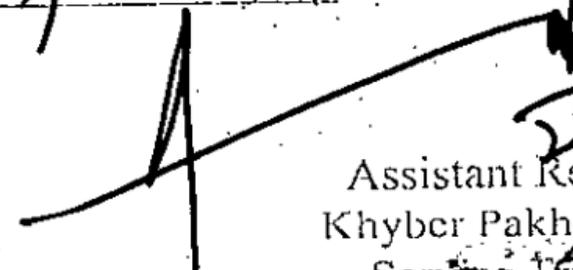


Cost of Rs. 8000/- received in Service Appeal No. 1372/019

Titled SANA ULLAH VS. IGP KPK & OTHERS

in the office of Assistant Registrar, Vide Order 23/10/23, Submitted Dated: 23/10/2023.


Assistant Registrar
Khyber Pakhtunkhwa
Service Tribunal

ASSISTANT REGISTRAR
Khyber Pakhtunkhwa
Service Tribunal Peshawar

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1372/2019

Sana Ullah No.510

Ex-Police Driver Constable

R/o Tehsil Takht-e-Nasrati District Karak

..... Appellant

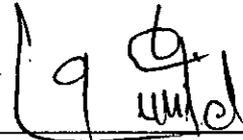
VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

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1.	Para wise comments/reply	-	1-3
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3.	Copy of Final Show Cause Notice, Publication Notice, Summon and dismissal order	B,B1,B2, & B3	6-11
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Respondents
Through
Representative

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

Service Appeal No. 1372/2019
Sana Ullah No.510
Ex-Police Driver Constable
R/O Tehsil Takht-e-Nasrati District Karak

..... Appellant

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8470

Dated 23-10-23

VERSUS

**Inspector General of Police,
Khyber Pakhtunkhwa & others**

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:-

Preliminary Objections:-

- i. That the appellant has got no cause of action to file the instant appeal.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appellant is stopped by his own conduct to file the instant appeal.
- iv. That the appeal is bad in eyes of law and not maintainable.
- v. That the appellant has not approached the honorable Tribunal with clean hands.
- vi. That the appeal is badly time barred by law and limitation.

Facts:-

- A. Correct, the appellant was transferred to Police station Khurram and he failed to report at new place of posting and absented himself from lawful duties on 25.05.2016 vide daily diary No.22 dated 25.05.2016 Police lines Karak without any leave or prior permission. Copy of daily diary as **Annexure-A.**
- B. Incorrect, the appellant proceeded abroad without any sanction of leave from competent authority and absented himself for indefinite period. The appellant was issued proper Charge Sheet and Statement of Allegation. The enquiry officer summoned the appellant in connection with enquiry proceedings through DFC Naseer Khan No.303 Police station Shah Salim time and again but he deliberately and intentionally avoided himself to join the enquiry proceeding. Upon the recommendation of enquiry officer, the appellant was issued Final Show Cause Notice through advertisement in Daily Mashriq was published on 16.12.2016. The appellant failed to appear before the respondent No.3 within a stipulated period of Final Show Cause Notice hence dismissed from service vide O.B No.72 dated 07.02.2017. (Copy of Final Show Cause Notice, Publication Notice, Summon and dismissal order as **Annexure-B, B1, B2 & B3.**)
- C. Incorrect, the appellant has provided all documents of departmental enquiry and duly informed him. **Copy as Annexure-C.**

- D. Incorrect, proper Charge Sheet & Statement of Allegation were issued to the appellant and fulfilled all the legal and codal formalities as submitted in the para-2 above.
- E. Incorrect, reply already submitted in para-C above.
- F. Incorrect, the appellant being a member of discipline force was required to remain present on duties till final decision of the competent authority regarding sanction of leave but he did not mull over this fact and absented himself from lawful duty without any rhyme or reasons and prior approval / permission of the competent authority.
- G. Incorrect, being a member of discipline force and public servant, the appellant left his official obligations and home country proceeded abroad for employment without fulfilling the legal requirements sanction of Ex-Pakistan leave under the Leave Rule-1981. Chapter 14.33 of Police Rule-1934 strictly prohibits a police official not to take up / Join other employment without prior approval of the competent authority. The confession of the appellant that he was behind the bar in abroad is an itself a gross misconduct under the law & rules.
- H. Incorrect, an enquiry officer complied with all the legal and codal formalities while conducting departmental proceedings against the appellant. Detailed reply as para-B above.
- I. Incorrect, the appellate authority meticulously perused the relevant record and also afforded an opportunity of personal hearing to the appellant. The appellate authority filed the departmental appeal of the appellant being devoid of merits and time barred. Copy of RPO order vide No.12821/EC dated 12.12.2018 as **Annexure-D.**
- J. The appellant plea is not maintainable in law, liable to be dismissed on the following ground.

