable in the District
Police, Mardan, who was earlier dismissed from service in the
departmental proceedings due to absence from duty.

2. We have gone through the record and the only point
which was stressed before us by the learned Additional Advocate
General, KPK is that the appeal before the Tribunal was barred by
time but when he was asked to lay hand on any document from
which we may count the period of limitation, he was unable to
point out any such date because the documents on record are not

ATTESTED

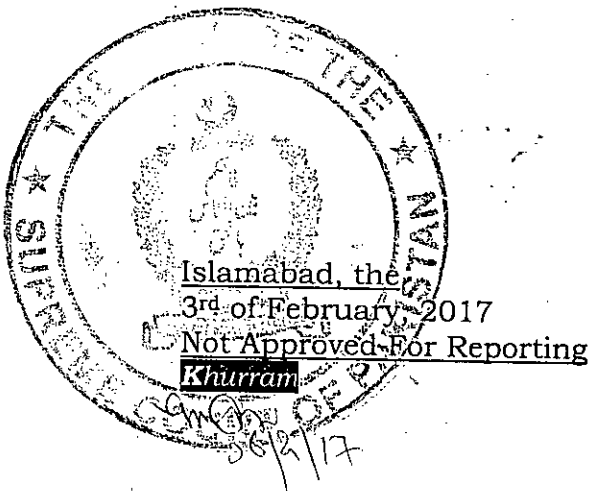
J. A.
11-3-2017
Court Associate
Supreme Court of Pakistan
Islamabad

to the effect that any order in original or the appellate authority was communicated to the respondent as required under the rules.

3. We have come across another aspect of the matter, which has been also considered by the Tribunal that on one hand the absence of the respondent was held to be a leave without pay, which was a type of penalty imposed, therefore, dismissing him from service amounts to double punishment on the same charge, therefore, it was entirely illegal and against the canons of justice.

4. Besides the above, no law point of public importance as essentially required under Article 212(3) of the Constitution has been raised before us where the Court is required to consider it, therefore, this petition is found bereft of all legal merits and is dismissed, leave to appeal is declined.

Sd/- Dost Muhammad Khan, J
Sd/- Qazi Faez Isa, J
Sd/- Faisal Arab, J

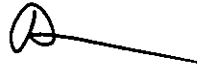


Certified to be True Copy

J.A
 11-3-2017
 Court Associate
 Supreme Court of Pakistan
 Islamabad

01.04.2016

Counsel for the appellant and Mr. Muhammad Ghani, S.I
alongwith Mr. Kabirullah Khan Khattak, Assistant AG for respondents
present. Due to shortage of time therefore, arguments could not be
heard. To come up for arguments on 17-6-16 before D.B.



Member



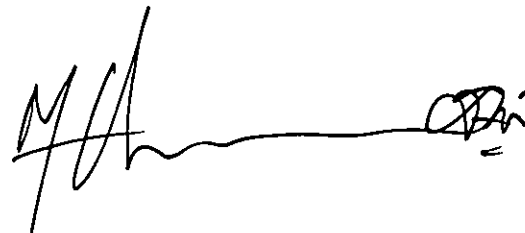
Member

17.06.2016

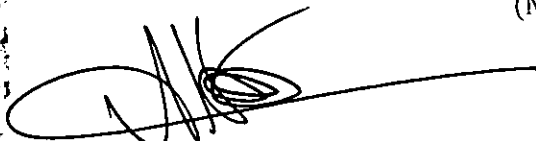
Counsel for the appellant and Assitt: AG for respondents
present.

Vide our detailed judgment of today consists of three pages
placed on file, we convert the penalty of dismissal from service
into reduction of two steps in time scale for a period of two years.
Appellant is hereby reinstated into service from the date of his
dismissal. Parties are, however, left to bear their own costs. File be
consigned to the record.

Announced
17.06.2016



(MUHAMMAD AAMIR NAZIR)
MEMBER



(AHMAD HASSAN)
MEMBER

12.05.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Head Constable when found ill due to Hepatitis-C and was unable to perform his duty but respondent No.2 vide impugned order dated 27.05.2014 dismissed the appellant from service on the allegations of wilful absence regarding which he preferred departmental appeal on 30.06.2014 which was rejected on 08.08.2014 but not communicated to the appellant hence the instant service appeal on 30.09.2014.

Appellant Deposited
Security & Process Fee



That the appellant was given no opportunity of hearing and the enquiry was not conducted in the prescribed manners.

Points urged need consideration. Admit, subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 31.07.2015 before S.B.


Chairman

31.07.2015

Counsel for the appellant and Mr. Muhammad Shafique, Inspector (legal) alongwith Addl: A.G for respondents present. Written statement submitted. The appeal is assigned to D.B for rejoinder and final hearing for 30.11.2015.



Chairman

30.11.2015

Counsel for the appellant and Mr. Muhammad Ghani, SI (Legal) alongwith Asstt: AG for respondents present. Rejoinder on behalf of the appellant submitted copy of which is handed over to the respondent-department. To come up for arguments on

1-4-16


Member


Member

3.

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18.12.2014

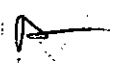
Appellant in person present. Since the Tribunal is incomplete, therefore, case is adjourned to 25.02.2015 for the same.


Reader

4.

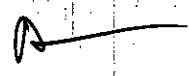
25.02.2015

No one is present on behalf of the appellant. Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 10.04.2015.


Member

10.04.2015



Counsel for the appellant present, and requested for adjournment. To come up for preliminary hearing on 12.05.2015.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1200 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/09/2014	<p>The appeal of Mr. Aziz-ur-Rehman presented today by Mr. Haji Shamsul Qamar Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-10-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 18-12-2014</p> <p style="text-align: right;"> CHAIRMAN</p>

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHAWA,
PESHAWAR.

