

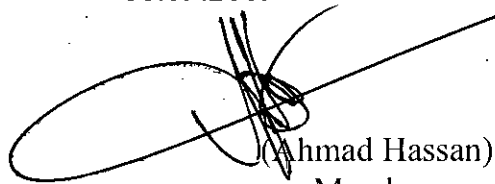
11.07.2019 Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 11.09.2019 before D.B.



Member


Member

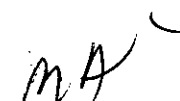
11.09.2019 None for the appellant present. Asst: AG for respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the appeal in hand is hereby dismissed in default. File be consigned to the record room.

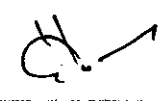
Announced:
11.09.2019


(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member


01.03.2019 Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 16.04.2019 before D.B


Member


Member

16.04.2019 Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Sher Afzal SI for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 30.05.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member


30.05.2019 Mr. Taimur Ali Khan, Junior counsel for the appellant and Mr. Abdul Ali, PSI alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior counsel for the appellant requested for adjournment on the ground of non-availability of senior counsel. Adjourned to 11.07.2019 for arguments before D.B.



(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

10.08.2018

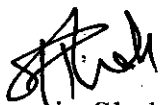
Junior counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 01.10.2018 before D.B.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

01.10.2018

Junior to counsel for the appellant and Mr. Kabirullah Khattak Additional AG for the respondent present Junior to counsel for the appellant seeks adjournment as senior is not available today. Adjourned. To come up for arguments on 14-11-18 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

14.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 02.01.2019.


Reader

02.01.2019

Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Mr. Nadeem H.C present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 01.03.2019 before D.B.


Member


Member

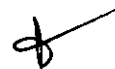
28.12.2017


Counsel for the appellant and Addl: AG alongwith Mr. Abdul Ali, ASI for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 23.02.2018 before D.B.


Member

23.02.2018

Counsel for the appellant and Asst: AG for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 26.4.2018 before D.B.


(Ahmad Hassan)
Member(E)


(Gul Zehra Khan)
Member(E)

26.04.2018

Junior to counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney alongwith Muhammad Nadeem S.I for the respondents present. The Tribunal is non functioned due to retirement of Hon'ble Chairman. Therefore the case is adjourn. To come up for the same on 02.07.2018.


READER

02.07.2018


Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 10.08.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

27.02.2017

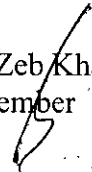
Counsel for the appellant and Mr. Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 16.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMER

16.06.2017


Counsel for the appellant and Mr. Kabir Ullah Khattak, Assistant AG for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 17.10.2017 before D.B.

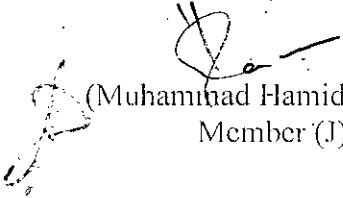

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

17.10.2017

Clerk of the counsel for appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General for the respondents present. Clerk of the counsel for appellant seeks adjournment due to non availability of his senior counsel. Adjourn. To come up for arguments on 28.12.2017 before D.B.


(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

03.03.2016

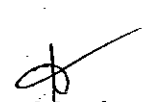
Counsel for the appellant and Mr. Muhammad Asif, Head Constable alongwith Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to shortage of time. To come up for arguments on 07.06.2016.


Member


Member

07.06.2016

Counsel for the appellant and Mr. Muhammad Khan, HC alongwith Usman Ghani, Sr. GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 24.10.2016.



Member


Member

24.10.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Requested for adjournment. To come up for arguments on 27.02.2017 before D.B.


Member


Chairman

6

27.01.2015

Counsel for the appellant and Mr. Shah Muhammad, SJ (legal) on behalf of respondents alongwith learned Addl. AG present. Comments submitted. To come up for rejoinder and final hearing/arguments before D.B on 28.07.2015.


CHAIRMAN

28.07.2015

Counsel for the appellant and Asstt. AG for the respondents present. Arguments could not be heard as learned Member (Judicial) is on official tour to camp court D.I. Khan, therefore, the case is adjourned to 30.11.2015 for arguments.


