

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 765/2016

Date of Institution ... 23.06.2016

Date of Decision ... 01.09.2021

Nauman Khan Constable 5030 Elite Force, Khyber Pakhtunkhwa Peshawar
... (Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

ROEEDA KHAN
Advocate

... For Appellant

MUHAMMAD ADEEL BUTT,
Additional Advocate General

... For Respondents

SALAH-UD-DIN
ATIQ-UR-REHMAN WAZIR

...

...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

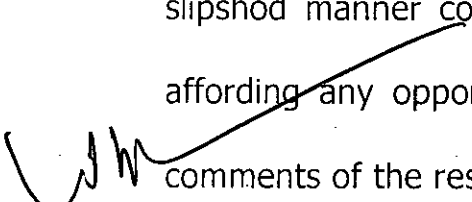
JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant was enlisted as constable in Elite Force on 02-04-2011 and during the course of his service; he was proceeded against on the charges of absence from duty. The appellant was ultimately removed from service vide order dated 04-08-2015, against which the appellant filed departmental appeal which was decided on 05-01-2016. The appellant filed revision petition on 25-11-2015, which was rejected on 23-05-2016, hence the instant service

appeal with prayers that the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned orders were passed without considering the defense plea of the appellant; that ex-parte proceedings were conducted and the appellant was penalized without affording proper opportunity of defense; that absence of the appellant was not willful, rather he was managing treatment of his sick mother, who ultimately died in hospital; that the impugned order is void to the effect that it was passed by an incompetent authority, as the appellant was an employee of central police office and was on deputation to Elite force and rule 9 of police rules, 1975 provides that action is required to be taken by the lending authority, but action against the appellant was taken by an incompetent authority; that no opportunity of personal hearing was afforded to the appellant and ex-parte proceedings were conducted at the back of the appellant.

03. Learned Additional Advocate General appearing on behalf of the respondents has contended that the appellant remained absent from lawful duty with effect from 09-11-2014 to 22-12-2014. To this effect charge sheet and statement of allegations were served upon the appellant, to which he failed to advance any plausible explanations; that the appellant was again found absent from duty vide report recorded in the daily diary dated 03-01-2015; that the appellant himself avoided to join the proceedings, hence ex-parte action was initiated against him; that departmental appeal as well as revision petition of the appellant were barred by time and without any force, hence were rejected.

04. We have heard learned counsel for the parties and have perused the record. Available on record is a long list of medical prescriptions in respect of mother of the appellant and her admission in various hospitals and who ultimately died in hospital on 11-12-2014 as per death certificate available on record. The dates of absence recorded in statement of allegations is 09-11-2014 to 22-12-2014(43 days), which is in congruity with the medical prescriptions and her ultimate death and which shows that absence of the appellant was based on some genuine reasons and was not willful. In response to charge sheet the appellant had taken the same stance of illness of his mother, but the respondents, who were required to take sympathetic consideration of his case, did not consider illness of his mother, rather in a slipshod manner conducted an inquiry at the back of the appellant without affording any opportunity of personal hearing to the appellant, and as per  comments of the respondents, a final show cause notice, which is not available on record, was served upon the appellant without copy of the inquiry report and ultimately the impugned order dated 04-08-2015 of removal from service in respect of the appellant was issued by Deputy Commandant Elite Force, against which the appellant filed departmental appeal. The impugned order clearly mentions that keeping in view his absence, ex-parte action was taken against him. The impugned order also shows two duration of absence i.e. 09-11-2014 to 22-12-2014 and 03-01-2015 to 04-08-2015. Record reveals that the second period is the time, when the appellant was subjected to disciplinary proceedings and obviously, he was not allowed any posting, but the period was declared absent. Departmental appeal was rejected on 01-10-2015, which shows that his departmental appeal was well within time. The appellant filed

revision petition on 25-11-2015, which was rejected on 23-05-2016 and the appellant filed service appeal on 23-06-2016, so the case otherwise is not barred by time.

05. We have observed that both the appellant as well as the respondents presented incomplete record of the case, as no copy of the inquiry report or final show cause notice is available on record. The information we have gathered are from a letter dated 05-01-2016 issued from the office of Addl. IG Elite Force addressed to IGP. Such letter was addressed in response to the revision petition dated 25-11-2015 presented before IGP and this letter contains valuable information, which shows that the appellant was on deputation to Elite Force and was proceeded against by the borrowing department. The inquiry so conducted by the borrowing department recommended that his absence period be treated as leave without pay and he may be repatriated to his parent department, but the appellant was removed from service by the borrowing department vide order dated 04-08-2015. The appellant preferred departmental appeal before Addl. IG Elite Force, which was rejected on 01-10-2015.

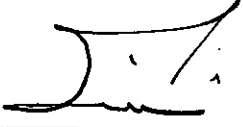
06. Rule-9 of Police Rules, 1975 provides for procedure of inquiry against officers lent to other government or authority, in case the borrowing authority is of the opinion that any punishment should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules. Since the appellant was on deputation to Elite Force, which is evident from the impugned order as well as letter dated 05-01-2015 and his removal from service does not fall within their ambit, hence the impugned order is void, as it


was passed by an authority not competent to pass the same. Reliance is placed on 2019 CLC 394. The Apex Court in another judgment reported in 2014 SCMR 1189 have held that termination order passed by an officer not competent in law to pass such order would be void and without lawful authority, consequently neither bar of limitation would be attracted nor period of limitation would run against such order.

07. Needless to mention that the appellant was condemned unheard and was not afforded proper opportunity of personal hearing and such order has been declared by the apex court as void order. Reliance is placed on 2003 PLC (CS) 365. The proceedings so conducted were not in accordance with law. The Apex Court in its judgment reported in 2008 SCMR 214 have held that absence on medical ground does not constitute gross misconduct entailing major penalty of dismissal from service. The apex court in another judgment have held that regular inquiry is must before imposition of major penalty, which however was not done in the instant case. Reliance is placed on 2021 PLC (CS) 235.

08. In view of the foregoing discussion, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
01.09.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

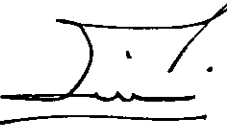

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

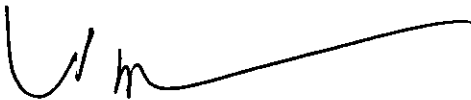
ORDER
01.09.2021

Miss Roeeda Khan, Advocate for the appellant present. Mr. Shiraz H.C alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
01.09.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

23.06.2021

Miss. Roeeda Khan, Advocate, for the appellant present.
Mr. Sheraz Khan, Head Constable alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the ground being not prepared for arguments today and also requested that cost shall also be deposit^{ed} on the next date. Adjourned. To come up for arguments before the D.B. on 04.08.2021. The appellant is directed to submit Member copy before the date fixed.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

04.08.2021

Appellant present through counsel.

Javid Ullah learned Assistant Advocate General for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 01.09.2021 before D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

24.03.2021

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Former requests for time to deposit cost of Rs. 1000/- (one thousand). Allowed. Adjourned to 23.06.2021 for arguments before D.B.

Chairman

Postscript

26.05.2021

(Atiq-ur-Rehman Wazir)
Member (E)

The order dated 24.03.2021 was written but could not be signed by the D.B including the then Chairman who due to unforeseen reason could not attend the office in coming days. He died in the meantime and the order sheet was left unsigned. To bring the proceedings of appeal on track, it is become expedient for ex-post facto completion of the order sheet. The unsigned order dated 24.03.2021 is reproduced below which be given effect accordingly:-

"Learned Counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Former requests for time to deposit cost of Rs. 1000/- (one thousand). Allowed. Adjourned to 23.06.2021 for arguments before D.B."


(Atiq-ur-Rehman Wazir)
Member


Chairman


14.01.2021

Counsel for the appellant and Asif Masood, DDA alongwith Sheraz H.C for the respondents present. The application in hand is with the prayer for restoration of Appeal No. 765/2016, dismissed for non-prosecution on 13.06.2019.

It is agitated in the application that on the relevant day learned counsel for the applicant/appellant was busy before Hon'ble Peshawar High Court, therefore, could not appear before this Tribunal. Further, the appellant had noted incorrect date of hearing on the preceding date. He was, therefore, held back in making appearance before the Tribunal.

The application has been submitted well within the time prescribed for the purpose. More-so, the appeal was ~~ripped~~ for decision when it was dismissed. We, therefore, consider it appropriate to restore the appeal. It is accordingly restored to its original number against payment of cost of Rs. 1000/- (one thousand).

Appeal to come up for arguments on 24.03.2021 before the D.B.


(Atiqur Rehman Wazir)
Member(E)


Chairman

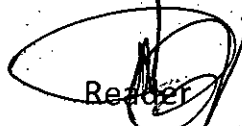
8-4-2020

Due to COVID19, the case is adjourned to
6/7/2020 for the same as before.


