BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 95/2016

Date of Institution... 18.01.2016

Date of decision... 02.01.2018

Hashim Khan son of Abdul Karim R/O Balegram Saidu Sharif, Swat.
... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Provincial Police Officer Peshawar and 3 others. ... (Respondents)

Barrister Adnan Khan,
Advocate ... For appellant.

MR. Kabir Ullah Khattak
Addl. Advocate General ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD HAMID MUGHAL, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS:

2. The appellant was dismissed from service on 17.11.2014 against which he filed departmental appeal on 19.11.2014 which was rejected on 16.2.2015. Thereafter he filed second appeal to the Provincial Police Officer on 12.3.2015 which was rejected on 22.12.2015 and thereafter the appellant filed the present service appeal on 18.1.2016.

3. At the very outset learned Addl. Advocate General objected to the limitation of the present appeal. Hence arguments on limitation were heard.

ARGUMENTS

4. The learned counsel for the appellant argued that the appellant had filed two departmental appeals. But if the first departmental was taken out of consideration then the second departmental appeal was within time. He next contended that in the present case during disciplinary proceedings no publication in newspaper was issued and by not following the said procedure, the impugned order has become void and therefore, no limitation would run in such situation.

5. On the other hand, the learned AAG argued that there is no provision of second departmental appeal and period of limitation would not be enhanced due to second departmental appeal. In this regard he relied upon a judgment reported as 2013-SCMR-911. He also relied upon a judgment of this Tribunal in appeal No. 1228/2016 entitled *"Nazir Ahmad Versus the Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others"* decided on 06.12.2017 in which a similar issue was discussed and decided.

CONCLUSION

6. Admittedly the appellant had filed two departmental appeals. In accordance with the judgment reported as 2013-SCMR-911, the limitation would start from the first departmental appeal for the purpose of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. Second departmental appeal would not enlarge the period of limitation as per the said decisions relied upon by the learned AAG. This Tribunal in the abovementioned case has elaborately discussed the appeal/revision to the Provincial Police Officer under Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975 and had held that revision or second appeal would not enlarge the period of limitation. The learned counsel for the appellant

has not been able to show that how non publication of notice would make the order not illegal but void.

7. As a sequel to above discussion this appeal being time barred is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

(Muhammad Hamid Mughal)
Member

ANNOUNCED
02.01.2018

03.10.2017 Counsel for the appellant and Mr. Muhammad Zubair, District Attorney alongwith Khawas Khan, S.I (Legal) for the respondents present. Counsel for the appellant seeks adjournment to file rejoinder. Granted. To come up for rejoinder and final hearing on 02.01.2018 before the D.B at camp court, Swat.

Member

Chairman
Camp court, Swat

02.01.2018 Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Khawas Khan, S.I (Legal) for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

Member

Chairman
Camp court, Swat

ANNOUNCED
02.01.2018

95/16

10.11.2016 Agent of counsel for the appellant and Mr. Khawas Khan, SI alongwith Mian Amir Qadar, GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 06.02.2017 at camp court, Swat.

Chairman
Camp court, Swat

06.02.2017 Appellant in person and Mr. Khawas Khan, SI (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents present. Rejoinder not submitted. Counsel for the appellant is not in attendance. Seeks adjournment. Adjourned for final hearing before the D.B to 05.06.2017 at camp court, Swat.

Member

Chairman
Camp court, Swat

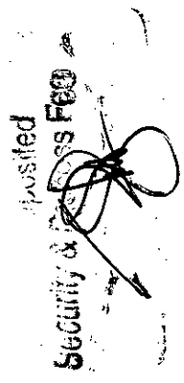
08.06.2017 Since the tour programme for the month of June, 2017 to camp court Swat has been cancelled by the Worthy Chairman, therefore, to come up for the same on 02.10.2017 at camp court, Swat. Notices be issued to the parties for the date fixed accordingly.

Registrar

04 .05.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as constable when dismissed from service vide impugned order dated 17.11.2014 on the allegations of willful absence where-against he preferred departmental appeal which was also rejected on 22.12.2015 and hence the instant service appeal on 18.01.2016.

That the prescribed procedure of publication of notice in daily newspapers was not followed and that no opportunity of personal hearing afforded to the appellant despite his presence and that the punishment is not commensurate with the quantum of offence.



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 03.08.2016 before S.B at camp court, Swat.

Chairman
Camp Court, Swat

03.08.2016

Appellant with counsel and Mr. Khawas Khan, SI (Legal) alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Seeks adjournment. To come up for written reply/comments on 10.11.2016 before S.B at camp court, Swat.

Chairman
Camp court, Swat

09.03.2016

Appellant in person present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned for preliminary hearing before S.B to 6.4.2016 at Camp Court Swat.

Chairman
Camp Court Swat

06.04.2016

Counsel for the appellant has sent an application for adjournment. Adjourned for preliminary hearing to 04.05.2016 before S.B at Camp Court, Swat.

Chairman
Camp Court, Swat.

Form- A

FORM OF ORDER SHEET

Court of_____

Case No. 95/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.01.2016	The appeal of Mr. Hashim Khan resubmitted today by Dr. Adnan Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2		This case is entrusted to Touring Bench Swat for preliminary hearing to be put up thereon 3-2-16. CHAIRMAN
	3.2.2016	Counsel for the appellant present. Seeks Adjournment. To come up for preliminary hearing before S.B on 9.3.2016 at Camp Court Swat. Chairman Camp Court Swat

The appeal of Mr. Hasham Khan son of Abdul Kareem r/o Balegram Saidu Sharif Ex-Constable No.1829 received to-day i.e. on 18.01.2016 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 counsel
2- Affidavit may be got attested by the Oath Commissioner.
3- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and relies thereto are not attached with the appeal which may be placed on it.
4- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 95 /S.T,

Dt. 18/1/2016

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Dr.Adnan Khan Barrister distt. Swat.

Objections at S.No.1, 2 & 4 removed. Copies of charge sheet, statement of allegations, show cause notice and inquiry reports were never handed over to the appellant. In fact these are the grounds for instant appeal. Paragraph No.2 & 3 in the grounds for appeal on page No.3 are self explanatory in this respect.

Re-submitted accordingly.