Member

30.11.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondent present. Rejoinder on behalf of the appellant submitted copy of which is placed on file. To come up for arguments on 3-3-16.


Member

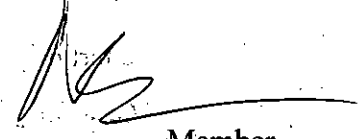

Member

Appeal No. 460/2014
Mr. Q. S. W. J. J.

2.

27.05.2014

Clerk of counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 03.07.2014.



Member

3.

03.07.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 09.12.2013, he filed departmental appeal on 11.12.2013, which has been rejected on 13.01.2014, hence the present appeal on 06.02.2014. He further contended that the impugned order dated 13.01.2014 has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 26.09.2014.

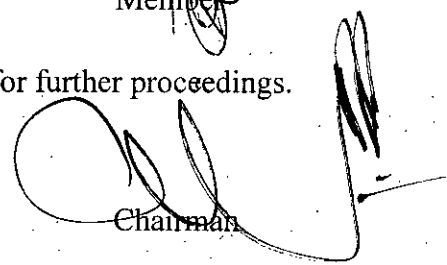
Appellant Deposited Security & Process Fee Rs. 180/- Bank Receipt is Attached with File.

Member

4.

03.07.2014

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



Chairman

5.

26.09.2014

Counsel for the appellant (Mr. Taimur Ali Khan, Advocate) present. The respondents are not present despite of their service through registered post/concerned officials. However, Mr. Muhammad Adeel Butt, AAG present on behalf of the respondents and would be contacting the respondents for written reply/comments on 28.1.2015.


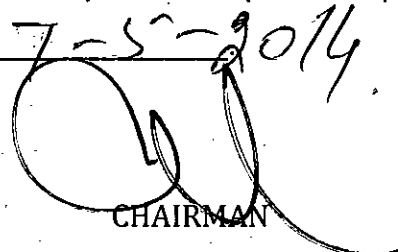


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 460/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27/03/2014	The appeal of Mr. Ishfaq resubmitted today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing. <p style="text-align: right;"> REGISTRAR</p>
2	1-4-2014	This case is entrusted to Primary Bench for preliminary hearing to be put up there on 27-5-2014 <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Ishfaq Ex- Constable received today i.e. on 06.02.2014 is incomplete on the following scores which is returned to the counsel for the appellatant for completion and resubmission within 15 days.


- 1- Copies of charge sheet and statement of allegations mentioned in para-2 of the memo of appeal (Annexure-A &B) are not attached with the appeal which may be placed on it.
- 2- Copy of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.
- 3- Memorandum of appeal may be got signed by the appellatant.

No. 195 /S.T,

Dt. 07/02 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M. Asif Yousafzai Adv. Pesh.

Resubmitted after compliance


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

Appeal No. 460 /2014

Mr. Ishfaq

V/S


P.P.O. KPK & Others.

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Copy of Charge sheet	- A -	05
3.	Copy of Statement of Allegations	- B -	06
4.	Copy of Order (9/12/2013)	- C -	07
5.	Copy of Appeal	- D -	08
6.	Copy of Rejection Order (13.1.2014)	- E -	09
7.	Vakalat Nama	-----	10

APPELLANT
Ishfaq اشفاق

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

1

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

Appeal No. 460 /2014

Mr. Ishfaq, Ex-Constable No.86,
District Police, Tank.

141
6/2/14

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The D.I.G. D.I.Khan (Region), D.I.Khan.
3. The District Police Officer, Tank.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 09.12.2013 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND AGAINST THE ORDER DATED 13.01.2014 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

.....

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 09.12.2013 AND 13.01.2014 MAY BE SET ASIDE AND THE APPELLANT MAY VERY GRACIOUSLY BE REINSTATED WITH ALL BACK BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

6/2/14

RESPECTFULLY SHEWETH:

re-submitted to
and filed,

27/3/14

That the appellant joined the Police Force in the year 2004 and completed all his due training etc and also has good service record throughout.

