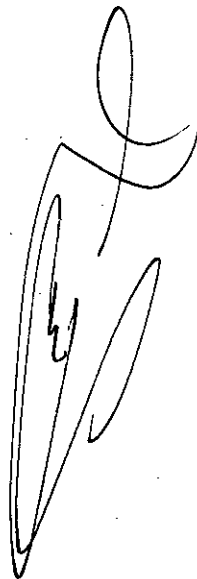


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	11.02.2016	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">Appeal No. 345/2013</p> <p style="text-align: center;">Firdos Alam Versus District Police Officer, Tank and others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Counsel for the appellant (Mr. Saadullah Khan Marwat, Advocate) and Government Pleader (Mr. Muhammad Jan) for the respondents present.</p> <p>2. The appellant was enlisted as Constable in the Police Department on 07.09.1999. He was dismissed from service vide impugned order dated 05.4.2011 on the ground of his absence from duty since 10.6.2010 onwards without any leave or reasonable cause and his departmental appeal was also dismissed vide order dated 30.6.201, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused.</p> <p>4. The learned counsel for the appellant submitted that due to illness, the appellant could not attend to his duty and that the appellant has been dismissed from service without due process</p>

of law. He further argued that when result/rejection of the departmental appeal was communicated to the appellant, he filed his service appeal there-after, hence the appeal is within time. He prayed that the impugned order may be set aside and appellant may be reinstated into service with all back benefits.

5. Learned Government Pleader strongly resisted the appeal by submitting that the appellant has admitted his absence from duty and when he filed his departmental appeal which was forwarded on 18.5.2011 to the appellate authority, he without waiting for its result should have approached this Tribunal within a period of 60 days on which touch stone his appeal before this Tribunal on 06.02.2013 is badly time, and no further decision on merit would be needed. Reliance was placed on 2011-SCMR-676.



6. It is evident that the appellant has been proceeded under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. Its Section 10 lays down that the appellant can file service appeal within a period of 60 days of his departmental appeal irrespective of its result. This Section 10 does not provide that result of the departmental appeal should also be communicated to the appellant. As such when the departmental appeal was rejected on 30.06.2011, the instant appeal being filed on 06.02.2013 is badly time barred. On the record there is no material to show that the appellant had submitted any application for leave and which was refused to him by the respondent department. This appeal being time barred and devoid of merits to

cannot be allowed but the Tribunal is, however, of the considered view that since no mis-conduct on the basis of corruption or moral turpitude is involved, therefore, the punishment of dismissal inflicted on the appellant is too harsh because it permanently debars the appellant from government service. The impugned order of penalty is therefore, modified and the word 'removal' is substituted for the word 'dismissal'. Order accordingly. Appeal disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

11.02.2016.



(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER

02.09.2015

Appellant in person and Mr. Muhammad Asif, H:C  
alongwith Mr. Ziaullah, GP for respondents present. Appellant  
requested for adjournment. To come up for arguments  
on 11-2-2016

  
Member

  
Member

01.7.2014

Counsel for the appellant and Mr. Muhammad Khan, Reader to Inspector (legal) on behalf of respondents with Mr. Usman Ghani, Sr.GP present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned Sr.G.P for arguments on 29.12.2014.



Chairman

29.12.2014 Appellant - in person & Mr. Shah -  
Muhammad S. (Legal) on behalf of -  
respondents with Mr. Muhammad ~~Shah~~ <sup>Shah</sup> ~~Shah~~ <sup>Shah</sup>  
ASG present. The Tribunal is  
incomplete - To come up for arguments

on 25.5.2015.



Reader

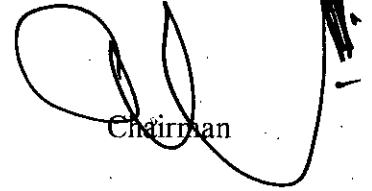
25.05.2015

Appellant in person and Mr. Naimatullah Shah, ASI  
alongwith Muhammad Jan, GP for the respondents present.  
Appellant requested for adjournment due to general strike of the  
Bar. Adjourned to 02.09.2015 for arguments before D.B.

