

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;">13.12.2018</p>		<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 103/2015</p> <p style="text-align: center;">Date of Institution 29.01.2015 Date of Decision 13.12.2018</p> <p>Muhammad Raza Ex-Constable No.1193 Police Line Mardan District Mardan.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <p>1. The Deputy Inspector General of Police, Mardan Region-I District Mardan. 2. The District Police Officer District Mardan.</p> <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member (J) Mr. Muhammad Amin Kundi -----Member (J)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order dated 18.01.2010 whereby the he was discharged from service on the ground of absence from duty from 13.05.2009 till the issuance of the original impugned order. The appellant has also challenged the order dated 29.12.2014 through which the departmental appeal preferred</p>

by the appellant was rejected/filed also for the reason that the same was badly time barred.

3. Learned counsel for the appellant argued that the impugned order was issued without observance of codal formalities and legal requirements. Further argued that the appellant has not been treated in accordance with law. Further argued that the appellant became seriously ill hence could not attend to his duties; that the appellant submitted application for medical leave but no reply was received on his application. Further argued that the impugned order is illegal, void and against the norms of natural justice.

4. As against that learned Additional Advocate General argued that the appellant remained willfully absent from duty without permission and hence the impugned order was rightly issued. Further argued that the departmental appeal of the appellant was badly time barred having been filed after the lapse of more than four (04) years of the original impugned order as such the present service appeal is not competent.

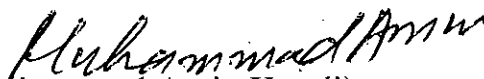
5. Arguments heard. File perused.


6. There is no dispute that the appellant remained absent from duty for sufficient period without permission. The original impugned order was issued on 18.01.2010 and perusal of the order of departmental appellate authority would show that the appellate order was conveyed to the DPO Mardan with respect to his office memo No.1016/LB dated 08.12.2014, which fact substantiate the plea of the learned AAG that the appellant approached the appellate authority

after a lapse of more than four (04) years of the issuance of the original impugned order and therefore the departmental appeal filed by the appellant was also rejected being badly time barred.

7. During the pendency of the present service appeal the IBMS travel history report of the appellant was also requisitioned. Perusal of the same shows that there is passport travel history in the name of appellant and the date of his departure is 22 May 2009 from the Peshawar International Airport while the date of his Arrival is 22 October 2014.

8. In the light of above, the appellant remained unable to seek indulgence of this Tribunal. Consequently the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
13.12.2018

13.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 30.11.2018 before D.B.


Reader

30.11.2018

Learned Additional Advocate General present. Due to rush of work, further proceedings in the present case could not be conducted. Adjourn. To come up for further proceedings on 13.12.2018 before D.B.


Member

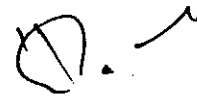

Member

13.12.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Vide separate judgment of today of this Tribunal placed on file, the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Amin Kundi)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
13.12.2018

09.10.2018

Appellant in person and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mr. Atta Ur Rehman S.I legal for the respondent present. Representative of the respondents again requested for time to furnish IBMS Travel History of the appellant. Adjourned. To come up for further proceedings/order on 12.10.2018 before D.B.


Member


Member

12.10.2018

Appellant in person and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mr. Atta Ur Rehman S.I legal for the respondents present. Representative of the respondents again requested for time to furnish the IBMS Travel History of the appellant. Adjourn. To come up for further proceedings/order on 24.10.2018 before D.B.


Member


Member

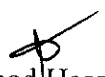
24.10.2018

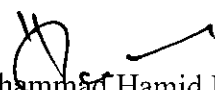
Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. Therefore, the case is adjourned. To come up for the same on 13.11.2018.


Reader

17.07.2018

Junior to counsel for the appellant and Mr. Sardar Shaukat Hayat learned Additional Advocate General alongwith Mr. Atta Ur Rehman S.I. legal for the respondents present. Junior to counsel for the appellant seeks adjournment on as senior counsel is not in attendance. Adjourned. To come up for arguments on 06.09.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

06.09.2018

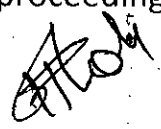
Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mr. Atta Ur Rehman S.I. legal for the respondents present. Arguments heard. To come up for order on 24.09.2018 before D.B. Representative of the respondents is directed to furnish IBM Travel History of the appellant on the next date already fixed.

