

06/02/2023

De. [unclear]
Appellant in person present. Umair Azam, Learned

Opp. [unclear]
Additional Advocate General along with Atta Ur Rehman

Inspector Legal for the respondents present.



Former made a request for adjournment on the ground that her counsel is busy before Hon'ble Peshawar High Court.

Adjourned. To come up for arguments on 16.05.2023 before

SCANNED
KPST
Peshawar

D.B.

(Fareeha Paul)
Member (E)

(Rozina Rehman)
Member (J)

10.05.2022

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Atta ur Rehman Inspector (Legal) for respondents present.

Representative of respondents submitted reply/comments. Copy of the same was handed over to the learned counsel for appellant. To come up for rejoinder, if any, and arguments on 14.07.2022 before D.B.

(Rozina Rehman)
Member (J)

14-7-22

Proper DB not available the case is adjourned to 19-10-22

Reader

19.10.2022

Learned counsel for the appellant present. Mr. Atta-ur-Rehman, Inspector (Legal) alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that she has not made preparation for arguments. Adjourned. To come up for arguments on 28.11.2022 before the D.B.

(Mian Muhammad)
Member (E)

(Salah-Ud-Din)
Member (J)

28/11/22

Deleted from the list. to come for the same on 07/02/23 before DB.
Reader

05.11.2021

Counsel for the appellant present. Memorandum of appeal and the copies of record annexed there with perused and Preliminary arguments heard.

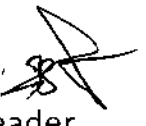
This is 2nd round of litigation. In pursuance of Service Tribunal judgement dated 09.05.2019 in service appeal No. 1049/2017, proper/regular enquiry was conducted against the appellant. As a result of enquiry, a minor penalty of "forfeiture of two years approved service" was awarded to the appellant vide impugned order dated 21.10.019. The appellant submitted departmental appeal on 08.11.2019 which was acceded to the extent of treating intervening period as well as absence period as leave without pay vide appellate order dated 20.01.2020. The appellant, thereafter, preferred revision petition date nil which was turned down on the ground being badly time barred vide dated 29.07.2021 which is claimed to have been communicated to the appellant on 06.08.2021, hence, the instant service appeal instituted in Service Tribunal on 06.09.2021. The appeal is admitted for regular hearing subject to all just legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 23.02.2022 before the D.B.

Appellant Deposited
Security & Process Fee


(Mian Muhammad)
Member(E)

23.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 10.05.2022 for the same before D.B.




Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7403 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/09/2021	<p>The appeal of Mr. Hashim resubmitted today by Roeeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Hashim son of Wali Muhammad r/o Mohallah Dagan Khel Pirano Dag Tehsil and District Mardan received today i.e. on 06.09.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal is unsigned.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Copies of Medical prescription mentioned in para-2 of the memo of appeal are not attached with the appeal which may be placed on it.
- 4- Copy of order dated 04.7.2019 is illegible which may be replaced by legible/better one.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 1778 /S.T,

Dt. 7/9 /2021


REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Roeeda Khan Adv. Peshawar.

objection No 4 To S has
been fulfilled


13/9/2021

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 7403/2021

Hashim

VERSUS

District Police Officer, Mardan & Others

INDEX

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6.	Copy of dismissal order	"B"	19-20
7.	Copy of service appeal	"C"	21-25
8.	Copies of reinstatement order & copy of impugned order dated 18.10.2019	"D & E"	26-27
9.	Copies of departmental appeal & rejection order	"F & G"	28-29
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11.	Wakalatnama		

APPELLANT

Through

Roeeda Khan
Advocate, High Court
Peshawar.

Dated: 06/09/2021

(V)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Hashim S/o Wali Muhammad R/o Mohallah Dagn
Khel Pirano Dag, Tehsil & District Mardan.

Appellant

VERSUS

1. District Police Officer, Mardan
2. Inspector General of Police Khyber Pakhtunkhwa
Peshawar.
3. Regional Police Officer, Mardan.

Respondents

SERVICE APPEAL U/S-4 OF THE
KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL ACT 1974 A GAINST THE
ORDER OB NO. 2274 DATED 18/10/2019,
WHEREBY THE APPELLANT HAS BEEN
AWARDED OF MINOR PUNISHMENT OF
FORFEITURE OF 02 YEARS APPROVED
SERVICE AND AGAINST WHICH THE
APPELLANT FILED DEPARTMENTAL
APPEAL ON 08.11.2019 WHICH HAS
BEEN DECIDED ON 20.01.2020 ON NO
GOOD GROUNDS.

Prayer:-

ON ACCEPTANCE OF THIS SERVICE
APPEAL THE IMPUGNED ORDER OB
NO.2274 DATED 18/10/2019 TO THE

EXTENT OF MINOR PUNISHMENT OF FORFEITURE OF 2 YEARS APPROVED SERVICE MAY KINDLY BE SET ASIDE AND THE ORDER DATED 20.01.2020 MAY KINDLY BE SET ASIDE & THE MODIFICATION OF TREATING INTERVENING/ABSENCE PERIOD IS LEAVE WITHOUT PAY MAY ALSO BE SET ASIDE ALONG WITH ALL BACK BENEFITS OF SERVICE.

Respectfully Sheweth.

1. That the appellant is working in police department since long time in District Mardan and after appointment the appellant performed his duty with full devotion and hard work & no complaint what so ever has been made against the appellant.
2. That while performing of his official duty with respondent department the appellant becomes patient of depression due to severer illness of his father as such there is no male members in his family for look after and treatment of his father due to which the appellant was unable to performed his duty with respondent department. (Copy of medical prescription of the appellant as well as medical prescription father of the appellant is attached as annexure "A").

3. That the respondent department dismissed the appellant from service on 13.13.2017 on the ground of absentee. (Copy of dismissal order is attached as annexure "B").
4. That against the said impugned order the appellant filed service appeal No. 1049/2017 in this Hon'ble Court which has been accepted on 09.05.2019 by this Hon'ble Court for denovo inquiry (Copy of service appeal is attached as annexure "C").
5. That on compliance of the judgment of this Hon'ble Court the appellant has been reinstated on service on 11.07.2019. while minor punishment of forfeiture his 2 years approved service has been granted to the appellant on 18.10.2019. (Copies of reinstatement order & copy of impugned order dated 18.10.2019 are attached as annexure "D & E").
6. That the appellant submitted departmental appeal against the impugned order on 08.11.2019 whereby the intervening absence/period is counted as leave without pay on 20.01.2020. (Copies of departmental appeal & rejection order are attached as "F & G").

(4)

7. That the appellant submitted revision petition within one month from the date of communication of the order dated 20.01.2020 which has been decided on 29.07.2021 communicated to the appellant on 06.08.2021 through Dak book. (Copies of revision petition, rejection order & Dak book dated 06.08.2021 are attached as Annexure "H, I, & J").
8. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUND:-

- A. That the appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated.
- B. That no charge sheet & statement of allegation has been issued or served to the appellant.
- C. That no final show cause notice has been issued to the appellant by the Respondent department.

(5)

D. That no opportunity of defense and personal hearing has been provided to the appellant.

E. That no departmental or regular inquiry has been conducted by the Respondent department.

F. That the absence of the appellant was not deliberate or intentionally but due to the reason mentioned in the above para.

G. That the impugned order is void because it has been passed without fulfilling the codal formalities.

H. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this Service Appeal the impugned order OB No.2274 dated 18/10/2019 to the extent of minor punishment of forfeiture of 2 years approved service may kindly be set aside and the order dated 20.01.2020 may kindly be set aside & the modification of treating

(6)

*intervening/absence period is leave without
pay may also be set aside along with all
back benefits of service.*

APPELLANT

Through

Roeeda Khan

Advocate, High Court

Peshawar.

Dated: 06/09/2021

NOTE:-

As per information furnished by my client, no such like appeal for the same appellant, upon the same subject matter has earlier been filed, prior to, the instant one, before this Hon'ble Tribunal.

Advocate.

(7)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Hashim

VERSUS

District Police Officer, Mardan & Others

AFFIDAVIT

I, Hashim S/o Wali Muhammad R/o Mohallah Dagn Khel Pirano Dag, Tehsil & District Mardan, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

DEPONENT

Identified by:

Roeeda Khan
Advocate High Court
Peshawar.

(8)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Hashim

VERSUS

District Police Officer, Mardan & Others

ADDRESSES OF PARTIES

PETITIONER.

Hashim S/o Wali Muhammad R/o Mohallah Dagn
Khel Pirano Dag, Tehsil & District Mardan.

ADDRESSES OF RESPONDENTS

1. District Police Officer, Mardan.
2. Inspector General of Police Khyber Pakhtunkhwa
Peshawar.
3. Regional Police Officer, Mardan

APPELLANT

Through

Roeeda Khan
Advocate, High Court
Peshawar.

Dated: 06/09/2021

(9)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Hashim

VERSUS

District Police Officer, Mardan & Others

APPLICATION FOR CONDONATION OF DELAY (IF ANY)

Respectfully Sheweth,

Petitioner submits as under:

1. That the appellant submitted revision petition within one month from the date of communication of the order dated 20.01.2020 which has been decided on 29.07.2021 communicated to the appellant on 06.08.2021 through Dak book.