Service Appeal No:- 1200 /2014

1235
30/9/2014

Aziz Ur Rehman, Ex-Constable No 2393,
District Police, Mardan

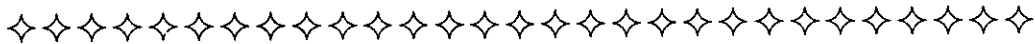
..... Appellant

Versus

1. Deputy Inspector General of Police,
Mardan Region-I, Mardan

2. District Police Officer, Mardan.

..... Respondents



APPEAL U/S 4 SERVICE TRIBUNAL ACT,
AGAINST THE ORDER OF RESPONDENT
NO 1, VIDE HIS ORDER NO 5231 OF
08/08/2014, WHEREBY HE REJECTED
APPEAL OF THE APPELLANT AGAINST
THE ORDER OF RESPONDENT NO 2
DATED 27/05/2014. (ANNEXURE "A" &
"B").

Prayer:

That the orders may please be declared against law, rules and principles of natural justice and may please be set aside with the direction to respondents to re-instate, the appellant in service with all back benefits.

Respectfully Sheweth:

1. *That the appellant joined Mardan Police as a Constable on 25/11/2008.*
2. *That the appellant while posted to Police Station Sheikh Maltoon was attacked by*

30/9/14

Hepatitis C and started Medical Treatment from Mardan Medical Complex ad as a result remained absent from duty form 22/02/2014 to 12/03/2014 (19 days).

3. *That the respondent No 2 issued a Charge Sheet and Statement of allegation and appointed Enquiry Officer (Annexed "D" & "E").*
4. *That as the appellant was on sick bed he could not attend the enquiry and Enquiry Officer submitted his findings for award of major penalty. (Annexed "E").*
5. *That the respondent No 2 straight away issued orders of dismissal of the appellant. (Annexed "B").*
6. *That the respondent No 1 dismissed the appeal of the appellant (Annexed "A") coy of appeal is (Annexed "C").*
7. *That the orders are against law, rules and principles of natural justice inter alia on the following grounds:-*

Grounds:-

- A. *That appellant was under regular medical treatment of Mardan Medical Complex and the MO had advised rest to appellant. (Photocopies of MCs dated 22/02/2014, 28/02/2014 & 08/03/2014 are annexed "G", "H" & "I").*
- B. *That the appellant was condemned unheard as the respondent No 2 did not serve any Show Cause Notice on the appellant and did not give opportunity of personal hearing to the appellant.*
- C. *That the respondent No 1 also did not give any opportunity of personal hearing to the appellant.*
- D. *That the Charge Sheet and enquiry report pertains to only absence from 22/02/2014 to 12/03/2014, but in the order absence from 22/02/2014 upto order dated 27/05/2014 has been mentioned which was not included in the charge sheet or enquiry report and no opportunity of defence was granted for this absence.*

- E. *That the absence on medical ground is not a gross misconduct and award of major penalty is not valid ground for it.*
- F. *That as the appellant was again under treatment for the said disease from 04/04/2014 to 27/05/2014 and this absence also cannot be considered gross misconduct. (Photocopy of MCs are also enclosed in support of this plea annexed "J" to "P").*
- G. *That appellant for condonation of delay in submitting appeal is also attached.*
- H. *That the appellant seeks the permission of this Honourable Tribunal to rely on additional grounds at the time of hearing of appeal.*

It is, therefore, requested that the appeal may please be accepted as prayed above.

Dated:- 30.9.14

Through:-

Aziz
Appellant

Shamsul Qamar
Haji Shamsul Qamar
Advocate, High Court,
Peshawar.
Cell No:- 0301-8806554

b

B. *That the matter involves principles and limitation, thus become secondary issue; as facts have merits, and according to the apex courts, illegal order would not become legal with afflux of time and principles of limitation does not apply.*

Dated:-

Through:-

Aiz
Petitioner/Appellant

Shamsul Qamar
Haji Shamsul Qamar
Advocate, High Court,
Peshawar.

Annex A (5) (7)


ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Aziz Ur Rehman No. 2393 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was dismissed from service vide District Police Officer, Mardan OB: No. 1230 dated 27.05.2014.

Brief facts of the case are that he while posted at Police Station Sheikh Maltoon deliberately absented himself from lawful duty without prior permission/leave from his superiors vide daily dairy No. 24 dated 22.02.2014 to the date of dismissal. In this regard he was charge sheeted and also proceeded him against departmentally through inquiry officer Mr. Hayat Ullah Khan Inspector RI/Police Lines, Mardan, who after fulfilling necessary process submitted his findings to District Police Officer, Mardan, in which the allegations were established against the defaulter appellant, therefore he was dismissed from service.

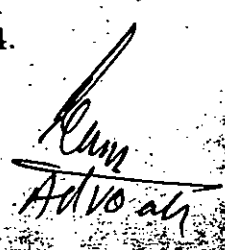
I have perused the record and also heard the appellant in Orderly Room held in this office on 06.08.2014. He failed to justify his absence period and could not advance any cogent reason in his defence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED


(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan. ✓

No. 5231 /ES, Dated Mardan the 08 /08 /2014.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 600/LB dated 20.06.2014.
His service Roll is returned herewith.


Advocate

(*****)

ORDER

Constable Aziz Ur Rehman No. 2393, while posted at Police Station Sheikh Maltoon Mardan committed the following acts, which leads to gross misconduct on his part as defined in Rules 02:(iii) of Police Rules 1975. Brief facts are that Constable Aziz Ur Rehman No. 2393, while he was posted at Police Station Sheikh Maltoon Mardan deliberately absented yourself from the lawful duty without prior permission/leave from his superiors vide DD No.24, dated 22.02.2014 uptill now.

In this connection, Constable Aziz Ur Rehman No. 2393, was charge sheeted vide this office No. 558/R, date 08.04.2014 and he was also proceeded against departmentally through inquiry officer, Mr: Hayatullah Khan Inspector/RI Police Lines Mardan who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 221/RI: dated 26.05.2014, in which the allegations has been established against the defaulter constable.