Grounds:

1. Incorrect, the appellant was dealt in accordance with law & rules.
2. Incorrect, the appellant badly failed to report to his place of posting and remained absent for a long period was rightly dismissed by the respondent No.3.
3. Incorrect, the dismissal order of the appellant was passed in line with the Police Efficiency and Disciplinary Rules-1975 (amended 2014).
4. Incorrect, the enquiry proceedings was conducted transparently and in accordance with the law.
5. Irrelevant para hence no comments.
6. Incorrect, reply already submitted in para-I of the facts above.
7. The appellant has been dealt in accordance with the law and rules.
8. Police Act-2017 Article-4 & 5 bound a police official to perform duties with great honesty and dedications but the appellant deliberately and intentionally withdraws himself from duty without any leave or prior permission of the respondent No.3 rendered himself for a gross misconduct under Article-118(b) of the Act ibid.

9. Reply as para-8 above.

10. The respondents may also be allowed to advance an additional ground at the time of arguments.

Prayer:-

In view of the above, it is humbly prayed that the appeal contrary to facts, law & rules, devoid of merits and not maintainable may graciously be dismissed with costs, please.



**Regional Police Officer,
Kohat**
(Respondent No. 2)



**Inspector General of Police,
Khyber Pakhtunkhwa,**
(Respondent No. 1)



**District Police Officer,
Karak**
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1372/2019

Sana Ullah No.510

Ex-Police Driver Constable

R/O Tehsil Takht-e-Nasrati District Karak

..... Appellant

VERSUS

**Inspector General of Police,
Khyber Pakhtunkhwa & others**

..... Respondents

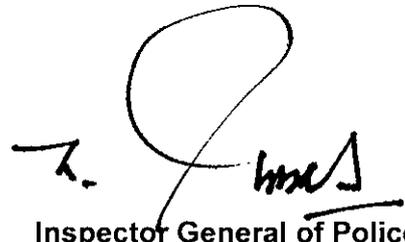
AFFIDAVIT

We the respondents do hereby affirm on oath that the contents of comments prepared in response to the above titled Service Appeal are true and correct to best of our knowledge and belief.



**Regional Police Officer,
Kohat**

(Respondent No. 2)



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

(Respondent No. 1)



**District Police Officer,
Karak**

(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1372/2019
Sana Ullah No.510
Ex-Police Driver Constable
R/o Tehsil Takht-e-Nasrati District Karak

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

AUTHORITY LETTER

Mr. Waqar Ahmad incharge legal of this District Police is hereby authorized to submit comments and any other documents on behalf of the undersigned in the titled above Service Appeal before the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar.




DISTRICT POLICE OFFICER,
KARAK

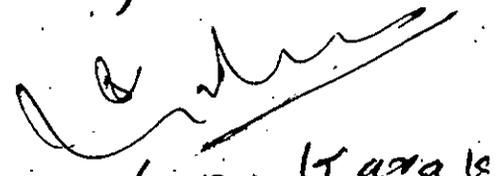
سید اللہ

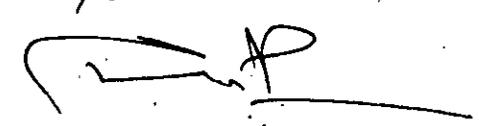
تقلید 28 روزہ 5/16

22 رپورٹ مافوق 5/16 25 وقت 5:55 بجے درج ذیل رپورٹ کنسٹبل
 سید اللہ جوڈہ لوہن ڈسٹ ہیڈز میں لفتیات ہے جس کا فوج
 رخصت منظور ہے اور بار بار جو سفارش کرنا ہے اور محکمہ ٹنگ کرنا ہے
 کہ محکمہ کو رخصت پر جوڑ دیا جاوے۔ ہذا مذکورہ ڈی رپورٹ کنسٹبل
 کا حذف رپورٹ درج روزنامہ کے تقلید علیحدہ مرتب کر کے لفرین
 مناسب صورت میں کئی افسران ہائر عہدوں کی طرف سے ارسال ہوگی

