


05.01.2017

Appellant with counsel present. Preliminary arguments heard and case file perused. Through instant appeal the appellant has impugned order dated 19.08.2015 vide which the appellant was dismissed from service. Against the impugned order the appellant approached Hon'able Peshawar High Court, Peshawar, however the writ petition filed by the appellant was disposed of for lack of jurisdiction vide order dated 22.11.2016, there-after the appellant approached to this Tribunal. From the record it is evident that the appellant has not adopted the proper procedure for challenging the impugned order dated 19.08.2015 and after lapse of more than one year the appellant approached this Tribunal for redressal of his grievances. The claim of the appellant is hopelessly time barred and cannot be adjudicated upon.

In the above stated circumstances, the appeal in hand is dismissed in limine with no order as to costs. File be consigned to the record room.


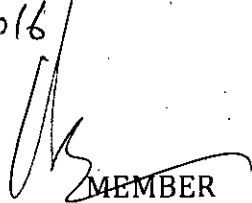
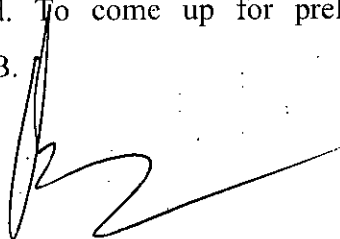
Announced:
05.01.2017


(MUHAMMAD AAMIR NAZIR)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1242/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16/12/2016	<p>The appeal of Mr. Qaiser Abbas resubmitted today by Mr. Khaled Tanveer Rohaila Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	19-12-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22-12-2016</u></p> <p style="text-align: right;"> MEMBER</p>
	22.12.2016	<p>Counsel for the appellant present. Requested for adjournment. Request accepted. To come up for preliminary hearing on 05:01.2017 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AAMIR NAZIR) MEMBER</p>

The appeal of Mr. Qaiser Abbas son of Rajab Ali mohallah Mehmood Khel Lodhi Khel Distt. Hango received today i.e. on 01.12.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Heading of the appeal is incomplete which may be completed.
- 2- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- ③ Annexures of the appeal may be attested.
- 4- Copy of departmental appeal is not attached with the appeal which may be placed on it.

No. 2012/S.T,

Dt. 2/12/2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Tanveer Rohaila Adv. Pesh.

Re submitted
after necessary completion &
compliance P.L. fixed
on 20-12-2016 with
other four like value
appeals
R.S.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal. No. 1242/2016

Qaiser Abbas.....**Petitioner**

VERSUS

Government of K.P.K through Superintendent of Police, F.R.P.
Kohat Range, Kohat and others.....**Respondents**

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Grounds of Appeal		1-6
2.	Affidavit		7
3.	Addresses of Parties		8
4.	Copy of Medical Fitness	A	9-10
5.	Copy of impugned order	B	11
6.	Copy of Rules	C	12
7.	Copy of Judgment of PHC dated 22.05.2013	D	13-19
8.	Copy of order of PHC dated 22.11.2016	E	20-20
9.	Wakalat Nama		21

Qaiser

Appellant

Though

Khalid Tanveer Rohaila

Khalid Tanveer Rohaila
Advocate, Peshawar

Dated 30.11.2016

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal .No. 1242 /2016

Khyber Pakhtukhwa
Service Tribunal

Diary No. 1240

Dated 01-12-2016

Qaiser Abbas S/o Rajab Ali R/o Mohallah Mehmood Khel,
Lodhi Khel, Tehsil and District Hangu.....**Petitioner**

VERSUS

1. Government of K.P.K through Superintendent of Police, F.R.P. Kohat Range, Kohat.
2. Line Officer, Police, F.R.P Kohat.....**Respondents**

Appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned order vide no, 506-10 dated 19.08.2015 whereby the appellant has illegally been dismissed from service .

PRAYER IN APPEAL

Filed to-day
Sandhu
Registrar

On acceptance of this Appeal, the impugned order vide no, 506-10 dated 19.08.2015 may kindly be declared null and void, in effective upon the rights of Appellant on the basis of a discriminatory, illegal and mala-fide based order and the respondents may very kindly be directed to re-instate the Appellant on his own basic pay and scale as constable since the date of dismissal from service.