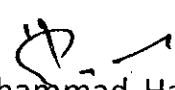

(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

24.09.2018

Appellant in person and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Attaur Rehman S.I. legal for the respondent present. Representative of the respondents seeks time to furnish JBMS Travel History of the appellant. Adjourned. To come up for ~~order~~/further proceedings/order on 09.10.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

103/2015

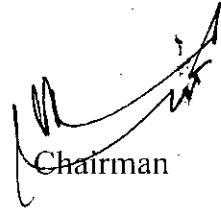
02.03.2018

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Attaur Rahman, S.I (Legal) for the respondents present. Arguments already heard. Record perused.


Vide our detailed judgment of today in connected appeal No. 562/2016 entitled "Rahim-ud-Din Vs. Inspector General of Police and others", this appeal be placed before the D.B for arguments on 09.05.2018.



(M. Hamid Mughal)
Member



Chairman



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member



(Gul Zeb Khan)
Member

09.05.2018

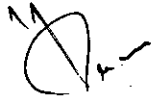
Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 17.07.2018.



Reatter

06.02.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Attaur Rahman, S.I (Legal) for the respondents present. Arguments could not be heard due to shortage of time. To come up for arguments on 26.02.2018 before the Larger Bench.



(M. Hamid Mughal)
Member



Chairman



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member



(Gul Zeb Khan)
Member

26.02.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney and Mr. Muhammad Jan, Deputy District Attorney alongwith Attaur Rahman, S.I (Legal) for the respondents present. Arguments heard. To come up for order on 2.3.2018 before the Larger Bench.



(M. Hamid Mughal)
Member



Chairman

(M. Amin Khan Kundi)
Member




(Ahmad Hassan)
Member




(Gul Zeb Khan)
Member

0-----13 30.08.2017

Clerk of the counsel for appellant present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Atta ur Rahman, SI (Legal) for the respondents present. Clerk of the counsel for appellant seeks adjournment on the ground that learned counsel for appellant is not available today. Adjourned. To come up for arguments on 4/12/17 before D.B.


(Muhammad Hamid Mughal)
Member (J)

04.12.2017



(Gul Zeb Khan)
Member (E)
Counsel for the appellant and Mr. Ziaullah, DDA and Mr. Atta ur Rehman, SI (Legal) for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.01.2018 before D.B.


Member
(Executive)


Member
(Judicial)

29.01.2018

Learned counsel for the appellant and Mr. Usman Ghani, Learned District Attorney alongwith Atta Ur Rehman S.I for the respondents present. Learned counsel for the appellant contended that the impugned order has been passed with retrospective effect hence the same is void and no limitation runs against the same. On the other hand learned District Attorney stated that learned Chairman of Service Tribunal has already constituted the larger bench vis a vis appeals wherein orders with retrospective effect have been made impugned. Learned D.A requested that the present appeal be also clubbed with other appeals fixed for hearing before larger bench. As such the present service appeal/case file be sent to learned Chairman for appropriate orders.


(Muhammad Amin Kundi)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

12.12.2016

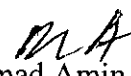
Since 12th December, 2016 has been declared as a public holiday an account of 12th Rabi-ul-awal. Case is adjourned to 18.04.2017 before D.B.


Reader

18.04.2017

Appellant alongwith his counsel present. Mr. Khalid Mehmood, Constable alongwith Mr. Muhammad Jan, Government Pleader for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 02.08.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

2/8/2017

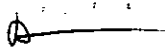
Counsel for the appellant and Mr. Attaullah, SI (Legal) alongwith Mr. Zaiullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournments. To come up for argument on 30/8/2017 before DB.



(GUL ZEB KHAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

21.12.2015


Clerk to counsel for the appellant and Mr. Muhammad Ghani, SI (Legal) alongwith Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for time to file rejoinder. To come up for rejoinder on 23.5.2016.


Member


Member

23.5.2016

Agent to counsel for the appellant and Mr. Muhammad Ghani, SI alongwith Mr. Ziaullah, GP for respondents present. Rejoinder submitted whereof copy handed over to learned GP. To come up for arguments on 30.8.2016.


Member


Member

30.08.2016

Counsel for the appellant and Mr. Muhammad Ghani, SI alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 12.12.2016 before D.B.