Dr. Adnan Khan, Barrister-at-Law

BEFORE THE HON'BLE SERVICE TRINBUNAL KPK AT PESHAWAR

Appeal No. 95 of 2016

Hasham Khan..... .....**Appellant**

VERSUS

The Govt: of KPK and others .....**Respondents**

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Appellant
Through Counsel

Dr. Adnan Khan, Barrister-at-Law

Office: Adnan Law Associates,
Opposite Grassy Ground Mingora Swat
Cell No. 03469415233

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

Appeal No. 95 of 2016

Hashim Khan s/o Abdul Karim r/o Balegram Saidu Sharif, District Swat Ex-Constable No.1829

.....*Appellant*

VERSUS

1. The Government of KPK through Provincial Police Officer/IGP at Peshawar.
2. The Regional Police Officer, Malakand Division at Saidu Sharif Swat.
3. The District Police Officer, Swat at Saidu Sharif .
4. Sub-Divisional Police Officer/DSP Barikot Circle, District Swat.

.....*Respondents*

APPEAL UNDER SECITON 4 OF THE SERVICES TRIBUANL ACT, 1974 AGAINST THE ORDER OF DISMISSAL FROM SERVICE AND IMPOSITION OF MAXIMUM PENALITY ON THE APPELLANT

PRAYER:

On acceptance of instant Appeal the impugned order No. O.B 199 dated 17-11-2014 may be set aside and the appellant be restored as Constable.

Respectfully Sheweth:

1. That the appellant was appointed as Constable in the Police Department on 21-11-2009. At the time of dismissal from service, the appellant was performing his duties at Police Post Barama, District Swat.

2. That during his service of 05 years, the appellant has performed his duties in extremely harsh security situation when the militants had occupied several parts of District Swat. During those days the appellant had served in significantly dangerous station of Matta, Behrain and Mingora. Needless to say that a handsome majority of police officials serving in District Swat were hesitant to continue with their jobs and subsequently fled their duties.

3. That the appellant, even in the above mentioned circumstances did not avail his annual leave and performed his duties to the entire satisfaction of his high ups. However, due to some compelling circumstances connected to family matters, the appellant could not perform his duties for a period of almost 02 months. It is worth mentioning that the appellant had informed his high ups about his absence telephonically.

4. That when the appellant appeared at his place of duty on 23-10-2014, he was informed about his dismissal from service (Copy of dismissal order dated 17-11-2014 is annexed as annexure "A").

5. That the appellant being aggrieved with the order of dismissal, presented an application for his re-instatement before respondent No.2 on 19-11-2014 (Copy of application is annexed as annexure "B").

6. That subsequently respondent No.2 dismissed the application preferred to him as mentioned above (Copy of order dated 16-02-2015 is annexed as annexure "C").

7. That subsequently the appellant preferred an appeal to respondent No.1 for quashing of the dismissal order and his re-instatement in the police department (Copy of departmental appeal is attached as annexure "D").

8. That respondent No.1 dismissed the said appeal vide the order No. S/6199/15 dated 22-12-2015 (Copy of order dated 22-12-2015 is attached as annexure "E").

9. That feeling aggrieved with various orders passed by respondents and having no other remedy in law, the appellant files this appeal inter-alia on the following grounds;

GROUNDS:

1. That the impugned order has been passed unilaterally and in blatant violation of law hence, not tenable in the eyes of law.

2. That the requirements of due process of law, of fairness and of justness have not been complied in the present case. The appellant was neither show caused nor a statement of allegation whatsoever was given to the appellant.

3. That the alleged inquiry which is attributed to respondent No.4 has never been conducted in the instant matter. Without providing any opportunity of being heard and without any inquiry or probe into the matter, the appellant was straight away dismissed from service.

4. That keeping the legal aspects of the matter aside, even otherwise circumstances of the case did not demand in position of major penalty in shape of dismissal from service. Considering the allegations leveled against the appellant as true and assuming that due process has been followed, absence of two months would never demand a penalty of dismissal from service. At the most a salary for the said period could have been deducted from the appellant. Needless to say that hundreds

of officers and officials of Swat Police who fled their duties in the period of insurgency were later on re-instated.

5. That further grounds with leave of this Hon'ble Tribunal will be raised at the time of oral submissions.

In view of the above, it is humbly prayed that the impugned order may be set aside and the appellant be re-instated in service with back benefits of salary and allowances. Alternatively the penalty imposed on the appellant may be converted into a minor one. Any other remedy though may not specifically prayed for but which circumstances of the case would demand in the interest of justice may also be granted.

Appellant

Hashim Khan

CERTIFICATE:

Certified that no such like appeal has earlier been filed before this Honourable Tribunal on the subject matter.

Appellant

Barrister
Dr. Adnan Khan
Advocate High Court

(5)

BEFORE THE HON'BLE SERVICE TRINBUNAL KPK AT PESHAWAR

Departmental Appeal No._____ of 2016

Hasham Khan..... .....**Appellant**

VERSUS

The Govt: of KPK and others .....**Respondents**

AFFIDAVIT

I, **Adnan Khan** (Counsel for Appellant) as per instructions of my clients, do hereby solemnly affirm and declare that the contents of this appeal are true and correct to the best of my knowledge and belief.

ATTESTED

Muhammad Mushtaq Khan
OATH COMMISSIONER
District Courts Swat.
upto 17/11/2017
No. 1 Date 21-1-016

DEPONENT

Barrister
Dr. Adnan Khan
Advocate High Court

(6)

BEFORE THE HON'BLE SERVICE TRIBUNAL KPK AT PESHAWAR

Appeal No. _____ of 2016

Hasham Khan.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP and others

.....Respondents

ADDRESSES OF THE PARTIES

PETITIONERS:

Hashim Khan s/o Abdul Karim r/o Balegram Saidu Sharif Swat, Ex-Constable No.1829

RESPONDENTS:

1) Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP at Peshawar
2) The Regional Police Officer, Malakand Division at Saidu Sharif Swat.
3) The District Police Officer, Swat at Saidu Sahrif.
4) Sub-Divisional Police Officer/DSP Barikot Circle, District Swat.