Re-submitted to -day
and filed.

Sandhu
16-12-16
Registrar

Respectfully Sheweth:-

1. That the Appellant belongs to District Hangu where from he applied for the post of Constable of Police in F.R.P. Kohat.
2. After qualifying required test and interview, the Appellant was appointed as Constable on 02.09.2013.
3. That at the time of his appointment the Appellant appeared for required test, interview as well as Medical fitness test and was found fit as per required criteria. **(Copy of Medical Fitness Certificate and order is attached as Annexure "A")**.
4. That the Appellant was issued the constabulary No.147/SPI/1838/FRP Kohat Range Kohat and he was directed to join his services at F.R.P Lane Kohat.
5. That during this period the Appellant performed his services with S.P. Kohat F.R.P and Lane officer F.R.P. and as per rules he was given salary etc upto two years of services regularly till his dismissal from service.

6. That after two years of service for unknown reason the Appellant was dismissed from service without any plausible reason under Rule 12.21 of K.P.K Police Rules, 1975.**(Copy of impugned order is attached as Annexure "B")**.

7. That the law under which the appellant has been dismissed from service neither applies in the matter nor it has been complied with, further the impugned order has contradiction in it self hence the mala-fide of the respondents is evident and quite clear.

The Rule under which the appellant has been dismissed from service is reproduced here under.

12.21. **discharge of inefficients** A constable who is found unlikely to prove an efficient Police Officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this Rule.**(Copy of Rules is attached as Annexure "C")**.

8. That in the same like matter the Peshawar High Court Peshawar in Writ petition No.2446/2012 some 24 recruits have been re-instated vide its judgment dated 22.05.2013.**(Copy of judgment is attached as Annexure "D")**.

9. That the appellant approached the Peshawar High Court Peshawar through Writ Petition

2934/2016 where in the Appellant was directed to approach the proper forum. **(Copy of order is attached as Annexure "E")**.

10. That when the Appellant became hopeless from the Department he approaches this Hon'ble Court on the following amongst other grounds.

GROUND:-

- A. That the appellant was duly appointed by the competent authority after going through cordial formalities including the Medical fitness test and was found fit and eligible for the post applied for on the basis of Medical test wherein his chest was found 33x 34 ½ and height was measured as 5 x 7 at the time of his appointment.
- B. That the Appellant has served the department with honesty and hard work for two years and in the period certain hopes became attached with job which became his legitimate expectations.
- C. That interestingly the appellant after returning from training Center Mansehra remain on duty for about one year and 10 months and thereafter he was illegally, mala-fidely proceeded against in the manner not warranted by law, interestingly the other physically unfit declared recruits have been duly approved by the competent authority.

- D. That the Rule i.e 12.21 of Police Rules 1975 does not apply in the matter of Appellant as the Appellant has not been discharged on the basis of in-efficiency.
- E. That the impugned order has lot of contradictions which is self evident of the mala-fide of the respondents.
- F. That the respondents are duty bound not to treat the Appellant with discrimination.
- G. That as the impugned order is the result of mala-fide and is an illegal order against which the appellant has properly approached the competent authority well with in time and after refusal approached the Peshawar High Court Peshawar through Writ Petition No.2934/16 on the ground of illegality of order and after directions of the worthy Peshawar High Court Peshawar vide order dated 22.11.2016. to approach the proper forum, hence the present appeal on the same ground with the observation of Apex Courts regarding the application of period of limitation against an illegal order which is clear in this regard that no limitation runs against orders passed illegally and malafidely.
- H. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Court.

6.

- A. It is, therefore, respectfully prayed that on acceptance of this Appeal, the impugned order vide No.506-10 dated 19.08.2015 may kindly be declared null and void in-effective upon the rights of the Appellant on the basis of an order based on discrimination, mala-fide and illegal order and the respondents may kindly be directed to re-instate the Appellant on his own basis pay and scale as Constable since the date of discharge from service.**
- B. Further, as the impugned order is an illegal order against which no period of limitation run however, if any delay has been caused which could not be termed intentional be condoned in the best interest of justice.**


Appellant

Though


Khalid Tanveer Rohaila
Advocate, Peshawar

Dated 30.11.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

W.P.No. _____/2016

Qaiser Abbas.....**Petitioner**

VERSUS

Government of K.P.K through Superintendent of Police,
F.R.P. Kohat Range, Kohat and others.....**Respondents**

AFFIDAVIT

I, Qaiser Abbas S/o Rajab Ali R/o Mohallah Mehmood Khel,
Lodhi Khel, Tehsil and District Hangu , do hereby solemnly affirm
and declare on oath that the contents of the accompanying
Appeal are true and correct to the best of my knowledge and
belief and nothing has been concealed from this Hon'ble Court.