Reader

06.07.2020

Due to COVID19, the case is adjourned to 31.08.2020 for
the same as before.


Reader

31.08.2020

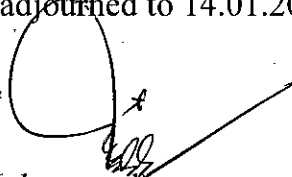
Due to summer vacation, the case is adjourned to
05.11.2020 for the same as before.


Reader

05.11.2020

Junior to counsel for the appellant and Addl: AG for
respondents present.


The Bar is observing general strike, therefore, the
matter is adjourned to 14.01.2021 for hearing before the D.B.


(Mian Muhammad)
Member (E)


Chairman

15.11.2019

Counsel for the applicant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned Additional AG requested for adjournment to file reply on restoration application. Adjourned to 15.01.2020 for reply and arguments on restoration application before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

15.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant appeal is adjourned to 04.03.2020 for further proceedings/arguments before D.B.


Member


Member

04.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.04.2020 before D.B.



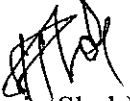


Member

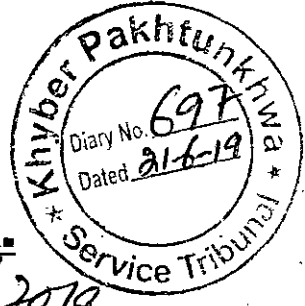

Member

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 251/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	21.06.2019	<p>The application for restoration of appeal No.765/2016 submitted by Mr. Yasir Saleem Advocate, may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 21/6/19</p>
2	10-7-19	<p>This restoration application is entrusted to D. Bench to be put up there on <u>04-9-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>
04.09.2019		<p>Learned counsel for the appellant present. Notice be issued to the respondent for 15.11.2019 before D.B. Original record also be requisitioned for the date fixed.</p> <p style="text-align: center;">  (Hussain Shah) Member </p> <p style="text-align: center;">  (M. Amin Khan Kundi) Member </p>



BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR.

Restoration Application No. 251/2019

CM No:- _____ /2017

In

Service Appeal No:- **765/2016**

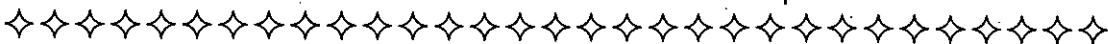
Nauman Khan Constable 5030 Elite force Khyber
Pakhtunkhwa Peshawar

..... Petitioner

Versus

1. Provincial Police, Officer Khyber Pakhtunkhwa
2. Commandant Elite Force Khyber Pakhtunkhwa Peshawar
3. Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar

..... Respondents



APPLICATION FOR RESTORATION OF ABOVE
TITLED SERVICE APPEAL NO 765/2016
WHICH WAS DISMISSED FOR NON
PROSEUTION VIDE ORDER EDATED
13/06/2019

Respectfully Sheweth:-

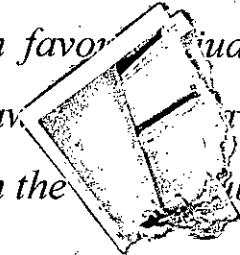
Petitioner very humbly submit as under:-

1. *That the above titled Service Appeal has been pending adjudication before this Honourable Tribunal, which was dismissed in default for non prosecution on 13/06/2019. (Copy of appeal alongwith dismissal order are attached).*
2. *That the order of dismissal in default dated 13/06/2019 is liable to be set aside on the following grounds, which is as under:-*

Grounds:-

- A. *That the clerk of the counsel is busy before the Peshawar High court, Peshawar due to which counsel could not appeared before the Honourable Tribunal on fixed date of hearing, which resulted into dismissal of appeal in default for non prosecution.*
- B. *That the absence of the appellant as well as counsel is not intentional or willful, but due to the reasons mentioned above.*
- C. *That appellant when attended this Honourable Tribunal on the wrong noted date at that time appellant astonished to know that the appeal of the appellant is dismissed in default for non prosecution.*

Hence appellant filed the application immediately, which is well within time.

D. That it is cardinal principal of justice that "law leaver in favor of judication on merit and technicalities of law, is avoided when it makes a stumbling block in the way of substantial justice.

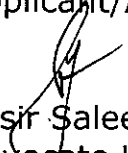
E. That this Honourable Tribunal got complete and effective jurisdiction upon the instant matter.

It is, therefore, prayed that on acceptance of this application, the Honourable Tribunal may kindly be set aside the order of dismissal in default dated 13/06/2019 and to re-admit/restore the above titled appeal and decide it on its own merit.

Dated:-

Through:-

Applicant/Appellant


Yasir Saleem
Advocate High Court,
Peshawar.

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR.

CM No:- _____/2017

In

Service Appeal No:- **765/2016**

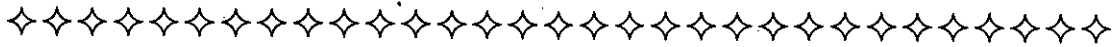
Nauman Khan

..... Petitioner

Versus

Provincial Police, Officer Khyber Pakhtunkhwa & others


..... Respondents



AFFIDAVIT

*I, Nauman Khan Constable 5030 Elite force Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and declare on oath that the contents of this accompanying **Restoration** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.*

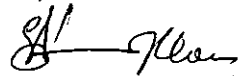
Identified by


Yasir Saleem
Advocate High Court,
Peshawar.

DEPONENT

CNIC No:- *17301-5143875-1*

0315-9397195



Appeal No. 765/2016
Nouman vs Govt

19.04.2019

Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant seeks adjournment on the ground that his counsel is busy before the Hon'ble Peshawar High Court. Adjourned to 13.06.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

13.06.2019

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Called several times till 4:00 PM but no one appeared on behalf of the appellant nor he was present in person. Therefore, the appeal in hand is dismissed in default. File be consigned to the record room.

ANNOUNCED

13.06.2019


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

~~03.01.2019~~


~~Appellant with counsel present. Mr. Kabirullah Khattak,
Addl. AG for respondents present. Counsel for the appellant seeks
adjournment. Granted. Case to come up for arguments on
05.03.2019 before D.B.~~

~~Member~~

~~Member~~

03.01.2019

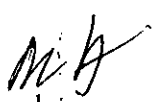
Appellant with counsel present. Mr. Kabirullah Khattak,
Addl. AG for respondents present. Counsel for the appellant seeks
adjournment. Granted. Case to come up for arguments on
05.03.2019 before D.B.

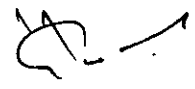

Member

Member

05.03.2019

Learned counsel for the appellant and Mr. Kabirullah
Khattak learned Additional Advocate General for the
respondents present. Learned counsel for the appellant request
for adjournment. Adjourn. To come up for argument on
19.04.2019 before D.B



Member


Member

12.07.2018


Clerk to counsel for the appellant present. Mr. Muqaddar Shah, Inspector (legal) alongwith Mr. Usman Ghani, DA for respondents present. Arguments could not be heard due to general strike of the Bar. Adjourned. To come up for Arguments on 20.08.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

20.08.2018

None present on behalf of the appellant. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Adjourned. To come up for arguments on 01.10.2018 before D.B.


(Ahmad Hassan)
Member

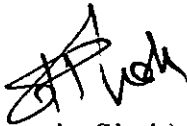

(Muhammad Amin Khan Kundi)
Member


20.09.2018

None present on behalf of the appellant.

01.10.2018

Appellant in person present. Mr. Kabirullah Khattak Additional Advocate General alongwith Mr. Muhammad Shiraz Head Constable for the respondent present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 15.11.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

15.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 03.01.2019.


READER

28.12.2017


Appellant in person and Addl: AG alongwith Mr. Muqaddar Khan, Inspector for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 27.02.2018 before D.B.


Member

27.02.2018


Junior to counsel for the appellant and Mr. Usman Ghani, Learned District Attorney alongwith Muqadar Khan Inspector for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available. Adjourned. To come up for arguments on 27.04.2018 before D.B


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

27.04.2018

Clerk of the counsel for appellant and Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Shiraz Khan, S.I for the respondents present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 12.07.2018 before D.B.


Reader


18.01.2017

Appellant in person and Mr. Javed Iqbal, Inspector alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 12.06.2017.


(ASHFAQUE TAJ)
MEMBER

12.06.2017


Appellant in person present. Mr. Javed Iqbal, Inspector alongwith Muhammad Adeel Butt, Additional AG for the respondents present. Appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 11.10.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member

11.10.2017

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Sheraz Khan, Head Constable for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Adjourn. To come up for arguments on 28.12.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

25.10.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable Elite Force when removed from service on the allegations of willful absence vide impugned order dated 04.08.2015, where-against his departmental appeal was also rejected on 20.10.2015 constraining him to prefer review which was also rejected vide impugned order dated 23.05.2016 and hence the instant service appeal on 23.06.2016.

That the proceedings were not conducted in accordance with the prescribed rules and appellant was proceeded against ex-parte despite his availability.