Chairman

24.03.2015

Appellant Deposited
Security & Process Fee



Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when vide impugned order dated 18.01.2010 dismissed from service on the ground of wilful absence from duty against which departmental appeal was preferred on 27.01.2010 which was rejected vide order dated 29.12.2014 and hence the present service appeal on 29.01.2015 which is within time from the date of passing of appellate order.

That no enquiry was conducted in the prescribed manners.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 19.06.2015 before S.B.

2002
I
7100 - 5 - MC


Chairman

19.06.2015

Appellant in person and Mr. Shafique Ahmed, Inspector (legal) alongwith Assistant A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 3.9.2015.


Member

03.09.2015




Appellant in person and Mr. Muhammad Ghani, S.I (legal) alongwith Addl: A.G for respondents present. Written statement submitted. The appeal is assigned to D.B for rejoinder and final hearing for 21.12.2015.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 103/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11.02.2015	<p>The appeal of Mr. Muhammad Raza resubmitted today by Mr. Noor Muhammad Khattak 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	23-2-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>24-2-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	24.02.2015	<p>Appellant in person present. Requested for adjournment as daughter of learned counsel for the appellant is sick. Adjourned for preliminary hearing to 26 03.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Muhammad Raza Ex-Constable No. 1193 police line Mardan received to-day i.e. on 29.01.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of impugned order 18.1.2010 is illegible which may be replaced by legible/better one.
- 2- Copy of show cause notice in respect of appellant mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 112 /S.T,

Dt. 29/01/2015

Amir
REGISTRAR
for SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:

Sir,

All objections have been removed,
hence re-submitted today dated 10.2.2015.
That due to the official clerical mistake
the name of the appellant in the show cause
notice has mentioned Zia which may be
read as Muhammad Raza.

Amir
10.2.2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 103 /2015

Mohammad Raza

VS

Police Department

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7.	Impugned order	D	14.
8.	Departmental appeal	E	15.
9.	Rejection order	F	16.
	Vakalat nama	17.

APPELLANT



MOHAMMAD RAZA

THROUGH:



NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 103 /2015

J.W.P. Peshawar
No. 73
29-1-2015

Mr. Muhammad Raza, Ex: Constable No 1193,
Police Line Mardan District Mardan **APPELLANT**

VERSUS

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

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE APPELLATE ORDER DATED 29-12-2014 WHEREBY THE DEPARTMENTAL APPEAL OF APPELLANT HAS BEEN REJECTED BY THE RESPONDENT NO-1 ON NO GOOD GROUNDS AND AGAINST THE ORIGINAL ORDER DATED 18-01-2010 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE WITH RETROSPECTIVE EFFECT

PRAYER:

That on acceptance of this appeal the impugned orders dated 18-01-2010 and 29-12-2014 may very kindly be set aside and the respondents may kindly be directed to re-instate the appellant with all back benefits. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant was enrolled as constable in the respondent Department in the year 2005. That right from the appointment the appellant has served the respondent Department quite, efficiently, and up to the entire satisfaction of his superiors.

[Handwritten signature]
29/1/15

- 2- That appellant while working as constable in the respondent Department have become seriously ill and due to that reason the appellant visited the concerned Doctor for Medical treatment that in response the concerned Doctor advise the appellant for complete bid rest. Copy of the medical prescription is attached as annexure..... **A.**

re-submitted to-day and filed.

[Handwritten signature]
Registrar 11/2/15

- 3- That appellant filed application for medical leave on the advice of the concerned Doctor and on the basis of that medical prescription, but no reply was received on the application of appellant. Copy of the leave application is attached as annexure **B.**
- 4- That on 21-11-2009 a show cause notice was issued to the appellant in which it was alleged that the appellant have absented himself from duty with effect from 13-5-2009 till date. That in response to the said show cause notice the appellant submitted his detailed reply along with medical prescriptions. Copies of the show cause notice is attached as annexure **C.**
- 5- That astonishingly vide impugned order dated 18-01-2010 the respondent No.2 discharged the appellant from service with re-trospective effect i.e. with effect from 13-05-2009. Copies of the impugned order is attached as annexure **D.**
- 6- That feeling aggrieved from the impugned order dated 18/01/2010 the appellant filed Departmental appeal before the respondent No. 1 which was rejected vide order dated 29/12/2014 on no good grounds. Copies of the Departmental appeal and rejection order are attached as annexure **E and F.**
- 7- That appellant feeling aggrieved and having no other remedy filed the instant appeal inter-alia on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 18-01-2010 and appellate order 29-12-2014 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 18-01-2010.