Grounds:

A. That the impugned order is void and illegal and no limitation run against the void orders because it has been passed with fulfilling the codal formalities.

B. That there are number of precedents of the Supreme Court of Pakistan which

10

provides that the cases shall be decided on merits rather than technicalities.

C. There are many judgment of the supreme court as well as specific provision in service law that limitation has been counted from the date of communication.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

APPELLANT

Through

Roeeda Khan
Advocate, High Court
Peshawar.

Dated: 06/09/2021



DISTRICT HEAD QUARTER HOSPITAL
MARDAN

13

Out-Patient Department

LAB #	96	Date	25-Oct-16	Paid	50
OPD #	335	Name	Hasham	Sex	Male
H/F/Name		Age	0	Contact	0
Department	Orthopedic				
Address	0				

Test

Xray

S) Review

TB Proven by
X-ray

Active - 0
w/loss of weight

By metronidazole
w/loss of weight



DISTRICT HEAD QUARTER HOSPITAL
MARDAN
Out Patient Department

14

S.NO 88
OPD # 194 Date 10/26/2016 Paid 390
Name HAslam Sex Male
Department Medical
Address

Investigation	Paid	
sp smear	300	
Widal Test	45	
SGPT	45	



DISTRICT HEAD QUARTER HOSPITAL

MARDAN

Out Patient Department

(15)
12/1

OPD #	335	Date	10/25/2016	Paid	10
Name	Hasham	Sex		Male	
H/F/Name		Age		0	
Department	Orthopedic (2nd Floor)	Contact		0	
Address	0				

History

Clinical Examination

Provisional Diagnosis

Investigations Required

Key of
② knee joint



DISTRICT HEAD QUARTER HOSPITAL MARDAN

Accepted (16)

Out Patient Department

71

OPD #	476	Date	07-Mar-17	Paid	10
Name	hasham	Sex		Male	
HR# Name	[REDACTED]	Age		01	
Department	Medical	Contact		00	
Address	0				

History

Clinical Examination

Provisional Diagnosis

Investigations Required

- 7 Trans B.
 - 28 normal 4-f
 - 28 Feltax 2 of
 - 28 HBBYP 1 of
 - 28 CMO 3
 28

ASH

AL-MADAN MEDICAL COMPLEX

AL-MADAN

Accidents Emergency Service Dept

AL-MADAN

100-077 West Lake

CNA

Bed - bed

Man / Hand / Head

OP Center
Dept

CEU

100/90

Imp - Population Planning

How to Medicine

Al-Madan

Annex FE

17

CHARGE SHEET UNDER KPK POLICE RULES 1975

I, Faisal Shahzad District Police Officer, Mardan as competent authority hereby charge you Constable Hashim Ali No. 2262, as follows.

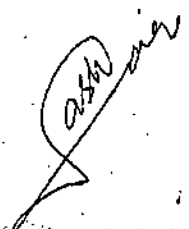
That you Constable Hashim Ali No. 2262, while posted at PP Garyala (Police Station Shahbaz Garh), deliberately absented yourself from the lawful duty vide DD No. 14 dated 04.10.2016 to-date without any leave / permission of the competent authority.

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

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.



(Faisal Shahzad) PSP
District Police Officer,
Mardan.



ORDER

This order will dispose-off departmental inquiry, which has been conducted against Constable Hashim No. 2264, on the allegation that he while posted at Police Post Chayala (PS SBG) Mardan, deliberately absented himself from lawful duty vide DD No. 14 dated 04.10.2016 to DD No. 20 dated 18.12.2016 without any leave / permission of the competent authority. This attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975. Therefore he was recommended for departmental action.

In the connection, Constable Hashim No. 2264, was charge sheeted vide office No. 490/R, dated 10.2016 and also proceeded him against departmentally through Mr. Iqbal Jan Khan, DSP, atlang Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 234/KTG, dated 07.03.2017. The recommendations have not been published against him by the enquiry officer and recommended for minor punishment.

After going through the enquiry papers and heard him in person, the undersigned reached to the conclusion that the alleged Constable Hashim No. 2264, is hereby awarded major punishment of "Dismissal from Service" while his 75-days absence reported is counted as leave without pay, with immediate effect in exercise of the power vested in me under the above quoted rules.

Order announced

C.B. No. 671

Dated 13/3/2017

Dr. Mian Saeed Ahmed (PSP)
District Police Officer,
Mardan.

No. 9892-971 dated Mardan the 13-3-2017.

for information and necessary action to:-

1. The Deputy Inspector General of Police, Mardan Region-I, Mardan.
2. The S.P. Mardans, Mardan.
3. The DSP, atlang, Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.O. (DPO) Mardan.
6. The OSI (DPO) Mardan.

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

ATTESTED

Hashim

11/3/17

POLICE DEPARTMENT

MARDAN DISTRICT

ORDER

This order will dispose-off departmental inquiry, which has been conducted against Constable Hashim No. 2264, on the allegation that he while posted at Police Post Caryala (PS SBG) Mardan, deliberately absented himself from lawful duty vide DD No. 14 dated 04.10.2016 to DD No. 20 dated 18.12.2016 without any leave / permission of the competent authority. This attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975. Therefore he was recommended for departmental action.

In this connection, Constable Hashim No. 2264, was charge sheeted vide this office No. 490/R, dated .10.2016 and also proceeded him against departmentally through Mr. Inam Jan Khan, DSP Katlang Mardan, who after fulfilling necessary process, submitted the findings to the undersigned vide his office endorsement No. 234/KTG, dated 07.03.2017. The allegations have not been established against him by the enquiry officer and recommended for minor punishment.

After going through the enquiry papers and heard him in person, the undersigned reached to the conclusion that the alleged Constable Hashim No. 2264, is hereby awarded major punishment of "Dismissal from Service" while his 75-days absence period is counted as leave without pay with immediate effect in exercise of the power vested in me under the above quoted rules.

C.B.No. 671

Dated: 13/3/2017

SD/-

Dr. Mian Saeed Ahmed (PSP)
District Police Officer,
Mardan.

No. 2892-971 dated Mardan the 13-3-2017

ATTESTED

110

1



BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1035

Dated 31-8-2017

Service Appeal No. 1049 /2017

Hashim, Ex-Constable No 2264, S/o Wali Muhammad R/o
Mohallah Dagn Khel Pirano Dag, Tehsil & District Mardan.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa, through
Secretary Interior Khyber Pakhtunkhwa, Peshawar
2. Inspector General Of Police, Khyber Pakhtunkhwa,
Peshawar.
3. District Police Officer, Mardan.
4. Regional Police Officer, Mardan.....**Respondents**

Filed to-day APPEAL UNDER SECTION 4 OF KHYBER

Registrar PAKHTUNKHWA SERVICE TRIBUNAL ACT,

1974, AGAINST THE IMPUGNED ORIGINAL

Re-submitted to day
and filed

[Signature]
18/8/17
Registrar

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1049/2017

Date of Institution ... 31.08.2017

Date of Decision ... 09.05.2019



Hasham, Ex-Constable No. 2264, S/O Wali Muhammad R/O Mohallah Dagn Khel
Pirano Dag, Tehsil and District Mardan. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Interior Khyber
Pakhtunkhwa, Peshawar and three others. ... (Respondents)

Present.

Ms. Roeda Khan,
Advocate.

For appellant.

Mr. Muhammad Riaz Paindakhel,
Addl. Advocate General

For respondents.

MR. HAMID FAROOQ DURRANI,
MR. AHMAD HASSAN;

CHAIRMAN
MEMBERJUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 13.03.2017 passed by DPO Mardan/respondent No. 3, whereby, he was awarded major punishment of dismissal from service. He is also aggrieved of orders dated 10.04.2017 and 01.08.2017 through which is departmental appeal and review petition under Section 11-A of Khyber Pakhtunkhwa Police Rules, 1975 were respectively

ATTESTED rejected.

(Signature)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(Signature)

The record suggests that while posted at Police Post Garyala, Mardan the appellant absented from duty w.e.f. 04.10.2016 to 18.12.2016 without any leave/sanction from the competent authority. He was proceeded against departmentally and upon conclusion of the enquiry was awarded major

punishment of dismissal from service on 13.03.2017. He preferred departmental appeal against the order of dismissal but remained unsuccessful when the appeal was rejected on 10.04.2017. His further review petition under Rule 11-A of the rules ibid was rejected on 08.03.2017, hence the appeal in hand.

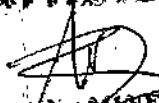
3. We have heard learned counsel for the appellant and Asstt. Advocate General on behalf of the respondents and have also gone through the available record.

It was the argument of learned counsel that during departmental proceedings the appellant was not communicated charge sheet or the statement of allegations which was in utter violation of Rule 6 of the Police Rules, 1975. It was also contended by her that final show cause notice was never issued before passing of impugned order against the appellant which made the proceedings legally defective. It was further contended that in view of alleged absence the punishment awarded to the appellant was very harsh, therefore, was liable for setting aside/modification.