سید اللہ
 نقل بمطابق اصل ہے
 MM/PL/KLC
 25/05/2016



Sir
 Forwarded

 L. O. Karaka
 30/05/2016

Sir,
 Forwarded

 DSP-HQ-16
 01-06-16

ٹائٹل رپورٹ

حوالہ نمبر 30 روزنامہ 27/5/16 حضور میں حدیث یوں

کہ ڈرٹھور تبار اللہ جو تم تقاضا حرم میں تحینات تھا۔ تبادلہ لو لائش
پور حاضرہ آیا جس کے خلاف رپورٹ درج روزنامہ 27/5/16
غیر حاضرہ جلا آ رہا ہے

کنسیل کے خلاف حوالہ حدیث 25/5/16

من 0 یا نے رپورٹ تحریر کیا ہے کہ یہ کنسیل 15 دن رخصت
کیلئے سفارش کیا جاتا ہے جو نام مذکورہ ڈرٹھور کی رخصت منظور
ہیں قی کنی مار سمجھا گیا۔ مگر اپنی عادت سے حضور سفارش
پر آمادہ تھا۔ معلومات کرنے علم ہو گیا کہ یہ ڈرٹھور باہر ملک
چار رہا ہے۔ پندرہ دن رخصت ہیں ایک سال اخیر تنخواہ
کے رخصت کیلئے کوشش کر رہا ہے۔ جو نام وہ اس پندرہ دن
رخصت سے نا امید ہو کر خود خود غیر حاضر ہو گیا۔ جو اعلیٰ تک غیر حاضر
ہے۔ اور باہر ملک جانا بیان ہوتا ہے۔ لو لائش کی توری نہیں آتا ہے
مذکورہ ڈرٹھور کو رخصت کرنے کی سفارش کی جاتی ہے۔ ٹائٹل رپورٹ
مذکورہ پور گزارش ہے۔

Issue ~~statement~~ and chargesheet
Insl / Legal is appoint
as E.O.
Ma

No. 449 /EC
Dated 23/8/2016

FINAL SHOW CAUSE NOTICE.

1. I, Mian Nasib Jan, District Police Officer, Karak as competent authority under the Police Rule-1975 do hereby serve you **Constable Sana Ullah No. 510 Police Lines Karak** as follow:-

That consequent upon the completion of preliminary enquiry conducted against you by Enquiry Officer *SI Idrees Khan, LO Police Lines Karak.*

2. On going through the finding and recommendation of the Enquiry Officer, the materials on the record and other connected papers including your defense before the said Enquiry Officer, the charge against you was proved and you have committed the following acts / omission specified in Police Rule-1975:

"As per findings report of LO Police Lines Karak, you Driver Constable Sana Ullah No. 510 has been transferred from PS Khurram to Police Lines Karak but failed to report at your new place of posting and absented yourself from lawful duty w.e.from 25.05.2016 till date vide DD No. 22 dated 25.05.2016 Police Lines Karak without any leave or prior permission."

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule-1975.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this Notice is received within Seven days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

6. Copy of finding of the Enquiry Officer is enclosed.




District Police Officer, Karak.