Appellant

Hasham Khan

(7)

Ann "A"

ORDER

This order will dispose off the departmental enquiry against Constable Hasham No.1829 of Police Station Mingora who while deputed for Snapper Course at JIS Police Lines has absented himself from his lawful duties without prior permission or leave vide DD No.44 w.e.f. 19-08-2014 to 21-10-2014 (Total off days) as per report of RI, JIS Police Lines dated 23-10-2014.

He was issued Charge Sheet and Statement of Allegations and SDPO/Barikot Circle was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He has provided ample opportunity to the delinquent officer to defense the absence rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent Officer for punishment. He was heard in Orderly Room, however, he could not present any plausible defense for his unlawful absence.

Having perused his service record, it was blatantly evident that the delinquent officer Constable Hasham No.1829 is addicted to a durable absentee and is not interested to continue his service. Foregoing in view the undersigned is of considered opinion that there are no chances that Constable Hasham No.1829 can become an efficient Police Officer. His further retention in service is bound to affect the discipline of the entire force. Therefore, in exercise of the powers vested in the undersigned under rule 5 (iii) of Police Disciplinary Rules-1975, I, Sher Akbar, S.St, P.S.P, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Dismissal from Service.

Order announced.

District Police Officer, Swat

O.B. No. 199

Dated 17 / 11 /2014.

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CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

(8)

BETTER COPY

ORDER:

This order will dispose of the departmental inquiry against Constable Hasham Khan No.1829 of Police Station Mingora who while deputed for Snapper Course at JIS Police Lines has absented himself from his lawful duties without prior permission or leave vide DD No.44 w.e.f 19-08-2014 to 21-10-2014 (Total 63 days as per report of RI, JIS Police Lines dated 23-10-2014.

He was issued Charge Sheet and statement of allegations and SDPO/Barikot Circle was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He has provided ample opportunities to the delinquent officer to defense the absence rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent officer for punishment. He was heard in Orderly Room, however he could not present any plausible defense for his unlawful absence.

Having perused his service record, it was patently evident that the delinquent officer Constable Hasham No.1829 is address to a _____ And is not interested to continue his service. Foregoing in view the undersigned is of consider opinion that there are no chances that Constable Hasham can become an efficient Police Officer. His further retention in service is bound to affect the discipline of the police force. Therefore, in exercise of powers vested in the undersigned under Rule 1(III) of Police Disciplinary Rules-1975, I, Sher Akbar, S.St, PSP, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Dismissal from Service.

Order announced:

CERTIFIED TO BE TRUE COPY

District Police Officer

O.B No. 199
Dated: 17-11-2014

Barrister
Dr. Adnan Khan
Advocate High Court

(9)

Ann "B"

بخدمت جناب D.I.G صاحب بمقام سیدوشریف ضلع سوات

ہاشم خان ولد عبدالکریم (کنسٹیبل بیلٹ نمبر 1829) سکنہ بالیگرام سیدوشریف ضلع سوات۔

---(سائل)

درخواست بمراد بحال کرنے سائل

جناب عالی! حسب ذیل عرض ہے۔

۱۔ یہ کہ سائل محکمہ پولیس میں بحیثیت کنسٹیبل مورخہ 21/11/2009 تعینات ہوں۔اور بارامہ چوکی میر ا اپنا ڈیوٹی سرانجام دے رہا تھا۔

۲۔ یہ کہ اس سے قبل من سائل نے انتہائی سخت حالات میں بمقام مٹہ، مینگورہ اور بحرین میں انتہائی خوش اسلوبی سے اپنی ڈیوٹی انجام دی ہے۔یہ وہ حالات تھے کہ جس میں عام لوگ پولیس ڈیوٹی جائن کرنے سے کتراتے تھے، جبکہ من سائل نے حب الوطنی کے جزبہ سے سرشار ہونے پولیس فورس جائن کی تھی۔

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

۳۔ یہ کہ من سائل نے دوران ڈیوٹی اپنی سالانہ چھٹی بھی نہیں لی تھی۔اور تسلسل کیساتھ نوکری کی ہے۔لیکن اخری بار کچھ گھریلوں مسائل کی وجہ سے من سائل دو مہینے ڈیوٹی کرنے سے قاصر رہا۔

۴۔ یہ کہ جب سائل مورخہ 23/10/2014 کو حاضر ہوا تو من سائل کو Dismissed کیا تھا۔(نقل لف ہے)۔

(جاری)

(15)

﴿۲﴾

۵۔ یہ کہ سائل ایک غریب بندہ ہے، جو کہ اپنی خاندان کا واحد کفیل ہے، جس سے کہ خاندان کی کئی زندگیاں وابستہ ہیں، اور من سائل کا اسی نوکری کے علاوہ دیگر کوئی چارہ نہ ہے۔

۶۔ یہ کہ سائل اب اس بات کا خواستگار ہے کہ سائل کا متذکرہ بالا غیر حاضری من سائل کے سالانہ چھٹیوں میں ایڈجسٹ کر کے من سائل کو مذکورہ بالا غیر حاضری کی معافی دی جائے۔ اور من سائل کو دوبارہ بحال کرنے کے احکامات صادر فرمائی جائے۔

۷۔ یہ کہ سائل بحالی کی صورت میں آپ صاحبان کی تسلی کیلئے ہر قسم ضمانت پیش کرنے کو تیار ہے۔ کہ من سائل بحالی کے بعد کبھی بھی اپنی فرائض میں غفلت نہیں بھرتو نگا۔ اور نہایت ایمانداری کیساتھ اپنے فرائض سرانجام دونگا۔

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Barrister
Dr. Adnan Khan
Advocate High Court

لہذا استدعاء ہے کہ درخواست سائل حسب استدعاء منظور فرمایا جائے۔

عریضہ

ہاشم خان ولد عبدالکریم (کنسٹیبل بیلٹ نمبر 1829)۔۔(سائل)

موبائل نمبر: 0344-9783137

مورخہ: 19/11/2014

(11)

Ann "C"

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION, AT SAIDU SHARIF SWAT

ORDER:

This order will dispose off appeal of Ex-Constable Hasham Khan No. 1829 of Swat District for reinstatement in service.