2. That all of sudden, the appellant was served with charge sheet and statement of allegations under the Police Rules, 1975 in which though the charges of corruption, ill-reputation and inefficiency were leveled against the appellant but without specification of any incident or occurrence which a led to formulate such statement of allegations. However, the appellant submitted his reply and denied all allegations. Copies of Charge-sheet and Statement of Allegations are attached as Annexure-A and B.
3. That then one sided enquiry was conducted against the appellant in which neither the appellant was associated with the enquiry proceedings nor any statement was recorded in the presence of appellant or to cross examine the same. The appellant was also not provided enquiry report till date.
4. That on 9.12.2013, the penalty of dismissal from service was imposed on the appellant under the Police Rules, 1975. The appellant preferred Departmental Appeal on 10.12.2013 which was also rejected for no good ground on 13.1.2014. Copies of Order, Appeal and Rejection Order are attached as Annexure-C, D and E.
5. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

GROUND:

- A) That the impugned order dated 09.12.2013 and 13.01.2014 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.

- C) That neither the appellant was associated with the enquiry proceedings nor any statement of the witnesses have been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- D) That even no final show cause notice was served on appellant which before imposing major penalty of dismissal from service which is the violation of principle of personal hearing and fair play.
- E) That no enquiry paper was provided to the appellant which is the violation of law as held by the Honourable Supreme Court of Pakistan in the case of Mir Muhammad Khan.
- F) That the charge sheet and statement of allegations is vague and contains no specification about in incident or nothing which could based to level in allegations.
- G) That the appellant has not been treated under the proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- H) That the penalty of dismissal from service is very harsh which was passed in violation of law and rules, therefore, the same is not sustainable in the eyes of law.
- I) That the appellant has been discriminated because similar like allegations were leveled against 35 officials of District Tank Police and more than 15 officials are reinstated while the same benefits were not extended to the appellant.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

4

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT
Ishfaq *اشفاق*

THROUGH:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

(9) (11)

A

(5)

CHARGE SHEET.

WHEREAS I, am satisfied that a formal enquiry contemplated under Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

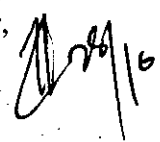
AND WHEREAS, I am of the view that the allegation(s) if established would call for a Major Penalty including dismissal from service as defined in Rules(4(i)(B) of the aforesaid Rules.

AND THEREFORE, as required by Police Rules 6 (I) of the aforesaid Rules, I, ANWAR SAEED KUNDI (PSP) District Police Officer Tank being a competent authority hereby charge you Constable DSP/19/86 with the misconduct on the basis of statement of allegation attached to this Charge Sheet.

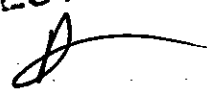
AND hereby direct you further under rule 6(I) of the said rules to put in written defence within Seven (7) days of receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state that the same time whether you wish to heard in person or otherwise.

In case your reply is not received within the prescribed period, without sufficient cause, it would be presumed that you have not defence to offer and ex parte action proceedings will be initiated against you.


(ANWAR SAEED KUNDI) PSP
District Police Officer,
Tank


27/16

ATTESTED



(12) B (6)

STATEMENT OF ALLEGATION

That you while serving in Police Department has been found involved in the following misconduct:-

- 1. Corruption.
- 2. ill-reputation.
- 3. Inefficiency.

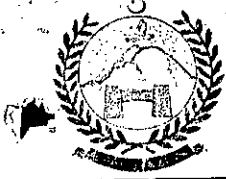
This amounts to gross misconduct on your part and punishable under the Khyber Pakhtunkhwa Police Rule 1975.

Hence the statement of allegation.

[Handwritten Signature]
 (ANWAR SAEED KUNDI) PSP
 District Police Officer,
 Tank
[Handwritten Date] 28/10

ATTESTED

[Handwritten Signature]



OFFICE OF THE
DISTRICT POLICE OFFICER
DISTRICT TANK

C
7
A

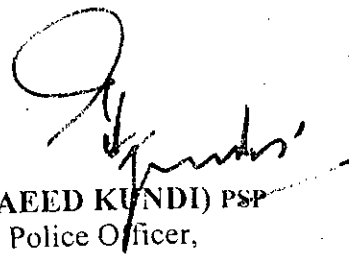
Ph. No. 0963-510257.
Fax no. 0963-510565.