Qaiser

DEPONENT

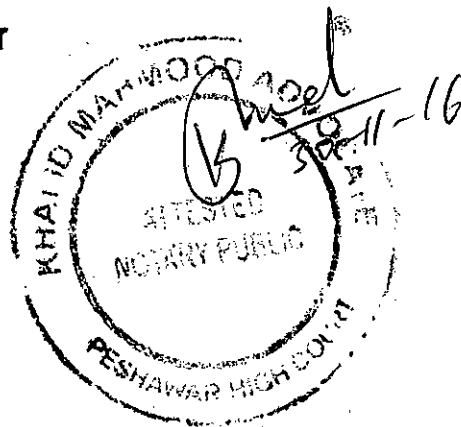
Identify By

CNIC# 14101-2380379-5

Khalid Tanveer Rohaila

Khalid Tanveer Rohaila

Advocate, Peshawar



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal.No. _____/2016

Qaiser Abbas.....**Petitioner****VERSUS**Government of K.P.K through Superintendent of Police, F.R.P.
Kohat Range, Kohat and others.....**Respondents****ADDRESSES OF PARTIES****PETITIONER**Qaiser Abbas S/o Rajab Ali R/o Mohallah Mehmood Khel, Lodhi
Khel, Tehsil and District Hangu**RESPONDENTS**

1. Government of K.P.K through Superintendent of
Police, F.R.P. Kohat Range, Kohat.
2. Line Officer, Police, F.R.P Kohat

Though


Appellant


Khalid Tanveer Rohaila

Advocate, Peshawar

Dated 30.11.2016

9

A

ENLISTMENT ORDER

Mr. Deisar Abbas S/O Rajab Ali

R/O Loelhi Khail hangu

PS city hangu District hangu

is hereby enlisted as recruit/Constable in BPS (5) with effect from

2-9-13 and allotted Constabulary No. 1210

Height 5'7"

Chest 33" 3 1/2"

Education 10th

D/O Birth 10-11-1993

Age on enrolment 19 year 9 Months & 20 days.

His service is purely on temporary basis and liable for termination at any time without any notice.

OB No. 458

Date 2-9-2013

[Signature]
Superintendent of Police
Kohat Range, Koh

ATTESTED

[Signature]

Person

S

an
inf

his

CERTIFICATE

10

A

Qaisar Abbas

Bangash

Rajab-Ali

Dist 2 Teh Hangu village

Lodhi Khail

10-11-1993 (14101-2380379-D)

Date of birth

Exact height by measurement

5'7" Chest 33 x 34 1/2

Personal mark of identification

NIL

Signature of the official

[Signature]

Signature of Head of Office

[Signature]
Superintendent of Police
FRP Kohat Range
Kohat
Seal of Office

I do hereby certify that I have examined Mr Qaisar Abbas

a candidate for employment in the office of the Superintendent of Police FRP Kohat
(As Constable)

and can not discover that he had any disease communicable or other constitutional

infection or bodily infirm except nil

I do not consider this as disqualification for employment in the office of

Superintendent of Police FRP Kohat his age is

his own statement 20 years years and by appearance about Twenty years



LEFT HAND THUMB AND FINGER

IMPRESSIONS

ATTESTED
[Signature]

29/8/13

[Signature]
Medical Superintendent
D.H.Q Teaching Hospital
Kohat

ORDER

This order is passed on the departmental enquiry against Recruit Constable Qaisar Abbas No. 147/SPL/1838/FRP Kohat Range, Kohat under Police Rules - 1975 (amendment with 2014).