Brief facts of the case are that Constable Hasham Khan No. 1829 of Police Station Mingora while deputed for snapper course at JIS Police Lines has absented himself from his lawful duties without permission or leave vide DD No. 44 w.e.f 19/08/2014 to 21/10/2014, as per report of RI /JSI Police Lines dated 23/10/2014. He was issued Charge Sheet and statement of allegation and SDPO/Barikot Circle was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He has provided ample opportunity enquiry to the delinquent officer to defense rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent officer for punishment. He was heard in Orderly Room by District Police Officer Swat. However, he could not present any plausible defense for his lawful absence. Being found guilty of the charges the District Police Officer, Swat dismissed him from service vide OB No. 19 dated 17/11/2014.

He was called in Orderly Room on 10/02/2015 and heard in person. Perused the service sheet as well as enquiry report. The appellant did not produce any substantive materials in his defense. Therefore I uphold the order of District Police Officer, Swat, whereby the appellant has been awarded punishment of dismissal from service. His appeal is rejected.

Order announced

(AZAD KHAN) TSt, PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
Naqi

No. 1457 **/E,**
Dated 16-02- **/2015.**

Copy District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 18173/E, dated 03/12/2014.

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CERTIFIED TO
BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

(12)

Ann "D"

بحضور جناب آئی۔جی۔پی صاحب صوبہ خیبر پختون خواہ بمقام پشاور۔

عنوان: رحم درخواست بمُراد دُبارہ بحالی مُلازمت بحیثیت پولیس کینسٹبل نمبر 1829

جناب عالی۔

۱۔ یہ کہ سائل موضع بالیگرام سیدو شریف تحصیل بابوزئی ضلع سوات کا مُستقل اور سکونتی بادشندہ ہے۔

۲۔ یہ کہ سائل محکمہ پولیس ضلع سوات میں بحیثیت ریگولر کنسٹبل نمبر 1829 مورخہ 21.11.2009 کو بھرتی ہوکر تا وقت برخاستگی انتہائی دیانتداری سے اپنی ڈیوٹی سرانجام دے چُکا ہوں۔

۳۔ یہ کہ سائل کو بوجہ غیر حاضری بمورخہ OB ممبر 199 مورخہ 17.11.2014 سے ملازمت سے برخاست کیا گیا ہوں۔

۴۔ یہ کہ سائل کی غیر حاضری قصداً عمداً نہ تھی۔ بلکہ سائل کا والد ضعیف العمر ہے۔ اور سائل کے گھر بار دیگر کوئی نگران اور زمہ دار فرد نہیں تھا۔ من سائل کی والدہ ماجدہ بیمار تھی۔ سائل نے عرصہ ملازمت پانچ سال میں کوئی رُخصت یا چُھٹی نہیں کی ہے۔ مگر بوجہ مجبوری والدہ ماجدہ کی علالت / بیماری کے باعث عرصہ دو ماہ میں ڈیوٹی کیلئے حاضر نہیں ہوا ہوں۔ اور اسطرح DPO صاحب سوات نے سائل کو نوکری سے برخاست کر دیا ہے۔

۵۔ یہ کہ سائل کا دیگر کوئی ذریعہ معاش یا امدن نہیں ہے۔ اور پولیس فورس سے والہانہ لگن کی بناء پر پولیس فورس میں اکر بحیثیت ریگولر پولیس فورس اہلکار محکمہ پولیس میں دُبارہ بحال کرنے کا خواہشمند ہے۔ نیز سائل کی غیر حاضری ملازمت سے قصداً عمداً نہیں تھی۔ بلکہ والدہ کی بیماری کی وجہ سے خاندان کا واحد کفیل ہونے کے بیناء پر سائل کو مسائل کا سامنا کرنا پڑا۔ جسکی وجہ سے سائل کو ملازت سے غیر حاضر ہوکر برخاست کیا گیا۔

لہٰذہ بہ منظوری درخواست ہٰذہ استدعاء کیجاتی ہے۔ کہ سائل کو دُبارہ ملازمت پر بحالی کے احکامات صادر فرمائی جائے۔

عریضہ۔

سائل۔ ھاشم خان ولد عبدالکریم سکنہ بالیگرام سیدو شریف تحصیل بابوزئی ضلع سوات۔

شناختی کارڈ نمبر۔ 15602-5232318-1

موبائل نمبر۔ 03449783187

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

(13)

Ann "E"

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

No. S/ 6199 /15, Dated Peshawar the 22/12/2015.

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-Constable Hashim Khan No. 1829.** The appellant was awarded punishment of dismissal from service by DPO/Swat vide OB No. 199 dated 17.11.2014; on charge that while he was deputed for snapper course at JIS Police Line Swat. He absented himself from duty for a period of 62 days.

He preferred an appeal before the RPO/Malakand against the order of DPO/Swat which was filed vide his order No. 1457/E, dated 16.02.2015.

Meeting of Review Petition Board was held on 26.11.2015, wherein the appellant was heard in person. The enquiry papers were examined in detailed. There are 29 bad entries on his record. Hence his appeal is hereby rejected.

This order is approved by the Competent Authority.

(NAJEEB-UR-RAHMAN BUGVI)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/6201-08 /15,

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand Region, Saidu Sharif, Swat.
2. District Police Officer, Swat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Establishment CPO, Peshawar.
8. Office Supdt: E-IV CPO Peshawar.
9. Central Registrar, CPO.

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

(16)

بعدالت خیبر پختونخواہ سروس ٹریبونل پشاور

کورٹ فیس		قیمت ایک روپیہ

مورخہ 15 جنوری 2017 منجانب ڈیلانٹ

مقدمہ ہاشم خان بنام حکومت وغیرہ

دعویٰ اپیل

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور/مینگورہ سوات کیلئے بیرسٹر ڈاکٹر عدنان خان.