اشتہار اظہار وجوہ

ڈرائیور کنسٹیبل ثناء اللہ نمبر 510 ولد منور شاہ سکند نور آباد ڈاکخانہ پنج بانڈہ تھانہ شاہ سلیم، ضلع کرک کو بذریعہ اشتہار مطلع کیا جاتا ہے کہ آپ پولیس لائنز کرک سے مورخ 25.05.2016 سے تم بغیر اجازت اپنی ڈیوٹی سے غیر حاضر ہو۔ تم کو چارج شیٹ بحوالہ نمبر 333-34/EC مورخہ 27.06.2016 بوساطت SHO تھانہ شاہ سلیم آپ کے گھر تعمیل کیلئے بھیج دی گئی۔ مگر آپ نے اب تک مذکورہ بالا چارج شیٹ کی تعمیل کی اور نہ ہی اپنی جائے تعیناتی پر حاضری کی رپورٹ کی ہے۔ اور آپ کو انکوائری آفسر SI محمد ادریس خان لائن آفیسر پولیس لائن کرک کی رو برو پیش ہونے کو کہا گیا مگر آپ حاضر نہ آئے۔ اب بذریعہ اشتہار ہذا مطلع کیا جاتا ہے کہ اس اشتہار کی اشاعت کے بعد 20 یوم کے اندر اندر اپنی جائے تعیناتی یا انکوائری آفسر SI محمد ادریس خان لائن آفیسر پولیس لائن کرک کی دفتر میں حاضر ہو کر اپنی غیر حاضری کی وجوہات بیان کریں ورنہ ملازمت سے برخاست کیا جائے گا۔

نوٹ:- بعد میں کسی قسم کی کوئی عذر قابل قبول نہ ہوگا۔

ڈسٹرکٹ پولیس آفیسر کرک

قدوم من مورستانه ودر مور انار سنج مانده نو

بدرامون المصدق در ۱۵/۱۶ و سلمه المصدق

۱۹۲۰۳۰۲۰۵۰۹۳۵ - ۳

۰۳۴۳۶۹۲۰۳۸۲ در ۲۰۰۰

۰۳۴۴۹۸۰۲۱۷۹ در ۲۰۰۰

مهر حسن خانیق مسکن
لینا

۰۹. ۱۱. ۱۶ DFCL PS-SS

مروان بن الحارث
303

علاء الدين

مروان بن الحارث بن ابي سفيان بن امية
بن عبد مناف بن قصي بن كلاب بن مرة بن كعب بن لؤي بن غالب بن فهر بن مالك بن النضر بن كنانة بن خزيمة بن مدركة بن إلياس بن مضر بن نضر بن معد بن عدنان

والله اعلم بالصواب

والله اعلم بالصواب

11/11
MHC-08.11-16

محمد شاہ

رنگ پور

کراچی

حرفانہ طلبی ٹیبل تناؤ اللہ

بنام بیج بانڈ 24
DFCL

بدریغہ کنٹرول اعلیٰ موصول ہوئی کہ ٹیبل تناؤ اللہ سکن بیج بانڈ
اطلاعی ہی جانے کہ فوراً 26/9 کو دفتر DPP صاف کیا جائے پیش موجود
اطلاعی سے شکار فرما کر اصل بناؤ الیکٹ

اللہ نور جہان ولد وزیر شاہ سکن بیج بانڈ

Mic 14203-2062438-1

Mob 0346-9288932

نور جہان بیج بانڈ

صاف کراچی

نور جہان سہ ولد وزیر شاہ سکن بیج بانڈ

تناؤ اللہ کنٹرول بیج بانڈ فادینا

اس نے بیج بانڈ سونے عمارات فادینا بیج بانڈ

سرورڈا کٹنے جلا گیا ہے۔ رپورٹ کریں ہے۔
DPL و PS-5 5-9-16

صاف کراچی

نور جہان ولد وزیر شاہ سکن بیج بانڈ

بیج بانڈ کنٹرول بیج بانڈ عمارات جلا گیا ہے۔ رپورٹ کریں ہے۔
DPL

صاف کراچی والا سونے اور قابل ملاحظہ اہل بڑا فادینا بیج بانڈ

SHO P.S-5 5

S. Javed
26-9-16

26-9-2016

ORDER

My this Order will disposed off departmental enquiry against Driver Constable Sana Ullah No. 510 of this district Police.

Facts are that as per report of LO Police Lines Karak, Driver Constable Sana Ullah No. 510 has been transferred from PS Khurram to Police Lines Karak but failed to report at his new place of posting and absented himself from lawful duty w.e.from 25.05.2016 till date vide DD No. 22 dated 25.05.2016 Police Lines Karak without any leave or prior permission.