Brief facts of the departmental enquiry are that the above named Recruit Constable was enlisted as Constable in FRP Kohat vide this office OB No. 458 dated 02.09.2013. His service was purely on temporary basis and liable for termination at any kind without any notice he was detailed for Basic Recruit Training Course at RTW Mansehra vide this office OB No. 503 dated 04.10.2013. The Commandant Police Training College Hangu vide his office order Endst No. 2951/56/GC dated 28.10.2013 intimated that he has been checked by the committee constituted for the purpose and found him not according to required standard and he is deficient in Height 01 inch (one inch) due to which he was returned as un-qualified to FRP Kohat vide Police Training College Hangu OB No. 731 dated 23.10.2013.

Charge sheet and summary of allegations vide this office Endst No. 437 dated 10.07.2015 were issued and Inspector Shaukat Hayat was appointed as Enquiry Officer to conduct proper enquiry and report the Charge Sheet and Summary of Allegations was properly served upon him personally through Enquiry Officer but his reply was found un-satisfactory.

Enquiry Officer in his finding report submitted that he has checked his Height and found him unfit and not according to required standard as he is deficient in 1/2 inch in Height 01 inch in Chest due to which he was returned as un-qualified to FRP Kohat. Enquiry officer further added that at the time of enlistment the then OSI Noor Muhammad made his measurement in Height 5'7" / chest 33x34 1/2 and at present during re-measurement he is found deficient in Height by 1/2 inch and in Chest one inch. However, the then OSI Noor Muhammad has already been compulsory retired vide Worthy Provincial Police Officer Khyber Pakhtunkhwa Peshawar's letter No. 1559-94/SE-II dated 19.08.2015 on account of providing connivance and facilitating the officers in the illegal recruitment of 378 candidates in FRP recruitment in 2013. Enquiry Officer report revealed that the Recruit Constable is not fit for Police Service according to rules and he has recommended for punishment.

In view of the above facts and findings of the Enquiry Officer, the said Recruit Constable is physically unfit for Police department under the required standard. Therefore Recruit Constable Qaisar Abbas No. 147/1838 is dismissed from service under 12-21 Khyber Pakhtunkhwa Police Rules 1975 (amendment with 2014).

Order announced

OB No: 577
Dated: 18/08 2015.

Superintendent of Police, FRP
Kohat Range Kohat

OFFICE OF THE SUPERINTENDENT OF POLICE, KOHAT RANGE KOHAT

No: 506-10 /PA, dated Kohat the 19/8 2015

Copy of above is submitted for favour of information to the Commandant, FRP Khyber Pakhtunkhwa Peshawar w/r to this office Endst No. 440/PA dated 10.07.2015 and his good office Memo. No. 6426/EC dated 06.08.2015 please.

Pay Officer, SRC and OHC FRP Kohat for necessary action

Superintendent of Police, FRP
Kohat Range Kohat

ATTESTED

given some reward in addition to travelling allowance. The dates of enlistment of recruits shall, however, as far as possible, be regulated to ensure that a sufficient number of men are enrolled on the same date to form a training squad to proceed from start to finish of their recruits training according to the prescribed syllabus.

12.21. A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule.

12.22. (1) Every enrolled police officer shall be given a certificate of appointment in the form prescribed by the Police Act (Form 12.22(1)) and shall sign a receipt therefor in his character roll. Such certificate shall be signed by the gazetted officer empowered to make the appointment.

(2) Such certificates shall be in abeyance during periods of suspension and shall be surrendered on leaving the service.

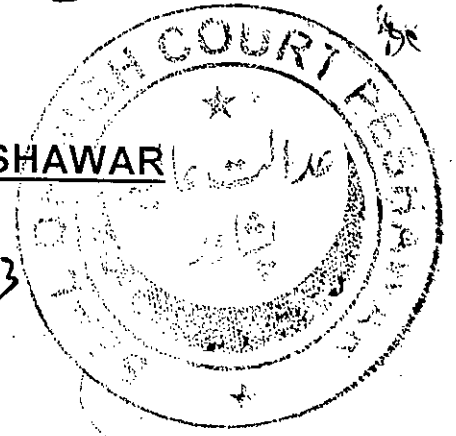
12.23. (1) In districts where tracking by indigenous methods is an established custom, professional trackers may be appointed to the police by Superintendents either as constables or head constables according to their qualifications and up to the age of 35 years.