- D- That no final shows cause notice has been issued to the appellant before issuing the impugned order dated 18.1.2010.
- E- That no regular inquiry has been conducted in matter of the appellant which is as per Supreme Court judgments is necessary in cases of punitive actions against the civil servant.
- F- That no chance of personal hearing/defense has been given to the appellant which mandatory under the amended E & d Rules 2011.
- G- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned order dated 18.01.2010.
- H- That the word "Discharged" used by the respondent No.2 in the impugned order dated 18.1.2010 issued against the appellant is no where else in the penalty list of E&D Rules nor in the repealed RSO 2000.
- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT



MUHAMMAD RAZA

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2015

Mohammad Raza

VS

Police Department

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so far.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT


MOHAMMAD RAZA

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

درخواست برائے عطائے صلح

صاحب عالی! کس صفت ذیل عرفیہ رکھنا ہے

1- کہ مسائل فیملی پولیس میں کاتیشن نمبر 1193 تصدیق ہے

2- یہ کہ مسائل کوئی ڈیوٹی ہے مگر حدود کی شہادت ہے اور حال ہی

میں درد مگر شدت اختیار کرے نہ ممانعت علاج معالجہ
کی طرف سے ڈاکٹر سے رجوع کیا۔ جس سے مسائل کو ممکن
آرام کرنے کا مشورہ دیا۔

3- یہ کہ میں مسائل کو جس عیالات مذکورہ بالا ڈیوٹی پر لکھ کر دے
تھام رہا ہوں۔

کہ آپ صاحبان سے استدعا کی جاتی ہے کہ یہ مسائل کو سخت حال
ہونے تک مسائل کو ڈیوٹی دیا سے چھٹی عیالت فرمائے کہ اسکا
صدر فرمائے جائے۔

محمد رضا

ATTESTED

محمد رضا کسٹیشن نمبر 1193 ڈسٹرکٹ پولیس سردار

[Signature]

C-13

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN

304
STB

No. 624 /PA/SCN/R

Date 21-11 /09.

SHOW CAUSE NOTICE

Whereas, you Constable Zia No. 1193, while posted at Police Lines, Mardan remained absent from duty without any leave/permission of the competent authority vide DD report No. 19 dated 13.05.09 till-date.

You are, therefore, found guilty of misconduct as defined in section 2 of the NWFP Removal from Service (Special Powers) ordinance 2000 and as such are liable to action under section 3 of the said ordinance.

Based on the above facts, I am satisfied that no enquiry is needed in this case.

Now, therefore, you Constable Zia No. 1193 is called upon under section 3 of the NWFP Removal from Service (Special Powers) ordinance 2000 to show cause within 15 days of the issuance of this notice as to why one or more penalties including major penalty of dismissal from service should not be imposed upon you.

Take note that if no reply is received within the stipulated time it will be presumed that you have nothing to say in your defense and the case shall be decided ex-parte without any further notice.

(Waqif Khan)
District Police Officer,
Mardan.

Copy to SHO/Takht Bhai, to deliver this notice on defaulter Constable Muhammad Zia s/o Amir Nawaz r/o Fazal Abad T.B.I OR any of his closed family member and the receipt thereof should be returned to this office within three days.

ATTESTED

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

DISCHARGE ORDER

Constable RAZA NO.1193 while posted at Police Lines MEN remained absent from duty without any leave/permission of the competent authority vide DD No. 19 dated 13.5.2009 till date.

In this connection, he was issued a proper show cause notice under NWFP, Removal from Service (Special Power) ordinance 2000 vide this office No.624/PA/SCN/R dated 21.11.2009 and delivered it upon his father Amir Nawas on 24.11.2009 through local Police.

In compliance, he was bound to present his reply within the stipulated time of fifteen days i.e. at least up to 09.12.2009 but neither he submitted his reply nor joined duty till now, indicating negligence, dis-interest in service and disobedience towards senior officers on his part.

