

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 368/2015

Date of Institution ... 24.04.2015

Date of Decision ... 10.01.2018

Muhammad Asif Khan no. 1250 Ex-Constable Police S/o Jamil Khan,
R/o Qamar P.O Charangi Tehsil and District Kohat.

... (Appellant)

VERSUS

1. The Secretary Agriculture, Livestock and cooperation Department, Khyber Pakhtunkhwa, Peshawar and 3 others. ... (Respondents)

MR. MUHAMMAD ARIF JAN,
Advocate

--- For appellant.

MR. MUHAMMAD RIAZ PAINDAKHEL,
Assistant Advocate General

--- For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

... MEMBER(Executive)
... MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Constable in police department. He applied for leave on medical grounds as advised by the doctor but was not sanctioned. That vide order dated 23.04.2014, the appellant was removed from service on the ground of willful absence from duty. This order was communicated to the appellant on 20.05.2014 against which he preferred departmental appeal on the same date i.e 20.05.2014 but was not responded, hence, the instant service appeal on 13.05.2016.

ARGUMENTS

3. Learned counsel for the appellant argued that the appellant fell ill and was advised complete bed rest by the doctor. On the basis of medical certificate issued by the doctor he applied for leave which was not granted. Thereafter on account of absence from duty disciplinary proceedings were initiated and upon conclusion major of removal from service from the date of his absence was imposed on him vide impugned order dated 23.04.2014. As penalty was imposed with retrospective effect the same is void ab-initio. Proper departmental enquiry was not conducted.

4. On the other hand learned Assistant Advocate General argued that all codal formalities were observed before passing the impugned order. He was treated according to law and rules, hence, there is no illegality in the said order. The appeal is not maintainable and be dismissed.

CONCLUSION

5. As punishment was awarded with retrospective effect which is void ab-initio illegal and not tenable in the eyes of law, so there is hardly any need to touch the merits of the case.

6. As a sequel to above, the appeal is accepted and the impugned order is set aside. The intervening period may be treated as leave without pay. However, the respondents are placed at liberty to conduct de-novo inquiry strictly in accordance with the rules. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)
MEMBER



(AHMAD HASSAN)
MEMBER

Order

10.01.2018

Counsel for the appellant and Asst: AG for respondents present.
Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is accepted and the impugned order is set aside. The intervening period may be treated as leave without pay. However, the respondents are placed at liberty to conduct de-novo inquiry strictly in accordance with the rules. Parties are left to bear their own costs. File be consigned to the record room.

Announced:
10.01.2018



(MUHAMMAD HAMID MUGHAL)
Member



(AHMAD HASSAN)
Member


22.03.2017

Clerk to counsel for the appellant and Mr. Arif Saleem, ASI alongwith Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 17.07.2017 before D.B.


(AHMAD HASSAN)
MEMBER

17.07.2017

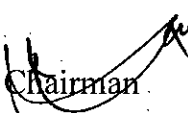
Appellant in person present. Mr. Arif Saleem, ASI alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. The Learned Executive Member Mr. Gul Zeb Khan is away for interviews in the office of Khyber Pakhtunkhwa Public Service commission therefore, due to incomplete bench the case is adjourned for arguments to 13.11.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member

13.11.2017

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Arif Saleem, ASI for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Adjournment granted. To come up for arguments on 10.01.2018 before D.B.


Member


Chairman

19.07.2016

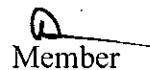
Appellant in person and Mr. Arif Saleem, ASI alongwith Additional AG for the respondents present. Appellant requested for adjournment as his counsel is not available today. Request accepted. To come up for arguments on ~~16-9-16~~ before D.B.



MEMBER


MEMBER

16.09.2016


Counsel for the appellant and Mr. Arif Salim, ASI alongwith Addl. AG for respondents present. Jointly requested for adjournment. Request accepted. To come up for arguments on 7.12.2016.


Member


Member

07.12.2016

Counsel for appellant and Mr. Arif Saleem, ASI alongwith Assistant AG for the respondents present. One of the Member (Judicial) Mr. Muhammad Aamir Nazir is on casual leave therefore, the Bench is incomplete, hence adjourned. To come up for arguments on ~~22.3.17~~ before D.B.


(ASHFAQUE TAJ)
MEMBER

6

24.08.2015

Appellant in person and Mr. Peshawar Khan, H.C alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 10.11.2015 before S.B.


Chairman

10.11.2015

Appellant in person and Mr. Arif Saleem, ASI alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 22.12.2015 before S.B.


Chairman

22.12.2015

Appellant in person and Mr. Arif Saleem, ASI alongwith Assistant AG for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 5.4.2016.