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 12.12.2016 before S.B.

Appellant Deposit of
Security & Process Fee


Chairman

13.12.2016

Since 12th December, 2016 has been declared as public holiday on account of 12th Rabi-ul-Awal, therefore, case to come up for the same on 18.01.2017 before S.B.


Reader

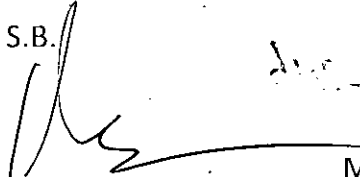
09.08.2016

Appellant in person present. Due to strike of the Bar, Preliminary hearing could not be heard. To come up for preliminary hearing on 25.08.2016 before S.B.


Member

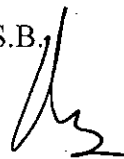
25.08.2016

Counsel for the appellant present. Seeks adjournment. Adjourned for preliminary hearing to 29.09.2016 before S.B.


Member

29.09.2016



Appellant in person present. Appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 25.10.2016 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 765/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/07/2016	<p>The appeal of Mr. Nauman resubmitted today by Mr. Irshad Ahmad Khan Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2	27-07-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>09-08-2016</u></p> <p> CHAIRMAN</p>

The appeal of Mr. Nauman Khan Constable No.5030 Elite Force Khyber Pakhtunkhwa Peshawar, received to-day i.e. on 23.06.2016 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 may be got signed by the appellant.
- ② Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- ③ Copies of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.
- ④ Annexures of the appeal may be attested.
- ⑤ Order dated 23.5.2016 is illegible which may be replaced by legible/better one.
- ⑥ Five copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

incomplete

No. 1072 /S.T.

Dt. 23-6 /2016

Irshad
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Irshad Ahmad Khan Adv. Pesh.

*4/7/16 all the objection is done
Re submit after the court*



*objections are still stand IRSHAD AHMED
and appeal is again returned Adv.
to the counsel for the appellant*

*no 1127 /S.T
dt 4/7/2016*

Irshad
Registrar

Handwritten text at the top of the page, possibly a title or header, which is mostly illegible due to blurring and fading.

- ① Removed
- ② It is stated that non of document has been provided to Applicant by department.
- ③ Removed
- ④ Removed
- ⑤ Removed

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 765 of 2016

Nauman Khan Appellant

VERSUS

Provincial Police, Officer Khyber Pakhtunkhwa
Peshawar and others Respondents

Index

S.No.	Description of documents	Annexure	Pages
1.	Appeal		1-4
2.	Affidavit		5
3.	Copy of Medical certificate and death certificate	"A&B"	8-11
4.	Copy of charge sheet and statement of allegations, <i>copy</i>	"C&D"	
5.	Copy of original order	"E"	12
6.	Copy of departmental appeal	"F"	
7.	Copy of appellate orders	"G" & 1	
8.	Wakalat Nama	Original	

Dated 22/06/2016


Appellant

Through



Irshaad Ahmad Khan

Advocate

High Court, Peshawar

Cell # 0333-9446215

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 765 of 2016

Nauman Khan Constable 5030 Elite Force ^{untain} Khyber Pakhtunkhwa Peshawar.

..... Appellant
Khyber Pakhtukhwa Service Tribunal

VERSUS

Diary No. 664

Dated 23-6-2016

- 1- Provincial Police, Officer Khyber Pakhtunkhwa Peshawar.
- 2- Commandant Elite Force Khyber Pakhtunkhwa Peshawar.
- 3- Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar

..... Respondents

APPEAL UNDER SECTION 4 OF THE NWFP (KHYBER PAKHTUNKHWA) SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER OF RESPONDENT NO.3 VIDE WHICH APPELLANT WAS DISMISSED FROM SERVICE AND RESPONDENT NO.3 VIDE WHICH THE REPRESENTATION OF APPELLANT FILED AGAINST THE ORDER OF RESPONDENT NO.3 WAS REJECTED. (COPY OF THE IMPUGNED ORDERS OF RESPONDENTS AS ANNEXURE "A&B" RESPECTIVELY.

Filed ² ~~to-day~~
S. M. H.
Registrar

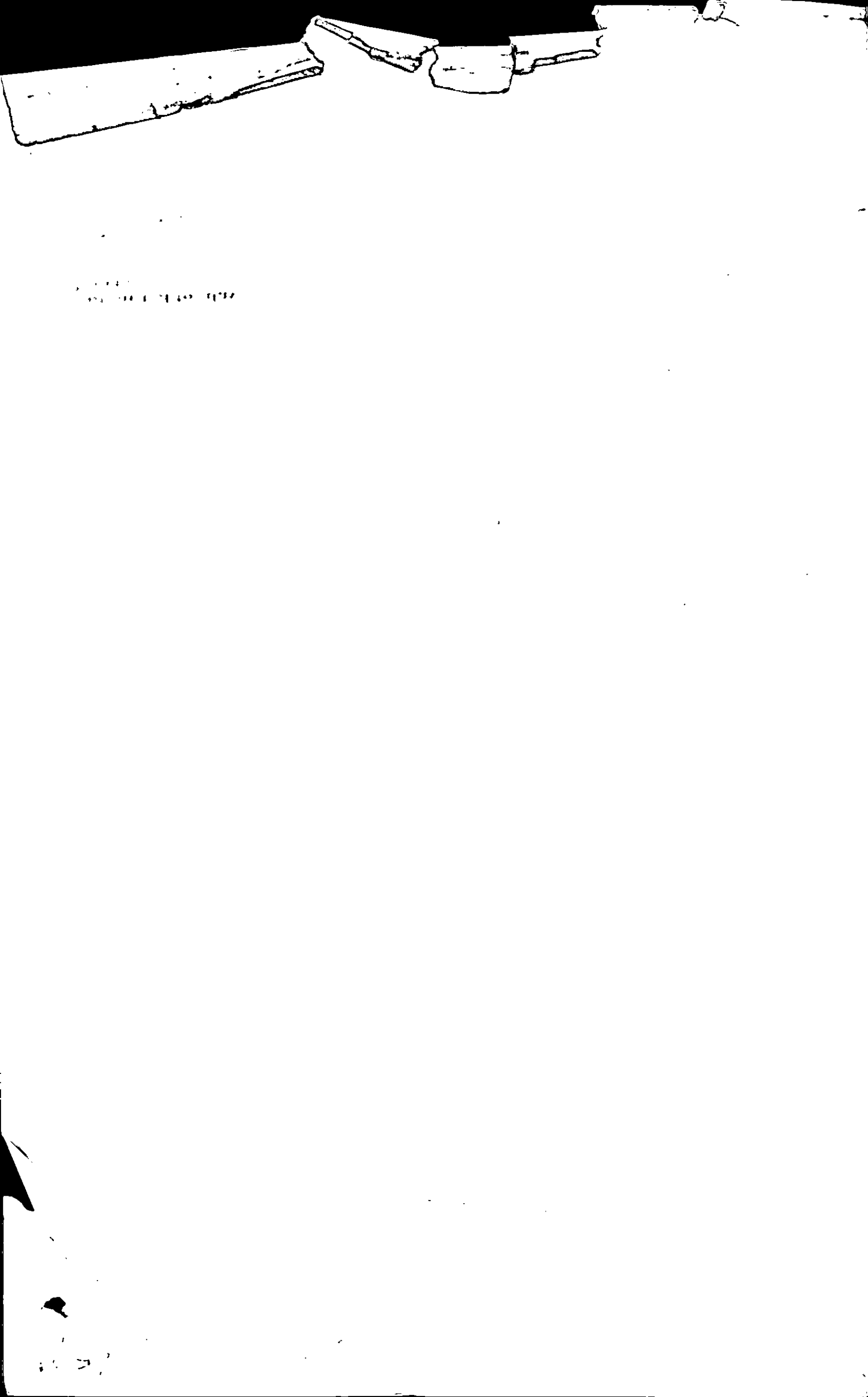
Prayer in Appeal;

On acceptance of the service appeal, the impugned orders may be set aside and appellant may be reinstated in service with all consequential benefits.

Re-submitted to -day and filed.