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ وتقرر ثالث وفیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرفہ یا ... کی برامد ہوگی اور منسوخ مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برداختہ منظور وقبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ وہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا وخرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

المرقوم 15 ماہ جنوری 2017

العبد گواہ شدہ العبد

Attested & Accepted

بمقام پشاور/مینگورہ سوات کے لئے منظورہ ہے

ہاشم خان وابر کبیر اسلام

ADNAN LAW ASSOCIATES

Barrister
Dr. Adnan Khan
Advocate High Court

Before the Honourable Service Tribunal Khyber Pakhtunkhwa, Peshawar (Camp Court at Swat)

Appeal No. 95 of 2016

Hashim Khan .....**Appellant**

VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer/IGP and others. .....**Respondents**

APPLICATION FOR ADJOURNMENT ON THE GROUND OF COUNSEL'S ABSENCE:

Respectfully Sheweth,

1) That the above titled writ petition is pending before this Hon'ble Court, which is fixed for hearing on 06-04-2016.

2) That the Appellant's counsel is engaged at Principal Seat of Honourable Peshawar High Court in some other cases, and hence will be unable to appear before the Hon'ble Court on the date fixed i.e 06-04-2016.

It is, therefore, humbly prayed that on acceptance of this application the titled case may be adjourned to a short date.

Appellant

Through counsel

Dr. Adnan Khan, Barrister-at-Law,
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 95/2016

Hsaham Khan Ex Constable

..... **(Appellant)**

VERSUS

1. **Govt: of Khyber Pakhtunkhwa through Provincial Police Officer/IGP at Peshawar**
2. **Regional Police Officer, Malakand Region at Saidu Sharif, Swat**
3. **District Police Officer, Swat**
4. **Sub Divisional Police Officer, Barikot Circle District Swat**

..... **(Respondents)**

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District Police Officer, Swat
(Respondent No. 03)

District Police Officer,
Swat

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.595/2016

Hashim khan s/o Abdul Karim r/o Baligram Saidu Sharif Swat, Ex Constable No.1829.

..... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Provincial Police Officer of Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif, Swat
3. The District Police Officer, Swat
4. Sub- Divisional Police Officer, Barikot Circle, Swat

..... (Respondents)

Parawise Comment on behalf of Respondents

Respectfully sheweth:-

Preliminary objections:-

1. That the service appeal is time barred.
2. That the Service Appeal is not maintainable.
3. That the Appellant has got no cause of action.
4. That the appellant is stopped due his own conduct.
5. That the appellant is concealed material facts from this August Tribunal.
6. That the order of the competent authorities have got finality and cannot be challenged.

On Facts.

1. Para No.1 pertains to the service Record of appellant, therefore needs no comments.
2. Incorrect. The appellant performed his duties at those stations, when peace and normalcy was restored to the area. His performance has never been efficient.
3. Incorrect. The appellant has never performed duty up to the satisfaction of his superior Officers. He is a habitual absentee and there are 29 bad entries recorded in his service record. Moreover, the appellant could have applied for

leave in accordance with rules which could be sanctioned but the appellant never bothered to apply for leave or permission. He remained absent for continuous 61 days without any permission, therefore he was rightly dismissed from service after departmental enquiry.

4. Correct to the extent of arrival for duty after unauthorized absence. The appellant was associated with enquiry proceeding and he recorded his statement as well.
5. Correct.
6. Correct. His application for Re-instatement was dismissed by respondent No.2 because he didn't produce any substantive material in his defense.
7. Correct.
8. Correct.
9. The appellant has got no cause of action to file instant appeal .

Grounds

1. Incorrect. The impugned order is legal, according to rules and justified in circumstances.

2. Incorrect. While proceeding against the appellant, due course of law and fairness has been adopted. The appellant was properly served with charged sheet, statement of allegations and pull fledged departmental enquiry was conducted against him.

   Vide copies of charge sheet, statement of allegations, Enquiry papers, finding report, final order, appellate order and revisional order as Annex – "A"B"C"D"F" and G" Respectively.

3. Incorrect. The appellant was properly proceeded against departmentally and he also recorded his statement. He was fully associated with the enquiry proceedings. He was also heard in person by respondents No.2 and 3 but he could not produce any plausible reason / Ground in his defense.

4. Incorrect. Record of the appellant itself speaks his inefficiency, disinterest, lame excuses, as well as habitual absence from duty. While serving in a disciplined

force even absence of one day without permission/Leave would be counted as sufficient as nature of duty is important, sensitive and critical, hence the penalty awarded is appropriate in circumstances.

5. The Respondents also seek the Permission of this August Tribunal to adduce more Grounds/Points at the time of arguments.

Prayer.

In the view of above comments on facts and Ground it is prayed that appeal of the appellant may be dismissed with costs.

Provincial Police Officer,
Khyber Pakhtunkhwa,Peshawar
(Respondent No. 01)

Regional Police Officer,
Malakand at Saidu Sharif Swat
(Respondent No.02)

Regional Police Officer,
Malakand, at Saidu Sharif Swat.

District Police Officer, Swat
(Respondent No.03)

District Police Officer,
Swat

Sub-Divisional Police Officer,
Barikot Circle, Swat
(Respondent No.04)

D.S.P Barikot Swat

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 95/2016.

Hasham khan s/o Abdul karim r/o Baligram Saidu Sharif swat Ex Constable No. 1829.

..... (Appellant)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Provincial Police Officer at Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif, Swat.
3. The District Police Officer, Swat.
4. Sub Divisional Police Officer, Barikot Circle District Swat

..... (Respondents)

AFFIDAVIT

We the above respondents do hereby solemnly and declare on oath that the contents of the accompanying Para wise comments of the respondents are correct to the best of our knowledge/belief and nothing has been kept secret from this August Tribunal.

Govt: of Khyber Pakhtunkhwa through
Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)

Regional Police, Officer,
Malakand Region at Saidu Sharif, Swat.
(Respondent No. 02)

Regional Police Officer,
Malakand, at Saidu Sharif Swat.

District Police Officer, Swat
(Respondent No. 03)

District Police Officer,
Swat

Sub Divisional Police Officer,
Barikot Circle District Swat
(Respondent No. 04)

D.S.P Barikot Swat

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 95/2016.

Hasham khan s/o Abdul karim r/o Balegram Saidu Sharif Swat Ex Constable No. 1829.

..... (Appellant)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Provincial Police Officer/IGP at Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif, Swat.
3. The District Police Officer, Swat.
4. Sub Divisional Police Officer, Barikot Circle District Swat

..... (Respondents)

AUTHORITY LETTER

We the above respondents do hereby authorize Mr. Khawas Khan S.I Legal Swat to appear in the Service Tribunal on our behalf on each date fixed in connection with titled Service Appeal and do whatever is needed.