Chairman

05.04.2016

Counsel for the appellant and Mr. Arif Saleem, ASI alongwith Asstt: AG for respondents present. Counsel for the appellant submitted that he does not want to file rejoinder. To come up for arguments on 19.07.2016.


Member

3.

30.04.2015


Counsel for the appellant present. Learned counsel for the appellant seeks adjournment. Adjourned to 13.05.2015 for preliminary hearing before S.B.


Chairman

4.

13.05.2015

Junior to counsel for the appellant present and seeks adjournment. Adjourned to 27.05.2015 for preliminary hearing before S.B.



Chairman

5

27.05.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when applied for medical leave which was sanctioned w.e.f 2.6.2013 to 11.7.2013. That vide order dated 23.4.2014, the appellant was removed from service on the ground of wilful absence which order was communicated to the appellant on 20.5.2014 regarding which he preferred departmental appeal on the same date i.e 20.5.2014 which was not responded. That the appellant was given assurance of reinstatement hence the filling of appeal was delayed which was filed on 24.4.2015. Regarding delay application for condonation of delay has been preferred.

Appellant Deposited
Security & Process Fee



That the appellant was performing his duty and the impugned order removal is against facts and law.



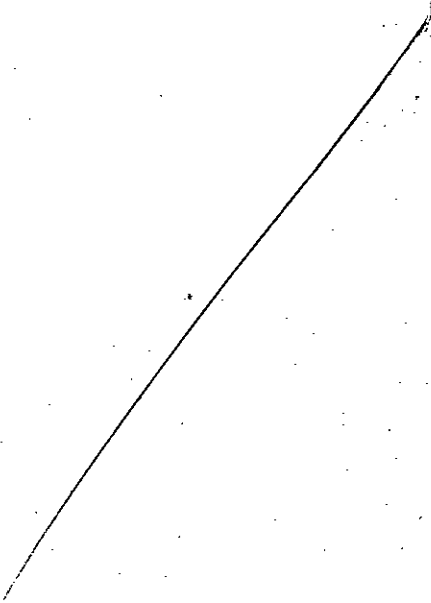
Points urged need consideration. Admit, subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 24.8.2015 before S.B. Notice of application for condonation of delay be also issued for the date fixed.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 368/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.04.2015	<p>The appeal of Mr. Muhammad Asif Khan presented today by Mr. Muhammad Arif Jan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	22-4-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>30-4-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR

Service Appeal No.....368...../2015

Muhammad Asif Khan.....Appellant

VERSUS

District Police Officer Kohat & others.....Respondents

INDEX

S.No	Description of Documents	Annex	Pages
1.	Grounds of service appeal		1-4
2.	Affidavit		5-7
3.	Petition for condonation of delay		6-7
4.	Addresses of parties		8
5.	Copy of Medical certificate and prescription	A	9-10
6.	Copies of applications	B	11-12
7.	Copy of order dated 23-04-2014 + Appeal	C & C/1	13-15
8.	Copy of salary slip	D	16
9.	Wakalatnama		17

Appellant

Through


Muhammad Arif Jan

Advocate Peshawar

BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR

Appeal no. 366/2015

Muhammad Asif Khan No-1250 Ex-Constable Police S/o Jamil Khan R/o
Qamar P.O Chorangi Tehsil and District Kohat..... **Appellant**

VERSUS

1. District Police Officer Kohat
2. Deputy Inspector General of Police Kohat Region Kohat.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar

**J.W.F. Provincial
Service Tribunal**
Diary No. 417
Date 24-4-2015

.....**Respondents**

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED
23-04-2014 PASSED BY RESPONDENT NO.1**

Prayer in Appeal:

On acceptance of the instant service appeal, the impugned Order dated 23.04.2014 passed by respondent No.1 may graciously be set aside and the appellant may kindly be restored /re-instate in service with all back benefits.

Any other remedy which deems fit by his Hon'ble Tribunal in the interest of justice, may also be granted in favor of appellant.

Respectfully Sheweth;

1. That the appellant was appointed as Constable No.1250 on 26-07-2007 in Police Force, Police Department Khyber Pakhtunkhwa and was posted at District Kohat.

hoo
24/4/15

2

2. That the appellant performed his duties to the entire satisfaction of his superiors and there is/was no complaint or inquiry pending against him.
3. That the appellant becomes ill and was advised/ recommended complete bed rest by his doctor from 21-06-2013 to 11-07-2013. (Copy of Medical certificate and prescription are attached as Annex-A).
4. That the appellant informed the authorities concerned in respect of his Medical Leave and also applied for further leave through written applications on different dates. (Copies of application are attached as Annex-B).
5. That the appellant join his duties later on but due to continuous illness and treatment he attend the office of DSP HQ where He was verbally allowed by the then DSP HQ for further complete bed rest.
6. That the appellant was stunned, when it comes to his knowledge on his own inquiry on 20-05-2014 that he has been removed from service vide letter/order dated 23-4-2014. (Copy of order dated 23/04/2014 is attached as annex C)
7. That on the same day the appellant filed departmental appeal before respondent No.2 where no action what so ever been taken till date hence the present appeal on the following amongst other grounds.
(Copy of appeal is attached as Annex C/1)

GROUNDS

- A. That the acts, commissions and omissions of respondent No.1 & 2 (here in after impugned) are patently illegal, un-lawful, without lawful authority, of no legal effect hence having no value in the eyes of law thus be set aside and the appellant may be restored/reinstated in his service with back benefits.