[Signature]
Registrar
26/7/16

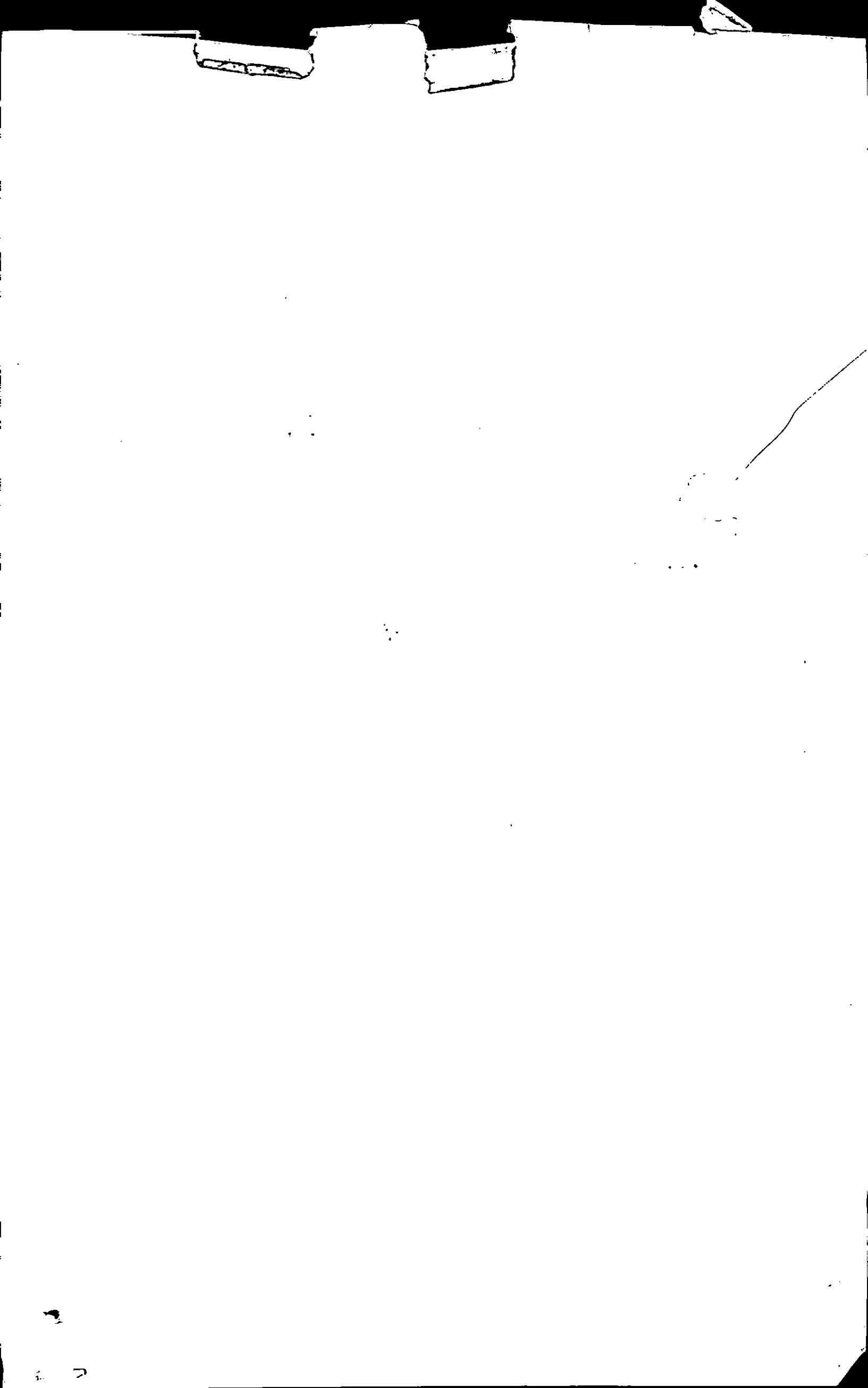
Respectfully Sheweth:



Facts giving rise to the present service appeal are as follows:-

Facts:

- 1- That appellant was enlisted as constable in Elite Force in the year 02/04/2011.
- 2- That appellant was posted at Nowshera and in the meanwhile the mother of appellant suffered from serious illness. The Lines authorities allowed appellant to continue the treatment of the sick mother as the father of appellant had died natural death and there was no other male family member for her look after and treatment affairs, later on mother of appellant was died. (Copy of Medical Certificate, Death Certificate are attached as Annexure "A&B").
- 3- That appellant was issued charge sheet along with statement of allegations which he replied stated therein the reason (Copy of the same is annexed as C&D).
- 4- That a slip shod and one sided inquiry was conducted at the back of the appellant and without providing proper opportunity to defend himself the inquiry was concluded and then appellant was issued final show cause notice, however, the appellant never communicated the inquiry report.



- 5- That the impugned order was issued which was never communicated to the appellant, however, the appellant filed departmental appeal against the impugned order which was rejected on 05/01/2016. (Copy of the original order is attached as Annexure "E" and departmental appeal is annexed "F" while appellate order is annexed as Annexure "G")
- 6- That the representation of appellant was rejected by the respondent No.1. without assigning any person Copy already enclosed as Annexure "B", hence the present service appeal on the following grounds:

GROUND:

- A) That the impugned orders were passed without considering the defense plea of appellant. Ex-parte enquiry proceedings were conducted and the impugned order of respondents was based on ex-parte proceedings. Hence both the impugned orders are against law and void ab-initio.
- B) That the appellant was completely condemned unheard before the impugned orders. Appellant never absented himself from duty but was managing treatment of his sick mother.


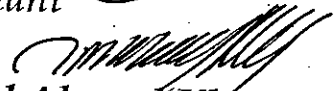
C) That no chance of defense was provided to appellant. No evidence in support of the charges was collected and brought on record during course of enquiry. Similarly the appellant was not heard in person. No one was examined as witness was provided to appellant. Therefore, the impugned order is illegal, unlawful, void, ineffective and against the principles of natural justice.

D) That appellant allegedly remained absent from duty but actually the mother of the appellant was serious ill and there is no one for the look after her. Hence the absence of the appellant is not willful.

E) That respondent No.3 did not examine the material on record and passed the impugned order without adhering to the principles of natural justice.

It is, therefore, requested the impugned order of the respondents No.1 and 3 may be set aside and the appellant has been reinstated in service with all back benefits.

Dated 22/06/2016


Appellant
Through 
Irshad Ahmad Khan
Advocate
High Court, Peshawar

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____ of 2016

Nauman Khan Appellant

VERSUS

Provincial Police, Officer Khyber Pakhtunkhwa
Peshawar and others Respondents

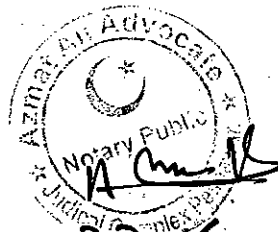
AFFIDAVIT

I, Nauman Khan Constable 5030 Elite Force
Khyber Pakhtunkhwa Peshawar do hereby
solemnly affirm and declare on oath that the
contents of the accompanied service appeal are
true and correct to the best of my knowledge and
belief and that nothing has been concealed from
this Hon'ble Court.

Nauman Khan
DEPONENT

CNIC # 17301-5443875-1

ATTESTED



(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____ of 2016

Nauman Khan Appellant

VERSUS

Provincial Police, Officer Khyber Pakhtunkhwa
Peshawar and others Respondents

APPLICATION FOR CONDONATION OF
DELAY IF ANY.

Respectfully Sheweth:

- 1) That the petitioner / appellant have filed the above captioned appeal in which no date of is yet fixed for hearing, before this Hon'ble Tribunal.
- 2) That the contents of the instant appeal which may kindly be read as an integral part of this petition.
- 3) That the above mentioned appeal is though within time, however, if there would have any delay if any i.e. condonable on the following grounds:

Grounds:

- A) That the delay was not intentional but beyond the control of the applicant / appellant.
- B) That impugned orders are void and according to the judgment of superior Courts no limitation runs against the void orders.
- 4) That the petitioner /appellant valuable rights are involved in the captioned appeal, therefore, the petitioner may not knocked out merely on the basis of technicalities including limitation.

(7)

Reference is made to the judgments reported in
PLD 2003 SC 724 + 2003 PLC (CS) 796.

In view of the afore-going circumstances it is, respectfully prayed that the instant petition may graciously be accepted and the delay, if any, in filing of the departmental appeal may kindly be condoned in the interest of justice and the appeal be decided on merits and technicalities may kindly be avoided. Any other relief which this Hon'ble Tribunal deemed fit and proper may kindly be granted in the interest of justice.

Dated 22/06/2016


Appellant

Through



Irshad Ahmad Khan

Advocate

High Court, Peshawar

Cell # 0333-9446215

Khyber Teardrop Hospital, Peshawar
 Patient Registration Receipt
 CHARGED
 Patient Copy ADM
 Hospital No 3417871214
 Patient Name HUSAN APA
 Guardian Name
 Contact #
 CNIC
 Gender FEMALE
 District PESHAWAR
 Patient Type CHARGED
 OPD No. 23584541214
 Came From CASUALTY
 CT Type ADM
 Status ADMITTED
 Adm. Rate (100) Total (100)
 Department MEDICAL
 OT Rate 0
 Adm. Date 02-07-14-16-59:00
 TOTAL AMOUNT 15202

100

Mediated by
 Counselor
 (8)

(8)

5065
 Mem
 it do
 Tube

9

MEDICAL "E" WARD

9

DATE 6/12/14 TIME 10:00am BED NO 18

CALL TO Dermatology

Respected Colleague,

We have this senescent Hct pt with decompensated chronic liver disease and Diabetes.