The undersigned agree with the findings of enquiry officer and the alleged Constable Aziz Ur Rehman No. 2393, is hereby dismissed from service and his absence period counted as leave without pay, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 1230

Dated 27 / 05 / 2014

(Gul Afzal Afandi)
District Police Officer,
Mardan.

No. 5925-301 dated Mardan the 27.5. / 2014

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-1
2. The S.P Operations, Mardan.
3. The DSP/HQrs Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.
6. The OASI (DPO) Mardan.

To,

The Deputy Inspector General of Police
District Mardan.

Annex e

P-9

Subject: APPLICATION FOR RE-INSTATEMENT AS CONSTABLE.

Respected Sir,

Applicant humbly submits as under:

1. That applicant was appointed as Constable in 2009.
2. That applicant is holding Intermediate qualification.
3. That applicant was fell sick on 22-02-2014 and was on leave till 14-03-2014.
(Medical report and other relevant documents are attached)
4. That applicant unfortunately couldn't inform the concern authorities on time.
5. That on 15-03-2014 I rejoined my duties at PS Sheikh Maltoon Town Mardan, and after that on 16-03-2014 I was ordered to report before the SHO PS Par Hoti.
6. That after the arrival at PS Par Hoti once again I was gone on leave due to the same sickness i.e. backache problem from 07-04-2014 to 27-05-2014 without any information to my high ups. (All the relevant documents are attached)
7. That on 27-05-2014 I had come to know that I was dismissed by the Honourable DPO Mardan. (Copy of Order is attached)
8. That applicant confesses both the mistakes of non information to my high ups.
9. That the rest of service of applicant is completely clean and unblemished, and my career is spot free from any type of mis-conduct, accept this only mistake of leaves without information.

- ~~8~~
(10)
10. That the applicant has parents, wife and three children, and it is very hard to survive in this era without any job.
11. That the punishment is very harsh.

It is therefore, humbly requested that by accepting my apology / application and the dismissal order of applicant may please be set-aside and applicant may please be re-instated in service on humanitarian grounds.

Dated: 03-06-2014

Applicant, *Aziz*

Aziz ur Rahman
Ex-Constable 2393,
R/o Noor Abad PO Pir Sado,
Tehsil Takht Bhai District Mardan.
Cell No. 0311-0649292

Rama

Annex D

P-9
11

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 558 /R/D.A-P.R-1975.

Dated 8-4- /2014

DISCIPLINARY ACTION UNDER NWFP POLICE RULES - 1975

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority am of the opinion that Constable **Aziz Ur Rehman No. 2393**, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP Police Rules 1975.

STATEMENT OF ALLEGATIONS

That **Constable Aziz Ur Rehman No. 2393**, while posted at Police Station Sheikh Maltoon, deliberately absented himself from the lawful duty vide DD No. 24 dated 22.02.2014 to-date without any leave / permission of the competent authority. He is recommended for departmental action by DSP/SMT, Mardan vide his office letter No.69/SMT dated 17.03.2014.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations **Inspector Hayat Ullah Khan RI/Police Lines Mardan** is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


(GUL AFZAL KHAN)
District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 558 /R, dated Mardan the 8-4- /2014.

Copy of above is forwarded to the:

1. RI/Police Lines Mardan for initiating proceedings against the accused official / Officer namely Constable **Aziz Ur Rehman No. 2393**, under Police Rules, 1975.
2. Constable **Aziz Ur Rehman No. 2393**, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

ASST. 2019
(0347 557277)

20-4-014

SMC/89

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19-4-14

ASST. P. 2. 8000

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Handwritten text, possibly a signature or initials.

0311-0749292

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M/C 16102-3436141-9

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Annex E

P-19

CHARGE SHEET UNDER NWFP POLICE RULES 1975

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority hereby charge you **Constable Aziz Ur Rehman No. 2393**, as follows.

That you constable, while posted at Police Station Sheikh Maltoon, deliberately absented yourself from the lawful duty vide DD No. 24 dated 22.02.2014 to-date without any leave / permission of the competent authority. You are recommended for departmental action by DSP/SMT, Mardan vide his office letter No.69/SMT dated 17.03.2014.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the NWFP Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the NWFP Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense **within seven days** of the receipt of this charge sheet to the enquiry officer.
3. Your written defence 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, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.

C No. 10-337
30/03/2014

(GUL AFZAL KHAN)
District Police Officer,
Mardan.

Kam

فائل انکوائری اذال کنسٹیبل عزیز الرحمن نمبر 2393 شیخ ملتون

Annex F

P-#

(13)

جناب عالی!


بحوالہ چارج شیٹ نمبری 558/R مورخہ 08/04/14 کنسٹیبل عزیز الرحمن نمبر 2393 کے خلاف انکوائری

کاغذات موصول ہو کر جس میں مذکورہ پر الزام لگایا گیا ہے۔ کہ وہ تھانہ شیخ ملتون سے بحوالہ مد 24 مورخہ 22/02/14 تا مد 39 مورخہ 12/03/14 غیر حاضر رہ کر کل 19 یوم غیر حاضر رہ چکا ہے۔