3

- B. That astonishingly the appellant was present till February, 2014 and resultantly he was receiving monthly salaries on regular basis and the respondent No.1 shown him absent since 21/06/2013, which is totally illegal and beyond the facts and circumstances. (Copy of salary slip is attached as annex D)
- C. That no proper departmental enquiry what so ever be conducted in proper manner against the appellant, moreover the appellant was also kept in dark although he was present on duty and his presence on duty was will within the knowledge of the then authorities/officers concerned.
- D. That the respondent No.1 & 2 are badly failed to follow the existing policies, rules and regulations.
- E. That surprisingly the respondent No.1 knowing the facts of the illness/ medical certificates of the appellant but even then he pass the harsh punishment of removal from service and this act of the respondents is a clear violation of natural justice, hence needs consideration of this Hon'ble Tribunal.
- F. That the respondents No.1 & 2 also ignored the volume of service of the appellant while awarding the major penalty.
- G. That there is no livelihood of the appellant and he is the only bread winner of his whole family.
- H. That the impugned order is very harsh and do not commensurate with the facts and law and other circumstances of the case.

4

I. That any other ground which has not been mentioned may also be permitted to raise at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, the impugned Order dated 23.04.2014 passed by respondent No.1 may graciously be set aside and the appellant may kindly be restored /re-instate in service with all back benefits.

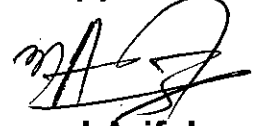
Any other remedy which deems fit by his Hon'ble Tribunal in the interest of justice, may also be granted in fever of appellant.

Dated 24-4-2015

Through



Appellant



Muhammad Arif Jan

Advocate Peshawar

5

**BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No...../2015

Muhammad Asif Khan.....**Appellant**

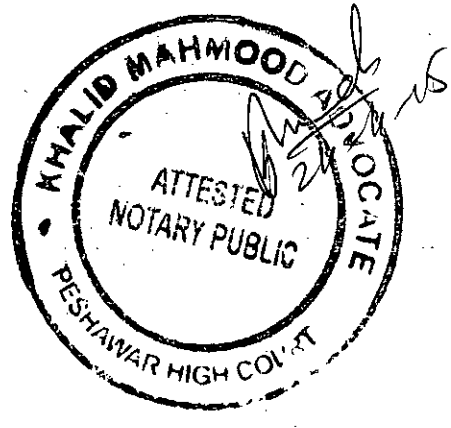
VERSUS

District Police Officer Kohat & others.....**Respondents**

AFFIDAVIT

I Muhammad Asif Khan No-1250 Ex-Constable Police S/o Jamil Khan R/o Qamar P.O Chorangi Tehsil and District Kohat do hereby solemnly affirm and declares on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT



6

**BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No...../2015

Muhammad Asif Khan.....Appellant/ Petitioner

VERSUS

District Police Officer Kohat & others.....Respondents

APPLICATION FOR CONDONATION OF DELAY IF ANY

Respectfully Sheweth,

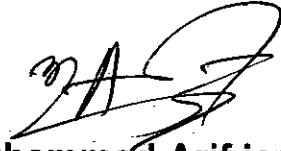
1. That this application has been filed before this Hon'ble tribunal along with the enclosed appeal, where in no date of hearing has been fixed yet.
2. That the delay in filing the appeal is not intentionally but due to the reason of the delay tactics by the respondents of assurance of my reinstatement in service but of no vain moreover my departmental appeal is still pending before the respondent No-2.
3. That the valuable rights of the appellant / petitioner are involved hence the present petition.

It is, therefore, most humbly pray that the petition may kindly be allowed and the delay if any may graciously be condoned in the best interest of justice.