ATTESTED

(B)

D

IN THE PESHAWAR HIGH COURT, PESHAWAR



W.P No. 2446-P 2012

1540/13

1. Muhammad Islam S/o Sultan Khan, C. No.1599
 2. Kazim Khan S/o Miraj Khan, C. No.816
 3. Muhammad Riaz S/o Niaz Ali Khan, C. No.636
 4. Syed Imran Shah Syed Noor Muhammad Shah, C. No.2266
 5. Abid Shah S/o Hameed Shah, C. No.1613
 6. Usman Ali S/o Azam Khan, C. No.887
 7. Safiullah S/o Latif Khan, C. No.455
 8. Fazli Rokhan S/o Fazal Gul, C. No.365
 9. Muhammad Shakeel S/o Muhammad Afzal, C. No.1134
 10. Irfanullah S/o Farmanullah, C. No.916
 11. Kamran Khan S/o Khan Bahadar, C. No.669
 12. Kashif Gohar S/o Gohar Shah, C. No.905
 13. Abdul Manan S/o Abdul Qayum, C. No.1003
 14. Muhammad Farooq S/o Rambail Khan, C. No.664
 15. Waqar Ahmad S/o Bakhtiarullah, C. No.1877
 16. Ihtishamul Haq S/o Saif-ur-Rehman, C. No.407
 17. Hidayatullah S/o Amanullah, C. No.1489
 18. Sheraz Khan S/o Abdus Sattar (2276)
 19. Umar Ayaz S/o Yaghi Gul (705)
 20. Gul Muhammad S/o Hamesh Khan, C. No.503
 21. Sikandar Hayat S/o Muhammad Hayat (2050)
 22. Faisal Jan S/o Mabood Jan C. No.1520
 23. Kamran S/o Shazewar C. No.2098
 24. Kahshif Zaheer S/o Zahirullah Jan (1437)
- All C/o Gulabad, Dalazak Road, PeshawarPetitioners

V E R S U S

1. Deputy Commandant, RFP, Peshawar
2. Commandant, FRP, KPK, Peshawar
3. Provincial Police Officer, KPK, Peshawar.....Respondents

ATTESTED

FILED TODAY
Deputy Registrar
23 AUG 2012

ATTESTED
EXAMINER
Peshawar High Court
02 MAY 2016

(11)
74

Judgment Sheet

**PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT**

U.P. No. 2446-P of 2012

JUDGMENT

Date of hearing 22-5-2013

Applicant/Petitioner(s) (Mabid Islam) by Mr. Saadullah Khan Masrat,

Respondent(s) (Govt. etc) by Malik Mujtaba Khan, B.A. 9

MIAN FASIH-UL-MULK, J.- In this writ petition, petitioners have questioned the validity of decision taken by Deputy Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar in exercise of authority vested under Rule 21.21 of the Police Rules, discharging the services of petitioners by holding that they do not fulfill the requisite eligibility criteria under Rule-12.15 for appointment as Constables in Police Department.

ATTESTED

2. Brief facts, giving rise to instant writ petition, are that in the year 2011 an advertisement was made in the newspaper for appointment of Constables in the Police Department. The qualification and physical criteria for appointment was Matric, age 18 to 25 years, height 5'-7" and chest 33x34 ½ . The candidates were informed to appear for test and interview as well

ATTESTED
22 MAY 2013

(15) (H) (S)

as physical examination on 12.11.2011. The petitioners accordingly appeared for test and interview, where after they were selected and sent for Training to Hangu. The petitioners, after serving for more than a year, were then served with the impugned order whereby they were discharged from service being found deficient in height/chest.

3. It is averred in the writ petition that petitioners were serving the force to the best of their abilities and that without any notice or inquiry, order of discharge was issued on 19.07.2012 under Rule 12.21; that as per Rule 12.21 only those Constables could be discharged, who are found unlikely to prove efficient police officers and such rule is not applicable in their case because they have not been discharged on the ground of inefficiency but on the ground alleged in the impugned order; that petitioners were appointed by the competent authority after observing all codal formalities, which orders were implemented and acted upon for years and that some other Constables having similar deficiencies have been left over, who are still serving the force e.g. constable Muhammad Umair, appearing at Serial No.5 of the impugned order.