On the other hand, learned Asstt. Advocate General argued that as per the contents of memorandum of instant appeal the appellant had admitted the absence attributed to him. Besides, no application for medical leave was ever submitted by the appellant. It was also contended that proper charge sheet and statement of allegations were issued to the appellant which remained un-responded. The impugned order was not exceptionable, it was added.

4. It is a matter of record that Mr. Inam Jan Khan, DSP Katlang Circle, Mardan was appointed as enquiry officer to probe into allegations against the appellant through No. 490/R/D.A-P.R-1975 dated 27.10.2016. Enquiry report by the concerned officer was submitted on 07.03.2017, wherein, minor punishment was

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

recommended against the appellant. It also transpired from the report that the appellant had joined the proceedings and explained his absence in terms that his mother was suffering from leprosy and he himself was undergoing typhoid and hepatitis diseases due to which he remained absent from his official duties. The record, including medical reports, was also submitted to the enquiry officer. The enquiry report also contained an unsigned endorsement by some official made before its submission to the competent authority. The endorsement was essentially regarding the past conduct of the appellant and the punishments awarded to him during the course of his service. Although the competent authority did not provide any reasons for differing with the findings of enquiry officer, awarded major punishment of dismissal from service, apparently also in view of the endorsement regarding past conduct of appellant.

5. We have also gone through the departmental appellate authority order dated 10.04.2017 passed by Regional Police Officer Mardan/respondent No. 4 wherein it was, inter-alia, noted that the enquiry officer had recommended major punishment against the appellant. This recording of incorrect fact in the order suggests that the appellate authority had decided the departmental appeal of appellant in a slipshod manner. Resultantly, the proposition regarding difference of opinion by the competent authority with that of enquiry officer was never considered nor commented upon.

6. The contents of Rule 5 of the Police Rules, 1975 make it mandatory upon the competent authority to issue final show cause notice to an accused official and also take into account his reply/defence regarding the same before passing of any penalty against him. In the instant case the record is silent regarding the issuance of any such notice before passing of impugned order dated 13.03.2017. Learned AAG also could not controvert the claim of learned counsel for the appellant

ATTESTED

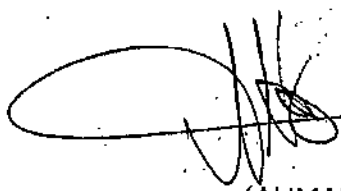
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

regarding the said deficiency in the departmental proceedings. It is also worth noting that the communication of charge sheet and statement of allegations to an accused official is mandatory requirement of Rule 6 of the rules ibid. While, on the other hand, the respondents could not produce any acknowledgement from appellant regarding receipt of the said communication.

We have remained unable also to gather from the record any document which could suggest that the defence of appellant, in term of illness, was ever looked into or was extended any credence by the respondents.

7. As a result of the above the appeal in hand is allowed. Impugned order dated 13.03.2017 is set aside alongwith other orders on the appeal/review petition of the appellant. The respondents may proceed against the appellant through a proper/regular enquiry to be concluded within ninety days from the date of receipt of copy of instant judgment. The appellant shall be provided fair opportunity of participation in the proceedings and offering his defence in accordance with law. The issue of back benefits in favour of the appellant shall follow the result of departmental proceedings.

Parties are left to bear their respective costs. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER



(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
09.05.2019

Certified to be true copy

EX. JUDGE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application	06/9/19
Number of Words	2000
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Total	
Date of Delivery of Copy	06/9/19
Date of Delivery of Copy	06/9/19

BETTER COPY

OFFICER OF THE DISTRICT POLICE OFFICER MARDAN

ORDER

In compliance with the Judgments dated 09/05/2019 passed by the Hon' able Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 1049/2017 title Ex-Constable Hashim No. 2264 VS DPO Mardan & others is hereby reinstated in service for the purpose of denov inquiry/proceeding with immediate effect the issue of back benefits shall be subject to the final outcome of denov proceeding.

OB No. 1421

Dated 03/07/2019

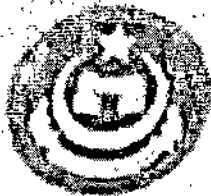
District Police Officer

Mardan

No. 4059-64 EC Dated Maran the, 04/07/2019

Copy forwarded to the:

1. SP Operation Mardan.
2. DSP/Headquarter Mardan.
3. DSP/Legal Mardan.
4. Pay Officer.
5. PA
6. OSI



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN


For more details regarding this case please contact the District Police Officer, Mardan.

ORDER,

In compliance of the judgment dated 09.05.2019 passed by the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in service appeal No 1049/2017 titled "EX-Constable Hashim No. 2264 Vs DPO Mardan & Others", he is hereby reinstated in service for the purpose of do-or-do departmental enquiry/proceedings with immediate effect. The issue of back benefits shall be subject to the final outcome of do-or-do proceedings.

Oil No. 1421

Date: 03/07/2019.


District Police Officer,
Mardan

No. 4059-64 EC, dated Mardan the, 04-07-2019.

Copy forwarded to the:

1. SP Operation Mardan.
2. DSP/HRMx Mardan.
3. DSP/Legal Mardan.
4. Pay Officer.
5. PA.
6. OSI.

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2019

753-55/PA

Dated 21/10/2019

ORDER ON DE-NOVO ENQUIRY OF CONSTABLE HASHIM: OLD NO. 2264 (NEW NO. 942)

This order will dispose-off a departmental (de-novo) enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Post Garyala (Now PS Lund Khwar), had been dismissed from service by the then DPO Mardan on account of (75) days absence's period vide this office OB No.671 dated 13-03-2017, issued vide order/endorsement No.2892-97 dated 13-03-2017.

After rejecting departmental appeal by the then Worthy RPO Mardan, he knocked the door of Honorable Khyber Pakhtunkhwa Service Tribunal in the shape of Service Appeal No.1049/2017 dated 31-08-2017, where his case was argued at length & this office punishment order was set aside vide Verdict/Order dated 09-05-2019 with directions to hold a regular de-novo enquiry into the matter.

In compliance, Constable Hashim was re-instated in service vide this office OB No.1205 dated 11-07-2019, issued vide order/endorsement No.5530-32/OSI dated 12-07-2019 with conducting the desired enquiry through Mr. Mushtaq Ahmed SP/Operations Mardan, who (E.O) after fulfilling necessary process, submitted his Findings to this office vide his office letter No.315/PA (Ops) dated 04-07-2019, recommending that the alleged official may be re-instated in service with counting his intervening & absence's period as without pay.

Final Order

Constable Hashim was heard in O.R on 15-10-2019, but he failed to satisfy the undersigned, therefore, awarded him a minor punishment of forfeiture his (02) years approved service. He is re-instated in service from the date of dismissal & counted his intervening (out of service period) i.e between dismissal & reinstatement is counted in service, but not as duty with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 2-2-79
Dated 18/10/2019.

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1. The Assistant Inspector General of Police, Complaint & Enquiry Internal Accountability Branch K.P Peshawar with reference to his good office letter No.2511/CPO/IAB/C&E dated 17-07-2019, please.
2. The P.O & E.C (Police Office) Mardan.
3. The OSI (Police Office) Mardan with () Sheets.

محکمہ حساب ذمہ داران کے لئے ایف ڈی ایس میں سالانہ

دو سال کی

حساب

گذشتہ سال کے سائل 75 پر غیر منظمی پر انٹرنل بالان
ذمہ داری سے مراد کیا گیا ہے۔ بعد میں سرور میں سے دوبارہ ذمہ داری پر بحال
ہونے کے احکامات صادر کیئے تھے لیکن انٹرنل بالان دو سال کی ذمہ داری ہونے کا
حکم صادر کیا تھا۔

حقیقتاً کچھ لوگ میرا والد صاحب اپنی ذمہ داری سے بے خبر تھے اور
یاؤں کی ذمہ داریاں لے کر اب اپنے ذمہ داروں کو کہا جاتا ہے کہ اس کے لئے
جسٹا اعلان کیا گیا ہے۔ اس کے بعد میں سافٹ ویئر انٹرنیٹ پر بھی لایا ہے
جس سے ان ماہیوں کو ذمہ داری اب ہوتا جا رہا ہے۔ جبکہ ان کے لئے
والد صاحب کی بیماری کے لئے کئی غیر منظمی کے مسائل میں لڑیں تھے
جس سے سائل کو متذکرہ بالا ایف ڈی ایس جاری ہوئی تھی۔

سائل نے یہ نہیں کہا ہے کہ اس کے لئے ایف ڈی ایس جاری ہوئی تھی۔
ان مسائل کو حل کرنے کا سارا بوجھ غیر منظمی کے لئے ہی ہے۔
بوجھ بھاری ہے۔

ایف ڈی ایس صاحبان کی خدمت میں عاجزانه مسائل کی حالت میں سائل
کی 75 پر غیر منظمی کے لئے اس کے دو سال کی ذمہ داری کی حالت میں
کے احکامات صادر فرمائیں تاکہ اس کے لئے ایف ڈی ایس جاری ہو سکے۔

مہربان

المعتمد

مقامی ایف ڈی ایس کے لئے
2264-0
942
مقامی ایف ڈی ایس کے لئے

(G)

ORDER.