She has id of anginous patch that appeared 2 days back in form of localized redness & tenderness & multiple boils that finally were incised & drained at RPH.

She has recent TIC = 22200.
Lesion is including SINGLE DERMATOME.

stomach & locally "acute" ascending

To your expertise

Regards.
TMO
MEW

MEDICAL "E" WARD

(10)

(18)

DATE 3/12/13 TIME BED NO 18

CALL TO Gastroenterology (Mayarabahal Medical ALL 7

(Company)

Medical College

like these this morning 11:00 AM

It e - DAD and chronic diabetes

Also use the of medicine - p

chemotherapy (2-3 epis - dos)

Diagnosis was given to the

Also use in initially

BP = 110/80

Rate 8/min

Kindly see the for endoscopy

for SR, MNU

Trans for see call

Kindly see date for

10-12-13
10-12-13
10-12-13

should be
out of
enough party

Fresh FBC

DAILY PROGRESS REPORT FORM

Date 4-12-14 **TNOEP**
 C/O DM/CLD/HCV

Examination B.P. 120/70 Pulse 86 Temp AF
 Any other finding in GPE
 Systemic:- Hb 8.0
TLC 22,200 (N78%)
platelets 50,000
count = 249

RX 1 General
 2 Specific

Drugs I patient have It Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken Platlet transfusion

Name Dr. Himayat Sign. of H.O. [Signature]

Date 5-12-14
 C/O DM/CLD/HCV

Examination B.P. 140/70 Pulse 100 Temp AF
 Any other finding in GPE
 Systemic:- Urea/creat
Blood vessels

RX 1 General
 2 Specific

Drugs I patient have It Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken

Name _____ Sign. of H.O. [Signature]

Date 6/12/14
 C/O DM/CLD/HCV

Examination B.P. 110/70 Pulse 82 Temp AT
 Any other finding in GPE
 Systemic:- NAC

RX 1 General
 2 Specific

Drugs I patient have It Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken AST

Name _____ Sign. of H.O. [Signature]

Date 7/12/14
 C/O DM/CLD/HCV

Examination B.P. _____ Pulse _____ Temp AT
 Any other finding in GPE
 Systemic:- no urgent RBS +
s-electrolyte

RX 1 General
 2 Specific

Drugs I patient have It Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken

Name _____ Sign. of H.O. _____

Date 5-12-14 **ER**
 C/O _____

Examination B.P. 150/60 Pulse 7 Temp _____
 Any other finding in GPE 159/60
 Systemic:-

RX 1 General
 2 Specific

Drugs I patient have It Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken

Name _____ Sign. of H.O. _____

Date 6/12/14
 C/O HCV hcv (DM/CLD)
Exaggerated pain in Rt shoulder

Examination B.P. _____ Pulse _____ Temp _____
 Any other finding in GPE
 Systemic:- Output - 800ml/14 hrs.
PT = 10 secs (prolonged)

RX 1 General
 2 Specific

Drugs I patient have It Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken

Name _____ Sign. of H.O. [Signature]

Date 8/12/14
 C/O DM/CLD/HCV

Examination B.P. 140/90 Pulse 92/min Temp AF
 Any other finding in GPE
 Systemic:- U/S Shoulder - Edema + thickening
Swain Ectlyoma

RX 1 General
 2 Specific

Drugs I patient have It Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken PBC
oral medicine

Name _____ Sign. of H.O. [Signature]

Date 8/12/14 **ER**
 C/O DM/CLD/HCV

Examination B.P. 120/70 Pulse 70 Temp AT
 Any other finding in GPE
 Systemic:- Urea - 194mg/dl
Cr - 1.83 mg/dl

RX 1 General
 2 Specific

Drugs I patient have It Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken AST

Name _____ Sign. of H.O. _____

DRUGS

DAILY PROGRESS REPORT FORM

DAILY PROGRESS REPORT FORM

Date 9-12-14.
 C/O DM, CLD, HCV, etc.

Examination B.P. 110/70 Pulse 90 Temp A/F.
 Any other finding in GPE.
 Systemic:-
QCS = 8/15 Output 7
600/12kw

RX 1 General
 2 Specific

Drugs I patient have it Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken 1) RBS
2) Electrolytes

Name _____ Sign. of H.O _____

Date _____
 C/O DM/CLD/HCV etc
=> Available

Examination B.P. 140/70 Pulse 100/min Temp _____
 Any other finding in GPE _____
 Systemic:-
Output = 800ml

RX 1 General S. Electrolytes Normal
 2 Specific Urea/Creat Normal

Drugs I patient have it Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken PBS = 240mg/dl

Name 10/12/14 Sign. of H.O _____

Date 11/12/14
 C/O NO A/C
Disoriented

Examination B.P. 130/80 Pulse A/E Temp _____
 Any other finding in GPE _____
 Systemic:-

RX 1 General
 2 Specific

Drugs I patient have it Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken _____

Name _____ Sign. of H.O _____

Date _____
 C/O _____

Examination B.P. _____ Pulse _____ Temp _____
 Any other finding in GPE _____
 Systemic:-

RX 1 General
 2 Specific

Drugs I patient have it Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken _____

Name _____ Sign. of H.O _____

Date 9/December (ER)
 C/O diabetic comas sec to C
A/C - drowsy
100/60

Examination B.P. _____ Pulse _____ Temp _____
 Any other finding in GPE _____
 Systemic:-
Plan - continue care to

RX 1 General
 2 Specific

Drugs I patient have it Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken TMO
met Dwa

Name _____ Sign. of H.O _____

Date 10/11/14
 C/O Disoriented

Examination B.P. _____ Pulse _____ Temp _____
 Any other finding in GPE _____
 Systemic:-

RX 1 General
 2 Specific

Drugs I patient have it Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken pat - N/G tube

Name Dr. Zafar Sign. of H.O _____

Date _____
 C/O _____

Examination B.P. _____ Pulse _____ Temp _____
 Any other finding in GPE _____
 Systemic:-
QCS -

RX 1 General
 2 Specific

Drugs I patient have it Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken _____

Name _____ Sign. of H.O _____

Date _____
 C/O _____

Examination B.P. _____ Pulse _____ Temp _____
 Any other finding in GPE _____
 Systemic:-

RX 1 General
 2 Specific

Drugs I patient have it Y/N 2. Given by Nursing staff Y/N
 Administration Pthyglene, bedding, bedside

Decision Taken _____

Name _____ Sign. of H.O _____

DRUGS

KHYBER TEACHING HOSPITAL, PESHAWAR

13

INVESTIGATION REQUEST FORM



Name: Hussain Ahmad Age: Sex:

Ward: MCW Bed No: 18 Consultant:

Clinical Features:

Samp

Name

Categ

Age

Ref. D

Sampl

Test

URE.

Investigation Required:

← RBS (87)

Dated 11/12/14

Registrar/M.O.

ngc

mg/dl

Date:

Pathologist

8

Pathologist

havar.

(141)



INVESTIGATION REQUEST FORM

Name Husein Ara Age _____ Sex _____
Ward MFW Bed No 18 Consultant _____

Clinical Features:

223
S

Samp
Name
Categ
Age
Ref. D
Sampl
Test
URE.

Investigation Required:

S. electrolytes

Signature

Registrar/M.O.

Dated 9-12-14

Na⁺ 136.7 mmol/L
K⁺ 4.72 mmol/L
Ca 116.7 mg/dL

Date:

6

8

Pathologist

Pathologist

awar.

TS



Sample ID 21582 Patient ID 47
Name HUSSAN ARA ME 18 Sample Type SERUM
Category - Collection Date 08-Dec-2014
Age - Reg. Date 08-Dec-2014
Ref. Dr Analyst
Sample Remark Location

Test	Result	Normal Range	Test	Result	Normal Range
UREA	194 mg/dl	5 - 45 mg/dl	CREATININ	1.23 mg/dl	0.50 - 1.50 mg/dl
		Reft	E		

PATHOLOGIST

Dated 5/14/2014

[Signature]
Registrar/M.O.

[Signature]

Pathologist

hawahar.

16

INVESTIGATION REQUEST FORM

Name Hussam Arq Age _____ Sex _____

Ward ME Bed No 18 Consultant _____

Clinical Features:

Investigation Required:

FRS (90)

Dated 5/12/2014

[Signature]
Registrar/M.O.

8

Pathologist

lawar.

(17)

Name ...

Ward ... MEW ... Bed No. 18 ... Consultant ...

2014

Clinical Features:

B250558

Investigation Required:

WBC

Registrar/M.O.

10

Dated 8-12-14

110 A

Pathologist

Radiology Department
Khyber Teaching Hospital, Peshawar.