Keeping in view the above, I am of the opinion that he is not a willing worker, therefore, I have taken expert action against him by awarding major punishment and constable Zia No. 1193 of Police Lines Mardan is hereby discharged from service with effect from 13.5.2009, in exercise of the power vested in me under NWFP, Removal from service (Special Power) ordinance 2000.

Order announced.

(WAQIF KHAN) PPM, QPM, T.ST
District Police Officer, Mardan

OF NO.165/DT:12.1.2010

NO.375-79/PA DATED MARDAN THE 18.1.2010

Copy forwarded to the all concerned.

ATTESTED



D-14

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

DISCHARGE ORDER

Constable RAZA NO. 1193 while posted at Police Lines MEN remained absent from duty without any leave/permission of the competent authority vide DP NO. 19 dated 13.5.09, till date.

In this connection, he was issued a proper show cause notice, under NWFP, Removal from Service (Special Power) ordinance 2000 vide this office NO. 624/PA/SON/R dated 21.11.09 and delivered it upon his father Amir Nawaz on 24.11.09 through local Police.

In compliance, he was bound to present his reply within the stipulated time of fifteen days i.e. at least upto 09.12.09 but neither he submitted his reply nor joined duty till now, indicating negligence, dis-interest in service and disobedience towards senior officers on his part.

Keeping in view the above, I am of the opinion that he is not a willing worker, therefore, I have taken exparte action against him by awarding major punishment and Constable Zia NO. 1193 of Police Lines Mardan is hereby discharged from service with effect from 13.5.2009. In exercise of the power vested in me under NWFP, Removal from Service (Special Power) ordinance 2000

order announced

DP NO. 165 / DT: 12-1-2010

(Signature)
(WAQIF KHAN) PFM, QPM, T.St
District Police Officer, Mardan

NO. 375-79 /PA dated Mardan, the 18-1-2010
Copy for inf: and necessary action to:-

- 1) The Additional S.P. Mardan
- 2) The D.S.P/HQs: Mardan.
- 3) The Pay Officer (DPO) Mardan
- 4) The Estt: Clerk (DPO) Mardan
- 5) The O.A.S.I (DPO) Mardan with ()enclosures

ATTESTED

(Signature)

محمد قصبہ ڈی ایچ انسپکٹر عدلیہ آف پولیس سربراہی میں
18-1-2010

ضابطہ عالی کے تحت پیش کیا گیا ہے

کہہ سکتے ہیں 2005 کو ایک پولیس میں بھرتی ہوا۔ اور ساتھ سے
تعمیرات میں اپنی ذمہ داری ادا نہ کر کے ساتھ ساتھ کام دی۔

بکہ میں سب کو عدلیہ ڈی ایچ انسپکٹر کی بیماری لائق سوچی جس کی وجہ سے
علاج معالجہ کی غرض سے ساتھ سے چھٹی کے علاج شروع کیا۔ اور
بکہ میں سب دوران علاج اپنی ذمہ داری سے چھٹی نہ رہا۔

بکہ مورخہ 18-1-2010 کے ساتھ ساتھ پولیس میں اپنی فرائض سربراہی میں
جو تہہ میں سب نے جمع کیا ہے اپنی فرائض سربراہی میں ہے۔

گذا آ رہے ہیں سے تہہ سب کی فرائض کے ساتھ ساتھ پولیس میں اپنی فرائض
کے فرائض سے تہہ سب کی فرائض کے ساتھ ساتھ پولیس میں اپنی فرائض

27/01/2010

محمد قصبہ ڈی ایچ انسپکٹر عدلیہ آف پولیس

ATTESTED

محمد قصبہ ڈی ایچ انسپکٹر عدلیہ آف پولیس 1193 عدلیہ

Handwritten signature/initials


ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Muhammad Raza No. 1193 of Mardan District Police against the order of District Police Officer, Mardan wherein he was discharged from service vide District Police Officer, Mardan OB No. 165 dated 12.01.2010.

Brief facts of the case are that he while posted at Police Lines, Mardan remained absent from duty without any leave/permission of the competent authority vide daily diary No. 19 dated 13.05.2009 to the date of dismissal. In this connection he was issued a proper Show Cause Notice and delivered it upon his father Amir Nawas on 24.11.2009 through local Police. In compliance he was bound to present his reply within the stipulated time of fifteen days ie at the least up to 09.12.2009 but neither he submitted his reply nor joined duty which indicating negligence disinterest in service and disobedience towards senior officers on his part, therefore ex-parte action against him and discharged from service 13.05.2009.