Govt: of Khyber Pakhtunkhwa through
Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)

Regional Police, Officer,
Malakand Region at Saidu Sharif, Swat.
(Respondent No. 02)

Regional Police Officer,
Malakand, at Saidu Sharif Swat

District Police Officer, Swat
(Respondent No. 03)
District Police Officer,
Swat

Sub Divisional Police Officer,
Barikot Circle District Swat
(Respondent No. 04)

D.S.P Barikot Swat

Annexure A (6)

CHARGE SHEET

I **Mr. Sher Akbar S.St P.S.P District Police Officer, Swat.** as competent authority, hereby nstable **Hasham No.1829** while posted to **Police Station Mingora** as follows:-

It has been reported that you committed the following act/acts, which is/are gross nyour part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975.

You Constable Hasham No.1829 of Police Station Mingora while deputed for Sniper Police Lines have absented yourself without prior permission or leave vide DD No.44 w.e.f. till now as per report of Lines Officer, JIS Police Lines dated 20-09-2014.

2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself any of penalties specified in Rule-4 of the Disciplinary Rules 1975.

3. You are, therefore, required to submit your written reply within seven (7) days of the his Charge Sheet to the Enquiry officer.

4. Your written reply, if any, should reach the Enquiry Officer within the specified period, ch it shall be presumed that you have no defense to put in and in that case ex-parte action shall inst you.

5. Intimate as to whether you desire to be heard in person or not.

6. A statement of allegations is enclosed.

District Police Officer, Swat

_____/E,

_____/2014.

Annex-B 7

INARY ACTION

I, **Sher Akbar S.St, P.S.P District Police Officer, Swat** as competent authority, is of the **Constable Hasham No.1829** while posted to **Police Station Mingora** has rendered himself proceeded against departmentally as he has committed the following acts/omissions as defined (iii) of Police Rules 1975, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. Pakhtunkhwa/ Bills/ 2011/ 44905 dated 16/09/2011 and C.P.O, K.P.K Peshawar Memo: No. 3037- dated 19/11/2011.

STATEMENT OF ALLEGATIONS

It has been reported that he while posted to **Police Station Mingora** committed the act / acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

That he Constable Hasham No.1829 of Police Station Mingora while deputed for Sniper at JIS Police Lines has absented himself without prior permission or leave vide DD No.44 w.e.f. 014 up till now as per report of Lines Officer, JIS Polite Lines dated 20-09-2014.

2. For the purpose of scrutinizing the conduct of the said officer with reference to the allegations, **SDPO/Barikot Circle, Swat** is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police 975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record ings and make within twenty five (25) days of the receipt of this order, recommendation as to ment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the y officer.

District Police Officer, Swat

/EB, Dated Gulkada the, 10-10 2014.

Copy of above is forwarded to the:-

SDPO/Barikot Circle, Swat for initiating proceeding against the accused Officer/ Official namely **Constable Hasham No.1829** under Police Rules, 1975.

Constable Hasham No.1829 JIS Police Lines.
With the direction to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceeding.

****

میاں گان وڈیل ھشم خان ع 1879 سکنہ تھانہ میلر

میں سوریامنت کرتا ھوں کہ مسائل مسال 1879ء میں محلہ
میں کمیت کمیٹل کھری ھوکر تاحال اپنا کلوٹی نہایت امیانہ
اور خوش اسلوبی سے سرانجام دے رھا ہوں۔ میں ایک غریب خاندان
سے تعلق رکھتا ھوں۔ میرا والد ایک ضعیف العمر شخص ھے۔ میرا
گھر میں کوئی اور مرینہ فرد نہیں ھے۔ میرے ذمہ واں میرا گھر چلانا
ہوتا ھے۔ میں نے کبھی حاضری بوجہ بیماری نہیں کیا ھے۔ معافی چاہتا
ھوں۔ اس بار معافی دی جاوے آئندہ کیلئے محتاط رہونگا۔
میرا بیان ھے جو کہ صحیح ہے۔

الف

وڈیل ھشم خان 1879
سکنہ تھانہ میلر
15602-5232318-1
0344-9783187

Attested.

Sidra Rashid
27-x-14

بیان از ان محمد زید جسر لائن ATS کیل

میں بحیثیت جسر لائن ATS کیل تعینات پشاور کنٹونمنٹ
جو کہ تمانہ مسنگورہ سے بحسب احکم افسران بالا
کے لئیے لائن ATS تعینات تھا ذکورہ گواہ مدعا
جنرل رسول کال گئی میں بوجہ عدم موجودگی
مذکورہ نے گواہ مدعا 36 رعنہ ناچیز 10/14 اتھا اسی عاجز
کرنے وجہ غیر حاضری تھنہ ہلو سائل ہذا کی
مذکورہ کے لئیے درخواست ہائے بمنظوری تنخواہ
افسران بالا کے خدمت میں ارسال ہو چکی ہے - حاضری
غیر حاضری ہمراہ بیان لف ہیں - یہی میرا بیان ہے

Attested.
Sdd. Barrister
27-x-14

میں کفیت کنٹیل کمپنی ہوکر ماضی اپنا ڈیوٹی نہایت ایمانداری
اور خوش اسلوبی سے سرانجام دے رہا ہوں۔ میں ایک غریب خاندان
سے تعلق رکھتا ہوں۔ میرا والد ایک ضعیف العمر شخص ہے۔ جو
گھر میں بوڑھی اور مریض عورت ہیں ہے۔ جو کہ شوگر کا
ہوتا ہے۔ میں نے تین حاضری بوجہ بیماری لیا ہے۔ معافی
ہوں۔ اس بار معافی دی جاوے آئندہ کبھی غلط نہیں
میرا بیان ہے۔ جو کہ حقیقت پر مبنی ہے۔

الف

نشل حشم خان ساکنہ کوہاٹ

1899

15602-5232318-1

0344-9783187

Attested.