OFFICE ORDER.

My this office will dispose off departmental enquiry initiated against Constable Ishfaq No. 86 of this district police on the allegations of ill reputation, corruption and inefficiency against whom proper departmental enquiry was initiated. Charge Sheet along with statement of allegations was issued and served upon him properly. Mr. Kousar Ali, SDPO/Rural, Tank was nominated as Enquiry Officer. During enquiry, the accused official was summoned and examined. He produced his written statement which is placed on file. After finalization of inquiry, the Enquiry Officer has submitted his finding report. The enquiry report was received and perused. His previous service record was also checked and examined. His general reputation in the department is not good. He is fully derseves to be dismissed from service, therefore I ANWAR SAEED KUNDI, (PSP) District Police Officer, Tank in exercise of Powers vested upon me under Khyber PakhtunKhwa Police Rule 1975, award Major Punishment of "DISMISSAL FROM SERVICE" to defaulter Constable Ashfaq No. 86 of this district police with immediate effect.

Announced.

9/12


(ANWAR SAEED KUNDI) PSP
District Police Officer,
Tank.

OB 1674

dt: 9/12/13

ATTESTED


D 1
8

بیاضور والا شان ڈپٹی انسپکٹر جنرل آف پولیس ضلع ڈیرہ اسماعیل خان (ریجن)

عنوان: اپیل برائے بحالی ملازمت

جناب عالی!

۱۔ گزارش بحضور انوار ہے کہ جناب ڈی، پی، اوصاحب ٹانک نے من سائل کو مورخہ: 02.12.2013 کو سروس سے

(Dismiss) کی سزا دیکر محکمہ سے برطرف کرنے کا حکم صادر فرمایا ہے۔

۲۔ جناب انکوآری آفیسر کوثر خان (DSP Roller) ٹانک نے جو فائنڈینگ رپورٹ انکوآری پیش کی ہے وہ فرضی اور اپنی طرف

سے قیاس شدہ ہے۔

۳۔ دوران انکوآری بابت الزامات من سائل کے خلاف لگائے گئے الزامات میں سے بفضل خدا کوئی بھی الزام سامنے نہیں آیا ہے۔ صرف

محض بالائی سطح پر حکم احکام کی تعمیل کرتے ہوئے انکوآری آفیسر نے فرضی فائنڈینگ رپورٹ دی ہے۔

۴۔ میرے 6 سالہ ریکارڈ کو نہ دیکھا گیا اور نہ مجھے سنا گیا اور نہ ہی دوران انکوآری کیس کر اس کا موقع دیا گیا ہے اور نہ ہی انکوآری کا حصہ

بنایا گیا ہے۔

۵۔ دوران سروس پبلک کی طرف سے کوئی تحریری یا زبانی شکایت نہیں ہوئی ہے۔ بلکہ میرے خلاف پبلک کی طرف بابت الزامات کوئی شخص

انکوآری آفیسر کو پیش نہیں ہوا ہے۔ اور نہ ہی کسی طور پر الزامات ثابت ہوئے ہیں۔

۶۔ انکوآری کے دوران میرے سروس ریکارڈ کو نظر انداز کیا گیا۔ اور میرے 6 سالہ شفاف کیریئر کو چھپایا گیا ہے۔

۷۔ میرے 6 سالہ سروس ریکارڈ میں میڈیکل لیو اور غیر حاضری بلا تنخواہ کو اٹھانا کر میرے خلاف سزا کا تحریر کیا گیا ہے۔ جو میرے

خلاف کاروائی (Dismissal) کی گئی ہے۔ حالانکہ انہی میڈیکل وغیر حاضری کی سزا پہلے بھی بھگت چکا ہوں۔

برائے کرم میری عرضداشت بصورت اپیل پر منصفانہ غور فرما کر مجھے سنا بھی جائے اور بلا وجہ بدترین سزا جو اسلامی و انگریزی قانون کی جانب

سے ظلم کی مترادف ہے سے نجات دی جائے۔ اور مجھے دوبارہ سروس پر بحال کرنے کا حکم صادر فرمایا جاوے۔