I have perused the record and also heard the appellant in Orderly Room held in this office on 24.12.2014, but he failed to justify his absence period and could not produce any cogent reason about his absence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed being badly time barred.

ORDER ANNOUNCED.


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

No. 8562 /ES, Dated Mardan the 29 - 12 - /2014.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 1016/LB dated 08.12.2014. His service record is returned herewith.

(*****)

ATTESTED



VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar
_____ OF 2015

Mohammad Raza (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Department (RESPONDENT)
(DEFENDANT)

I/We Mohammad Raza
Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, 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 cost. 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.

Dated. ____/____/2015

Client

CLIENT

Noor Mohammad Khattak

ACCEPTED

NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

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

Service Appeal No. 103/2015.

Muhammad Raza, (Ex-Constable No. 1193 Mardan District)Appellant.

VERSUS.

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

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

- a. That the appellant has not come to this Honourable Tribunal with clean hands.
- b. That the appellant has got no cause of action.
- c. That the appellant has concealed material facts from this Honourable Tribunal.
- d. That the appellant is stopped by his own conduct, by law to bring the instant appeal.
- e. That the present appeal is bad in its present form, hence, not maintainable and liable to be dismissed.
- f. That the appeal is bad due to non-joinder and mis-joinder of necessary parties.
- g. That the present appeal is badly time-barred.

REPLY ON FACTS:-

- i. Pertains to record, hence, no comments.
- ii. Incorrect. There is properly laid procedure for all official to obtain leave (Casual, medical or otherwise) from the competent authority but, the appellant did not bother even to submit a simple application for leave and deliberately absented himself.
- iii. Incorrect. No such application has been submitted for leave before the competent authority, so, he being member of a disciplined force, has committed misconduct. Besides, the copy of application submitted with appeal by appellant is self-furnished and is not found on his service file. However, his appeal which he submitted before the departmental appellate authority is badly time barred i.e after 4 years of delay (Application copies are attached as Annexure-A&B).
- iv. Pertains to record, hence, no comments.
- v. Correct to the extent of appellants' discharge. His reply to the show cause notice was found unsatisfactory and the appellant was, therefore, punished as such.
- vi. Correct to the extent of his appeal's rejection vide order dated 18.01.2014 by the departmental appellate forum. It is crystal departmental clear from the appellants' service record and even admitted by him in the ongoing para that his appeal was rejected on 18.01.2014. It means that the appellant has preferred departmental appeal after the lapse of 04 years and thereby, violated the limitation laws.
- vii. Incorrect. The appellant is not aggrieved and punished as he deserved.

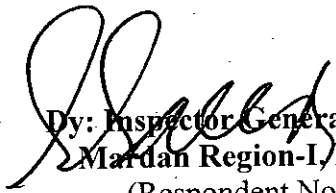
REPLY ON GROUNDS:-


- a. Incorrect. The impugned orders are in accordance with law, facts, norms of natural justice and material an record, hence, liable to be maintained.
- b. Incorrect. The respondents have not violated any law/rules, rather, punished an official who violated the rules by committing misconduct.

- c. Correct, however, in essence appellants' absence was deliberate and so prolonged that covered enough material against him and the competent authority, thus, proceeded against under rule 2(iii) of Police Rules, 1975. (Copy of rule attached as Annexure-C)
- d. Correct, however, there is no provisions of final show cause notice.
- e. Correct, but, it is pertinent to mention here that the appellant soon after his dismissal had moved abroad and left perception of his lack of interest in the service. This can best be presumed from his departmental appeal which he submitted after a prolonged delay of 04 years i.e soon after his arrival to Pakistan.
- f. Incorrect. The appellant was personally heard on 24.12.2014 by the Departmental Appellate/Authority but he could not present cogent reasons in his defence. Further, his case was extremely time barred and was, therefore, filed.
- g. Incorrect and baseless. The respondent department has acted in accordance with rules/law and there is no malafide on her part.
- h. Correct, however, the RSO-2000 has been repealed and the E & D rules does not apply to the Police officials. Police is a disciplined force and is governed by the Police rules and Police order 2002.
- i. The respondent department also seek permission if this Honorable Tribunal to submit further, if any, grounds etc at the time of arguments.