Sana Rameez

27-x-24

Sir,

Received
Samosh
Sono. Barwal
27-x-14

Received
Rajwinder Singh
Ri. PC. Surat
23-10-2014

بیان از ملک سلیمان شاہ ۷۷ لوئر ISs کمبل

میں بحیثیت لائن افسر لائن ISs آنہ کمبل تعینات ہوں کہ سپیشل پارٹی آمدہ سنائپر کورس کمانہ مسکورہ مورخہ ۱۵/۱۰ تا ۵/۱۱ میں شرکت ہو کر دوران سنیر حاضری درخواست ہذا بمنظوری نمبر ۱۰۰ مجاز افسران بالا کے خدمت میں ارسال ہو چکی ہے۔ یہی میرا بیان ہے جو کہ درست

Lt/L ISs Swat
24-10-2014

Attested
Sqn Cdr
Sqn. Kamikot
27-X-14

ڈاک بولیس آفس

درخواست برائے محکمانہ کاروائی

جناب عالی!

معروض خدمت ہوں کہ کنسٹیبل [illegible] کے خلاف [illegible] کورس انکوائری کا منظور شدہ [illegible] مورخہ [illegible] چالان آپ کے مذکورہ نسبت موصول [illegible] درخواست [illegible] ارسال کیا جاتا ہے مذکورہ کی واپس کا حوالہ [illegible]

لہٰذا استدعا ہے درخواست ہذا کو مدنظر [illegible] شروع کرنے کا حکم صادر فرمایا جائے

Sir,
forward for initiating Proper departmental enquiry please.

Sir,
Forwarded
Ri. PC Swat
20-9-2016

Sir,
Forwarded
Lo. PC Swat
20-9-2016

SP/HQ Swat
22.9.016

Issue charge Sheet.

DSP/Swat

حامد اقبال شہید
پولیس لائن کل سوات

نقل مراسلہ ۴۴ روزنامچہ ۱۹ مورخہ ۱۹/۵

مراسلہ ۴۴ گشتی مصدرہ جناب ASI صاحب وقت 21:15 بجے
السوقت گشتی مصدرہ ہمگی ۔ طابع از ڈیوٹی مقام مذکور ہمگی
موجود پائے جو ڈیوٹیان مطابق ڈیوٹی مصدرہ نگاہی داخل
گشتی ۔ جملہ گشتی میں تعداد طابع 1029/R عدد موجود پائے
صدر راپورٹ مذکور ہمگی درست سند طابع گشتی

خان عالم ۱

نقل مطابق اصل

H.PC Swat
۵-۶-۲۰۱۶

16

دانش کدہ

درخواست بدار یونین تنوا

جناب عالی!

سروھی حکومت ہوں کہ کیٹل ہاسٹل 1629 آر
وپین کو دس عمام سنگورہ بجرام دد ہاد دونام
سے بوستور برقرار طلق چلا آرہا ہے جبکہ حال
کوئی اُمید نہیں ہے۔

لہذا بذریعہ درخواست التماس ہے سائل آ
دوان یونین کا حکم صادر فرمائیں۔

AM Hc. pl. swat
25. 08. 2014

Sir,
Forwarded
Co-PL-Swat
25-08-14

Sir,
It may may be stopped Pl:

DSP/HQ Swat
25/8/014

pay stopped

DPO/Swat
4-9-14.

OB No. 154
5.9.14

P.P.O Swat

شیل ہاشم

17

فائینڈنگ رپورٹ

Amaad

جناب عالی!

بحوالہ چارج شیٹ نمبری 201/E محررہ 10-10-014 مجاریہ از دفتر جناب DPO صاحب برخلاف کنسٹیبل ہشم بیلٹ نمبر 1829 متعینہ تھانہ مینگورہ معروض خدمت ھوں۔ کہ کنسٹیبل ہشم 1829 مورخہ 19-08-014 تا 21-10-014 تک غیر حاضر رہ چکا ھے۔ اس نسبت من DSP کو انکوائیری کرنیکی ھدایت ھوئی۔

کنسٹیبل ہشم 1829 کا تقلمدات حاضری وغیر حاضری بیانات لائن آفیسر محرر پولیس لائن حاصل کر کے کنسٹیبل ہشم 1829 کا بیان بھی لیا جا کر لف قابل ملاحظہ ھے۔

کاروائی انکوائیری بیانات قلمبند شدہ، تقلمدات حاضری وغیر حاضری سے میں اس نتیجہ پر پہنچا۔ کہ کنسٹیبل ہشم 1829 مورخہ 19-08-014 سے غیر حاضر ہوکر مورخہ 21-10-014 تک بدستور غیر حاضر رہ چکا ھے۔ اور مورخہ 21-10-014 پر حاضری درج کر کے بیماری بیان کی۔ دوران غیر حاضری مذکورہ کنسٹیبل نے تھانہ والوں کیساتھ کسی قسم کا رابطہ نہیں رکھا ھے۔ بغیر کسی کے نوٹس میں لائے ہوئے ازخود غیر حاضر رہا ہے۔ غیر حاضری کے متعلق کوئی درست جواز پیش نہیں کی۔ ڈسپلن کی خلاف ورزی کی ہے۔ عرصہ غیر حاضری 19-08-014 تا 21-10-014 تک ٹوٹل (61) یوم بلاتنخواہ میں شمار کر کے مناسب سزاء کی سفارش کیجاتی ھے۔

Amjad

ایس ڈی پی او سرکل بریکوٹ

27 اکتوبر سال 2014ء

DPO Swat

OB. No 199

17.11.14

Annex E

18

(8)

BETTER COPY

ORDER:

This order will dispose of the departmental inquiry against Constable Hasham Khan No.1829 of Police Station Mingora who while deputed for Snapper Course at JIS Police Lines has absented himself from his lawful duties without prior permission or leave vide DD No.44 w.e.f 19-08-2014 to 21-10-2014 (Total 63 days as per report of RI, JIS Police Lines dated 23-10-2014.

He was issued Charge Sheet and statement of allegations and SDPO/Barikot Circle was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He has provided ample opportunities to the delinquent officer to defense the absence rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent officer for punishment. He was heard in Orderly Room, however he could not present any plausible defense for his unlawful absence.