مورخہ: 11.12.2013

ارض

سائل کنشیل اشفاق نمبر: 86 سید علی قوم بھٹنی سکند داؤد خیل ٹانک

رابطہ نمبر: 0344-7476235

E
(9) (B)

ORDER:

241
17-1-14

This order is meant to dispose off the appeal preferred by Ex-Constable Ishfaq No.86 of Tank District against the order of major punishment i.e. dismissal from service, awarded to him by DPO Tank vide OB No.1674 dated 09.12.2013. He was proceeded against on the allegations of ill-reputation, corruption and inefficiency. A proper departmental enquiry was initiated and Mr. Kousar Ali, SDPO Rural Tank was appointed as Enquiry Officer to conduct proper departmental enquiry against him. On the recommendation of Enquiry Officer, DPO Tank awarded him major punishment of dismissal from service.

The appellant/ Ex-Constable preferred the instant appeal against the order of DPO Tank. I have gone through the enquiry file as well as service record of the appellant and also heard him in person on 01.01.2014.

Therefore in exercise of power conferred upon me I Abdul Ghafoor Afridi Dy: Inspector General of Police DIKhan, the competent authority in exercise of the powers conferred upon me find no substance in appeal and hold that DPO has correctly passed this order, therefore, this appeal is dismissed and filed.



(ABDUL GHAFUOR AFRIDI)
PSP, PPM
Deputy Inspector General of Police,
Dera Ismail Khan Region

No. 121 IES, dt: 13-1-14

Copy to the District Police Officer, Tank for information with reference to his office memo: No.5715 dated 30.12.2013. His Service Record is returned herewith.



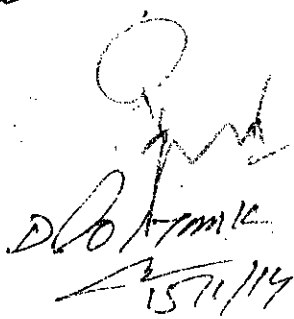
(ABDUL GHAFUOR AFRIDI)
PSP, PPM
Deputy Inspector General of Police,
Dera Ismail Khan Region

EO (S. Roll)

OB/SRC/PO
For n/ action

OB No. 30

15-1-2014



DPO Tank
4/1/14

ATTESTED

VAKALAT NAMA

10

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Ishfaq (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Dept. (Respondent)
(Defendant)

I/We, Ishfaq, Counsel محمد اشفاق

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

اشفاق
(CLIENT)

ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate.

Taimur Ali Khan
Advocate

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell: (0333-9103240)

3/7/2014

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

Service Appeal No. 460/2014

Ishfaq, Ex-Constable No. 86,
District Police, Tank.....(Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The District Police Officer, Tank.....(Respondents-1to3)

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action & locus standi.
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 appellant is estopped due to his own conduct.
6. That the appellant has concealed the material facts from this Honourable Tribunal.
7. That appeal is not maintainable & incompetent.
8. The honourable Tribunal has no jurisdiction to entertain the appeal.

BRIEF FACTS

1. That the appellant was enlisted in Police Department as recruit constable w.e.from 18.07.2007 on three years' probation. The remaining portion of the para is incorrect. His service record is full of adverse entries and habitual absentee.
2. Correct to the extent of charge sheet. As per record the appellant was habitual absentee and inefficient. His general reputation is also not good.
3. Incorrect. A departmental enquiry was conducted in the light of his service record and impugned order of dismissal passed in the light of finding report.

06
27/01/15

4. That in the light of finding report of Enquiry Officer as well as service record and having no good reputation, the impugned order of dismissal was passed. Similarly his appeal was rejected after personal hearing.
5. In the light of service records as well as enquiry report, the impugned order of dismissal was passed as well as appeal was rejected.