ATTESTED

ATTESTED
 324
 Peshawar
 02 MAR 2013

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4. The respondents in their comments have stated that Rule 12.21 fully applies to the case of petitioners as they have less than three years service and could be validly discharged by the Superintendent at any time and that there shall be no appeal against an order of discharge under this rule; that petitioners were not found satisfactory as they were not eligible to be deputed for any field duty and that constable Muhammad Umair had preferred appeal to the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, which was accepted and the said constable was re-instated.

ATTESTED

5. Arguments heard and record perused.

6. The stance of respondents is not that petitioners were not validly selected or they had not cleared the alleged examinations but they have simply stated that after appointment they did not undergo the basic Police training at PTC Hangu for being ineligible due to lack of physical standard. The relevant provisions of Rule 12.21 are to the following effect:-

"A constable who is found unlikely to prove an efficient

police officer may be discharged by the Superintendent

ATTESTED

EXAMINER
Peshawar High Court

02 MAY 2016

(17) (B) (C)

at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule."

The argument of learned counsel for petitioners seems to be forceful in the circumstances that the above Rule is not applicable to the case of petitioners as it pertains to inefficiency of a Constable who is otherwise recruited after passing all the examinations and there after he is found inefficient for some reasons.

ATTESTED

7. Perusal of the file would reveal that constable namely Muhammad Umair, who was also discharged through the same impugned order, was subsequently re-instated in service on the ground that he had appealed against the said order before the Provincial Chief of the Force. Here, deviation and violation of Rule 12.21 is very much evident on part of the respondent as the said Rule has expressly provided that there shall be no appeal against an order of discharge under this rule. There is another order dated 08.08.2011, placed on file, wherein the deficiencies

in height, chest and education in respect of one Ijaz Ahmad

ATTESTED
EXAMINER
Peshawar High C
02 MAY 2016

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Constable have been condoned for enlistment as constable in FRP and similarly deficiency in height qua Nayyar Shah constable was also condoned. The above acts of respondents clearly denotes that they are not only violating the requisite rules but have adopted pick and chose policy, about similarly placed Constables having such like deficiencies, as pointed out in the case of petitioners.

8. As per advertisement made in the Press, selection as constable was subject to passing of written test as well as physical examinations. How, the respondents inducted petitioners in Police force when they were not qualified to be appointed on the ground of physical deficiency and after a deep slumber the respondents awoke and found the appointment of petitioners as illegal. In our view, after appointment the respondents could not get the height/chest measurement verified again and on a minor difference found, appointment of petitioners cannot be terminated.

ATTESTED

9. Seemingly, petitioners have been subjected to two physical examinations; one before and the other after appointment; hence any difference in the two measurements,

EXAMINER
Peshawar District Court
02 MAY 2013

(Handwritten initials)

19

being small, can occur on two different dates and this will not automatically indicate that petitioners were not having the requisite height/chest measurement at the time of appointment.

10. Further, the petitioners were not given any proper opportunity of being heard and the impugned order on this score too is not sustainable.

11. In view of the aforesaid findings, the impugned order of discharge cannot stand; the writ petition is allowed and the impugned order dated 19.07.2012 is set aside with no order as to costs.

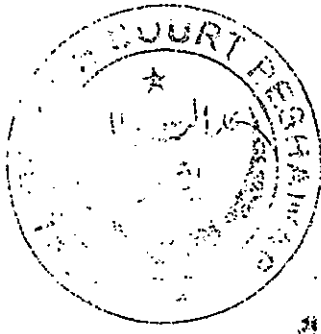
sd/- Miran Fasihul Malik - J
sd/- Abdul Qadir Khan - J

Announced
22.05.2013

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of the Order 1984

(Large handwritten signature)



ATTESTED
(Handwritten signature)

Office
25/5/2013 24866
Date of Presentation of Application *02-05-16*
No of Pages *138*
Copying fee
Urgent fee
Total *26.00*
Date of Payment *02-05-16*
Date of Delivery *02-05-16*
Received by *Abdul Qadir Khan*

IN THE PESHAWAR HIGH COURT, PESHAWAR.