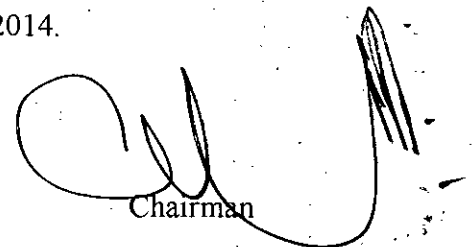


Member

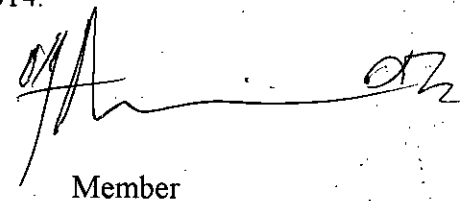
11.9.2013 Counsel for the appellant (Arbab Saif-ul-Kamal, Advocate) and Mr. Muhammad Hussain, Inspector on behalf of respondents with Mr. Usman Ghani, Sr. GP present. To come up for written reply/comments on 3.1.2014.

  
Chairman

03.01.2014 Counsel for the appellant and Mr. Imam Muhammad, S.I for respondents with AAG present. Written reply has not been received; and request for further time made on behalf of the respondents with further request for fixation of this appeal alongwith connected appeal titled 'Attaullah Shah-vs-Police Department' fixed for written reply on 01.4.2014. Therefore, to come up for written reply/comments alongwith connected appeal on 1.4.2014.

  
Chairman

01.4.2014 Appellant in person and Mr. Muhammad Khan, Reader on behalf of respondents with AAG present. Written reply/ para-wise comments received on behalf of the respondents, copy whereof is handed over to the appellant for rejoinder alongwith connected appeal on 1.7.2014.

  
Member


Appeal No. 345/2013,  
Mr. Girish Kumar

3. 28.3.2013

Counsel for the appellant present and heard.

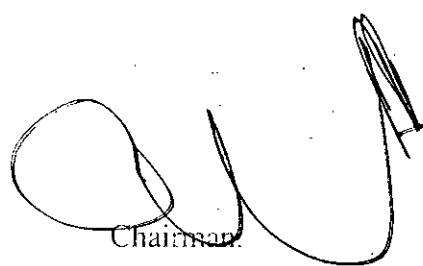
Contended that the appellant was appointed as Constable on 7.2.1999. He was dismissed from service vide the impugned order dated 5.4.2011, received by him 7.1.2013. The appellant preferred a departmental appeal which was filed vide order dated 30.6.2011. Hence, the instant appeal. The learned counsel for the appellant further argued that the appellant has not been treated in accordance with law. The appellant was not absent from duty willfully but such absence was beyond his control as he was seriously ill as is evident from medical certificates submitted by him to Respondent No. 1. He has been dismissed from service vide the impugned order without fulfilling the legal requirements. Points raised need consideration. The appeal is admitted to regular hearing, but subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 4.6.2013 for submission of written reply.

Appellant deposited  
of Process fee & Security  
Rs. 180/- Bank Receipt  
attached with file.

  
Member.

4. 28.3.2013

This case be put before the Final Bench D for further proceedings.

  
Chairman.

4.6.13.

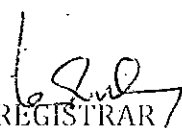
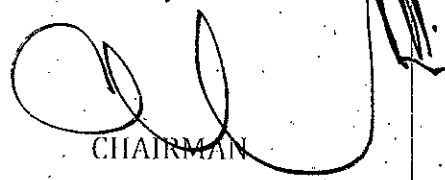
The learned Chair is  
on Point Order case is agreed  
To 11-9-13.  
Ramesh

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 345/2013

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06/02/2013	<p>The appeal of Mr. Firdos Alam presented today by Mr. Saad Ullah Khan Marwat 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	13-2-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>28-3-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

S.A. No. 345 /2013

Firdos Alam

Versus

D.P.O & others


**INDEX**

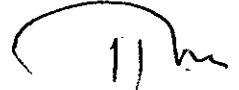
S.No	Documents	Annex	P.No.
1.	Memo of Appeal		1-3
2.	Medical Receipts,	"A"	4
3.	Dismissal order, 05.04.2011	"B"	5
4.	Representation,	"C"	6-7
5.	Rejection order, 30.06.2011	"D"	8

Dated. 6 .02.2013

Through

&

Appellant  
  
Saad Ullah Khan Marwat

  
Arbab Saif Ul Kamal  
Advocates.

21-A Nasir Mension,  
Shoba Bazar, Peshawar.