GROUNDS

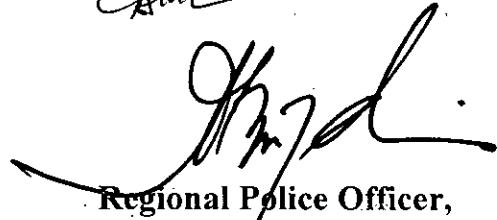
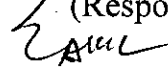
- A. Incorrect. The enquiry was conducted in accordance with law/rules and allegations supported by the service record.
- B. Incorrect. All the proceedings were conducted in accordance with law & rules.
- C. That proper charge sheet was issued to the appellant and allegations established during enquiry supported by service record. Even opportunity of personal hearing was given to the appellant.
- D. That the allegations were established during enquiry and supported by service record. The final show cause notice not mandatory as per Police Rules 1975.
- E. Incorrect.
- F. Incorrect. The allegations were specific regarding inefficiency as established from service record.
- G. Incorrect. All the proceedings were held in accordance with law & rules on the subject.
- H. Incorrect. His service record bears adverse entries and he was given last chance vide OB No. 1378 dated 21.07.2009 besides fine of Rs. 1000/-. Copy Annexure 'A'.
- I. Incorrect. All the cases were decided on merits and available service record.
- J. That no such provision exists.

PRAYER

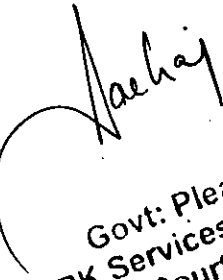
It is, therefore, most humbly prayed that on acceptance of instant parawise comments, the Appeal of the Appellant being devoid of legal footings and merits may graciously be dismissed.



Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)



Regional Police Officer,
Dera Ismail Khan
(Respondent No.2)

Vetted


Govt: Pleader
KPK Services Tribunal
Camp Court D.I.Khan



District Police Officer,
Tank
(Respondent No.3)

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

Service Appeal No. 460/2014

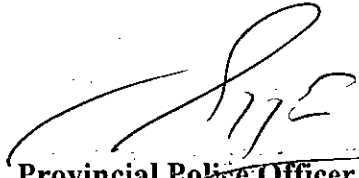
Ishfaq, Ex-Constable No. 86,
District Police, Tank.....(Appellant)


Versus

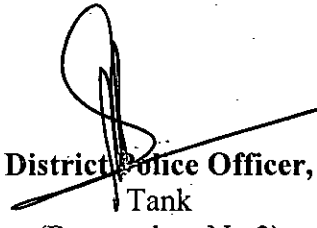
1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The District Police Officer, Tank.....(Respondents-1to3)

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS

We, the respondents do hereby solemnly affirm and declare on oath that the contents, of Comments/Written reply to Appeal are true & correct to the best of our knowledge and nothing has been concealed from this Honourable Tribunal.


Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)


Regional Police Officer,
Dera Ismail Khan
(Respondent No.2)


District Police Officer,
Tank
(Respondent No.3)

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

Service Appeal No. 460/2014


Ishfaq, Ex-Constable No. 86,
District Police, Tank.....(Appellant)

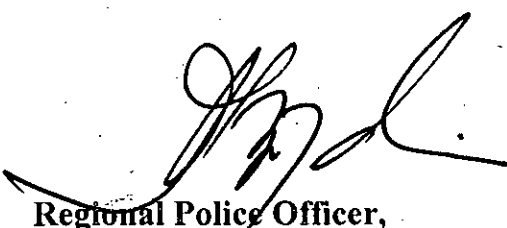
Versus


1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The District Police Officer, Tank.....(Respondents-1to3)

A U T H O R I T Y

We, the respondents do hereby authorised DSP/Legal, DIKhan to appear before the Service Tribunal Khyber Pakhtunkhwa, Peshawar, on our behalf, He is also authorised to produce/ withdraw any application or documents in the interest of Respondents and the Police Department.


Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)


Regional Police Officer,
Dera Ismail Khan
(Respondent No.2)

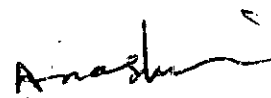

District Police Officer,
Tank
(Respondent No.3)

ORDER.