This order will dispose-off the departmental appeal preferred by Constable Hashim No. 942 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded minor punishment of forfeiture of two years approved service and counted his intervening (out of service) period i.e between dismissal and re-instatement is counted in service, but not as duty vide OB No. 2274 dated 18.10.2019. The appellant was proceeded against departmentally on the allegations that he, while posted at Police Post Garyala had been dismissed from service by the then District Police Officer, Mardan on account of 75 days absence period vide OB: No. 671 dated 13.03.2017.

After rejection of departmental appeal by the then Regional Police Officer, Mardan, the appellant approached the Khyber Pakhtunkhwa Service Tribunal through Service Appeal No.1049/2017 dated 31-08-2017. The Service Tribunal partially accepted appeal of the appellant vide order dated 09-05-2019 whereby the punishment order i.e dismissal from service was set-aside and the department was issued directions to hold a regular/ de-novo enquiry into the matter.

In compliance with the order quoted above, he was re-instated into service vide District Police Officer, Mardan OB No.1205 dated 11-07-2019 and de-novo enquiry proceedings were initiated through Mr. Mushtaq Ahmed SP/Operations Mardan. The Enquiry Officer after fulfilling necessary process, submitted his findings wherein he recommended that the delinquent official may be re-instated into service with counting his intervening and absence period as leave without pay.

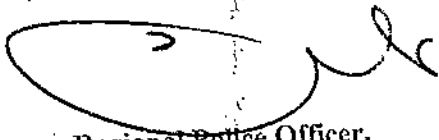
The delinquent official was heard in Orderly Room on 15-10-2019, by the District Police Officer, Mardan but he failed to advance any cogent reasons. Therefore, he was re-instated into service with immediate effect, awarded minor punishment of forfeiture of .02 years approved service and counted his intervening (out of service) period i-e between dismissal and reinstatement, in service but not as duty.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 14.01.2020.

From the perusal of the enquiry file and the service record of the appellant, it came to light that service record of the appellant is tainted with bad entries and was also dismissed from service on the allegations of absence.

Keeping in view the above, I, Sher Akbar, PSP S.St, Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal because enquiry has been conducted according to the canons of justice, hence warrants no interference. However, the order of District Police Officer, Mardan is hereby modified to the extent of treating intervening as well as absence period as leave without pay.

Order Announced.


Regional Police Officer,
Mardan.

No. 708 /ES,

Dated Mardan the 20-1-2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 462/LB dated 05.12.2019. His Service Record is returned herewith.
(*****)



ER# 2677/ES

1574

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. SI/ 3202 /21, dated Peshawar the 29/07 /2021.

To : The Regional Police Officer,
Mardan.

Subject: APPLICATION/APEAL.

Memo:

1811
5-8-21

Please refer to your office Memo: No. 2075/ES, dated 20.04.2021.

The Competent Authority has examined and filed the revision petition submitted by Constable Hashim No. 942 of Mardan district Police against the punishment of forfeiture of two years approved and grant of pay of absence period awarded by District Police Officer, Mardan vide OB No. 2274, dated 18.10.2019, being badly time barred.

His Service Roll and Fauji Missal received vide above quoted reference is returned herewith for your office record, please.

The applicant may please be informed accordingly.

Encl: Service Roll=(01)
Fauji Missal=(01)

Encl: S. Roll
F-Missal

(Signature)
(NOOR AFGHAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

attached
A
AEC
1/b

26/7

EC/DPO, Mardan

For further info along with S-Record

PPD Mardan
03/8/21

No. 4128/ES
dt 6-8-21

۲۲ H^v
بخدمت جناب آئی بی پی صاحب غیر مختصر خواہ لیس پشاور

(رحم اپنی برائے دو سال لاکری)

جناب عالی!

گزارش ایک سال کو 75 یوم غیر حاضری آسران ہالا لاکری سے درخواست کیا تھا۔ بعد میں سروس ریجنل نے دوبارہ لاکری پر بحال کرنے کے احکامات صادر کئے تھے۔ لیکن ڈی پی اے صاحب نے دو سال کی لاکری اور دو سال انگریز سنٹ روکنے کا حکم صادر کیا تھا۔ بحوالہ OB نمبر 2274 مورخہ 18/10/2019 اس سلسلے میں سائل نے ڈی آئی بی صاحب کو اپنی کی لاکری آئی بی صاحب میرا اپیل فائل کر دیا۔ بحوالہ آرڈر 708ES مورخہ 20/01/2020 حقیقت یہ ہے کہ میرا والد انجمنی دنوں شدید بیمار تھا اور پاؤں کی تین انگلیاں خراب ہونے کی وجہ سے ڈاکٹر صاحبان نے کاشت دیے ہیں۔ اور بعد میں پوری ٹانگہ دن بدن خراب ہوتا جا رہا ہے اور بعد میں پوری ٹانگہ کاشت کی گئی ہے ان کو شوگر کا سوزی مرض بھی لاحق تھا۔ جن کی وجہ سے میرا والد صاحب وفات پا گیا اگلے ٹانگہ اور انگلیوں کی تصاویر میں ہر ادا لگ ہے۔ میں انتہائی ڈپریشن کا شکار تھا۔ کیونکہ غیر حاضری تصدقاً امدان نہیں کی وجہ مجبوری کی تھی۔

اسلئے آپ صاحبان کی خدمت میں عاجزانہ گزارش ہے کہ سائل کی 75 یوم غیر حاضری کو خصت میں شمار کر کے دو سال کی لاکری بحال کرنے کے احکامات صادر فرمائیں سائل کا حیات و ماگول رہے گا۔

(نوٹ: میڈیکل کاغذات لف ہے)

عین لوازش ہوگی۔

العارض!

آپکا اہلکار کاٹھیل ہاشم خان پلٹ نمبر 942 متعینہ قنادی شیخ متون ضلع مردان

موبائل نمبر: 0315-9300201

Routine No. 35

DAK BOOK

CGAO K-29/4-1 S CODE OF 1953 13 10 12/1/77

Routine No. 35

DA

Date	To whom addressed	Contents of cover	Name of Nalb Qasid	Initial of recd
6/8/21	DPO Madn	Encls 5-Roll F-Missas	No. 942	
		4128/ES		
		Encls 5-Book 5-Roll F-Missal	DSS/1	
		4127/ES	No. 84/one	

Sample
06-8-2021
DPO/MS

Date	To whom addressed
6/8/21	DPO/MR
6/8/21	SD (S/MS)
6/8/21	DPO/MR

MS (S/MS) MR

41912/ES
DPO/MS

53

C 15/21

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

①

Service Appeal No. 7403/2021

Hashim s/o Wali Muhammad r/o Mohallah Digan Khel Pirano Dag, Tehsil &
District Mardan.....Appellant.

VERSUS

1. The District Police Officer, Mardan
 2. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
 3. The Regional Police Officer, Mardan
-Respondents

Para-wise comments by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause or action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the Hon'ble Tribunal has no jurisdiction to adjudicate the matter.
7. That the appeal is bad for miss joinder and non joinder of necessary parties.

REPLY ON FACTS

1. Para to the extent of enlistment in Police Department of appellant pertains to record needs no comments, while rest of the Para is not plausible because every Police Officer / Official is under obligation to perform his duty regularly and with devotion. But appellant's performance was not satisfactory as previously he had been awarded major punishment of dismissal from service vide order book No.1116, dated 14.05.2014 due to his absence from lawful duty without any leave/permission of the competent authority. Later on, he was reinstated by the Inspector General of Police Khyber Pakhtunkhwa Peshawar vide order dated 13.03.2015. Moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude his entire service record is tainted with bad entries (**Copy of previous dismissal order and reinstatement order and list of bad entries are attached as Annexure "A, B & C"**).

- (2)
2. Incorrect. Plea stance taken by appellant is not plausible being a part of discipline force he was supposed to submit an application for leave or bring his matter into the notice of his Senior Officer but he failed to do so. While rest of para pertains to personal information of the appellant needs no comments.
 3. Correct to the extent that the appellant was dismissed from service due to his long absence from lawful duty without any leave/permission of the competent authority **(Copy of dismissal order is attached as annexure-D)**.
 4. Correct to the extent that the appellant filed Service Appeal No. 1049/2017 which was accepted by the Honorable Tribunal for conducting denovo enquiry against the appellant vide judgment dated 09.05.2019 **(Copy of judgment order is attached as annexure E)**.
 5. Para to the extent that, as per directions of Honorable Service Tribunal the appellant was proceeded through denovo enquiry and Denovo enquiry was entrusted to the then SP Operations Mardan. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended that the appellant may be reinstated in service and the intervening period may very kindly be treated as leave without pay. In the light of above, the appellant was called by the competent authority in orderly room on 15.10.2019, but he failed to justify his innocence, therefore, he was awarded minor punishment of forfeiture his (02) years approved service and the appellant was reinstated in service from date of dismissal and counted his intervening (out of service period) i.e between dismissal & reinstatement is counted in service, but not as duty, which does commensurate with the gravity of misconduct of the appellant **(Copy of reinstatement order and denovo enquiry are attached as annexure F & G)**.
 6. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because the appellant was provided full-fledged opportunity of defending himself by the appellate authority but he bitterly failed to produce any cogent reason in his defense. Therefore, the Order of District Police Officer, Mardan is hereby modified to the extent of treating the intervening as well as absence period as leave without pay **(Copy of departmental Appeal order is attached as annexure-H)**.
 7. Correct to the extent that the appellant preferred revision petition to the Inspector General of Police Khyber Pakhtunkhwa Peshawar, which was also decided on merit . Therefore, the same was filed, being badly time barred. While rest of para is incorrect, on 06.08.2021 the said order was communicated to the District Police Officer, Mardan office, because the very annexure "J" is much clear and the said order was sent to the DPO

Office Mardan and not to the appellant. However, the appellant has just taken this plea to cover the issue of limitation.

8. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

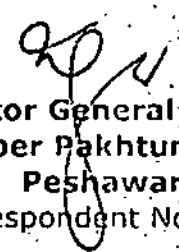
REPLY ON GROUNDS:

- A. Incorrect. That the appellant has been treated in accordance with law/rules and the respondents have not violated any Article of the Constitution of Islamic Republic of Pakistan.
- B. Incorrect. Stance taken by the appellant is not plausible, because he was proceeded through denovo enquiry and Denovo enquiry was entrusted to the then SP Operations Mardan. During the course of enquiry the appellant was summoned and heard in detail and he submitted his written statement (**which is enclosed as annexure-I**) and enquiry officer provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended that the appellant may be reinstated in service and the intervening period may very kindly be treated as without pay. In the light of above, the appellant was called by the competent authority in orderly room on 15.10.2019, but he failed to justify his innocence, therefore, he was awarded minor punishment of forfeiture his (02) years approved service and the appellant was reinstated in service from date of dismissal and counted his intervening (out of service period) i.e between dismissal & reinstatement is counted in service, but not on duty, which does commensurate with the gravity of misconduct of the appellant.
- C. Para already explained hence no comments.
- D. Incorrect. Para explained earlier needs no comments.
- E. Incorrect. Para already explained mentioned at serial No. B needs no comments.
- F. Incorrect. Plea taken by appellant is not plausible, being a part of disciplined force he was supposed to submit an application for leave or bring his matter into the notice of his Senior Officer but he failed to do so. While rest of para pertains to personal information of the appellant needs no comments.
- G. Incorrect. The impugned order is not void and it has been passed after fulfilling of all legal and codal formalities.
- H. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

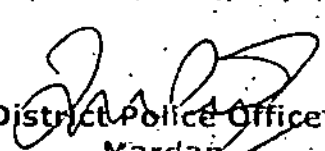
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PRAYER:-

Keeping in view the above narrated facts it is humbly prayed that the appeal of the appellant being badly time barred may kindly be dismissed with costs please.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 02)


**Regional Police Officer,
Mardan.**
(Respondent No. 03)


**District Police Officer,
Mardan.**
(Respondent No. 01)

(5)

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

Service Appeal No. 7403/2021

Hashim

VERSUS

District Police Officer, Mardan & others:

Reply to the application for condonation of delay:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That applicant has no cause of action to file the instant application.
2. That the application is barred by law.


REPLY ON FACTS

1. Correct to the extent that the appellant preferred revision petition to the Inspector General of Police Khyber Pakhtunkhwa Peshawar, which was also decided on merit. Therefore, the same was filed, being badly time barred. While rest of para is incorrect, on 06.08.2021 the said order was communicated to the District Police Officer, Mardan office, because the very annexure "J" is much clear and the said order was sent to the DPO Office Mardan and not to the appellant. However, the appellant has just taken this plea to cover the issue of limitation.

REPLY ON GROUNDS

- A. Incorrect. The impugned order is legal and not void, it has been passed after fulfilling all legal and codal formalities.
- B. Incorrect, plea taken by the applicant is whimsical / concocted rather fanciful hence, liable to be set at naught. As the apex court of Pakistan has held that the question of limitation cannot be considered a "technicality" simpliciter as it has got its own significance and would have substantial bearing on merits of the case.
- C. Incorrect. Stance taken by the applicant is not plausible because the application of the applicant being badly time barred may kindly be dismissed with costs.


Keeping in view the above submission, it is humbly prayed that application of the applicant regarding condonation of delay may very kindly be dismissed please.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**

(Respondent No. 02)


**Regional Police Officer,
Mardan.**

(Respondent No. 03)


**District Police Officer,
Mardan.**

(Respondent No. 01)

(6)

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

Service Appeal No. 7403/2021

Hashim s/o Wali Muhammad r/o Mohallah Digan Khel Pirano Dag, Tehsil &
District Mardan.....Appellant.


VERSUS

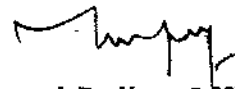
1. The District Police Officer, Mardan
2. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
3. The Regional Police Officer, Mardan


.....Respondents

COUNTER AFFIDAVIT.

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


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 02)


**Regional Police Officer,
Mardan.**
(Respondent No. 03)


**District Police Officer,
Mardan.**
(Respondent No. 01)

2264

7

POLICE DEPARTMENT

MARDAN DISTRICT

ORDER

Constable Hasham No. 2264, while posted at Police Station Toru Mardan committed the following acts, which leads to grass misconduct on his part as defined in Rules 02 (iii) of Police Rules 1975. Brief facts are that Constable Hasham No. 2264, while he was posted at Police Station Toru Mardan deliberately absented yourself from the lawful duty without prior permission/leave from his superiors vide DD No.05, dated 23.07.2013 to DD No. 07 dated 23.08.2013.(total 31 days) and DD No. 35 dated 27.11.2013 to-till now.

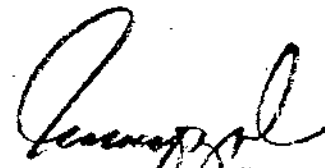
In this connection, Constable Hasham No. 2264, was charge sheeted vide this office No. 488/R, date 21.02.2014 and he was also proceeded against departmentally through inquiry officer Mian Naseeb Jan DSP/HQrs: Mardan who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 339/HQrs: dated 12.05.2014, in which the allegations has been established against the defaulter constable.

The undersigned agreed with the findings of enquiry officer and the alleged Constable Hasham No. 2264, is hereby dismissed from service and his absence period counted as leave without pay, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No 1116

Dated 14 / 5 /2014


(Gul Afzal Afridi)
District Police Officer,
Mardan.

No 5336-411 dated Mardan the 15.5 /2014

Copy for information and necessary action to:-

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

امداد لویہ وکی - ماردان



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email dpo_mardan@yahoo.com

2019

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8

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oyaffm.

ORDER.

In compliance of the judgment dated 09.05.2019 passed by the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar in service appeal No. 1049/2017 titled "EX-Constable Hashim No. 2264 Vs DPO Mardan & Others". He is hereby reinstated in service for the purpose of de-novo departmental enquiry/proceedings with immediate effect. The issue of back benefits shall be subject to the final outcome of de-novo proceedings.

OP No. 1421

Date: 03/07/2019.

District Police Officer,
Mardan

No. 4059-64 EC, dated Mardan the, 04-07-2019.

Copy forwarded to the:

1. SP Operation Mardan.
2. DSP/HQrs: Mardan.
3. DSP/Legal Mardan.
4. Pay Officer.
5. PA.
6. OSI.



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

Annex
B-2

2019

Dated 21/10/2019

No. 7753-55 /PA

ORDER ON DE-NOVO ENQUIRY OF CONSTABLE HASHIM OLD NO. 2264 (NEW NO.942)

This order will dispose-off a departmental (de-novo) enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Post Garyala (Now PS Lund Khwar), had been dismissed from service by the then DPO Mardan on account of (75) days absence's period vide this office OB No.671 dated 13-03-2017, issued vide order/endorsement No.2892-97 dated 13-03-2017.

After rejecting departmental appeal by the then Worthy RPO Mardan, he knocked the door of Honorable Khyber Pakhtunkhwa Service Tribunal in the shape of Service Appeal No.1049/2017 dated 31-08-2017, where his case was argued at length & this office punishment order was set aside vide Verdict/Order dated 09-05-2019 with directions to hold a regular de-novo enquiry into the matter.

In compliance, Constable Hashim was re-instated in service vide this office Ob No.1205 dated 14-07-2019, issued vide order/endorsement No.5530-32/OSI dated 12-07-2019 with conducting the desired enquiry through Mr. Mushtaq Ahmed SP/Operations Mardan, who (E.O) after fulfilling necessary process, submitted his Findings to this office vide his office letter No.315/PA (Ops) dated 04-07-2019, recommending that the alleged official may be re-instated in service with counting his intervening & absence's period as without pay.

Final Order

Constable Hashim was heard in O.R. on 15-10-2019, but he failed to satisfy the undersigned, therefore, awarded him a **minor punishment of forfeiture his (02) years approved service.** He is re-instated in service from the date of dismissal & counted his intervening (out of service period) between dismissal & reinstatement is counted in service but not as duty with immediate effect, in exercise of the power vested in me under Police Rules 1975.