PRAYER:-

It is, therefore, humbly prayed that the appellant has been found guilty for the misconduct he committed. His appeal is baseless and devoid of merit & must be dismissed with costs.


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


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

حکومت پاکستان
وزارت صحت
18-1-2010

ضابطہ نمبر 1
بیمہ سال 2005

بیمہ سال 2005 کو فیملی پولیس میں بھرتی ہوا۔ اور تمام
فیکچرڈا میں اپنی ذہنی بیماری اور بیماری کے ساتھ سرانجام دیا

بیمہ میں شامل اور ال ڈی این کی بیماری اور فیکچرڈا میں
علاج معالجہ کی غرض سے شامل ہوئے اور علاج شروع ہوا
بیمہ میں شامل دوران علاج اپنی ذہنی بیماری سے چھٹی ہوئے

بیمہ سال 2010-1-18
بیمہ سال کو فیکچرڈا نے نوٹری ٹیکال
بیمہ میں شامل نہ ہوئے اور فیکچرڈا نے اپنی فوجات سرانجام دی ہے

گند آ رہے ہیں اور فیکچرڈا نے اپنی فوجات سرانجام دی ہے
بیمہ میں شامل نہ ہوئے اور فیکچرڈا نے اپنی فوجات سرانجام دی ہے

27/1/2010

14/1/2010

ATTESTED

محمد علی بیگ صاحب
1193

جناب عالی۔

مودبانہ گزارش کی جاتی ہے کہ سائل 2005 میں محکمہ پولیس میں بھرتی ہوا تھا۔
سائل اپنی ڈیوٹی نہایت ایمانداری سے سرانجام دے رہا تھا لیکن کچھ گھریلوں مشکلات کی وجہ سے سائل
2010 میں محکمہ پولیس سے برخاست ہوا ہے۔

سائل ایک غریب گھرانے سے تعلق رکھتا ہے اور سائل کا کوئی ذریعہ معاش نہیں ہے۔

بذریعہ درخواست استدعا کی جاتی ہے کہ سائل دوبارہ ملازمت پر بحال کرنے کا حکم صادر
فرما کر مشکور فرمائیں۔ سائل تاخیات دعا گورہیگا۔

EC / D.P.O Mandau.

For Comments please

Muzza
P.O. Mandau
21/11/2014

العارض۔

آپکا فرمان بردار ایکس کنسٹیبل محمد رضا نمبری 1193 مردان ڈسٹرکٹ پولیس۔
Muzza

NO. 7622/ES

Dated 21-11-2014

The Khyber Pakhtunkhwa Police Rules, 1975

(With Amendments-2014)

Contents

1. Short title, commencement and application
2. Definitions
3. Grounds of punishment
4. Punishments
- 4.A -
5. Punishment proceedings
6. Procedure of Departmental Inquiry
7. Powers of Inquiry Officer
8. Rules 5 and 6 not to apply in certain cases
9. Procedure of Inquiry against Officers lent to other Government or authority
10. -
11. Appeal
12. Revision (11-A)
13. -
14. Repeal

Khyber Pakhtunkhwa Police Rules, 1975

In exercise of the powers conferred under section 7 of Police Act 1861, the Government of Khyber Pakhtunkhwa, is pleased to make the following Rules, namely:-

1. Short title, commencement and application:-

- (i) These rules may be called the Police Rules, 1975;
- (ii) They shall come into force at once and shall apply to all Police Officers of and below the rank of Deputy Superintendent of Police.

2. Definitions:-

In these rules, unless the context otherwise requires:-

- (i) 'Accused' means a Police Officer against whom action is taken under these rules;
- (ii) 'Authority' means authority competent to award punishment as per Schedule
- (iii) 'Misconduct' means conduct prejudicial to good order of discipline in the Police Force, or contrary to Government Servants (Conduct) Rules or unbecoming of a Police Officer and a gentleman, any commission or omission which violates any of the provisions of law and rules regulating the function and duty of Police Officer to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any

Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police Officer.

- (iv) 'Punishment' means a punishment which may be imposed under these rules by authority as indicated in Schedule I.