Ph: 0300-5872676

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. 345 /2013

**W.F. Peshawar**  
**384**  
**6-2-13**

Firdos Alam S/o Aftab Alam,  
R/o Daraki, Mian Khani, Tank,  
Ex-C.No. 238, P.S Kot Azam, Tank ..... Appellant

Versus

1. District Police Officer, Tank.
2. Deputy Inspector General of Police,  
D.I. Khan Range, D.I. Khan.
3. Provincial Police Officer, KPK,  
Peshawar ..... Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL AGAINST OFFICE ORDER**  
**NO. 575, DATED 05.04.2011 OF**  
**R.NO.1 WHEREBY APPELLANT WAS**  
**DISMISSED FROM SERVICE (OR** ✓  
**ORDER NO.2575/ES, DATED**  
**30.06.2011 OF R.NO.2** *Recd on 7-1-2013*  
**REPRESENTATION OF APPELLANT** ✓  
**WAS FILED FOR NO LEGAL REASON.**

*6/2/13*

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That appellant was enlisted as Constable in Police Department at Tank on 07.02.1999 and served the Department to the best of his ability and to the satisfaction of the superiors without any complaint from the high ups.

2. That on 10.08.2010, appellant became seriously ill and was proceeded to Civil Hospital, Tank for treatment and after examination, he was advised complete bed rest vide medical receipts provided/submitted for consideration to R.No.1. (Copy as annex "A")
3. That one sided enquiry was perhaps conducted by R.No.1, without associating appellant with enquiry proceedings but was dismissed from service on 05.04.2011. (Copy as annex "B")
4. That appellant submitted representation for reinstatement in his service but the same was filed on 30.06.2011 by R.No.2. This order was never communicated to appellant, yet the same was got on personal level from the office of R.No.1 on 07.01.2013. (Copies as annex "C & D")

Hence this appeal, inter alia, on the following grounds:-

**GROUND S:**

- a. That as is evident from the medical receipts, appellant did not absent from service willfully but such absence was beyond his control as he was seriously ill.
- b. That absence, if not willful, does not constitute misconduct.
- c. That legal procedure was not adhered to by the respondents as no regular inquiry was ever conducted nor appellant was served with Final Show Cause Notice what to speak of affording him opportunity of personal hearing, being mandatory.
- d. That absence of appellant was not published in two leading newspapers.
- e. That from the aforesaid stated legal point when appellant was neither associated with inquiry nor the same was conducted nor any statement of any one was recorded nor

he was served with Final Show Cause Notice nor the absence was published nor he was given opportunity of self defence, so the impugned orders are then based on malafide and are ab-initio void.

It is, therefore, most humbly prayed that on acceptance of the appeal, ~~order dated 05.04.2011 of R.No.1 and order dated 30.06.2011 of R.No.2~~ <sup>by</sup> be set aside <sup>modified</sup> and appellant be reinstated in his service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Dated. 6.02.2013

Through

فرید علی  
 Appellant  
 Saad Ullah Khan Marwat  
 Arbab Saiful Kamal  
 &  
 Rubina Naz,  
 Advocates.

A

4

# DHO HOSPITAL DISTRICT TANK.

## Discharge Slip.

Patient Name: 238 / 16022

Age: 35 yrs Sex: Male Occupation: Sepai

Address: Jilipijipuwu

Date of Admission: 5-10-2010 No: 657-81

Ward: MMW Clinic Diagnose: Infective Hepatitis

Dated of Discharge / Reference: 27-11-2010

### Treatment in Hospital

### Treatment for home

- Ry 1mj D/Water konnal
  - 1mj Avil
  - 1mj Hypertone 4 in dpa
  - 1mj Essential ioml
  - 1mj Bejel
- Slow 9/10

- 1mj Heamocit 1/2 stck
- 1mj metowid 1/2 us

Healed  
by

- Tab 2 yfed - (9)
- 100 x 3 months
- Tab. Wimmix - (9)
- 1441 x 3 months
- 30 Leprodox. c.
- 24/12
- Tab painedd (9)
- fig 22 - 141

Advised fast  
for 23 months  
w.e. from 28-11-2010  
to 28/2/2011

Liath

ORDER


This is an order in the Departmental Enquiry of Constable Firdous Alam No. 238 of this District Police committed the following acts of omission commission:-

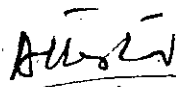
That he while posted as Constable at Police Post Kot Azam absented himself without any leave or reasonable cause since 10.06.2010 till this order.

He was issued charge sheet and statement of allegation under the NWFP Removal from Service (special Powers) Ord: 2000. Mr. Abdul Hayee Khan, DSP/IQrs, Tank was nominated to conduct proper departmental enquiry into the matter. The enquiry officer completed the inquiry and submitted inquiry report.