کنسٹیبل عزیز الرحمن نمبر 2393 پر چارج شیٹ تقسیم کرنے کی غرض سے معلومات کی تو مذکورہ تھانہ پارہوتی میں تعینات ہے مگر تھانہ متذکرہ سے بدستور غیر حاضر ہونے کی وجہ سے مذکورہ پر بزریہ مقامی پولیس چارج شیٹ تقسیم ہو کر مذکورہ نے تا حال اپنا جواب داخل دفتر نہیں کیا۔ واجد علی ASI کے بیان کے مطابق کہ وہ چونکہ زرین آباد تھانہ شیر گڑھ میں بحیثیت انچارج تعینات تھا۔ کہ مورخہ 19/04/14 کو کنسٹیبل عزیز الرحمن کا چارج شیٹ بغرض تقسیم کرنے موصول ہو کر مذکورہ کنسٹیبل جو کہ پیر سدونور آباد کا رہائشی ہے جس پر چارج شیٹ کا نقل تقسیم کر کے اصل ہذا پر مذکورہ سے دستخط، شناختی کارڈ اور موبائل نمبر ثبت کر کے دفتر RI واپس کی۔ محرم تھانہ پارہوتی تو اب خان ASI کے بیان کے مطابق کہ مورخہ 04/04/14 کو انچارج چونکہ سنگ مرمر بختان خان SI نے بزریہ موبائل فون اطلاع دی کہ کنسٹیبل عزیز الرحمن بنا اجازت کبھی چلا گیا ہے۔ جو تا حال واپس چونکہ ہذا نہیں آیا۔ اسلئے مذکورہ کو بحوالہ مد 39 روز نامچہ 04/04/14 رپورٹ غیر حاضری درج روز نامچہ کی۔ مذکورہ اسی دن سے بدستور غیر حاضر ہے۔

دوران انکوائری کنسٹیبل عزیز الرحمن نمبر 2393 کا سروس ریکارڈ چیک کر کے جسمیں 23 Bad Entries جبکہ Good Entry کوئی نہیں پائی گئی۔ کنسٹیبل مذکورہ پر چارج شیٹ بزریہ مقامی پولیس تقسیم ہوا مگر ایک ماہ گزرنے کے باوجود بھی مذکورہ نے اپنا جواب داخل دفتر نہیں کیا۔ انکوائری سے پایا گیا کہ کنسٹیبل مذکورہ تھانہ شیخ ملتون سے 19 یوم قصداً غائب غیر حاضر رہ چکا ہے۔ اور تھانہ پارہوتی سے مورخہ 04/04/14 سے بدستور غیر حاضر ہے۔ جس سے معلوم ہوتا ہے۔ کہ کنسٹیبل مذکورہ نوکری کا خواہشمند نہیں ہے۔

لہذا کنسٹیبل عزیز الرحمن نمبر 2393 کو Major panishment دینے کی سفارش کی جاتی ہے۔


ریزرو انسپکٹر پولیس لائن مردان
18/5/14

کل قطعات (10)



No. 221/Ri

Date. 26/5/14

Annex G

MARDAN MEDICAL COMPLEX
 Teaching Hospital Mardan KPK
OUTPATIENTS DEPARTMENT R-14

Name: [Signature] Sex: _____

Department: _____ Address: _____

OPD No. 111847 Date: 22/2/14

History	RI-
Clinical Examination	High grade fever Cyanosis to sputum Shortness of breath
Provisional Diagnosis	Typical
Investigations Required	X Chest 16-7 Temp 103 - AMRE Bil. alt - S. Electrolyte Kloricid 16 magnat 108

- Wp
- AMRE
- S. Electrolyte

Complete bed rest for 1 week. advice

Ram



MARDAN MEDICAL COMPLEX

Teaching Hospital Mardan KPK

OUT-PATIENTS DEPARTMENT

Name: _____

Uzifa Anna H

Sex: _____

Department: _____

Address: _____

P-13

OPD No. _____

119696

Date: _____

28/2/67

History

R/-

A

still high grade

Clinical Examination

fever

mp

Chest pain

Provisional Diagnosis

Sept

Start up of

Secondary

Investigations Required:

D

Klaiber

MS

D

Regeneration

Complete bed rest for

1 week. Labored

Sum

Annex 9



MARDAN MEDICAL COMPLEX

Teaching Hospital Mardan KPK

OUTPATIENTS DEPARTMENT

P 15
17

Name: Guljis Sex: _____

Department _____ Address: _____

OPD No. 132043 Date: 9/4/14

History	R/- A <u>Febrile</u> <u>Fever</u> / <u>MR</u> <u>eye</u> <u>Sample</u> <u>lost</u>
Clinical Examination	Rx: <u>Inj. Rocephin</u> <u>1gm</u> <u>q8h</u> <u>10</u> <u>10</u>
Provisional Diagnosis	<u>Inf. Arter</u> <u>80</u> <u>48</u> <u>kg</u> <u>10</u> <u>10</u>
Investigations Required	<u>Cep. Risch</u> <u>40MB</u> <u>Inf. Celpol</u> <u>10</u> <u>10</u> <u>Advice</u> <u>Bed Rest</u> <u>for</u> <u>10</u> <u>days</u> <u>1</u> <u>PL</u>

(Stamp)
MARDAN MEDICAL COMPLEX
Teaching Hospital Mardan
KPK

(Signature)
Gaman

Annex K



MARDAN MEDICAL COMPLEX

Teaching Hospital Mardan KPK

OUTPATIENTS DEPARTMENT

1-18

Name:

[Handwritten name]

Sex:

MS

Department

Address:

OPD No.

136380

Date:

12/4/14

History

R/-

Loose motions

BP: 110/70

Clinical Examination

R/-

Provisional Diagnosis

*Lab. opic 50mg
① ② ③
Lab. Entamoeba BS
Lab. Feesp. 100%
Cap. ESO 40mg*

Investigations Required

Diagnosed

*DEPUTY CHIEF MEDICAL OFFICER
MARDAN MEDICAL COMPLEX*

Advice: Bed Rest for 02 weeks

[Signature]

[Handwritten mark]

Anna M



MARDAN MEDICAL COMPLEX

Teaching Hospital Mardan KPK

OUT PATIENTS DEPARTMENT

15
20

Name: _____ Sex: _____

Department _____ Address: _____

OPD No. 147302 Date: 29/4/14

History	R/-
Clinical Examination	Ery. pin Vomiting
Provisional Diagnosis	<p>Dep. Esso 40mg C.C. 1-1 Tab. Motilium 10mg N.C.C. 117 Tab. Loperamide 2mg 122</p>
Investigations Required	<p>Sg. Mic. can 272</p>
<p>Advise complete bed rest leave at home for 7-10 days</p>	

Skamra

MEDICAL OFFICER
M.M.C. Mardan.