(8) (7)

Appellant / Petitioner

Through



Muhammad Arif Jan

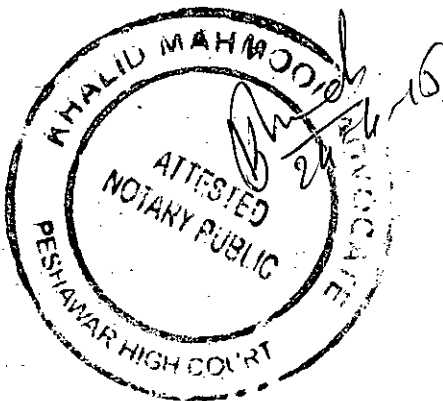
Advocate, Peshawar

AFFIDAVIT

I Muhammad Asif Khan No-1250 Ex-Constable Police S/o Jamil Khan R/o Qamar P.O Chorangi Tehsil and District Kohat do hereby solemnly affirm and declares on oath that the contents of the Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT





**BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No...../2015

Muhammad Asif Khan.....**Appellant**

VERSUS

District Police Officer Kohat & others.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT


Muhammad Asif Khan No-1250 Ex-Constable Police S/o Jamil Khan R/o
Qamar P.O Chorangi Tehsil and District Kohat

RESPONDENTS

1. District Police Officer Kohat
2. Deputy Inspector General of Police Kohat Region Kohat.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar

Through

Appellant


Muhammad Arif Jan
Advocates Peshawar

9

Sent To:

OUT DOOR PATIENT TICKET

DHS - 02 (F)

Amma A

District 105

CRP No: 9341

Facility Name _____

Name: Ujeel Age: _____ Sex: m

Father's / Husband's Name: Ujeel

Monthly OPD Serial No.: _____

Provisional Diagnosis: Back pain

21/6/13

Date

Clinical Findings / Investigation/ Treatment/ Referral/Test Findings

X-rays, L spine
AP view

MS. Terbutaline
171

MS. Cytopam - 754
181

Rest - 03, 1 week

P2
Casualty Medical
Officer
DHQ Hospital KDA
Kohat.

Attested
[Signature]

10

DISTRICT HEADQUARTER HOSPITAL KDA KOHAT

MEDICAL LEAVE CERTIFICATE

Signature of the Patient

Asif Khan

It is to certify that *Asif Khan*

Designation *Constable*

Department *Police*

whose signature is given above is

suffering from *Brockach*

and I advised/recommended complete bed rest

(3) weeks

for *3* days, w.e.f *21-6-2013* to *11-7-2013* as

necessary for the

recovery and restoration of his/her health.

NOT FOR MLC PURPOSE

Adhered
[Signature]

[Signature]
Medical Officer
DHQ Hospital KDA
Casualty Medical
Officer
DHQ Hospital KDA
Kohat.

خدمت خداداد ڈسٹرکٹ یولیس آفیسر ایف اے

جناب عالی!

نہایت ادب و احترام کے ساتھ گزارش کی جاتی ہے

کہ بدزہ تا حال بیچاری سٹین ہسپتال ہونا اور دیر علاج ہونے

سائل کو فراہم کردہ میڈیکل لیو جہ آگے 13-6-21 سے

13-7-11 تک بھی میں سے 3 دن باقی ہے لیکن سائل مکمل

صحت یاب نہ ہونگا۔

لہذا استدعا ہے کہ سائل کو مزید 2 دن کی چھٹی

عنائت فرماتے تو عین گزارش ہوگی

الحارثی

Amr B'

محمد آصف

سیاہی = 1250

موضوع: 13-7-8

Attested

[Signature]

(12)

Amr. 'B'

خدمت جناب ڈسٹرن پولیس آفیسر کوپاٹ

جناب عالی!

نباشت ہو آردبانہ گزارش ہے کہ سائل تاحال بیماری میں مبتلا ہے اور ڈیوٹی کرنے سے قاصر ہے۔

سائل اپنی بیماری سے متعلق جناب ڈی ایس ڈی ضلع کوپاٹ کو بھی بتا چکا ہوں جنہوں نے میری بیماری کو دیکھ کر زیادتی طور پر آمادگی ظاہر کی ہے۔

لہذا آپ حضور بھی میری بیماری کو مدنظر رکھ کر (30.12.2014) عیادت فرمادیں تو عین نوازش ہوگی۔

العارض

محمد عارف

مورخہ

تاریخ: 12/50

4-3-2014

پولیس لائن کوپاٹ

Attest

[Signature]

13

Annex 'C'

ORDER


This order is passed on the departmental enquiry against Constable Muhammad Asif No.1250 of this district Police under Police Rules 1975.

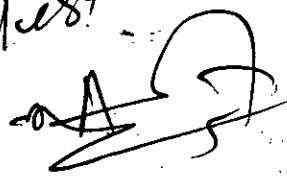
Brief facts of the departmental enquiry are that he has absented himself from official duty vide DD No.26 dated 21.06.2013 till to date without any leave or permission from the competent authority.