417871214

Khyber Teaching Hospital Peshawar.
RADIOLOGY DEPARTMENT (18)

Patient's Name: Muhammad Aza Date: 6/1/2014

ABDOMINAL & PELVIC ULTRASOUND

- Liver is of normal ^{14cm} size, shape and ^{granular} echo texture with ^{Irregular} smooth margins. No focal lesion seen.
- CBD and ^{12mm} Portal Vein measure within normal limits.
- Gall Bladder appears normal. Contracted
- Pancreas appears normal in size, shape and parenchyma. No focal lesion seen.
- Right Kidney is of normal size, shape and echogenecity with no evidence of stone or hydronephrosis. → 8.5 cm x 4.6 cm x 1.5 cm
- Left Kidney is of normal size, shape and echogenecity with no evidence of stone or hydronephrosis. → 10 cm x 5.4 cm x 1.2 cm
- Spleen appears normal in size & texture. No focal lesion seen. → 13.2 cm slightly enlarged spleen
- ~~No evidence of Ascites.~~ → Moderate
- No enlarged Lymph Nodes.
- Urinary Bladder - Catheterized


Radiology Department
Khyber Teaching Hospital, Peshawar.

TA

Transfer notes of NIFPS

Date: 3/12/2014 Time: 4:45 pm sta

By no 1: 17294

By no 2: 17172

By no 3: 17157

By no 4: 17039

Blind gnl 1 A+ve

In case of any reaction, stop perfusion immediately
on wt. card + record on IV stat.

on duty person
MBCW

Perfusion times 5:20 pm

Blank blood transfusion notes

Date: 3/12/2014 Time: 7:10 pm

10 St due blood transfusion notes

Blind gnl: A+ve. By no: 17039.

In case of any reaction, stop transfusion

immediately & notify card + record on IV stat.

4/12/14

11 pm

267

RBS

11:20 a.m

7/12/14

387 mg/dl



Khyber Teaching Hospital Peshawar.

RADIOLOGY DEPARTMENT

(20)

Patient's Name: Hossan Aya

Date: 03/02/2014

ABDOMINAL & PELVIC ULTRASOUND

normal size liver with coarse parenchyma, with
irregular margin, cholelithiasis, no focal lesion
• Liver is of normal size, shape and echo texture with smooth margins. No focal lesion seen.

• CBD and Portal Vein measure within normal limits.

• Gall Bladder appears normal.

• Pancreas appears normal in size, shape and parenchyma. No focal lesion seen.

• Right Kidney is of normal size, shape and echogenicity with no evidence of stone or hydronephrosis.

• Left Kidney is of normal size, shape and echogenicity with no evidence of stone or hydronephrosis.

• Spleen appears normal in size & texture. No focal lesion seen.

• No evidence of Ascites.

• No enlarged Lymph Nodes.

• Urinary Bladder

→ Impression — CLD.

Radiology Department
Khyber Teaching Hospital, Peshawar.

21

INVESTIGATION REQUEST FORM

Name Mossan. Ara. Age Sex

Ward MEW Bed No. 28 Consultant

Clinical Features:

EH96580

Investigation Required:

Dated 3/12/12 PT/APTT

Deranged

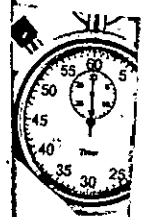
[Signature]
Registrar/M.O.

242

	PT	APTT	Control:	Patient:	Sec
PT			13	23	Sec
PT/INR			30		Sec
APTT			43		Sec

[Signature]
Pathologist

22



Sample ID	214995	Patient ID	76
Name	HUSSAN ARA ME 18	Sample Type	SERUM
Category	-	Collection Date	03-Dec-2014
Age	-	Reg. Date	03-Dec-2014
Ref. Dr		Analyst	
Sample Remark		Location	

Test	Result	Normal Range
SGPT	24 IU/L	5 - 45 IU/L
UREA	229 mg/dl	5 - 45 mg/dl
GLUCOSE	182 mg/dl	70 - 160 mg/dl
ALKALINE PHOSPHATASE	447 IU/L	90 - 306 IU/L

Test	Result	Normal Range
Bilirubin Total	5.64 mg/dl	0.20 - 2.00 mg/dl
CREATININ E	2.49 mg/dl	0.50 - 1.50 mg/dl
ALBUMIN	1.8 g/dl	2.5 - 5.5 g/dl

PATHOLOGIST

PT. INR
APTT Control: Patient:

30
43

Sec
Sec

9

Pathologist

Pathologist

K.T.H.
Electrolytes
Na⁺ 136.5 mmol/lit
K⁺ 3.88 mmol/lit
Cl⁻ 105.1 mmol/lit

Registrar/M.O.
W

Dated 3-12-14

S. Electrolytes

Investigation Required:

Test
SGPT
UREA
GLUCOSE
ALKALINE
PHOSPH
ASE

Sample
Ref. Dr.
Age
Catego
Name
Sex

Clinical Features:

(Signature)

B21307451

Name Hussan Ara
Age 18
Sex Consultant
Ward MEW
Bed No 18

INVESTIGATION REQUEST FORM

Name Hussan Ara Age Sex
Ward MEW Bed No 18 Consultant

Clinical Features:

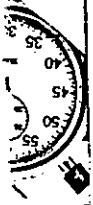
K31503514

Investigation Required:

(23)

FBC +
platelets

W



(24)



Central Hospital

Department of Pathology

Reference No. 1000

Sex
Name
Date
Age
Ref. C

173-8-0
Rx 22200



Rx

Sample

Test
SGPT
UREA
GLUCC
ALKALI
PHOSP
ASE

N 78
20
1302

Plasmi curi 5000



25

my.



KHYBER TEACHING HOSPITAL, PESHAWAR

INVESTIGATION REQUEST FORM

Sarr
Nam
Cate
Age
Ref. I

Name Hussan Ara Age Sex

Ward MEW Bed No 18 Consultant

Clinical Features:

Sampl

Test

SGPT

UREA

GLUC

ALKAL

PHOS

ASE

Investigation Required:

S. electrolytes

Registrar/M.O.

Dated

OK - lab

Na = 131.5
K = 5.02
Cl = 110.7

Pathologist

(26)



INVESTIGATION REQUEST FORM

Name Hussain, Hra. Age Sex
Ward MEW Bed No 18 Consultant

Clinical Features:

Investigation Required:

Urine R/E

Dated 3/11

URINE FOR R/E Ur.
 Sugar: nil Registrar/M.O.
 Albumin: nil
 Micro:
 Pus Cells: 2-3 /HP
 RBC: pat /HP
 Epith Cells: /HP
 Calcium Oxalate: /HP
 Other:

P02

Cj = 110.7

Pathologist

[Signature]

- Sam
- Nam
- Cate
- Age
- Ref. L
- Sampl
- Test
- SGPT
- UREA
- GLUC
- ALKA
- PHO
- ASE

(27)

Name MUSSEN AM Age _____ Sex _____

Ward MCW Bed No 18 Consultant _____

Clinical Features:

Investigation Required:

← BS (120)

Dated 21/12/14

Registrar/M.O.

- _____
- Sarr
- Nam
- Cate
- Age
- Ref. L
- _____
- Sampl
- _____
- Test
- _____
- SGPT
- _____
- URE/
- _____
- GLUC
- _____
- ALK/
- PHO
- ASE

Pathologist

Pathologist
[Signature]

(28)

10
8

KHYBER TEACHING HOSPITAL, PESHAWAR

INVESTIGATION REQUEST FORM

Sarr

Nam

Cate

Age

Ref. E

Sampl

Test

SGPT

URE/

GLUC

ALK/

PHO

ASE

Name Hassan Arif Age Sex

Ward MCW Bed No 18 Consultant

Clinical Features:

Investigation Required:

FBS (301)

Dated 6/12/14


Registrar/M.O.

33

Pathologist

(29)

No
8

Name Hussain Arq Age _____ Sex _____

Ward ME Bed No 18 Consultant _____

Clinical Features:

- _____ Sarr
- _____ Nam
- _____ Cate
- _____ Age
- _____ Ref. L
- _____ Sampl
- _____ Test
- _____ SGPT
- _____ URE/
- _____ GLUC
- _____ ALK/
- _____ PHO
- _____ ASE

84
FBS

Investigation Required:

Dated 7/12/2014

NAL
Registrar/M.O.