Annie N



MARDAN MEDICAL COMPLEX

Teaching Hospital Mardan KPK

OUTPATIENTS DEPARTMENT

9/14
21

Name: Bell... Sex: _____

Department _____ Address: _____

OPD No. 15488 Date: 6/10/14

History	R/-
Clinical Examination	<i>Handwritten notes in Urdu</i>
Provisional Diagnosis	<i>Handwritten notes in Urdu</i>
Investigations Required	<i>Handwritten notes in Urdu</i>

Handwritten signature and stamp

Handwritten signature: Seaman

Ange 0



MARDAN MEDICAL COMPLEX

Teaching Hospital Mardan KPK

OUTPATIENTS DEPARTMENT

Name: _____ Sex: _____

Department _____ Address: _____

OPD No. 156395 Date: 14/5/14

History

R/-

CBP

Clinical Examination


Mr. Asadullah

Provisional Diagnosis

Tn. RL

Investigations Required

Tn. Sphingol


MARDAN MEDICAL COMPLEX
Mardan

Tn. Derricid
Ad 2-2/12/14

Scanner

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.**

Service Appeal No. 1200/2015.

Aziz-ur-Rehman, ex-constable No. 2119 District Mardan.....Appellant.

VERSUS.

1. Deputy Inspector General of Police, Mardan Region-I, Mardan
2. District Police Officer, Mardan.....Respondents.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law.

REPLY TO FACTS:-

1. Pertains to record, hence, no comments.
2. Incorrect. The appellant's service record was checked and found him habitual absentee, so, his sickness / illness of Hepatitis "C" was just pretext and unreasonable.
3. Pertains to record, hence, no comments.
4. Incorrect, the appellant had deliberately absented himself and did not attend inquiry proceedings. Besides, the appellant was delivered himself the charge sheet and summary of allegations and after fulfilling all the codal formalities the penalty was recommended. (Copy of delivery report attached as Annexure – "A")
5. Correct to the extent of dismissal, however, the punishment was based on properly conducted departmental inquiry and the relevant rules and with the fulfilling of all codal formalities. (Copy of inquiry report attached as Annexure – "B")
6. Correct, as the appellant could not satisfied the departmental appellate authority during his personal appearance, so, his departmental appeal was rejected.
7. Incorrect. The impugned orders are in accordance with law, rules and principals of natural justice.

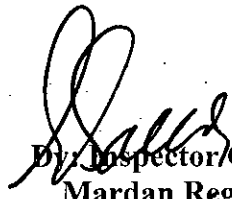
REPLY TO GROUNDS:-

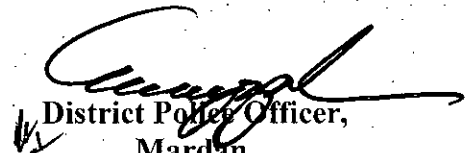
- A. Incorrect. The appellant, if was effected by Hepatitis "C", was required to have applied for proper leave / medical leave before the competent authority. Worth mentioning here that the appellant being a habitual absentee, was also warned previously on various occasions but he did not mend his ways and kept his tactics of absence continued. (copy of red entries attached as Annexure – "C")

- B. Incorrect. All opportunities, as required under the law, has been provided to the appellant and was also heard by Departmental Appellate Authority, but he could not present any cogent reasons in his defence and thus, his appeal was filed.
- C. Incorrect. The appellant, despite of repeated calls / summons, deliberately did not appear before the competent authority and even before inquiry officer. However, respondents fulfilled all the codel formalities.
- D. Incorrect. The appellants' later absence, being the same is nature and consecutive, was also made an integral part of the inquiry and thus, punished for.
- E. Incorrect. The appellant was capable to avail medical leave but he did not bother even to submit an application for leave, before the competent authority.
- F. Incorrect. The appellant just pretext a new on every occasion of his absence. This time too his absence was deliberate and unreasonable, thus, amounts to mis-conduct under rules.
- G. Misconceived. Application for condonation of delay has not justified as explained each and every day with plausible reasons as required under the law. Hence, the application is also liable to be dismissed.
- H. The respondents also seek permission of the Honorable tribunal to submit further grounds, if any, at the time of arguments.

PRAYER:-

It is, humbly prayed that the appeal of the appellant is baseless and devoid of merit, may please be dismissed with costs.


By Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 1)


District Police Officer,
Mardan.
(Respondent No. 2)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.**

Service Appeal No. 1200/2015.

Aziz-ur-Rehman, ex-constable No. 2393 District Mardan.....Appellant.

VERSUS.

Deputy Inspector General of Police, Mardan Region-I, Mardan etcRespondents.

**APPLICATION FOR CONDONATION OF DELAY OF 20 DAYS IN SUBMISSION OF
APPEAL.**


Respectfully sheweth.

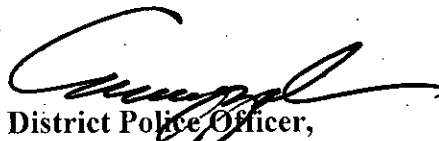
1. No comments.
2. Applicant himself admitted that his appeal is time barred.
3. Incorrect. The appeal is liable to be rejected.

REPLY TO REASONS / GROUNDS

- A. Incorrect. That impugned orders are according to law and rules.
- B. Incorrect. According to judgment of Supreme Court if an appeal is to be dismissed on limitation that its merits need not to be discussed further. The applicant has to explain each and every day of his delay which he failed to explain. Hence, the application is liable to be rejected.

It is, therefore, requested that the application as well as main appeal may kindly be dismissed with cost.


Deputy Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 1)


District Police Officer,
Mardan.
(Respondent No. 2)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.**

Service Appeal No. 1200/2015.