On having been gone through the findings, recommendation of the Enquiry Officer, and material placed on record I, MUHAMMAD IJAZ ABID, District Police Officer, Tank (Competent Authority) do hereby award Major Punishment of DISMISSAL FROM ~~SERVICE~~ ~~as~~ Constable Firdouse Alam No. 238 and his period of absence is counted his leave without pay.

OB No. 575  
dt 5-4-2011

  
(MUHAMMAD IJAZ ABID)  
District Police Officer,  
Tank





C 6

**BEFORE THE HON' ABLE DEPUTY INSPECTOR GENERAL OF POLICE, DERA  
ISMAIL KHAN RANGE**

Subject:- **APPEAL/REPRESENTATION OF EX- CONSTABLE FIRDOUSE  
ALAM NO. 238 AGAINST THE IMPUNGED ORDER OF HIS  
DISMISSAL FROM SERVICE ISSUED BY DPO/TANK VIDE ORDER  
BOOK NO. 575 DATED. 05.04.2011.**

R/Sir,

With due regard, I appellant submit my petition/ representation against the unlawful and harsh order bearing No. 575 dated 05.04.2011 whereby the appellant was awarded major punishment of dismissal from service.

**PRAYER IN APPEAL:-**

On acceptance of this petition, the Impugned Order of my dismissal from service may kindly be set aside and the appellant may be reinstated in service with full back wages and benefits of service or any other relief may deemed proper also be allowed.

1. That the appellant was enlisted as Constable in Police Department, Tank 07.02.1999 and served the department to the best satisfaction of my seniors and no chance of complaint was provided.
2. That during service on 10.06.2010, I appellant became ill seriously and proceeded hospital for treatment whereby after examination I was advised complete bed rest vide medical documents. The medical documents were submitted to DPO Office Tank for consideration/sanction.
3. That instead to encourage and take into consideration the genuine cause of my illness, I was shown absent from service and departmental action was initiated against me without any intimation which was illegal and unjustified.
4. That as per prescribed medical rules, the competent authority was required to sanction my leave/rest. In case of any other action, the Authority was duty bound to inform me about non-sanctioning of my medical rest/leave but astonishing to mentioned here that neither I was informed nor taken into consideration my genuine cause of non presence at my place of duty for the reason best known to them.
5. That the entire proceeding was initiated and completed in my absence and no opportunity of explanation or defense was provided by the Enquiry Officer/Competent Authority.
6. That the Authority without examining/providing an opportunity of personal hearing, awarded Major Punishment of Dismissal from Service which is unlawful. Copy of order is enclosed.

8. That the impugned order is illegal, unlawful and against the express provision of law thus liable to be set aside inter alias on the following grounds:-

GROUND IN APPEAL:-

a. That the appellant was not absent but was ill and the medical documents have already been produced in the office of District Police Officer, Tank.

b. That the competent authority never examined any witness in my presence nor I was examined which was legal and basic right of the appellant.

c. That all the proceedings conducted against the appellant were violative of law and against the mandatory provisions of Rules. The impugned order is thus liable to be set at naught.

d. That the proceeding conducted against appellant were illegal and unlawful as it run counter to the express provision of Police Rules.

e. That the appellant was never allowed personal hearing not allowed the right to produce my defense in support of my innocence.

f. The Competent Authority was duty bound to sanction my medical leave rest on full pay under the relevant rules of the Government.

g. That the appellant is jobless since my illegal and unlawful Dismissal from Service.

h. That the appellant seeks the permission of Hon'able Appellant Authority to rely on additional grounds at the hearing of this appeal.

PRAYER:- It is, therefore prayed that on acceptance of this Petition/Representation the impugned order of my Dismissal From Service may kindly be set aside and the appellant may be reinstated in service with full back wages and benefits of service any other relief may deemed proper may also be allowed.

Thanking an anticipation.

Obediently Yours.

فیردوسہ

Attest  
by

(FIRDOUSE ALAM NO. 238)  
Ex-Constable Police Department, Tank.  
Son of Aftab Alam R/o Moh: Shahdman Khel  
Area of PS Mullazai Darraki Tank.



D

8

30-6-11

From The Dy: Inspector General of Police,  
Dera Ismail Khan Region

To The District Police Officer, Tank

No. 2575 /ES Dated D.I.Khan the

30/06/2011

Subject APPEAL/ REPRESENTATION

Memorandum

Please refer to your office memo: 2232 dated 18.05.2011.

The appeal/ representation preferred by Ex-Constable Firdouse Alam No.238 against the punishment of dismissal from service has been examined and filed. Inform the applicant accordingly.