OB No. 2279

Dated 18/10/2019

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

1. The Assistant Inspector General of Police Complaint & Enquiry Internal Accountability Branch K.P Peshawar with reference to his good office letter No.2511/CPO/IAB/C & E dated 17-07-2019, please.
2. The P.O & E.C (Police Office) Mardan.
3. The OSI (Police Office) Mardan with () Sheets.

14. COMMENDATORY ENTRIES-Contd.

ORDER

The punishment order awarded by DPO, Mardan vide OB No. 1116 dt. 14.5.14 is converted into stoppage of increments for two years and he is re-instated in service with no back benefits vide IGP, KPK, Peshawar Order Endst. No. 3255-59/E-IV, dt. 13-3-15 and pay fixed Rs. 6700/PM.

OB No. 462

DT: 13.3.2015

[Signature]
 District Police Officer
 Mardan

Pay 01.12.14 Rs. 6700/PM

1-7-15 Rs. 8685/PM

1-12-15 Rs. 9025/PM

1-2-16 Rs. 11110/PM

1-12-16 Rs. 1530/PM

1-7-17 Rs. 13760/PM

3-1-18 Rs. 14040/PM

1-12-18 Rs. 14040/PM

1-12-19 Rs. 14040/PM

1-12-20 Rs. 14680/PM

B-5+0-7

leave w/o pay

(11)

CHARACTER ROLL OF

ER ROLL

Serial No.

14. COMMENDATORY ENTRIES—Concl'd.

ORDER

The order Conver

One

Absen

ORDER

He is hereby awarded Major Punishment of "Dismissal from Service" while his (75) days absence counted as leave w/o pay.

25-

OB

30-

OB No. 671
13-3-17

[Signature]
DPO/MPD

(2)

One Fine

OB

9-

15-CENSURES AND PUNISHMENTS.

One day Quarter Guard for their
Absence for General Parade held on

25-1-2010 -

OB No - 366

30-1-2010

(Signature)
DPO/MR

Major
Vice
led as
MRD

He is hereby warned
to be careful in future -

OB No. 683

5-3-12

(Signature)
DPO/MR

2)

Awarded a ~~minor~~ punishment
of quarter guard and extra drill
for his Absence from duty

OB No. 1303

24-4-12

3

(Signature)
DPO/MR

3)

Fine Rs. 500/- for his Absence

OB No - 2412

4-11-13

4

(Signature)
DPO/MR

order

He is hereby dismissed from service and his absence period counted as leave without pay in exercise of the power vested in me under the rules - 1975.

OB. NO. 1116
14/5/14 ✓

MD Panu
SDPO Marol

order

Appeal rejected by DIG Marol
vide. Enclst. 5236/ES dt. 8/8/14

SDPO Marol

ORDER

Awarded Minor Punishment Forfeiture of 02 years Service while his absence period @ 03 days counted as leave w/o pay with interest collect under Police Rules 1975.

OB No. 93
11-1-17

SD
DPO/MRD

Awarded @ 07 days Quarter Guard & @ 07 days Extra duty for his absence

OB No. 218
24-1-17

SD
DPO/MRD

CHARACTER ROLL OF

15-CENSURES AND PUNISHMENTS.—Concln.

Serial No.

ORDER

Keeping in view his poor family background, his penalty of dismissal from service is converted into stoppage of one year increment without accumulative effect. The intervening period is treated as leave without pay vide DIG/Mardan order Endst: No 2680/ES, dt: 10-4-2011

ORDER

The appeal against the order of DPO/Mardan awarded vide CRB No. 671 dt: 13-3-2017 is rejected vide DIG/Mardan Endst: No 2682/ES dt: 10-4-17

DPO/MAR

(15)

Awarded him a minor punishment of forfeiture his (02) year service approved. He is re-instated in service from the date of dismissal & counted his Intervening (out of service period) i.e. between dismissal & reinstatement is counted in service but not as duty with immediate effect, in exercise of the power vested in me under Police Rules-1975


OBNO 2274
18-10-19


District Police Officer
Mardan

ORDER:

The appellate authority, finds no substance in the appeal because enquiry has been conducted according to the Canons of justice, hence, warrants no interference. However, the order of DPO Mardan, is hereby modified to the extent of treated intervening as well as absence period as leave without pay vide DIG Mardan Bndst No. 708/ES, dated: 20/01/2020.

OBNO. 137


DPO Mardan
P

No. 2
To:
Subj
Item
Subject
Conduct
Income
Order, for
Initiation

Handwritten mark

ORDER:

(16)

Awarded (01) day Extra drill

OBV. 411

01/25/02/2020

[Signature]

DATE

appeal

The app. Examination
file

[Signature]

(17)

SENCE AND IN SERVICE

"approved service" to entered in red ink.

(11)

2			3	4
EXTENT			No. of District Order	Description of leave i.e. Privilege, hospital, sick leave, or furlough, or of absence, or forfeiture of approved service. All entries to be initialed, by Superintendent of Police.
Years	Months	Days		
(2)	(5)		1817 7-7-09	leave w/o pay
(5)	(5)		1858 1-5-10	leave w/o pay
(7)	(10)		4208 1-3-10	do - approved
(7)	(2)		2684 2-1-10	do - approved
(8)	(15)		775 11-3-10	do - approved
(9)	(15)		1838 2-5-10	do - approved
(10)	(16)		1852 2-5-10	do - approved
(11)	(12)		1956 2-6-10	do - approved
(12)	(14)		2253 2-6-10	do - approved
(13)	(9)		2766 7-1-10	do - approved
(14)	(7)		2866 7-7-10	do - approved

POLICE DEPARTMENT

MARDAN DISTRICT

ORDER

This order will dispose-off departmental inquiry, which has been conducted against Constable Hashim No. 2264, on the allegation that he while posted at Police Post Garyala (PS SBG) Mardan, deliberately absented himself from lawful duty vide DD No. 14 dated 04.10.2016 to DD No. 20 dated 18.12.2016 without any leave / permission of the competent authority. This attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975. Therefore he was recommended for departmental action.

In this connection, Constable Hashim No. 2264, was charge sheeted vide this office No. 490/R, dated 27.10.2016 and also proceeded him against departmentally through Mr. Inam Jan Khan, DSP/Katlang Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 234/KTG, dated 07.03.2017. The allegations have not been established against him by the enquiry officer and recommended for minor punishment.

After going through the enquiry papers and heard him in person, the undersigned reached to the conclusion that the alleged Constable Hashim No. 2264, is hereby awarded major punishment of "Dismissal from Service" while his 75-days absence period is counted as leave without pay, with immediate effect in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No 671

Dated 13 / 3 / 2017.

Dr. Mian Saeed Ahmed (PSP)
District Police Officer,
Mardan.

No. 2892-971 dated Mardan the 13-3- /2017.

Copy for information and necessary action to:-

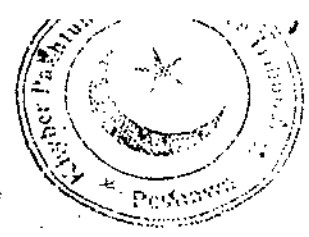
1. The Deputy Inspector General of Police, Mardan Region-1, Mardan.
2. The S.P Operations, Mardan.
3. The DSP/ Katlang, Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.
6. The OSI (DPO) Mardan.

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

Dr. Mian Saeed Ahmed

18

Annex (E) (90)



BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1035

Dated 31-8-2017

Service Appeal No. 1049 /2017

Hashim, Ex-Constable No 2264, S/o. Wali Muhammad R/o
Mohallah Dagn Khel Pirano Dag, Tehsil & District Mardan.
.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa, through
Secretary Interior Khyber Pakhtunkhwa, Peshawar
2. Inspector General Of Police, Khyber Pakhtunkhwa,
Peshawar.
3. District Police Officer, Mardan.
4. Regional Police Officer, Mardan.....Respondents

Filed to-day APPEAL UNDER SECTION 4 OF KHYBER
Registrar PAKHTUNKHWA SERVICE TRIBUNAL ACT,
31/8/17.
1974, AGAINST THE IMPUGNED ORIGINAL

Handwritten signature and date
31/8/17

ATTESTED
Handwritten signature
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1049/2017

Date of Institution ... 31.08.2017

Date of Decision ... 09.05.2019



Hasham, Ex-Constable No. 2264; S/O Wali Muhammad R/O Mohallah Dagn Khel Pirano Dag, Tehsil and District Mardan. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Interior Khyber Pakhtunkhwa, Peshawar and three others. ... (Respondents)

Present.

Ms. Roeda Khan,
Advocate.

For appellant

Mr. Muhammad Riaz Paindakhel,
Addl. Advocate General

For respondents.

MR. HAMID FAROOQ DURRANI,
MR. AHMAD HASSAN,

CHAIRMAN
MEMBER

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 13.03.2017 passed by DPO Mardan/respondent No. 3, whereby, he was awarded major punishment of dismissal from service. He is also aggrieved of orders dated 10.04.2017 and 01.08.2017 through which is departmental appeal and review petition under Section 11-A of Khyber Pakhtunkhwa Police Rules, 1975 were respectively

rejected.