He was issued Charge Sheet and Statement of allegation. Inspector Ishaq Gul, legal branch Karak was appointed as Enquiry Officer to conduct proper departmental enquiry against him. Meanwhile he was transferred to other district and the instant enquiry was completed by SI Muhammad Idrees, LO Police Lines Karak.

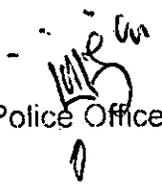
The Enquiry Officer reported that the defaulter Driver Constable has left the country. His returned back and joining Police Force is not possible at this stage. Therefore, the E.O suggested that his departure/traveling may be verified through his relatives for further proceeding in the instant enquiry.

He was served properly with Final Show Cause Notice through his home address. In response to the Final Show Cause Notice, he could not produce any cogent reason nor appear before the undersigned. The defaulter Constable was also informed with Final Show Cause Notice through Director Information Khyber Pakhtunkhwa, Peshawar vide this Office Memo: No. 590/PA(Enq) dated 08.12.2016 for advertisement in the daily Urdu newspapers Mashriq advertised on 16.12.2016 but he miserably failed to submit reply before the Enquiry Officer for his defence.

Keeping in view of the available record and facts on file, the defaulter Constable did not seems to be interested in Police department. His further retention is not in the interest of the department. Therefore, he is awarded Major punishment of dismissal from service from the date of his absence with immediate effect.

OB NO. 72
DATED 07/08/2017




District Police Officer, Karak

صوبہ خیبر پختونخوا

گزارش مندرجہ ذیل کے مطابق ہے کہ درخواست گزار نے
ریکارڈ راجہ ایوب ڈگری سرگرمی کے تحت درخواست کی ہے۔
میں اس کے بارے میں کوئی اطلاع نہیں ہے۔
مائل کے بارے میں اس کے گرام اور علاقہ کے لوگوں سے
کہیں کوئی اطلاع نہیں ہے۔
وایوں۔
گورنمنٹ ہسپتال، ڈیڑھ گھنٹے کے اندر
مائل کو اس کے بارے میں کوئی اطلاع نہیں ہے۔
دی قلم نام کے بارے میں کوئی اطلاع نہیں ہے۔

1718
NRA

yes per PIO
Report

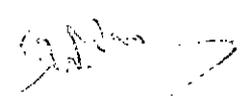

District Police Officer
(Karak)

گزارش ہوگی

01/08/19

12-HQ
02-08-19

Q/sir,
The applicant is entitled
to obtain the photocopy of
relevant document as per
RTI Act 2013, Please.

Sincerely
DSP/HQ/PIO
For report

District Police Officer
(Karak)

صاف کالی

گزارش صبح سائیل کو خواہ ۱۸ اور رات ۷ بجے 72

30/12/2017 07:00

خواہ ۱۸ اور رات ۷ بجے

کلم صابر وطن

گزارش صبح

30/12/2018

Saravalli

30/12

گزارش صبح سائیل کو خواہ ۱۸ اور رات ۷ بجے

[Handwritten signature]

Allowed

[Handwritten signature]

District Police Officer (Karak)

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Sana Ullah No. 510 of Operation Staff Karak against the punishment order, passed by DPO Karak vide OB No. 72, dated 07.02.2017, whereby he was awarded major punishment of dismissal from service for the allegations of deliberate absence of 09 months without any leave or prior permission.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Karak and his service record was perused. He was also heard in person in Orderly Room, held in this office on 26.11.2018. During hearing, he did not advance any plausible explanation in his defense.

I have gone through the available record and came to the conclusion that the punishment order of DPO Karak is justified. Therefore, his appeal being devoid of merits and **time-barred** is hereby **filed**.

Order Announced
26.11.2018

(MUHAMMAD IJAZ KHAN) PSP
Region Police Officer,
Kohat Region.

No. 12821 /EC, dated Kohat the 17/12 /2018.

Copy for information and necessary action to the District Police Officer, Karak w/r to his office Memo: No. 13945/LB, dated 01.11.2018. His Service Roll & Fauji Missal is returned herewith.

(MUHAMMAD IJAZ KHAN) PSP
Region Police Officer,
Kohat Region.

OHC/SAC

for objection

[Signature]