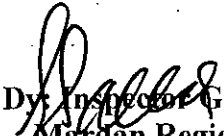
Aziz-ur-Rehman, ex-constable No. 2119 District Mardan.....Appellant.


VERSUS.

1. Deputy Inspector General of Police, Mardan Region-I, Mardan.
2. District Police Officer, Mardan.....Respondents.

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.


Dy. Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 1)


District Police Officer,
Mardan.
(Respondent No. 2)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 1200/2015.


Aziz-ur-Rehman, ex-constable No. 2119 District Mardan.....Appellant.

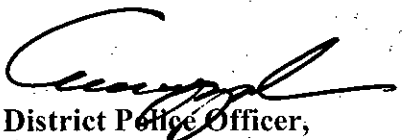
VERSUS.

1. Deputy Inspector General of Police, Mardan Region-I, Mardan
2. District Police Officer, Mardan.....Respondents.

AUTHORITY LETTER.

Mr. Muhammad Shafiq Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


Dy: Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 1)


District Police Officer,
Mardan.
(Respondent No. 2)

0347 5522777
19-4-14

20-4-014
S/O/189

Handwritten signature and notes in Urdu script.

19-4-14
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Handwritten notes in Urdu script, including the number 2393.

Handwritten notes in Urdu script, including the number 2393 and a signature.

Handwritten notes in Urdu script, including the number 2393.

A

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 558 /R/D.A-P.R-1975.

Dated 8-4 /2014

DISCIPLINARY ACTION UNDER NWFP POLICE RULES – 1975

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority am of the opinion that Constable **Aziz Ur Rehman No. 2393**, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP Police Rules 1975.

STATEMENT OF ALLEGATIONS

That **Constable Aziz Ur Rehman No. 2393**, while posted at Police Station Sheikh Maltoon, deliberately absented himself from the lawful duty vide DD No. 24 dated 22.02.2014 to-date without any leave / permission of the competent authority. He is recommended for departmental action by DSP/SMT, Mardan vide his office letter No.69/SMT dated 17.03.2014.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations **Inspector Hayat Ullah Khan RI/Police Lines Mardan** is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


(GUL AFZAL KHAN)
District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 558 /R, dated Mardan the 8-4 /2014.

Copy of above is forwarded to the:

1. RI/Police Lines Mardan for initiating proceedings against the accused official / Officer namely Constable **Aziz Ur Rehman No. 2393**, under Police Rules, 1975.
2. Constable **Aziz Ur Rehman No. 2393**, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

***** !!! *****

CHARGE SHEET UNDER NWFP POLICE RULES 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority hereby charge you Constable Aziz Ur Rehman No. 2393, as follows.

That you constable, while posted at Police Station Sheikh Maltoon, deliberately absented yourself from the lawful duty vide DD No. 24 dated 22.02.2014 to-date without any leave / permission of the competent authority. You are recommended for departmental action by DSP/SMT, Mardan vide his office letter No.69/SMT dated 17.03.2014.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the NWFP Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the NWFP Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this charge sheet to the enquiry officer.
3. Your written defence 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, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.


(GUL AFZAL KHAN)
District Police Officer,
Mardan.

۲
B

فائل انکوائری اڈاں کنسٹیبل عزیز الرحمن نمبر 2393 شیخ ملتون


جناب عالی!

بجوالہ چارج شیٹ نمبری R/558 مورخہ 08/04/14 کنسٹیبل عزیز الرحمن نمبر 2393 کے خلاف انکوائری کاغذات موصول ہو کر جس میں مذکورہ پر الزام لگایا گیا ہے۔ کہ وہ تھانہ شیخ ملتون سے بجوالہ مد 24 مورخہ 22/02/14 تا مد 39 مورخہ 12/03/14 غیر حاضر رہ کر کل 19 یوم غیر حاضر رہ چکا ہے۔

کنسٹیبل عزیز الرحمن نمبر 2393 پر چارج شیٹ تقسیم کرنے کی غرض سے معلومات کی تو مذکورہ تھانہ پارہوتی میں تعینات ہے مگر تھانہ متذکرہ سے بدستور غیر حاضر ہونے کی وجہ سے مذکورہ پر بزریہ مقامی پولیس چارج شیٹ تقسیم ہو کر مذکورہ نے تاحال اپنا جواب داخل دفتر نہیں کیا۔ واجد علی ASI کے بیان کے مطابق کہ وہ چونکہ زرین آباد تھانہ شیر گڑھ میں بحیثیت انچارج تعینات تھا۔ کہ مورخہ 19/04/14 کو کنسٹیبل عزیز الرحمن کا چارج شیٹ بغرض تقسیم کرنے موصول ہو کر مذکورہ کنسٹیبل چونکہ پیرسدو نور آباد کا رہائشی ہے جس پر چارج شیٹ کا نقل تقسیم کر کے اصل ہڈا پر مذکورہ سے دستخط، شناختی کارڈ اور موبائل نمبر ثبت کر کے دفتر RI واپس کی۔ محرم تھانہ پارہوتی تو اب خان ASI کے بیان کے مطابق کہ مورخہ 04/04/14 کو انچارج چونکہ سنگ مرمر بختاج خان SI نے بزریہ موبائل فون اطلاع دی کہ کنسٹیبل عزیز الرحمن بنا اجازت کہی چلا گیا ہے۔ جو تاحال واپس چونکہ ہڈا نہیں آیا۔ اسلئے مذکورہ کو بجوالہ مد 39 روز نامچہ 04/04/14 رپورٹ غیر حاضری درج روز نامچہ کی۔ مذکورہ اسی دن سے بدستور غیر حاضر ہے۔