Having perused his service record, it was patently evident that the delinquent officer Constable Hasham No.1829 is address to a _____ And is not interested to continue his service. Foregoing in view the undersigned is of consider opinion that there are no chances that Constable Hasham can become an efficient Police Officer. His further retention in service is bound to affect the discipline of the police force. Therefore, in exercise of powers vested in the undersigned under Rule 1(III) of Police Disciplinary Rules-1975, I, Sher Akbar, S.St, PSP, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Dismissal from Service.

Order announced:

CERTIFIED TO BE TRUE COPY

District Police Officer

O.B No. 199
Dated: 17-11-2014

Barrister
Dr. Adnan Khan
Advocate High Court

Annexure F

19

(11)

Ann "C"

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION, AT SAIDU SHARIF SWAT

ORDER:

This order will dispose off appeal of Ex-Constable Hasham Khan No. 1829 of Swat District for reinstatement in service.

Brief facts of the case are that Constable Hasham Khan No. 1829 of Police Station Mingora while deputed for snapper course at JIS Police Lines has absented himself from his lawful duties without permission or leave vide DD No. 44 w.e.f 19/08/2014 to 21/10/2014, as per report of RI /JSI Police Lines dated 23/10/2014. He was issued Charge Sheet and statement of allegation and SDPO/Barikot Circle was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He has provided ample opportunity enquiry to the delinquent officer to defense rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent officer for punishment. He was heard in Orderly Room by District Police Officer Swat. However, he could not present any plausible defense for his lawful absence. Being found guilty of the charges the District Police Officer, Swat dismissed him from service vide OB No. 19 dated 17/11/2014.

He was called in Orderly Room on 10/02/2015 and heard in person. Perused the service sheet as well as enquiry report. The appellant did not produce any substantive materials in his defense. Therefore I uphold the order of District Police Officer, Swat, whereby the appellant has been awarded punishment of dismissal from service. His appeal is rejected.

Order announced

(AZAD KHAN) TSt, PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
Naqi

No. 1457 /E,

Dated 16-02- /2015.

Copy District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 18173/E, dated 03/12/2014.

CERTIFIED TO BE TRUE COPY

Barrister

Annex G

20

(19)

Annex E

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

No. S/ 6199 /15, Dated Peshawar the 22/12/2015

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-Constable Hashim Khan No. 1829.** The appellant was awarded punishment of dismissal from service by DPO/Swat vide OB No. 199 dated 17.11.2014; on charge that while he was deputed for snapper course at JIS Police Line Swat. He absented himself from duty for a period of 62 days.

He preferred an appeal before the RPO/Malakand against the order of DPO/Swat which was filed vide his order No. 1457/E, dated 16.02.2015.

Meeting of Review Petition Board was held on 26.11.2015, wherein the appellant was heard in person. The enquiry papers were examined in detailed. There are 29 bad entries on his record. Hence his appeal is hereby rejected.

This order is approved by the Competent Authority.

(NAJEEB-UR-RAHMAN BUGVI)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 6200-08 /15,

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand Region, Saidu Sharif, Swat.
2. District Police Officer, Swat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Establishment CPO, Peshawar.
8. Office Supdt: E-IV CPO Peshawar.
9. Central Registrar, CPO.

CERTIFIED TO BE TRUE COPY

Barrister
Dr. Adnan Khan
Advocate High Court

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

In Service Appeal No. 95 of 2016

Hashim Khan s/o Abdul Karim r/o Balegram Saidu Sharif, District Swat (Ex-Constable No. 1829).

..... ***Appellant***

VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer/IG at Peshawar and others

.....***Respondents***

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Appellant though Counsel

Dr. Adnan Khan, Barrister-at-Law
Office: Adnan Law Associates,
Opp. Grassy ground Mingora Swat.
Cell: 03469415233

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

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..... *Appellant*

VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer/IG at Peshawar and others

.....*Respondents*

REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO PARA WISE COMMETNS OF RESPONDENTS No.1 to 4:

Respectfully Sheweth:

Preliminary objections being formal, stereotype and ill founded are denied:

ON FACTS:

1. No need of reply.
2. Denied. Detailed assertion already made in memo of appeal.
3. This reply of answering respondents is not correct. The appellant has performed his duties in various hard stations to the best of his capabilities.
4. This reply of answering respondents is not correct. There were compelling and compassionate reason for the appellant's absence.
5. No need of further reply.
6. No need of further reply.
7. No need of further reply.

8. No need of further reply.

9. Incorrect. The appellant has got both locus standii and cause of action to instant appeal.

ON GROUNDS:

1) Incorrect and denied. Detailed reply already given in memo of appeal.

2) Incorrect and denied. Detailed reply already given in memo of appeal.

3) Incorrect and denied. Detailed reply already given in memo of appeal.

4) Incorrect and denied. Detailed reply already given in memo of appeal.

5) No need of reply.

In view of the above, these submissions may be considered graciously and the titled appeal may be allowed in the interest of justice.

Appellant
Through Counsel

Dr. Adnan Khan, Barrister-at-Law

(3)

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

In Service Appeal No. 95 of 2016

Hashim Khan s/o Abdul Karim r/o Balegram Saidu Sharif, District Swat (Ex-Constable No. 1829).

..... ***Appellant***

VERSUS

Government of Khyber Pakhtunkhwa through Provincial Police Officer/IG at Peshawar and others

.....***Respondents***

AFFIDAVIT

I, **Hashim Khan** (Appellant), do hereby solemnly affirm and declare that the contents of the annexed rejoinder are true and correct to the best of my knowledge and belief.

DEPONENT

Hashim Khan

ATTESTED
WAJID ALI SHAH ADVOCATE
District Courts Swat
No. 136 05-10-2017
OATH COMMISSIONER

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

In Service Appeal No. 95 of 2016

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Office: Adnan Law Associates,
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BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

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Appellant
Through Counsel

Dr. Adnan Khan, Barrister-at-Law

(3)

BEFORE THE HON'BLE SERVICE TRIBUNAL, KPK PESHAWAR

In Service Appeal No. 95 of 2016

Hashim Khan s/o Abdul Karim r/o Balegram Saidu Sharif, District Swat (Ex-Constable No. 1829).

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Hashim Khan

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WAJID ALI SHAH ADVOCATE
District Courts Swat
No. 136 05-10-17
OATH COMMISSIONER