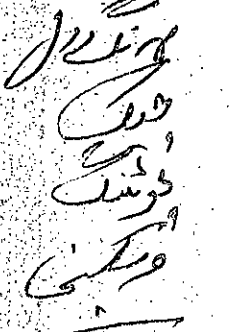
He was served with charge sheet/summary of allegations on his home address. Mr. Lal Farid Khan DSP City, Kohat was appointed as Enquiry Officer to proceed against him departmentally. The enquiry officer has submitted his findings and found him guilty of the charges leveled against him and recommended for punishment.

In-spite of this he was served with Final Show Cause Notice on his home address but his reply is still awaited therefore, the undersigned reached to the conclusion that the defaulter official not taking interest in the discharge of government duties therefore, he is awarded a major punishment of Removed from service under Police Rules 1975 from the date of his absence.

OB No. 531
Date 23-04 /2014


DISTRICT POLICE OFFICER,
KOHAT

Attested


24/4/14


خدمت صاحب ڈپٹی انسپکٹر جنرل آف پولیس (DIA) کوٹریجن

صاحب عالی!

کنواں ۱ اپریل کو خلاف مقدمہ نمبر 2014-4-23 حد تک مجھے
کوٹری سے درخواست کیا گیا ہے۔

صاحب عالی! سائل حسب ذیل عرض رسال ہے۔

۱۔ پدم ایڈوانٹ سہ ماہی میں پولیس ریفرنس میں بطور سیای
مہر کی 1250 روپے کی رقم بنیاد ایمانزاری و دیانتداری سے اپنے
خزانہ کی بددیانتی شکایات افسران بالا آؤٹ کسٹ سرانجام دتا گیا۔

۲۔ پدم ایڈوانٹ اچانک مہر کی رقم کی بیماری میں مبتلا ہوا جبکہ
ڈاکٹر مشورے کے مطابق 2013-7-11 تک ستر دم دائم علاج
دیا (ڈاکٹر کی نسخہ و سرفیکٹ لف جڑا ہے)

۳۔ پدم ایڈوانٹ نے اپنے بیماری کے متعلق افسران بالا کو باقاعدہ
طوریہ اطلاع رکھا لہذا اگر کارگو سے مختلف درخواستیں مہر کی توسیع
کیے بغیر بھجوا رہا ہے درخواستیں لف ہیں)

۴۔ پدم ایڈوانٹ نے بدوران ذہنیوں تکلیف جسموں کے صاحب
DSP پتہ کوٹری کو بھی اپنے بیماری سے اطلاع کی جنہوں نے زماں
طوریہ صحیح لے لے آمادگی تمام کی لہذا اس کے ساتھ ساتھ
من ایڈوانٹ نے درخواست مہر کی جسمیں لیتے صاحب

5
DPD صاحب کو بجا خواہ گزارا اکتی نتیجتاً حق نہیں سکتا۔

5۔ کہ من ایڈوانٹ کو اس وقت اسٹینڈن سپرائز کی سٹیٹس پر
اپنے جو حصے و معلومات لینے پر تیار تھا کہ اسکو بڑھایا آرڈر
نمبر 23-4-2014 نوٹری سے برخاست کیا جا سکے، جسکے آج
میں نے دفتر متعلق سے آرڈر 23-4-2014 کی کاپی خود سار
اپنے عزیزا کے ساتھ لے کر تامل۔

6۔ کہ آرڈر نمبر 23-4-2014 سراسر غلط، بے بنیاد، غیر قانونی
خلاف حقائق ہے کہ درحقیقت من ایڈوانٹ تو مزکورہ دوران
غیر قانونی میں ڈیولپ میں موجود رہا مول کہ باقاعدہ طور پر تنخواہ
میں بننا چاہتے تھے صاحب DPD ملک نے نسبت حلیہ بازی میں
میرے خلاف دیگر طرفہ ماروا ان عمل میں لاکر مجھے گھسے دماغ
کا موقع نہیں رہا۔ (آرڈر نمبر 23-4-2014 لے لے)

7۔ کہ میرے خلاف بے غیر قانونی تلافی پورس کر کے مجھے ڈی او صاحب نے
بندہ سنا ہے جو کہ مجھے جلد قانون حقوق سے محروم رہا۔

لہذا استدعا ہے کہ بندہ عد آرڈر نمبر 23-4-2014 کو
کالعدم قرار دے کر مجھے نوٹری پر دوبارہ کاپی کھانچ
لے جائیے، واجبات کے احکامات صادر فرمائے جان۔

محمد اعجاز
20-5-2014
محمد اعجاز

سی پی 1250

محمد اعجاز
5

Accounts Office Kohat
PAYROLL REGISTER
For the month of January, 2014

Page : 325
Date : 29.01.2014

(16)

Amma 'D'