The Service Record received with your above quoted reference is also returned herewith for record.

(S. Rabb + F. missal)

Deputy Inspector General of Police,  
Dera Ismail Khan Region

وہو

فردوسہ

7.1.213

Alwani

ky

بعد الت چاپ سروس ٹریبونل صورتہ سندھ پشاور

اسلام آباد

مخانب

محکمہ پولیس

بنام

فردوس عالمی

دعویٰ اصل

### باعتبار شکر یہ اینکہ

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے سعید احمد خان سروتنے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقرر ثالثہ و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بعد از ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست ہر قسم کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی سے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ دیکھ دیا کہ سند ہے۔

المرقوم

العبد

العبد

العبد

11  
ارباب سید اکمال  
ایڈووکیٹ

سعید اللہ خان مروت  
ایڈووکیٹ

فردوس عالمی

2022  
روینہ ناز

ایڈووکیٹ

Before the Service Tribunal, Chairman Bench, KPK, Pesh.

Firdous Alam

vs

Allowed  
- three days  
for the purpose  
of the purpose  
6/6/13

Application for Extension of time for security, process fee

Respectfully Sincerely,

- 1- That the above mentioned appeal is pending adjudication in this honorable tribunal in which today is fixed for proceedings.
- 2- That due to misunderstanding the applicant could not deposited the security/process fee till date.
- 3- That the non deposit of security/process fee was not intentional but due to misunderstanding.

It is therefore most humbly prayed that the applicant be allowed some time for depositing the security/process fee etc.

Applicant/Appellant  
through  
Abul Saif Khan  
Advocate, Peshawar

Subject: Service Appeal No. 345/2013.

Firdos Alam Ex-Constable No. 238.....

(Appellant)

**Versus**

1. District Police Officer, Tank.....
2. Deputy Inspector General of Police Dera Ismail Khan Region.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

**PRELIMINARY OBJECTION**

1. That the appellant has got no cause of action
2. That the appeal is bad for misjoinder/non-joinder of necessary parties.
3. That the appeal is time barred
4. That the appellant has not come with clean hands.
5. That the appeal is bad due to non joinder of necessary party.
6. That the appellant is stopped due to his own conduct.
7. That the appellant has concealed the material facts from Honorable Tribunal.
8. That the honorable Tribunal has no jurisdiction to entertain the present Service Appeal.

*Respectfully Sheweth:*

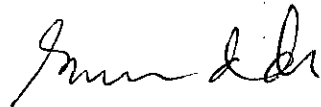
**Para wise Comments from respondents No. (1,2& 3).**


1. That the appellant was enlisted as constable w.e from 07-02-1999 but his record is not upto the mark.
2. Incorrect. He willfully absented himself From 10.06.2010 to 02.12.2010 & From 03.12.2010 to 22.02.2011 from lawful duties and inspite of Service did not join the Departmental Enquiry.
3. Incorrect. The Appellant was summoned/served to join the Enquiry but he willfully failed, hence exparte report was submitted against him.
4. Correct to the extent of appeal and its rejection on 30.06.2011. However the appellant badly failed to lodge.
5. The Service Appeal within stipulated period. Hence the instant appeal is badly time barred.


**GROUNDS:-**

- a. Incorrect. The appellant willfully absented himself from his duties and when summoned/served to join the enquiry, he failed to join the Enquiry.
- b. Incorrect.
- c. Incorrect. The appellant has received the copy of Charge sheet and received a notice/summon to join the enquiry but he failed to do so. Similarly the appellant has refused to received the Final Show Cause Notice as per statement/report of DFC.
- d. Proper procedure of departmental enquiry was adopted as per Law/Rules.
- e. Incorrect. The appellant was served with a copy of Charge sheet and summoned to join the Enquiry but he intentionally failed to do so. He refused to receive the Final show Cause Notice. Hence exparte action was taken as per Rules. Moreover, the instant appeal is badly time barred.

In view of above, it is humbly prayed that the instant appeal may kindly be dismissed being meritless and badly time barred, please.

  
**District Police Officer,  
Tank.**  
*Respondent No. 1.*

  
**Deputy Inspector General of Police,  
Dera Ismail Khan Region.**  
*Respondent No. 2.*

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.**  
*Respondent No. 3.*

**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.**

Service Appeal No. 345/2011.

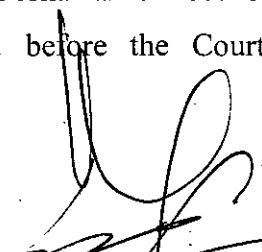
Firdouse Alam Ex-Constable No. 238..... (Appellant).