2. The record suggests that while posted at Police Post Garyala, Mardan the appellant absented from duty w.e.f. 04.10.2016 to 18.12.2016 without any leave/sanction from the competent authority. He was proceeded against departmentally and upon conclusion of the enquiry, was awarded major

ATTESTED

[Handwritten signature]
Peshawar

(22)

punishment of dismissal from service on 13.03.2017. He preferred departmental appeal against the order of dismissal but remained unsuccessful when the appeal was rejected on 10.04.2017. His further review petition under Rule 11-A of the rules ibid was rejected on 08.03.2017, hence the appeal in hand.

3. We have heard learned counsel for the appellant and Asstt. Advocate General on behalf of the respondents and have also gone through the available record.

It was the argument of learned counsel that during departmental proceedings the appellant was not communicated charge sheet or the statement of allegations which was in utter violation of Rule 6 of the Police Rules, 1975. It was also contended by her that final show cause notice was never issued before passing of impugned order against the appellant which made the proceedings legally defective. It was further contended that in view of alleged absence the punishment awarded to the appellant was very harsh, therefore, was liable for setting aside/modification.

ATTESTED On the other hand, learned Asstt. Advocate General argued that as per the contents of memorandum of instant appeal the appellant had admitted the absence attributed to him. Besides, no application for medical leave was ever submitted by the appellant. It was also contended that proper charge sheet and statement of allegations were issued to the appellant which remained un-responded. The impugned order was not exceptionable, it was added.

4. It is a matter of record that Mr. Inam Jan Khan, DSP, Katlang Circle, Mardan was appointed as enquiry officer to probe into allegations against the appellant through No. 490/R/D.A-P.R-1975 dated 27.10.2016. Enquiry report by the concerned officer was submitted on 07.03.2017, wherein, minor punishment was

recommended against the appellant. It also transpired from the report that the appellant had joined the proceedings and explained his absence in terms that his mother was suffering from leprosy and he himself was undergoing typhoid and hepatitis diseases due to which he remained absent from his official duties. The record, including medical reports, was also submitted to the enquiry officer. The enquiry report also contained an unsigned endorsement by some official made before its submission to the competent authority. The endorsement was essentially regarding the past conduct of the appellant and the punishments awarded to him during the course of his service. Although the competent authority did not provide any reasons for differing with the findings of enquiry officer, awarded major punishment of dismissal from service, apparently also in view of the endorsement regarding past conduct of appellant.

5. We have also gone through the departmental appellate authority order dated 10.04.2017 passed by Regional Police Officer Mardan/respondent No. 4 wherein it was, inter-alia, noted that the enquiry officer had recommended major punishment against the appellant. This recording of incorrect fact in the order suggests that the appellate authority had decided the departmental appeal of appellant in a slipshod manner. Resultantly, the proposition regarding difference of opinion by the competent authority with that of enquiry officer was never considered nor commented upon.

ATTESTED

[Signature]
A. A. MAMMER
Member
Service Tribunal
Peshawar


6. The contents of Rule 5 of the Police Rules, 1975 make it mandatory upon the competent authority to issue final show cause notice to an accused official and also take into account his reply/defence regarding the same before passing of any penalty against him. In the instant case the record is silent regarding the issuance of any such notice before passing of impugned order dated 13.03.2017. Learned AAG also could not controvert the claim of learned counsel for the appellant

regarding the said deficiency in the departmental proceedings. It is also worth-
noting that the communication of charge sheet and statement of allegations to an
accused official is mandatory requirement of Rule 6 of the rules ibid. While, on the
other hand, the respondents could not produce any acknowledgement from
appellant regarding receipt of the said communication.

We have remained unable also to gather from the record any document
which could suggest that the defence of appellant, in term of illness, was ever
looked into or was extended any credence by the respondents.


7. As a result of the above the appeal in hand is allowed. Impugned order
dated 13.03.2017 is set aside alongwith other orders on the appeal/review petition
of the appellant. The respondents may proceed against the appellant through a
proper/regular enquiry to be concluded within ninety days from the date of receipt
of copy of instant judgment. The appellant shall be provided fair opportunity of
participation in the proceedings and offering his defence in accordance with law.
The issue of back benefits in favour of the appellant shall follow the result of
departmental proceedings.

Respondents are left to bear their respective costs. File be consigned to the
record room.


(AHMAD HASSAN)
MEMBER


(HAMID FAROOQ DURFANI)
CHAIRMAN

ANNOUNCED
09.05.2019

Certified to be true copy

Khuda Bakhsh
Service Tribunal,
Peshawar

Number of Words 2050
Copying Fee 12-00
Urgent 2-00
Total 14-00
Name of Copying [Signature]
Date of Completion of Copy 17-5-19
Date of Delivery of Copy 17-5-19

(24)

(18)

(12)

Annexure "F" (25)



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN.**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

2019

ORDER.

On Re-instatement in service by Service Tribunal Peshawar in service OB No. 1421 dated 03.07.2019 Ex-Constable Hashim No. 2264 is hereby reinstated in service and hereby Allotted Constabulary No. 942 with immediate effect:-

OB No. 1205
Dated 11-7/2019

District Police Officer
Mardan

No. 5530-32/OSI, dated Mardan the 12/7/2019.

Copy to the:-

1. Pay Officer.
2. EC.

رجسٹرڈ پولیس چارج - ایس ایچ او

100/110



OFFICE OF THE
SUPERINTENDENT OF POLICE
OPERATIONS & HEADQUARTERS
MARDAN

Tell: 0937-9230117
Fax: 0937-9230111
E-Mail: Spops1506@gmail.com

Annexible "G"
26

Dated 4/07/2019.

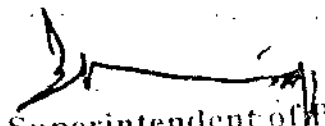
No. 315 /PA(Ops):

To The District Police Officer,
Mardan

Subject: DENOVO DEPARTMENTAL ENQUIRY AGAINST FC HASHIM
NO.2264.

Memo: Kindly refer to your office dairy No: 5179/GB dated 20.06.2019
on the subject noted above.

Enclosed kindly find herewith finding report in De-novo
Departmental Enquiry against Constable Hashim, is sent herewith for your kind
perusal and further action, please.


Superintendent of Police
Operations & Headquarters
Mardan

FINDINGS.

This de-novo departmental inquiry against Ex-constable Hashim No. 2264 initiated in light of judgment dated 09.05.2018 Passed by the honorable Khyber Pakhtunkhwa, service tribunal in service appeal No. 1049/2017 filed by the above named official. He was charge sheeted for the allegations mentioned therein and enquiry was entrusted to the undersigned vide letter No. 2250/CPO/IAB/C&E dated 18/06/2019 of office of the AIG/C&E, inter accountability Branch Khyber Pakhtunkhwa Peshawar, followed by diary No. 5179/GB dated 26/06/2019 of the District Police Officers Mardan. The charges against him are as under:-

"That he while posted at police post Garyala remained absent from duty w.e.f 04.01.2016 to 18.12.2016, without any leave/permission from the competent authority"

During course of enquiry the defaulter official was called in the office. He was heard at length. Relevant record requisitioned, perused. He was availed much opportunity of his defense. In his written statement he submitted that he served as constable in police department since 2008 regularly and sincerely. On 13.03.2017, he was dismissed from service by awarding major punishment on account of absence from duty without leave/permission from competent authority. The defaulter official produce medical documents and submitted that he was posted at PP Garyala whereby he was marked absent due to the facts that he was suffering from hepatitis & typhoid as well as his mother was also seriously ill and suffering from leprosy due to which he was unable to perform duty. Thereafter, he was proceeded against departmentally but the enquiry was conducted in partial manner resultantly vide order dated 13.03.2017, he was awarded major punishment of dismissed from service. He submitted departmental appeal but same was also dismissed vide order dated, 10.04.2017. Thereafter, he approached Service Tribunal Khyber Pakhtunkhwa, whereby the honorable chairman service tribunal heard the parties and came to conclusion by considering his pleadings and deliberated upon the evidence produced before the Tribunal on dated 09.05.2019. Consequently he was given opportunity of participation in the proceedings of a proper enquiry and to offer his defense in accordance with law. The defaulter official further requested for consideration of evidence produced by him and pleaded that he have a clean track record and was always ready to be in the front-line in case of any odd situation. He further submitted that due to medical condition of his mother / himself and top of that major punishment in the shape of dismissal from service further increased his misery being sole bread earner of family. He further prayed for re-instating in service.

(28)

Conclusion:

From perusal of available record, statement and pleading of the official, it transpires that vide DD No. 14 dated 04.10.2016 to DD No. 20 dated 18.12.2016 the defaulter official remained absence without taking leave or permission from the competent authority upon which he was subjected to a proper departmental action. Consequently vide Order bearing OB No. 671 dated 13.03.2017 he was awarded Major punishment of Dismissal from service.

To this effect the defaulter official presented medical documents and pleaded that he got seriously ill and remained under treatment due to which he was unable to sought prior permission. He further submitted that due to serious illness and poor health condition he sent relevant medical documents to concern quarter but same was not considered and he was mark absent. Upon questioning the official he pleaded for a chance and showed resolution to remain careful and performing duty competently/efficiently.