PAYMENTS		DEDUCTIONS		LOAN/FUND	PRINCIPAL	REPAID	BALANCE
AMOUNT	AMOUNT	AMOUNT	AMOUNT				
Basic Pay	4,940.00	3005 EPF Subscription - Rs	465.00-				35,194.00
House Rent Allowance	1,002.00	3511 Adm Group Insurance	7.00-				
Convey Allowance 20	1,840.00	3604 Group Insurance	67.00-				
Medical Allowance	1,000.00						
Ration Allowance	681.00						
Washing Allowance	100.00						
Constabulary R Allow	300.00						
Risk Allowance (Poli	5,010.00						
Special Incentive Al	775.00						
Adhoc Relief Allow 2	573.00						
Adhoc Relief Allow 1	1,392.00						
15% Adhoc Relief All	1,044.00						
PAYMENTS	20,677.00	DEDUCTIONS	539.00-		NET PAY	20,138.00	31.01.2014
Code:		Payment through DDB				31.01.2014	
						Accnt. No:	

PAYMENTS		DEDUCTIONS		LOAN/FUND	PRINCIPAL	REPAID	BALANCE
AMOUNT	AMOUNT	AMOUNT	AMOUNT				
Basic Pay	6,750.00	3005 EPF Subscription - Rs	290.00-				30,886.00
House Rent Allowance	1,002.00	3511 Adm Group Insurance	7.00-				
Convey Allowance 20	1,840.00	3604 Group Insurance	67.00-				
Medical Allowance	1,000.00						
Ration Allowance	681.00						
Washing Allowance	100.00						
Constabulary R Allow	300.00						
Risk Allowance (Poli	5,010.00						
Special Incentive Al	775.00						
Adhoc Relief Allow 2	573.00						
Adhoc Relief Allow 1	1,392.00						
15% Adhoc Relief All	1,044.00						
PAYMENTS	20,677.00	DEDUCTIONS	364.00-		NET PAY	20,313.00	31.01.2014
Code:		Payment through DDB				31.01.2014	
						Accnt. No:	

PAYMENTS		DEDUCTIONS		LOAN/FUND	PRINCIPAL	REPAID	BALANCE
AMOUNT	AMOUNT	AMOUNT	AMOUNT				
Basic Pay	6,700.00	3005 EPF Subscription - Rs	465.00-				29,305.00
House Rent Allowance	1,002.00	3511 Adm Group Insurance	7.00-				
Convey Allowance 20	1,840.00	3604 Group Insurance	67.00-				
Medical Allowance	1,000.00						
Ration Allowance	681.00						
Washing Allowance	100.00						
Constabulary R Allow	300.00						
Risk Allowance (Poli	5,010.00						
Special Incentive Al	775.00						
Adhoc Relief Allow 2	549.00						
Adhoc Relief Allow 1	1,340.00						
15% Adhoc Relief All	1,005.00						
PAYMENTS	20,307.00	DEDUCTIONS	532.00-		NET PAY	19,763.00	31.01.2014
Code: 210121	KOHAT CANTT	United Bank Limited	KOHAT CANTT			31.01.2014	
						Accnt. No: 5152-8	

PAYMENTS		DEDUCTIONS		LOAN/FUND	PRINCIPAL	REPAID	BALANCE
AMOUNT	AMOUNT	AMOUNT	AMOUNT				
Basic Pay	6,700.00	3005 EPF Subscription - Rs	465.00-				29,305.00
House Rent Allowance	1,002.00	3511 Adm Group Insurance	7.00-				
Convey Allowance 20	1,840.00	3604 Group Insurance	67.00-				
Medical Allowance	1,000.00						
Ration Allowance	681.00						
Washing Allowance	100.00						
Constabulary R Allow	300.00						
Risk Allowance (Poli	5,010.00						
Special Incentive Al	775.00						
Adhoc Relief Allow 2	549.00						
Adhoc Relief Allow 1	1,340.00						
15% Adhoc Relief All	1,005.00						
PAYMENTS	20,307.00	DEDUCTIONS	532.00-		NET PAY	19,763.00	31.01.2014
Code: 210121	KOHAT CANTT	United Bank Limited	KOHAT CANTT			31.01.2014	
						Accnt. No: 5152-8	

Attested
[Signature]

WAKALATNAMA

17

IN The Honble Khyber Pakhtunkhwa Service Tribunal

M. Arif Khan

Peshawar

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

DPO (Wahat Zalka)

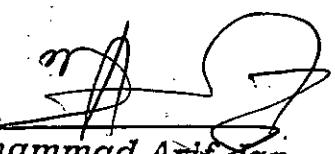
(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case Inv Appeal 15

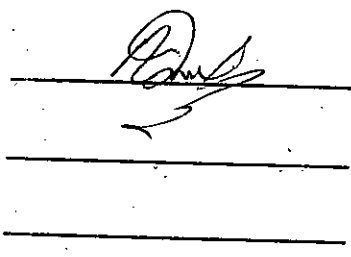
I/we, Arif Khan do hereby appoint and constitute Muhammad Arif Jan Advocate High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S



Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213



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

Service appeal No. 368/2015

Muhammad Asif Khan Ex-Constable No. 1250 Appellant.