دوران انکوائری کنسٹیبل عزیز الرحمن نمبر 2393 کا سرورس ریکارڈ چیک کر کے جسمیں 23 Bad Entries جبکہ Good Entry کوئی نہیں پائی گئی۔ کنسٹیبل مذکورہ پر چارج شیٹ بزریہ مقامی پولیس تقسیم ہو مگر ایک ماہ گزرنے کے باوجود بھی مذکورہ نے اپنا جواب داخل دفتر نہیں کیا۔ انکوائری سے پایا گیا کہ کنسٹیبل مذکورہ تھانہ شیخ ملتون سے 19 یوم قسطاً غیر حاضر رہ چکا ہے۔ اور تھانہ پارہوتی سے مورخہ 04/04/14 سے بدستور غیر حاضر ہے۔ جس سے معلوم ہوتا ہے۔ کہ کنسٹیبل مذکورہ نوکری کا خواہشمند نہیں ہے۔

لہذا کنسٹیبل عزیز الرحمن نمبر 2393 کو Major panishment دینے کی سفارش کی جاتی ہے۔


ریزرو انسپکٹر پولیس لائن مردان
18/5/14

کل قطعات (10)

No. 221/Ri

Date. 26/5/14

2393

ORDER

Constable Aziz Ur Rehman No. 2393, while posted at Police Station Sheikh Maltoon Mardan committed the following acts, which leads to grass misconduct on his part as defined in Rules 02 (iii) of Police Rules 1975. Brief facts are that Constable Aziz Ur Rehman No. 2393, while he was posted at Police Station Sheikh Maltoon Mardan deliberately absented yourself from the lawful duty without prior permission/leave from his superiors vide DD No.24, dated 22.02.2014 uptill now.

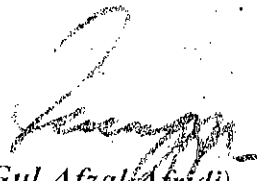
In this connection, Constable Aziz Ur Rehman No. 2393, was charge sheeted vide this office No. 558/R, date 08.04.2014 and he was also proceeded against departmentally through inquiry officer, Mr: Hayatullah Khan Inspector/RI Police Lines Mardan who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 221/RI: dated 26.05.2014, in which the allegations has been established against the defaulter constable.

The undersigned agree with the findings of enquiry officer and the alleged Constable Aziz Ur Rehman No. 2393, is hereby dismissed from service and his absence period counted as leave without pay, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 1230

Dated 27/05/2014


(Gul Afzal Afidi)
District Police Officer,
Mardan.

No. S925-30 / dated Mardan the 27/5/2014

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-I
2. The S.P Operations, Mardan.
3. The DSP/HQrs Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.
6. The OASI (DPO) Mardan.

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 435 /R/D.A-P.R-1975.

Dated 10-02- /2014

DISCIPLINARY ACTION UNDER NWFP POLICE RULES - 1975

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority am of the opinion that Constable **Aziz Ur Rehman No. 2393**, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP Police Rules 1975.

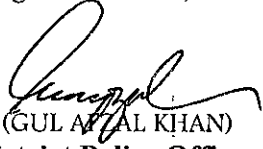
STATEMENT OF ALLEGATIONS

That **Constable Aziz Ur Rehman No. 2393**, while posted at Police Station Sheikh Maltoon, deliberately absented himself from the lawful duty vide DD No. 27 dated 10.01.2014 to-date without any leave / permission of the competent authority. He is recommended for departmental action by DSP/SMT, Mardan vide his office letter No.23 dated 03.02.2014.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations **Sajjad Ahmad DSP/TBI: Mardan** is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


(GUL AFZAL KHAN)
District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 435 /R, dated Mardan the 10-02- /2014.

Copy of above is forwarded to the:

1. DSP/TBI Mardan for initiating proceedings against the accused official / Officer namely Constable **Aziz Ur Rehman No. 2393**, under Police Rules, 1975.
2. Constable **Aziz Ur Rehman No. 2393**, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

***** !!! *****


CHARGE SHEET UNDER NWFP POLICE RULES 1975

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority hereby charge you **Constable Aziz Ur Rehman No. 2393**, as follows.

That you constable, while posted at Police Station Sheikh Maltoon, deliberately absented himself from the lawful duty vide DD No. 27 dated 10.01.2014 to-date without any leave / permission of the competent authority. You are recommended for departmental action by DSP/SMT, Mardan vide his office letter No.23 dated 03.02.2014.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the NWFP Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section – 02 (iii) of the NWFP Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense **within seven days** of the receipt of this charge sheet to the enquiry officer.
3. Your written defence 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, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.


(GUL AFZAL KHAN)
District Police Officer,
Mardan.



2393

**OFFICE OF THE
DEPUTY SUPERINTENDENT OF POLICE
TAKHT BHAI CIRCLE.**

No. 388 /S, Dated: 19 / 09 / 2014.

To,

The District Police Officer, Mardan.

Subject: -

**DEPARTMENTAL ENQUIRY AGAINST
CONSTABLE AZIZ UR REHMAN NO.2393
OF POLICE STATION SHEIKH MALTOON.**

Memo:-

Kindly refer to your office No.435/R, dated 10.02.20014.

This is a finding to a departmental enquiry conducted against constable Aziz Ur Rehman No.2393; while posted to Police Station Sheikh Maltoon absented himself from the lawful duty vide DD No.27 dated 10.01.2014 to till date without information/leave. He was issued charge Sheet/statement of allegations and the undersigned was appointed as enquiry Officer, by the DPO/Mardan to conduct an enquiry against him.

The charge sheet/statement of allegations was already delivered upon the defaulter official, yet he has not submitted his reply in response to the charge sheet/statement of allegations. He was repeatedly informed but he turned it with deaf ears.

It is therefore requested that an appropriate action may be taken against him under the rules.

Finding submitted please.

R
Suman
229

OSB/230
27-5-14

(SAJJAD AHMAD)
Deputy Superintendent of Police,
Takht Bhai

15-CENSURES AND PUNISHMENTS

He is hereby warned
to be careful in future -

O.B No: 1352
3-5-12

[Signature]
D.P.O./MR

st
es
ide
een
lleged
period
quoted

ORDER

The period of 153 days
absence is period counted as leave.
His pay released with issuing
a warning to be careful nature
with immediate effect, in exercise of
the power vested in me under PR-1875

[Signature]
Officer,
a n.