Pathologist

25

Pathologist

30 8 to 11



P03754679

حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

Attested by
Ishaad Ahmad
clear
advocate

CRMS No: D173025-14-0174

FORM No: P003754679

NATURE OF DEATH: NORMAL

درخواست دہندہ کا نام: تنویر الحسن

درخواست دہندہ کا شناختی کارڈ نمبر: 1730113096969

پتہ: مکان نمبر 14، محلہ حمید آباد کاکشال، شہر پشاور، تحصیل: پشاور، ضلع: پشاور

متوفی کا نام	شوہر کا نام	تاریخ پیدائش	جنس	مذہب	جائے وفات	تاریخ دفن	وجہ موت	مدت عیال
متوفی کا نام	شوہر کا نام	تاریخ پیدائش	جنس	مذہب	جائے وفات	تاریخ دفن	وجہ موت	مدت عیال
1730192097890	1730192097890	1-1-1954	عورت	اسلام	کے ٹی ایرج	11-12-2014	طبعی	12-12-2014

APPLICANT NAME: TANVEER UL HASSAN

APPLICANT CNIC: 1730113096969 RELATION WITH DECEASED: Mother

ADDRESS: HOUSE #: 14, HAMEED ABAD KAKSHAL,

CITY: PESHAWAR, TEHSIL: PESHAWAR, DISTRICT: PESHAWAR

DECEASED NAME/ CNIC	HUSBAND NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
HUSSAN ARA	TELA MUHAMMAD	1-1-1954	FE- MALE	ISLAM	KTH	11-12-2014	NATURAL	12-12-2014

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

سر خرمی رشتہ دار

NAME: TANVEER UL HASSAN

CNIC: 1730113096969

1730113096969

GRAVEYARD NAME: LALI BAGH

ENTRY DATE: 17-12-2014

17-12-2014

ISSUE DATE: 17-12-2014

17-12-2014

ADDITIONAL INFORMATION:

دستخط:
سیکرٹری یونین کاکشال

کاکشال 2 (25) ضلع: پشاور

RNC 480

17/12/14

10-15

10-15-3-2015

Handwritten notes and signatures at the top right of the page.

(SYED FIDA HASSAN SHAH)
Deputy Commandant
The Force Khayber Pakhtunkhwa

Signature of Syed Fida Hassan Shah

- 1. Acting Deputy Superintendent of Police, The Force Headquarters,
- 2. RL, The Force Khayber Pakhtunkhwa, Peshawar.
- 3. Accountant, The Force Khayber Pakhtunkhwa Peshawar.
- 4. FC No. 2030 of The Force through a DSP, The Force HQs.
- 5. SDC, The Force Khayber Pakhtunkhwa Peshawar.

Copy of the above is forwarded to the:

No. 2,354-38. Dated Peshawar the 27th 2015.

The Force Khayber Pakhtunkhwa Peshawar

(SYED FIDA HASSAN SHAH)

Signature of Syed Fida Hassan Shah

Inquiry Officer

The accused shall join the proceedings on the later date as placed here on the accused, record statements etc and findings within (25 days) after the receipt of the order. The Inquiry Officer shall provide reasonable opportunity of hearing to the Inquiry Officer.

For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Javed Iqbal Khan, Acting DSP, The Force Headquarters is appointed as Inquiry Officer.

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SUMMARY OF ALLEGATIONS

The accused shall join the proceedings on the later date as placed here on the accused, record statements etc and findings within (25 days) after the receipt of the order. The Inquiry Officer shall provide reasonable opportunity of hearing to the Inquiry Officer.

SUMMARY OF ALLEGATIONS

The accused shall join the proceedings on the later date as placed here on the accused, record statements etc and findings within (25 days) after the receipt of the order. The Inquiry Officer shall provide reasonable opportunity of hearing to the Inquiry Officer.

(31)

Handwritten notes at the bottom left: "Arrested by...", "...", "..."

Attested by
Muzahid Ahmad Khan
address

جو ان تمام کارروائی اور چارج ٹیسٹ معروف خدمات کو اس ضمن
 میں کیے والے تمام کاموں اور سروسوں کی بیس پر مبنی ہیں اور
 بیماری شدت کی وجہ سے ستمبر 11 2014 کو K.T.H. ہسپتال میں داخل
 ہوئے اور اس کے بعد حالت غیر حوصلہ پر یعنی مدد کی شدت کی وجہ سے K.T.H.
 ہسپتال کو منتقل کیا گیا اور صبح 12 بجے K.T.H. ہسپتال میں فوت
 ہوئے اور ایسی وجہ سے سائنس پر پیمانہ کی وجہ سے اور کئی وجوہ
 سے تو یہ 43 روز غیر حاضر رہے جو اس ٹیسٹ جموں کی وجہ
 سے اس وقت تک سائنس کا دائرہ صاف سال 2006 میں فوت ہو چکا
 اور گوئی تمام ذمہ داری سائنس پر اور سائنس کے لئے جو میں
 کوئی اور اور ذمہ داری نہیں ہے بلکہ میں وجہ غیر حاضر رہا
 ہو گیا ہے۔ آئندہ احتیاطی تدابیر

کفایت سے یہ سب سے زیادہ بہتر جواب ہے
 کارروائی کے لئے اس میں سائنس کے درجہ بالا جموں
 کو مدد کرنے والے تمام کاموں کی بیس پر اور سائنس کو مدد
 کرنے سائنس کے لئے غیر حاضر رہے جو اس ٹیسٹ میں منظور
 اور کارروائی کے لئے اس کو داخل ہونے کے لئے میں منظور
 میں ہیں تاکہ اس کو مدد کرنے کے لئے اس کو مدد کرنے کے لئے

5
 2014
 5030
 5030
 5030

(رہنما)

No. 9254-61 /EF

Dated 04/08/2015.

ORDER

Constable Nauman No. 5030, (Un-train) of Elite Force, (transferred on deputation basis from Capital City Police Peshawar) was found guilty of gross misconduct on the following grounds.

He remained absent from duty without any leave or prior permission w.e. from 09.11.2014 to 22.12.2014 and 03.01.2015 till this date. Charge Sheet & Summary of Allegation were issued to him and Mr. Javed Iqbal Acting DSP/Elite Force Headquarters was appointed as enquiry officer but he did not appear before the enquiry officer.

A Final Show Cause Notice was also issued to him but he failed to submit his reply. To ensure his appearance, a notice was issued to him in daily newspaper "Express" dated 04.07.2015 and was directed to join the enquiry proceedings within 15 days after the publication of this notice, but he neither joined the enquiry proceedings conducted against him, nor reported for duty. It seems that he has no interest in his current job.

Therefore, I Syed Fida Hassan Shah, Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, keeping in view his long absence, taking an ex-parte action against him and impose major penalty of removal from service upon him from the date of his absence i.e. 03.01.2015.

(SYED FIDA HASSAN SHAH)
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

Copy of the above is forwarded to the:-

1. Capital City Police Officer, Peshawar for information.
2. Acting Deputy Superintendent of Police, Elite Force Headquarters.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.
5. Incharge Kot /OASI, Elite Force Khyber Pakhtunkhwa Peshawar.
6. SRC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar.

Affected by
Ishad Ahmad Khan
advocate

حضرت صاحب الیکٹر جنرل آف پولیس سوہہ عنبر بخٹو جوان لہنہ اور -

درخواست برآمد بحالی ملازمت سائل درخواست ذیل

صاحب عالی ۱ سائل حسب ذیل عرض رہا ہے -

(۱) یہ کہ سائل ڈسٹرکٹ پولیس سپ کورٹ ہوا۔ بعد ازاں سائل کو ایلیٹ فورس منتقل کیا گیا۔ اور سیکورٹی ڈیوٹی کیلئے حکیم آباد، ضلع نوشہرہ تعینات کیا گیا۔

(۲) یہ کہ سائل نے ایس ایف کی کمانڈری میں بھی کوئی کونامی نہیں کی۔ اور ایسے مجاز احکامات کو بھی شکایت کا موقع نہیں دیا۔

(۳) یہ کہ سائل پورنہ ۲۰۱۱-۱۰-۱۵ سے پورنہ ۲۰۱۲-۱۲-۱۲ تک پورنہ ملاقات والہ ڈیوٹی سے عنبر حاضر رہا تھا۔ جو کہ پورنہ سہاری والہ ام لہی۔ اور والدہ پورنہ ۲۰۱۲-۱۲-۱۲ کو وفات پا چکی۔ (تمام سید گل سہری ٹیکسٹ لفٹ ہے)

(۴) یہ کہ سائل نے والدہ کی وفات کے بعد گھوٹلو سائل کو ہم سے اپنے ڈسٹرکٹ منتقل ہونے کے لئے بحوالہ ڈائری نمبر EC 864 پورنہ ۲۰۱۲-۰۵-۰۶ کا نوٹیفکیشن صاحب ایلیٹ فورس کو درخواست گزاری۔

(۵) یہ کہ بعد ازاں سائل کو مجاز حکام ڈیوٹی کا نوٹیفکیشن ایلیٹ فورس کی جانب سے شوکاراؤٹس پر عمل ہوا۔ جو کہ سائل نے جواب پورنہ ۲۰۱۲-۰۵-۱۱ کو جمع کرایا۔

یہ کہ سائل کی عنبر حاضری مفدا اٹھانہ لہی۔ بلکہ پورنہ ملاقات والہ ام ڈیوٹی سے عنبر حاضر رہا تھا۔

(6) Attested by
Ihsan Ahmad Khan
advised

(Next page)

(7) یہ کہ سائل ایک فریب شخص ہے۔ اور والدہ کی مملکت، بعد ازاں
فونٹنگ کورٹ سے کافی فریڈا رہ چکا ہے۔ جس کے سائل کی سہواہ
بھی مورہ 25.12.014 سے قریب کی گئی ہے۔ جس کے سائل
کو محلہ سے ملازمت سے برطرف کر دیا گیا ہے۔

اللہ اے صاحب سے عافیت التماس ہے کہ
مذکورہ درخواست کے سائل کو ملازمت پر بحالی کا حکم
مدار فرمائیں اور فرمائیں۔
سائل صاحب دعا گو رہے گا۔

سائل (مقوم) 25.11.015

لغات خان ولد ملا محمد (بلاٹ نمبر 5030)
ابلیٹ فورس
UN-Train

کاپی نو۔ کمانڈنٹ ابلیٹ فورس



Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar



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7

No. 372 /EF.