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa & others Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary objections:-

1. That the appeal is not maintainable in the present form.
2. That the appellant has got no cause of action.
3. That the appellant has not come to this Hon: Tribunal with clean hands.
4. That the appeal is badly time barred.
5. That the appeal is bad for misjoinder of unnecessary parties and non-joinder of necessary parties.

Reply on Facts:-

1. Pertains to record. The appellant was enlisted as constable vide OB No. 621 dated 06.08.2007.
2. Pertains to record. However, the record contains adverse entries. Copies Annexure "A".
3. Incorrect. The appellant had proceeded on 15 days leave vide DD No. 4 dated 06.06.2013 and failed to report his arrival for duty, therefore, was reported absent vide DD No. 26 dated 21.06.2013. Copy Annexure "B".
4. Incorrect. The charge sheet was served upon him but he failed to submit any reply. Copy annexure "C".
5. Incorrect. The appellant did not join the enquiry. The Final Show Cause notice was served upon him at home address but he failed to submit any reply and remained absent till he was removed from service vide order bearing OB No. 531 dated 23.04.2014. Copy of Final Show Cause Notice, finding report and order of Removal from Service are annexure D, E, F respectively.
6. Incorrect. The appellant had received charge sheet and final show cause notice alongwith finding report and was well aware of an enquiry proceedings but intentionally failed to join the enquiry.
7. Incorrect. The appellant has applied for copy of impugned order on 12.08.2014, therefore no question of appeal on 20.05.2014. The prayer of service appeal is also silent about departmental appeal. The instant appeal is also badly time barred. The impugned order of Removal from Service was passed on 23.04.2014 whereas instant service appeal lodged on 24.04.2015.

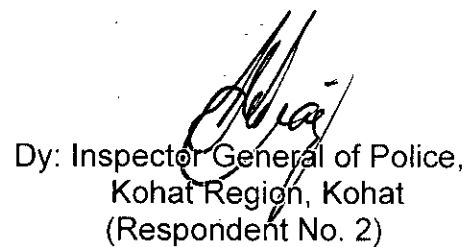
Grounds:-

- A. Incorrect. All the proceedings were held in accordance with law and all codal formalities fulfilled.
- B. Incorrect. The charge sheet was issued vide No. 417-18/PA dated 23.01.2014 and served upon him on 10.02.2014 whereas he was reported absent vide DD No. 26 dated 21.06.2013.
- C. Incorrect. The appellant remained absent till impugned order of removal from service. He has received charge sheet and final show cause notice but failed to submit any reply.
The para is also self-contradictory. The appellant on the one hand alleges his illness and bed rest and on the other hand claim his presence on duty.
- D. Incorrect. All the proceedings were held in accordance with law and rules.
- E. Incorrect. The appellant has neither submitted any reply to charge sheet nor to the Final Show Cause Notice and remained absent till Removal from Service vide impugned order.
- F. The appellant during short period of his service earned 03 bad entries and no good entry. He also proved himself to be a habitual absentee.
- G. The appellant is responsible for his own conduct.
- H. Incorrect. The appellant deserved the punishment as he received the charge sheet and final show cause notice but failed to submit any reply.
- I. The Respondents also seek permission to raise additional grounds during arguments.

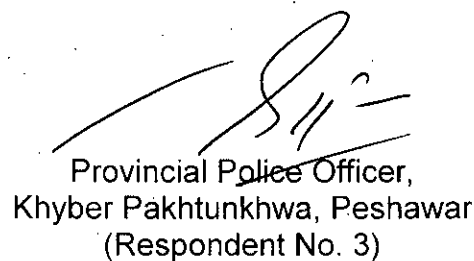
In view of above, it is humbly prayed that on acceptance of parawise comments, the instant appeal may kindly be dismissed being meritless and badly time barred.



District Police Officer,
Kohat
(Respondent No. 1)



Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)

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

Service appeal No. 368/2015.

Muhammad Asif Khan
Ex-Constable No. 1250

..... Appellant.

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa & others

..... Respondents.

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Court.



District Police Officer,
Kohat
(Respondent No. 1)



Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)

Departmental Enquiry Against Constable Habib Ullah No. 234.