RINO 3370

21-12-2012

[Signature]
District Police Officer
Mardan

CHARACTER ROLL OF

15-CENSURES AND PUNISHMENTS.—Contd.

Serial No.

Mat:

He is hereby dismissed from Service and his absence period counted as leave without pay, in exercise of the Power vested in me under the quoted Rules.

CB No 1730
5/11/14.

Shalwan
D.P. Mandla

Order

In exercise of the powers conferred upon me, rejected the appeal, not inter in the order passed by the competent authority. Thus the appeal is filed by D.P. Mandla vide Encl. No. 5231/ES, dt. 8/8/14.

Shalwan
D.P. Mandla

		2		3		4 7 C		Station of dated
		EXTENT		No. of District Order	Description of leave i.e. Privilege, hospital, sick leave, or furlough, or of absence, or forfeiture of approved service.	All entries to be initialed, by Superintendent of Police.		
To	Years	Months	Days					
				(4) 1400	leave w/o pay			
				(25) 1480				
				1918109				
				(45) 356				
				30-1-2010				
				1952				
				(4) 226 10				
				(5) 2680				
				157 10				
				(11) 5220				
				23.870				
				(30) 1753				
				24-1-10				
				(24) 5319				
				28.1-10				
				(2) 1830				
				9-5-11				
				(5) 1902				
				11-5-11				
				(6) 2944				
				4-8-1				

① 1084 - do - 12/4-12
 ② 2196 - do - 6-2-12
 ③ 1352 - do - 3-5-12
 ④ 778 - do - 17-3-12
 ⑤ 4210 - do - 11-11-11
 ⑥ 3126 - do - 25-8-11
 ⑦ 1084 - do - 6-4-12
 ⑧ 778 - do - 17-3-12
 ⑨ 2196 - do - 6-2-12
 ⑩ 1352 - do - 3-5-12
 ⑪ 1708 - do - 12-8-13
 ⑫ 643 - do - 12-3-14

C

*the absence was considered as leave without pay.
There is no record of other absence afterwards.*

3. *No comments.*
4. *Not admitted being incorrect.*
5. *Incorrect, the appellant was on sick bed, however legal process was not observed by the Authority. He was supposed to have obtained report from Medical authorities about its correctness.*

In the impugned order the appellant has been shown absent from 22/02/2014 to date of dismissal 27/05/2014 whereas the finding of the EO (Annexure "E") reveal that he was absent form 22/02/2014 to 12/03/2014 (19 days). The appellant had attended his place of posting on 12/03/2014 vide DD No 39 of P.S SMT (Copy attached as annexure Rejoinder "A") and had performed his duties till 04/04/2014 which is supported by DD Entry No 38 of P.S Par Hoti. (Annexure Rejoinder "B").

But again attacked by the same disease and ~~attacked~~ had to again visit the hospital which is supported by Annexure "K" (Page 18) to Annexure P (Page 23) of appeal.

6. *Incorrect. The appellate authority had not considered the MCs and rejected same without any enquiry into the same.*
7. *Incorrect, Para No 7 of appeal is correct.*

Grounds:-

- A. *No admitted. The appellant was on sickbed and the authorities as well enquiry officer has extended no mercy to the appellant to enquire through a representative of his force or to publish in a newspaper, which is correct procedure as required by principles of natural justice. Similarly the appellate authority also did not give any attention to the ~~seniors~~^{serious} sickness of the appellant and straightaway rejected appeal, without considering the medical certificates. The annexure "C" on reply of the respondents does not suggest that the appellant is habitual absentee, as only two years prior to this, in 2012, he had remained absent and the said absence was counted as leave without pay and only a warning was issued. The enquiry report by another enquiry officer regarding absence is also not correct as in this report the appellant has been shown absent form 01/01/2014 to 19/09/2014 whereas already appellant was dismissed on 27/05/2014.*

- B. *Incorrect. The enquiry report show that it was dispatched to respondent No 2 on 26/05/2014 and the respondent without giving him any show cause notice or opportunity of personal hearing passed in impugned order on next day 27/05/2015, which show that he had already made up his mind to punish the appellant.*
- C. *Incorrect the material on record does not support the same.*
- D. *It is not correct reply to appeal.*
- E. *As the appellant was on sick bed he could not do so in time.*
- F. *Incorrect reply to appeal.*
- G. *The learned Service Tribunal can consider the delay and recommendation of respondents is not required as the order is void and against principals of natural justice.*
- H. *As in appeal.*

It is therefore, humbly requested that the appeal may please be accepted as prayed for.

Dated:-

Through:-

*AFFIDAVIT
enclosed*

[Signature]
Advocate

Appellant

Aziz
[Signature]
Haji Shamsul Qamar,
Advocate High Court,
Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1086 /ST

Dated 28 / 6 / 2016

To


The D.P.O,
Mardan.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 17.6.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 500 /ST

Dated 16 / 3 /2017

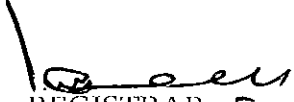
To,

The Registrar,
Supreme Court of Pakistan,
Islamabad.

Subject:- CIVIL PETITION NO.454-P 2016

Dear Sir,

I am directed to acknowledge the receipt of your letter No. C.P. 454-P/2016-SCJ dated 11/3/2017 alongwith its enclosure.


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 501 /ST

Dated 16/3 /2017


To,

The Registrar,
Supreme Court of Pakistan,
Islamabad.

Subject:- CIVIL PETITION NO.455-P 2016

Dear Sir,

I am directed to acknowledge the receipt of your letter No: C.P. 455-P/2016-SCJ dated 11/3/2017 alongwith its enclosure.


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.