3. Grounds of punishment.-

Where a Police Officer, in the opinion of the authority-

- a) Is inefficient or has ceased to be efficient: or
- b) Is guilty of misconduct; or
- c) Is corrupt or may reasonably be considered corrupt because-
- (i) He is or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources of property disproportionate to his known sources of income; or
- (ii) He has assumed a style of living beyond his ostensible means; or
- (iii) He has a persistent reputation of being corrupt; or
- (d) Is engaged Or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is, therefore, prejudicial to national security, the authority may impose on him one or more punishments.

4. Punishments.-

1. The following are the minor and major punishments, namely:---

(a) Minor punishments-

- (i) Confinement of Constables and Head Constables for 15 days to Quarter Guards;
- (ii) Censure;
- (iii) Forfeiture of approved service up to 2 years;
- (iv) With holding of promotion up to one year;
- (v) Stoppage of increment for a period not exceeding 3 years with or without cumulative effect;

- ❖ (iv) Fine up to Rs15000/- as per schedule-I.

(b) Major punishments-

- (i) Reduction in rank/pay;
- (ii) Compulsory retirement;
- (iii) Removal from service; and
- (iv) Dismissal from service.

2. (a) Removal from service does not but dismissal from service does, disqualify for future employment.

(b) Reversion from an officiating rank is not a punishment.

10

The Director FIA,
Peshawar.

No. 716 /LB, dated Mardan the 17-09 /2018.

Subject: DEPARTURE ARRIVAL VERIFICATION.

Memo:-

It is submitted that the two constables namely Mohammad Raza No. 1193 CNIC No. 16102-2254854-1 and Mohammad Zawar No. 2203 CNIC No. 16101-8980981-1 who have been dismissed from service vide this office OB No. 165 dated 12.01.2010 and OB No. 652 dated 01.03.2013 respectively for their prolong absence from official duty. They have been reported to have been abroad since long.

Their service appeals No. 103/15 and 835/14 are pending in the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar where during arguments the Honorable Judges/members raised question of their being abroad and in this regard issued verbal directions to verify their departure arrival, if any, from all air ports of Pakistan through FIA.

It is therefore, requested that their departure/arrival to Pakistan Via their names and CNIC numbers may please be verified from all air ports so that to decide their service appeals on merit and according to rules/law.

No. 713 /LB,

Copy to the Deputy Inspector General of Police, Mardan Region-I,
Mardan for favour of information, please.


District Police Officer,
Mardan.


District Police Officer,
Mardan.



OFFICE OF THE DEPUTY DIRECTOR
FEDERAL INVESTIGATION AGENCY
IMMIGRATION AIRPORT PESHAWAR
PH: 091-9213372

No. Immigration/441

Dated: 08/10/2018

dept
1360
103/15

To:

The District Police Officer,
Mardan.

order

Travel History

Subject:

DEPARTURE ARRIVAL VERIFICATION

Reference to your office letter No . 716 / LD, dated Mardan the 17.09.2018 on the subject noted above.

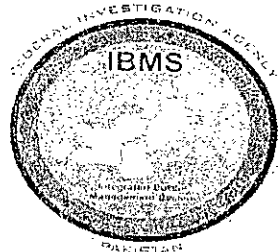
Assistant Director FIA IBMS Peshawar Airport has reported that passport Travel History in the name of Muhammad Raza CNIC No. 16102-2254854-1 PP No. CU9898541 & KH800778 is available whereas Travel History of CNIC No. 16101-8980981-1 in the name of Muhammad Zavar is not available in the record.

Encl:As above.

ASSISTANT DIRECTOR / FIA
IMMIGRATION PESHAWAR

Copy to Director FIA KP, Peshawar with reference to his letter No. FIA/KPK/
Travel History/2018/11476 dated 18.09.2018 for information.

IBMS TRAVEL HISTORY REPORT



Name MUHAMMAD RAZA
Father/Husband Name AMIR NAWAZ KHAN
Personal Number 1610222548541
Birth Date 03-MAR-83
Nationality PK

Document Number	Event Date	Flight No	Entry Status Name	Location Name
CG8898541	12-MAY-09	G9554	departing	Peshawar International Airport
CG8898773	22-OCT-14	G9824	arriving	Peshawar International Airport