FINDING:

1. This is a departmental inquiry which was initiated against constable Habib Ullah No. 234 under Police Disciplinary Rules 1975 on account of his involvement in case FIR No. 24 u/s 9 C CNSA dated 11.01.2014 PS City.
2. On the basis of his involvement in the said case, he was issued charge sheet with summary of allegation vide office endorsement No. 577-78/PA dated 29.01.2014 and I was appointed as inquiry officer to conduct proper inquiry in the matter on the basis of the said allegations.
3. On receipt of departmental inquiry papers, the said official was summoned in this office and on his appearance, charge sheet with the summary of allegations was delivered to him on 04.02.2014.
4. After submission of reply to the charge sheet, the following witnesses were summoned and examined.
 - i. Muhammad Iqbal SHO PS City
 - ii. Riaz Hussain ASI PS City presently PS Billitang
 - iii. Muhammad Riaz IHC City Police Check Post.
 - iv. Gul Razeem SI/I.O.
5. Muhammad Iqbal SHO has recovered "Charas Garda" weighing 1200 grams from the possession of the accused/the present defaulter official at the check post when he was coming on motorcycle from Hangu side in the presence of ASI Riaz Hussain and IHC Muhammad Riaz. After his arrest the said case was registered against him in the PS city. Investigation of the case was conducted by Gul Razim SI. All the above mentioned witnesses deposed against the present defaulter official regarding his involvement in the said case and recovery of the contraband charas weighing 1200 grams from his possession. Their statements were recorded in the presence of the said defaulter official. He was afforded full opportunity to cross examine them but he did not put any question to the witnesses regarding the recovery of Charas from his possession.
6. According to case FIR No. 24 dated 11.01.2014 u/s 9 C-CNSA PS City, Charas garda weighing 1200 grams has been recovered from direct possession of present defaulter official by the said SHO.
7. The defaulter official in his reply to the charge sheet as well as statement recorded during the course of inquiry has taken the plea that charas was not recovered from his possession rather it was planted against him. In this regard he did not produce any witness in his support to show that it was a fabricated case. It is pertinent to note that the police officer cannot plant such huge quantity of charas against any person particularly a police official. His this plea is not based on facts.
8. It is worth mentioning here that during the course of inquiry I came to know that previously once he was intercepted with charas but due to

ORDER

This order is passed on the departmental enquiry against Constable Muhammad Asif No.1250 of this district Police under Police Rules 1975.

Brief facts of the departmental enquiry are that he has absented himself from official duty vide DD No.26 dated 21.06.2013 till to date without any leave or permission from the competent authority.

He was served with charge sheet/summary of allegations on his home address. Mr. Lal Farid Khan DSP City, Kohat was appointed as Enquiry Officer to proceed against him departmentally. The enquiry officer has submitted his findings and found him guilty of the charges leveled against him and recommended for punishment.

In-spite of this he was served with Final Show Cause Notice on his home address but his reply is still awaited therefore, the undersigned reached to the conclusion that the defaulter official not taking interest in the discharge of government duties therefore, he is awarded a major punishment of Removed from service under Police Rules 1975 from the date of his absence.

OB No. 531
Date 23-04 /2014


DISTRICT POLICE OFFICER,
KOHAT

میرزا محمد

نمبر 26

روزنامہ 21/6/13

قائم نمبر:

26 = میرزا محمد علی خان - 1191 - 21/6/13 = 18.20 (18.20)

پہلے نمبر 125 = 4 روزانہ 6/13 = 15 (15)

پہلے نمبر جن کی رقم حاصل ہوئی۔ باقی اشتہار کیا گیا مگر نہ آیا۔

جن کی رقم پہلے ہی حاصل ہوئی۔ درج روزنامہ پیر بجائی ہے اور کوئی رقم

میں ارسال ہوئی۔

میرزا محمد

Handwritten signature and date 02/4/14

Sri

Forwarded to

540-01
03/4/14

Sir

Forwarded

SDPO Suddar
Bohat

03-4-14

-1-
CHARGE SHEET.

I MUHAMMAD SALEEM, DISTRICT POLICE OFFICER
KOHAT as competent authority, hereby charge you Constable Muham
Asif P 1250 Under Disciplinary Police Rules, 1975 you have comm.
the following legal act.

You had absented yourself from official duty vide DE No.
26 dated 21.06.2013 till to date without any leave or
permission from the competent authority.

2. By reasons of the above, you appear to be guilty of
misconduct as defined in Rule 2 (iii) of Police Disciplinary Rules, 1975 and
have rendered yourself liable to all or any of the penalties explained in rule 04
of the said rules.

3. You are, therefore, required to submit your written
statement within 07 days of the receipt of this Charge Sheet to the enquiry
officer.

You are to appear in defense if any should reach the Enquiry
Officer within the specified period, failing which it shall be presumed that you
have no defence to put forward in that case ex-parte action shall be taken
against you.

4. A statement of allegation is enclosed.


**DISTRICT POLICE OFFICER,
KOHAT**