This order will dispose off Departmental enquiry initiated against Constable Ashfaq Khan No. 580 of this District Police under N.W.F.P Removal from Service (Special Powers) Ord: 2000 (Amendment Act 2005) for the allegations that Constable Ashfaq Khan No. 580 while posted at Police Lines Tank has absented himself from official duties without any leave or permission w.e.from 11.11.2008 to 06.01.2009, 07.01.2009 to 26.01.2009 to 23.02.2009. He was charge sheeted. Charge sheet along with statement of allegation was served upon him. Inspector Farid Khan Khattak was appointed as Enquiry Officer. On his transfer to Kohat Region, the papers were entrusted to DSP/HQrs. Tank to complete all the remaining inquiry. During inquiry, he again absented himself without any leave or permission for the dates i.e. 08.03.2009 to 10.03.2009, 14.03.2009 to 17.03.2009, 28.03.2009 to 29.03.2009, 16.04.2009 to 17.04.2009, 13.06.2009 to 14.06.2009, 18.04.2009 to 25.05.2009. The delinquent official was summoned and examined. He produced his written statement which is available on file. He also produced medical documents only to cover his entire absence period. After finalization of inquiry, the Inquiry Officer submitted his findings report in which the accused official was held responsible. Inquiry report received and examined. A Final show cause notice was issued and served upon him. His reply to the Final Show Cause Notice was received and placed on file. He was called in the orderly room held on 21.07.2009. He appeared and heard in person but was found un-satisfactory. His previous record was also checked. According to his previous service record, the defaulter constable was enlisted as constable on 18.7.2007. In such a shortest period of his enlistment, he has already been awarded a punishment of Fine of Rs. 500/- and 24 days absence period as leave without pay. Keeping in view, the recommendation of the enquiry officer and service carrier and attitude of the accused Constable Ashfaq Khan No. 580, it is clearly evident that he is habitual absentee and there seems no chance of becoming him punctual in future and his further retention in the department will badly affect the performance of other contingent, therefore fully deserved to be dismissed from service but lenient action is taken and **I, ABDUR RASHID, DISTRICT POLICE OFFICER, TANK** as competent authority under the Powers vested me under N.W.F.P Police Order (Special Powers) Ord: 2000 (Amended Act-2005), the following punishments are awarded to Constable Ashfaq Khan No. 580 with immediate effect:-

1. Forfeiture of three increments with curralative effect.
2. Fourteen (14) days Extra drill.
3. One Hundred and Forty Six (146) days period of absence is converted into his leave without pay.
4. Fine of Rs. 1000/- only.
5. Last Chance to improve and warned to be careful in future and pay released.

Order announced No. 1378
21.07.2009


(ABDUR RASHID)
District Police Officer,
Tank.

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

Service Appeal No. __460 /2014

Mr. Ishfaq

V/S P.P.O, KPK & Others.

.....

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-8) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Partially admitted correct by the respondents. However, according to the service record, the appellant has been performing his duties in the Police Force since 2004.
- 2 Incorrect. All the allegations in the charge sheet against the appellant are incorrect which were denied by the appellant in his reply.
- 3 Incorrect. while the contents of Para-3 of the Appeal are correct.
- 4 Incorrect. The penalty of dismissal from service was imposed on the appellant under the Police Rules, 1975, however, he was a civil servant of the province, under the rules he was not properly treated.
- 5 Legal.

GROUND:

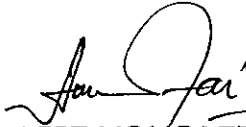
- A) Incorrect, while Para-A of appeal is correct.
- B) Incorrect. The appellant has not been dealt in accordance with relevant law and rules.

- C) Incorrect, while Para-C of the Ground of Appeal is correct.
- D) Incorrect. the appellant was a civil servant, he was not dealt with proper law.
- E) Incorrect, while the contents of Para-E of the Ground of Appeal are correct.
- F) Incorrect. All the allegations against the appellant are baseless and incorrect.
- G) Incorrect, while Para-G of Appeal is correct.
- H) Incorrect. All the allegations against the appellant are baseless and incorrect.
- I) Incorrect. The contents of Para-I of the Ground of Appeal are correct, while the contents mentioned in Para-I of the reply submitted by the respondents are totally baseless and incorrect.
- J) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Ishfaq

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.




DEPONENT