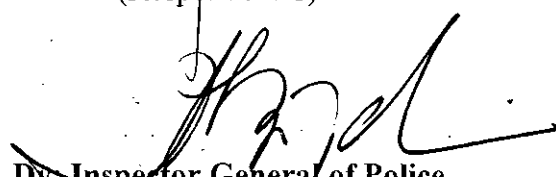
**Versus**

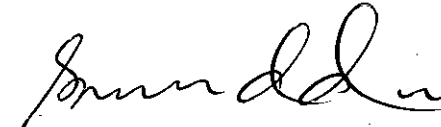
- 1) Inspector General of Police Khyber Pakhtunkhwa Peshawar..... (Respondents).
- 2) Deputy Inspector General of Police DIKhan Region...
- 3) District Police Officer Tank ....

Subject: **AUTHORITY LETTER.**

DSP, Legal Dera Ismail Khan is hereby authorized to appear before the Honorable the Service Tribunal Khyber Pakhtunkhwa Peshawar on our behalf. He is also authorized to deposit any reply/documents/record etc: before the Court on our behalf.

  
(Inspector General of Police)  
Khyber Pakhtunkhwa Peshawar.  
(Respondent-1)

  
Dy. Inspector General of Police,  
DIKhan Range.  
(Respondent-2).

  
District Police Officer,  
Tank.  
(Respondent-3)

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR**

S.A No. 345/2013

Firdos Alam

Versus

D.P.O & Others

**REJOINDER**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTION.**

All the 8 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action, bed for mis and non joinder of necessary parties, time barred, unclean hands, estoped by his own conduct, concealment of material facts and jurisdiction:

**ON FACTS**


1. The para of the comments in respect of the record of appellant requires proof.
2. Not correct. The para of the appeal is correct. It was incumbent upon the respondents to inquire about the medical receipts regarding illness of appellant from the Hospital authorities.
3. Not correct. The para regarding summoning of appellant for inquiry is without proof. He was not absent willfully but was due to the illness.
4. Admitted correct by the respondents. It is for the respondents to show that appellant was served with order of dismissal on such and such date but such plea regarding filing of appeal later on is not correct.

**GROUNDS:**

All the grounds of the appeal are correct while that of the reply of respondents are illegal and incorrect. The same are reaffirm. Moreso, the apex Court condoned delay in some cases for 21, 12, 5, etc years.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Through

Appellant  
  
Saadullah Khan Marwat

Dated: 11.07.2014

  
Arbab Saif Ul Kamal

  
Miss Rubina Naz  
Advocates,

**AFFIDAVIT**

I, Firdos Alam S/o Aftab Alam, Appellant do hereby solemnly affirm and declare that contents of **Appeal & Rejoinder** are true and correct to the best of my knowledge and belief while that of the respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

**ATTESTED**

  
DEPONENT





**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

**S.A No. 345/2013**

Firdos Alam

Versus

D.P.O & others


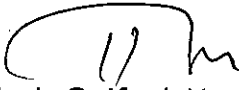
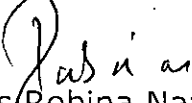
**APPLICATION FOR CONDONATION OF DELAY,  
IF ANY.**

**Respectfully Sheweth:**

1. That the subject appeal pending disposal at this hon'able Tribunal.
2. That main plea of the respondents in the written statement is delay but had not showed the date of service of the dismissal order upon the appellant, yet as and when the order was got from the office of respondents, representation was filed which was well within time, and if there exists any delay in filing of the appeal before the Hon'ble Tribunal, the same requires condonation in the best interest of justice.
3. That the apex supreme court held in plethora of judgments that vested rights shall not be killed at the altar of limitation but cases be decided on merit.

It is, therefore, most humbly requested that delay, if any, be condoned in the best interest of justice.

Dated: 11.07.2014

Appellant  
Through   
Saadullah Khan Marwat  
  
Arbab Saif-ul-Kamal  
&  
  
Miss Robina Naz,  
Advocates,

**AFFIDAVIT**

I, Firdos alam D/o Aftab Alam, Ex-Constable No. 238, P.S Kot Azam, Tank Appellant, do hereby solemnly affirm and declare that contents of the Application are true and correct to the best of my knowledge and belief.

  
DEPONENT



**ATTEST**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 338 /ST

Dated 1 / 3 / 2016


To

The Regional Police Officer,  
Bannu Region Bannu.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 22.2.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.