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FORM 'A'

FORM OF ORDER SHEET

Date of Order	Order or other proceedings with signature of the Judge(s)
1	2
22.11.2016	<p><u>W.P. No.2934-P/2016.</u></p> <p><u>Present:</u></p> <p>Mr.Khalid Tanveer Rohani Advocate, for the petitioner</p> <p>***</p> <p><u>YAHYA AFRIDI, J.-</u> Through the instant constitutional petition Qaiser Abbas, the petitioner seeks the following prayer:-</p> <p><i>“on acceptance of this writ petition, the impugned order vide No.506-10 dated 19.08.2015 may kindly be declared null and void ineffective upon the right of the petitioner on the basis of a discriminatory order and the respondent may kindly be directed to re-instate the petitioner on his own basis pay and scale as Constable since the date of discharge from service.</i></p> <p>2- In essence, the grievance of the petitioner is that the dismissal order passed in consequence of inquiry under the Khyber Pakhtunkhwa Police Rules, 1975 is illegal and without lawful authority.</p>



ATTESTED

ATTESTED
EXAMINER
Peshawar High Court
29 NOV 2016

3- At the very outset, the worthy counsel for the petitioner was asked as to whether the petitioner was a *civil servant* and if so, whether this Court could assume jurisdiction in the instant matter in matter relating to his dismissal, which was come within the scope of terms *and conditions* of service of the petitioner, in view of the express bar under Article 212 of the Constitution. The worthy counsel responded that in other similar petitions relief was granted by this Court, and in this regard, referred to the decision of this Court in "Muhammad Saleem's case" (WP No.2446-P/2012) decided on 22.5.2013

4- This Court has gone through the said judgment, and it is noted that, the issue of jurisdiction was not raised in the said case. In view of the same, it would not be appropriate for this Court to grant relief to petitioner in view of express bar contained in Article 212 of the Constitution, as this Court holds that it lacks the jurisdiction to entertain the present matter. However, the petitioner may seek his appropriate remedy, as provided under the law.

5- This petition stands disposed of in the above terms.

Announced
Dated: 22.11.2016.

Sd/- Kaya Afandi J
Sd/- Ghousulhaq J

JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorized Under Provisions of
The General Clauses Act, 1897

29 NOV 2016

ATTESTED



خدمت صاف و سیرینتہ سندھت لورس ایف اے لوریا

کھلاڑی ایف ایف ایف

کھلاڑی ۵۷۷ ۱۵-۵-۱۸
بہترین شہری سائل از

ATTACHED

ملازمت

صاف و سائل

۱) یہ سائل / اپڈیٹنگ کے لیے ایف اے لوریا

۲) یہ سائل / اپڈیٹنگ کے لیے ایف اے لوریا

۳) یہ سائل / اپڈیٹنگ کے لیے ایف اے لوریا

۴) یہ سائل / اپڈیٹنگ کے لیے ایف اے لوریا

یہ سائل / اپڈیٹنگ کے لیے ایف اے لوریا

۵) یہ سائل / اپڈیٹنگ کے لیے ایف اے لوریا

کو برخواست کر دیا گیا۔

(۱) بدستہ ساک کو بغیر کسی عمل کے سیاسی مداخلت

سے نوٹری سے برخواست کر دیا گیا ^{برطرف} جبکہ ساک

۱۰ لاکھ نوٹری کنٹریولر کو برطرف ہیں

ہیگا

لہذا استدعا ہے کہ ساک

کو برطرفی کو مداخلت کے

دو ایسے اعمال لینا جاری

رہا رہے

صبر عبادی

ATTESTED



71385

ایڈوکیٹ/دستخط: Rahim
 بار کونسل ابار ایسوسی ایشن نمبر:
 رابطہ نمبر:

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: KPK سرکاری شراہیوں

منجانب: ایڈووکیٹ	دعویٰ:
صوبہ عیسا کی ملدیریاں	علت نمبر:
بنام	مورخہ:
	جرم:
گورنمنٹ کے پی کے کے دفتر	تھانہ:

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

ان مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالت و فیصلہ برطاعت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم:

_____ گواہ شد _____

_____ مقام کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونڈ کا پی تا قابل قبول ہوگی۔

Rahim