Recommendation:

Foregoing in view of the above and pleadings of the defaulter official it is therefore submitted that ex-constable Hashim No. 2264 (now police lines Mardan) may be re-instated in service and the intervening and absence period may very kindly be treated as without pay.

Submitted please.

[Signature]
Superintendent of Police
Operations & Headquarters
Mardan

Absence (75) days

(PFA)

→ Absence Limit
→ ② years service
→ 7 months

[Signature]
15/11/19

Statement of Hashim Khan Constable No. 2264 S/O Wali Muhammad
R/O Moh: Degan Khel Pirano Daga, Mardan, on Oath: -

I have served as a constable in Police Department since 2008 regularly and sincerely. On 13/03/2017 I have been dismissed from service by awarding major punishment, because I have been absented from my duty from 4.10.2016 upto 18/12/2016 without any leave/sanction from the competent authorities.

That I was posted at Police post Garyala, Mardan and was absent from my duty w.e.f. 4.10.2016 upto 18/12/2016, due to the fact that my mother was suffering from Leprosy, and whereas I was suffering from typhoid and hapatitis. (Copies of medical report are attached herewith).

That I was proceeded against departmentally without following the due course of law. The enquiry was conducted in partial manner and it was lacking fairness and equity; resultantly I was awarded major punishment of dismissal from service on 13/03/2017. (Copy attached herewith).

That I have filed an appeal against the impugned order but the same was dismissed vide order dt. 10/04/2017. (Copy of order is attached).

That I was left with no other remedy except filing of an appeal under Section 4 of KPK Service Tribunal Act, 1974 to the Service Tribunal KPK on 31/08/2017 through Service Appeal No. 1049/2017.

That the Chairman of the Service Tribunal KPK heard both the parties at length and breath of the case, came to conclusion by considering pleas of all parties and deliberated upon the evidence produced before the tribunal on 9.5.19. The learned Chairman in his judgment dated 9.5.2016 (Copy of which is attached) has held that the impugned order dt. 13.3.17 alongwith the orders in appeal and review petition have

Contd... P/2


6
30
-: 2 :-
be set aside and that I shall be given fair opportunity of participation in the proceedings of a proper/regular enquiry and to offer my defence in accordance with law.

I humbly pray before your honour to consider the evidence which I have submitted with this statement. I am also willing to personally attend before any Enquiry Officer in order to cooperate. I have a very fine and clean track record and was always ready to be in the front line in many operations I was on duty and I have always felt pride in being a personnel of KPK Police Force.

I have gone through a lot during the past couple of years due to the medical condition of my mother and myself, and on top of that major punishment in the shape of dismissal from service further increased my miseries. Being sole bread earner at home, my dismissal has not just effected me but have also effected my entire family especially my aged parents in these hard days.

It is, therefore, humbly prayed before your honour to allow me to join my duties again in order to serve my country and my family which is entirely dependant upon me.

Yours Obediently,


(HASHIM KHAN)
Constable No. 2264 E/O Moballah
Degan Khel, Mardan. 2

Annexure 17 (31)

ORDER.

This order will dispose-off the departmental appeal preferred by Constable Hashim No. 942 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded minor punishment of forfeiture of two years approved service and counted his intervening (out of service) period i.e between dismissal and re-instatement is counted in service, but not as duty vide OB No. 2274 dated 18.10.2019. The appellant was proceeded against departmentally on the allegations that he, while posted at Police Post Garyala had been dismissed from service by the then District Police Officer, Mardan on account of 75 days absence period vide OB No. 671 dated 13.03.2017.

After rejection of departmental appeal by the then Regional Police Officer, Mardan, the appellant approached the Khyber Pakhtunkhwa Service Tribunal through Service Appeal No.1049/2017 dated 31-08-2017. The Service Tribunal partially accepted appeal of the appellant vide order dated 09-05-2019 whereby the punishment order i.e dismissal from service was set-aside and the department was issued directions to hold a regular/ de-novo enquiry into the matter.

In compliance with the order quoted above, he was re-instated into service vide District Police Officer, Mardan OB No.1205 dated 11-07-2019 and de-novo enquiry proceedings were initiated through Mr. Mushtaq Ahmed SP/Operations Mardan. The Enquiry Officer after fulfilling necessary process, submitted his findings wherein he concluded that the delinquent official may be re-instated into service with counting his intervening and absence period as leave without pay.

The delinquent official was heard in Orderly Room on 15-10-2019, by the District Police Officer, Mardan but he failed to advance any cogent reasons. Therefore, he was re-instated into service with immediate effect, awarded minor punishment of forfeiture of 02 years approved service and counted his intervening (out of service) period i.e between dismissal and reinstatement, in service but not as duty.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 14.01.2020.

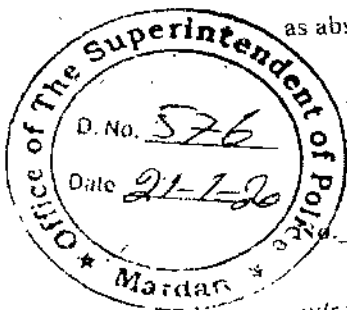
From the perusal of the enquiry file and the service record of the appellant, it came to light that service record of the appellant is tainted with bad entries and was also dismissed from service on the allegations of absence.

Keeping in view the above, I, Sher Akbar, PSP S.St, Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal because enquiry has been conducted according to the canons of justice, hence warrants no interference. However, the order of District Police Officer, Mardan is hereby modified to the extent of treating intervening as well as absence period as leave without pay.

Order Announced.

[Signature]
Regional Police Officer,
Mardan.

Dated Mardan the 20-1-2020.



708 IES, ✓ Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 462/LB dated 05.12.2019. His Service Record is returned herewith. (****)

[Handwritten signature]
OB 137
20-1-2020

OB/DSP/152/osi
Pr. mury actw.
DPOT Mardan
20-1-2020

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Annexure (i)

Statement of Hashim Khan Constable No. 2264 S/O W. I. Muhammad
R/O Moh: Degen Khel Pirano Daga, Mardan, on Oath: -

I have served as a constable in police department since 2008 regularly and sincerely. On 15/03/2017 I have been dismissed from service by awarding major punishment, because I have been absented from my duty from 4.10.2016 upto 18/12/2016 without any leave/sanction from the competent authorities.

That I was posted at police post Garyala, Mardan and was absent from my duty w.e.f. 4.10.2016 upto 18/12/2016, due to the fact that my mother was suffering from Leprosy, and whereas I was suffering from typhoid and hepatitis. (Copies of medical report are attached herewith).

That I was proceeded against departmentally without following the due course of law. The enquiry was conducted in partial manner and it was lacking fairness and equity; resultantly I was awarded major punishment of dismissal from service on 15/03/2017. (Copy attached herewith).

That I have filed an appeal against the impugned order but the same was dismissed vide order dt. 10/04/2017. (Copy of order is attached).

That I was left with no other remedy except filing of an appeal under Section 4 of KPK Service Tribunal Act, 1974 to the Service Tribunal KPK on 31/08/2017 through service Appeal No. 1049/2017.

That the Chairman of the Service Tribunal KPK heard both the parties at length and breath of the case, came to conclusion by considering pleas of all parties and deliberated upon the evidence produced before the Tribunal on 9.5.19. The learned Chairman in his judgment dated 9.5.2016 (Copy of which is attached) has held that the impugned order dt. 13.3.17 alongwith the orders in appeal and review petition have

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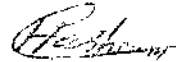
be set aside and that I shall be given fair opportunity of participation in the proceedings of a proper/regular enquiry and to offer my defence in accordance with law.

I humbly pray before your honour to consider the evidence which I have submitted with this statement. I am also willing to personally attend before any Enquiry Officer in order to cooperate. I have a very fine and clean track record and was always ready to be in the front line in many operations. I was on duty and I have always felt pride in being a personnel of KPK Police Force.

I have gone through a lot during the past couple of years due to the medical condition of my mother and myself, and on top of that major punishment in the shape of dismissal from service further increased my miseries. Being sole bread earner at home, my dismissal has not just effected me but have also effected my entire family especially my aged parents in these hard days.

It is, therefore, humbly prayed before your honour to allow me to join my duties again in order to serve my country and my family which is entirely dependant upon me.

Yours obediently,


(HASHIM KHAN)
Constable No. 2264 R/O Mohallah
Degan Khel, Mardan.

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

(34)

Service Appeal No. 7403/2021

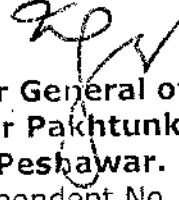
Hashim s/o Wali Muhammad r/o Mohallah Digan Khel Pirano Dag, Tehsil &
District Mardan.....Appellant.


VERSUS

1. The District Police Officer, Mardan
 2. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
 3. The Regional Police Officer, Mardan
-Respondents

AUTHORITY LETTER.

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


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 02)


**Regional Police Officer,
Mardan.**
(Respondent No. 03)


**District Police Officer,
Mardan.**
(Respondent No. 01)