Dated 05/01/2016

To : The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPEAL

Memo: Kindly refer to your office Memo: No. S/6079/15, dated 15.12.2015.

The Service Roll, Fuji Missal along with copy of Enquiry File in respect of Ex-Constable Nauman Khan No. 5030 of this Unit are sent herewith as desired, which may be returned after doing the needful. The desired comments are submitted as under:-

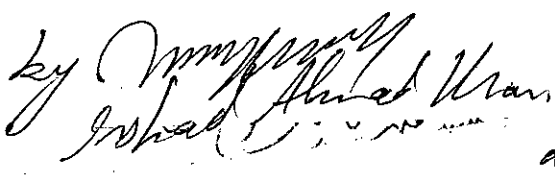
It is submitted that he was absented himself vide D.D No.13 dated **09.11.2014** and reported his arrival vide D.D No.35, dated 22.12.2014. He was Charge Sheeted with the said Allegations vide No.2334-38/EF, dated 27.02.2015. Mr. Javed Iqbal Khan Acting DSP Elite Force Headquarters was appointed as Enquiry Officer. The E.O recommended that his absence period be treated as leave without pay and may be repatriated to his home District. A Final Show Cause Notice was also issue to him vide No.6289/EF, dated 22.05.2015 because he again absented himself vide D.D No.23, dated 03.01.2015. A Notice had also been advertised in Daily News paper to attend the office of Deputy Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar within 07 days but the appellant failed to appear before the enquiry officer within the stipulated period which indicated that he is not interested in Police service. Keeping in view his continuous absence and non-submitting his reply in compliance of the advertised Notice, he was dismissed from service.

He then preferred an appeal for re-instatement in service before the Addl: IGP Elite Force. He was heard and his appeal for re-instatement was rejected on 01.10.2015.

It is further submitted that he has not yet made an appeal in Service Tribunal.

- Enclosed: Service Roll = 01
- Fuji Misal = 01
- Enquiry files = 68 Pages.


(ASIF IQBAL MOHMAND) P.S.P.
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

RAK
Attested by 
Iqbal *advocate*

AL

04/11/16

371

BETTER COPY

No. S/4190/16, Dated Peshawar the 23/05/2016

ORDER

This order is hereby passed to dispose of departmental appeal Under Rule 11-A of Khyber Pakhtunkhwa Police Rule 1975 submitted by Ex-Constable Nauman Khan No.5030. The appellant was awarded punishment of removal from service by Dy; Commandant, Elite Force, Khyber Pakhtunkhwa vide order No.9254-61/EF, dated 04/08/2015, on charges of absence for a period of 08 months and 14 days.

He preferred appeal before the Commandant, Elite Force, Khyber Pakhtunkhwa which was examined and filed / rejected vide memo: No.1308/EF, dated 20/10/2015.

Meeting of Appeal Board was held on 28/04/2016, wherein the appellant was heard in person. The enquiry papers were also examined. On examination of record, it revealed that the petitioner presented himself for a period of 08 months and 14 days. His service length is 04 years. His appeal is badly time barred. Therefore, the petition of the petitioner is barred by law and limitation worth rejection.

This order is issued with approval by the competent authority.

Sd-
(Najeeb ur Rehman)
AIG /Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

No.4191-99 / 16

Copy of above is forwarded for information and necessary action to the:-

- 1- Commandant, Elite Force Khyber Pakhtunkhwa.
- 2- Dy Commandant, Elite Force, Khyber Pakhtunkhwa.
- 3- PSO to IGP / Khyber Pakhtunkhwa, CPO Peshawar.
- 4- PRO to IGP / Khyber Pakhtunkhwa, CPO Peshawar.
- 5- PA to Addl: IGP / IQrs : Khyber Pakhtunkhwa, Peshawar
- 6- PA to DIG / HQrs : Khyber Pakhtunkhwa Peshawar
- 7- Office Supdt: E-IV, CPO Peshawar
- 8- VC Central Registry Cell, (CRC), CPO.

Attested by
Muhammad Ahmad
AIG
advised

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PEASHAWAR.

Service Appeal No. 765/2016.

Nauman Khan.....(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakistunkhwa, Peshawar and
others.....(Respondents)

Subject:- COMMENTS ON BEHALF OF RESPONDENTS.

Preliminary Objections:-

- a) The appeal has no cause of action or locus standi.
- b) The appeal has not been based on facts.
- c) The appeal is not maintainable in the present form.
- d) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- e) The appellant is estopped to file the appeal by his own conduct.
- f) The appeal is barred by law and limitation. The departmental appeal of appellant was time barred therefore, the appeal is worth dismissal.
- g) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-


1. Correct to the extent that appellant was enlisted in Police department as constable and he was marked absent from duty vide report recorded in daily diary Serial No. 13 dated 09.11.2014. He remained absent from duty till 22.12.2014. Charge sheet based on above allegations was issued to appellant and he failed to advance any plausible explanation. He was once again marked absent vide report recorded in the daily diary Serial No. 23 dated 03.01.2015. He did not turn up despite the fact he was repeatedly summoned and eventually a proclamation was published in Urdu daily Express dated 04.07.2015 for his attendance. Appellant deliberately and willfully absented himself from duty for long period, therefore, he was dismissed from service vide impugned order. Extracts of the daily diary reports and proclamation are enclosed as Annexure-A, B & C respectively.
2. Incorrect, appellant has advanced lame excuses. Appellant remained absent for long period and on resuming duty he once again absented himself from duty and failed to report back for duty despite the fact that proclamation was published in Urdu daily wherein he was directed to resume his duty and join the enquiry proceedings.
3. Correct to the extent that charge sheet and statement of allegations were issued to appellant based on charges of willful absence from duty but he failed to submit satisfactory reply. Therefore, the impugned orders were passed based on allegations of willful

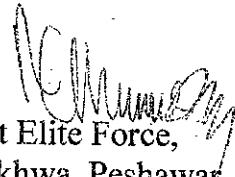
- absence from duty. Copy of enquiry report is enclosed as Annexure-D.
4. Incorrect, appellant himself avoided joining enquiry proceedings and enquiry was conducted in accordance with law and rules.
 5. Incorrect, the departmental appeal and revision petition of appellant were time barred and without any force and substance therefore, the same were correctly rejected. The present appeal of appellant is also not sustainable on the given grounds.
 6. That reply on the grounds are as under.

GROUND:-

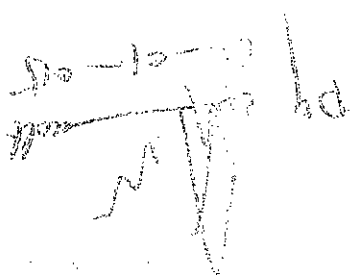
- a. Incorrect, appellant wilfully and deliberately absented himself from duty for long period and failed to advance any plausible explanation to rebut the charges. He also avoided to defend the charges and was not joining the enquiry proceedings. All the codal and legal formalities were adopted before passing the impugned orders.
- b. Incorrect, appellant failed to rebut the charges of his long absence from duty and he advanced lame excuses of illness of his mother.
- c. Incorrect, full opportunity of defense was provided to appellant and he did not produce any defense evidence and on his second round of absence from duty he avoided joining enquiry proceedings despite the fact proclamation was issued in the Urdu daily.
- d. Incorrect, appellant has manipulated the story of illness of his mother and he remained absent from duty for long period without prior permission.
- e. Incorrect the impugned order was passed in accordance with law and rules. Appellant remained absent from duty for long period, therefore, he was correctly dismissed from service.

It is therefore, prayed that the appeal of appellant may kindly be dismissed with costs.


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


Commandant Elite Force,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 2 & 3)

REGISTER
1875



Face of ...
...

22-12-74
BPTC
BPTC



43

22-12-74
BPTC
BPTC

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35

22-12-74

BPTC

1875

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Handwritten notes at the bottom left, including the name 'ERIC' and some illegible text.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1858 /ST

Dated: 17/09 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

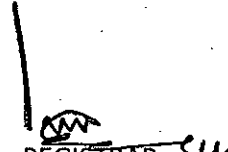
To

The Deputy Commandant Elite Force,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 765/2016, MR. NAUMAN KHAN.

I am directed to forward herewith a certified copy of Judgement dated 01.09.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR