

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	03.10.2018	<p align="center"><b>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</b>  <b>Service Appeal No.857/2015</b></p> <p>Date of Institution ... 13.07.2015  Date of Decision ... 03.10.2018</p> <p>Jaseem Afzal Ex-Constable No.2796 (Mardan)/1076 (Swabi)  Resident of Dobian District Swabi. <b>Appellant</b></p> <p align="center"><b>Versus</b></p> <p>1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.  2. The DIG Mardan Range Mardan.  3. The DPO Mardan.  4. The DPO Swabi. <b>Respondents</b></p> <p><b>Mr. Muhammad Hamid Mughal</b>-----<b>Member(J)</b>  <b>Mr. Hussain Shah</b>-----<b>Member(E)</b></p> <p align="center"><u>JUDGMENT</u></p> <p><u>HUSSAIN SHAH MEMBER</u>: -. Learned counsel for appellant and Mr. Muhammad Jan Learned Deputy District Attorney present.</p> <p>2. <b>Facts as per memo of the Appeal</b>:-The appellant was appointed on 12.01.2008 as a constable in District Swabi. He remained absent from duty on 23.04.2013. Due to illness he remained hospitalized in DHQ hospital swabi from 24.04.2013. He remained absent allegedly, on the advice of the doctor. To prove his absence on medical ground the appellant presented on record the medical documentation with the appeal. He reported for duty at police station Lahore swabi on 28.11.2013 after remaining absent for Seven (07) months and Five (05) days. He was transferred to</p>

*ATTN*

Mardan Vide Rawangi Madd. The appellant reported for duty at Mardan Police and was paid salary.

3. On the ground of absence without leave the competent authority dismissed the appellant on 02.04.2014. Departmental appeal was rejected by DIG Mardan on 08.07.2014. He preferred another appeal to PPO which was examined and rejected on 11.03.2015, hence this service appeal.

4. Main stance of the learned counsel for appellant is that the impugned order of major punishment of removal from service was issued without fulfillment of the codal formalities and observance of legal requirements in as much as neither charge sheet/statement of allegation was served upon the appellant nor he was associated with the inquiry proceeding and neither any inquiry report was served upon the appellant nor Show Cause Notice was communicated to him hence the impugned orders are not tenable.

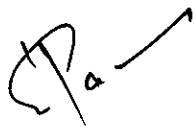
5. As against that learned Deputy District Attorney argued that the appellant remained absent from duty, from 24.04.2013 to 02.04.2014 without application and permission and he deliberately avoided to join departmental proceedings. Further argued that the Review Petition of the appellant was also rejected by the Appeal/Review Board vide order dated 08.07.2014.

6. Arguments heard. File perused.

7. When the learned Deputy District Attorney was confronted with the arguments of the learned counsel for appellant, he remained unable to demonstrate that the charge sheet/statement of allegation

was served upon the appellant. Similarly learned Deputy District Attorney could not establish that Show Cause Notice as well as inquiry report was served upon the appellant. It is not the case of respondent department that absent notices was issued to the appellant through publication in the news paper.

8. In the stated circumstances of the case the order of the appellate authority (respondent No.2) and the order dated 11.03.2015 of the Appeal Board are set aside and the competent authority is directed to conduct de-novo inquiry against the appellant on the allegation of his alleged absence from duty in accordance with law by providing him opportunity of defense. The issue of reinstatement of the appellant shall be subject to the outcome of the de-novo inquiry. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.



(Muhammad Hamid Mughal )  
Member



(Hussain Shah)  
Member


**ANNOUNCED**  
**03.10.2018**

03.10.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Vide separate judgment of today of this tribunal placed on file the order of the appellate authority (respondent No.2) and the order dated 11.03.2015 of the Appeal Board are set aside and the competent authority is directed to conduct de-novo inquiry against the appellant on the allegation of his alleged absence from duty in accordance with law by providing him opportunity of defense. The issue of reinstatement of the appellant shall be subject to the outcome of the de-novo inquiry. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.



(Hussain Shah)  
Member



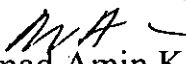
(Muhammad Hamid Mughal)  
Member

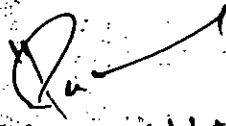
ANNOUNCED

03.10.2018

07.08.2018

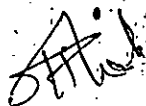
Muhammad Asif Yousafzai learned counsel for the appellant appeared and submitted application for the withdrawal of his wakalat nama in the present service appeal. Application allowed. The wakalat nama filed by Muhammad Asif Yousafzai Advocate in the present service appeal shall be treated as withdrawn. Appellant absent. Notice be issued to him for 02.10.2018 before D.B

  
(Muhammad Amin Kundi)  
Member

  
(Muhammad HAMID.)  
Member

02.10.2018


Uzma Syed Advocate present on behalf the appellant and submitted fresh wakalat Nama which is placed on file. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Case to come up for arguments on 03.10.2018 before D.B

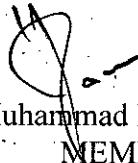
  
(Hussain Shah)  
Member

(Muhammad Hamid Mughal)  
Member

13.02.2018

Agent to counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 09.04.2018 before D.B

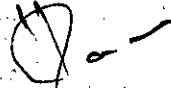
  
(Ahmad Hassan)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

09.04.2018

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 12.06.2018 before D.B.

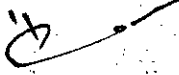
  
(Ahmad Hassan)  
Member

  
(M. Hamid Mughal)  
Member

12.06.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak, learned AAG present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 07.08.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

07.03.2017

Counsel for the appellant and Asst: AG alongwith Mr. Attaur Rehman, SI for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 15.06.2017 before D.B.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

15.06.2017

Clerk of the counsel for appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 18.09.2017 before D.B.


  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

18.09.2017

Counsel for the appellant present. Learned Deputy District Attorney for the respondent present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 11.12.2017 before D.B.

  
Member  
(Executive)

  
Member  
(Judicial)

11.12.2017


Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Attaur Rahman, S.I (Legal) for the respondents present. Counsel for the appellant seeks adjournment. Granted To come up for arguments on 13.02.2018 before the D.B.

  
Member

  
Chairman

23.02.2016

Counsel for the appellant and Mr. Muhammad Ghani, S.I  
alongwith Addl: A.G for respondents present. Written reply  
submitted. The appeal is assigned to D.B for rejoinder and final  
hearing for 6.6.2016.

  
Chairman

06.06.2016

Counsel for the appellant and Mr. Muhammad Ghani, S.I  
alongwith Addl: AG for respondents present. Learned counsel for  
the appellant submitted rejoinder, copy whereof handed over to  
learned Addl: AG. To come up for arguments on 4.11.16  
before D.B.

  
MEMBER

  
MEMBER

04.11.2016

Counsel for the appellant and Mr. Muhammad Jan,  
GP alongwith Mr. Muhammad Ghanir, SI for respondents  
present. Counsel for the appellant requested for  
adjournment. Adjournment granted. To come up for  
arguments on 07.03.2017.

  
(ABDUL LATIF)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER



01.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable and was performing his duty at District Mardan under the supervision of DPO Mardan but dismissed from service on the allegations of wilful absence from duty by DPO Swabi vide impugned order dated 2.4.2014 against which appellant preferred departmental appeal which was rejected on 8.7.2014 where-after revision petition was preferred which was also rejected on 11.3.2015 copy whereof communicated to the appellant on 23.6.2015 where-after service appeal was preferred on 13.7.2015.

Appellant Deposited  
Security & Process Fee A



That the appellant was performing his duty with DPO Mardan and was erroneously considered absent from duty and, moreover, he was admitted to hospital in the prescribed manners for his ailment and as such the impugned orders are against facts and law.

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 21.12.2015 before S.B.

  
Chairman

21.12.2015





Counsel for the appellant and Mr. Muhammad Ghani, S.I alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 23.2.2016 before S.B.

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 257 /2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29.07.2015	<p>The appeal of Mr. Jasmeen Afzal resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	31 → - 15	<p>This case is entrusted to S. Bench <sup>-II</sup> for preliminary hearing to be put up thereon <u>06-08-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	06.08.2015	<p>Counsel for the appellant present. Learned counsel for the appellant requested for adjournment. Adjourned to 17.9.2015 for preliminary hearing.</p> <p style="text-align: right;"> Member</p>
4	17.09.2015	<p>Counsel for the appellant present. Learned counsel for the appellant requested for further adjournment. Adjourned to <u>1-10-15</u> for preliminary hearing.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Jaseem Afzal Ex-Constable No. 2796 Mardan received to-day i.e. on 13.07.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copies of dismissal order and departmental appeal are not attached with the appeal which may be placed on it.
- 3- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be attested.
- 5- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1086 /S.T.

Dt. 14/07/2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M.Asif Yousafzai Adv. Pesh.

Sir,

1. Removed.
2. Removed.
3. charge sheet, statement of allegations, show cause, enquiry report have not been given to appellant. Therefore, the same may be requisitioned from the Dept.
4. Re-moved.
5. Removed.

Re-submitted  
for Jan.

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

Appeal No. 857 /2015

Jaseem Afzal

V/S

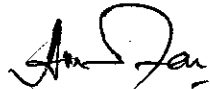
PPO, KPK, Peshawar etc.

**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Copy of Discharge Slip	A	05-06
3.	Copy of OPD Chits	B	07-13
4.	Copy of Dismissal Order	C	14
5.	Copy of DIG's order (8.7.2014)	D	15
6.	Copy of Mercy Petition	E	16-17
7.	Copy of Order	F	18-19
8.	Wakalat Nama	-----	20

APPELLANT

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

1

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 857 /2015

Jaseem Afzal,

Ex-Constable NO.2796(Mardan)/1076(Swabi),

R/O Dobian Distt: Swabi.....Appellant.

**A.W.P Province  
Service Tribunal**

**Diary No 833**

**Dated 13-7-2015**

**VERSUS**

- 1- The Provincial Police Officer, KPK Peshawar.
- 2- The D.I.G Mardan range Mardan.
- 3- The DPO, Mardan.
- 4- The DPO Swabi.....Respondents.

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED. 11.03.2015, RECEIVED THROUGH RTI COMMISSION PESHAWAR ON 23.6.2015, WHEREBY THE APPEAL/MERCY PETITION/REVISION AGAINST THE ORDER DATED. 2.4.2014 HAS BEEN REJECTED FOR NO GOOD GROUNDS.**

Filed to-  
13/7/15

**PRAYER:**

*That on acceptance of this appeal the orders dated. 11.3.2015 and 2.4.2014 may be set-aside and the appellant may be reinstated with all back and consequential benefits. Any other remedy which this august Tribunal deems fit and not specifically prayed for, that may also be awarded in favour of appellant.*

Re-submitted to-  
and filed.

29/7/15

**FACTS:**

- 1- That the appellant joined the Police Force on 12.01.2008 in Distt: Swabi and completed all the requisite trainings etc in time. More over the appellant has more than 6 years service at his credit with good record.
- 2- That on 23.04.2013 the appellant was severely fell ill by having severe pain in his right hand and right leg. The appellant forth with consulted the doctor and he became hospitalized in DHQ Hospital Mardan from 24.4.2013 to 2.5.2013. The appellant was also advised bed rest for one month by the doctors of the hospital. Copy of discharge slip is attached as Annexure – A.
- 3- That after that the appellant continuously visited the concerned doctor for treatment and he was duly advised bed rest for different periods till 27.11.2013. The said medical/ OPD Chits are duly countersigned by the M.S DHQ Hospital Mardan. Copies of OPD Chits are attached as Annexure – B.
- 4- That on 28.11.2013, after getting fitness, the appellant reported for duty at P.S Lahor, Swabi but there the P.S Moharrir gave him "Rawangi Madd" to Distt: Mardan because during illness period, the appellant was transferred to Distt: Mardan. Thus the appellant reported his arrival at Police Lines Mardan. The appellant performed his duty in Mardan for more than four months till 14.4.2014 and also received pay for that period.
- 5- That the appellant was informed in Mardan that he had been dismissed from service on 2.4.2014 on the basis of wrongly showing him absent for 11 months, whereas the actual absence on medical grounds was from 24.4.2013 till 27.11.2013. Copy of order is attached as Annexure – (C).
- 6- That the appellant filed appeal before the D.I.G Mardan who rejected appeal on 8.7.2014, the appellant after that filed revision/mercy petition to PPO, KPK on 24.7.2014, but the said revision/mercy petition was also rejected on 11.03.2015. As the appellant was not provided the order of Review Board, therefore, he complained to RTI Commission and through RTI Commission, the appellant was

communicated with the order dated. 11.3.2015 on 23.06.2015. Copies of D.I.G Order, mercy Petition and order on mercy petition are attached as Annexure – D, E & F.

- 7- That now the appellant comes to this august Tribunal on the following grounds amongst the others.

**GROUND:**

- A- That the order dated. 11.3.2015 and 2.4.2014 are against the law, facts, material on record and norms of justice, therefore liable to be set-aside.
- B- That the appellant was not treated in accordance with the law and rules and was condemned unheard throughout.
- C- That no chance of personal hearing and defense was provided to appellant while passing penalty order.
- D- That the absence was not intentional, rather due to illness which was duly communicated to the concerned officer, but despite that the appellant was treated so harshly by inflicting the punishment of dismissal from service.
- E- That the illness and medical record of the appellant was not inquired by any one and the appellant was punished through one sided inquiry in which neither statements were recorded in presence of appellant nor the appellant was associated with such proceedings.
- F- That the appellant had never received any show cause notice nor charge sheet and as such the question of reply to those does not arise.
- G- That the order dated. 2.4.2014 was passed by the DPO Swabi was an illegal and without lawful authority order because at that time the appellant was already performing his duties in Mardan and for him the competent authority at that time was DPO Mardan. Thus the penalty order is liable to be set-aside on this score alone.

- H- That the penalty order has been passed with retrospective effect which an authority cannot do under the law.
- I- That the penalty of dismissal is very harsh and does not commensurate with the guilt of appellant.
- J- That the absence period attributed to appellant was wrongly calculated and as such the very charge of the respondents was become faulty, therefore the appellant cannot be punished on the basis of faulty and wrongly based charges.
- K- That there are no reasons mentioned in the order dated. 11.3.2015 which is against the spirits of Section 24-A of the General Clauses Act.
- L- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of appellant may be accepted as prayed for.

APPELLANT  
*Jaseem*  
JASEEM AFZAL

THROUGH;  
*M. Asif Yousafzai*  
M.ASIF YOUSAFZAI  
AND  
*Taimur Ali Khan*  
TAIMUR ALI KHAN  
ADVOCATES PESHAWAR.



TREATMENT AT HOME

1. *Tamim*  
 2. *Azam*  
 3. *Muhammad*  
 4. *...*  
 5. *...*  
 6. *...*  
 7. *...*  
 8. *...*  
 9. *...*  
 10. *...*

Cap ACENAC SR

AMTESHER

DISCHARGE CARD

B/MO  
 1076  
 ORTHOPAEDIC UNIT  
 District Head Quarter Hospital  
 MARDAN

5

Incharge Orthopaedic Surgeon  
 Dr. Muhammad Shahid Burran  
 M.B.B.S, M.S.  
 PHD. ORTHO

Medical Officer  
 Dr. Zahir Shahi  
 M.B.B.S, M.S.

D. Q. Hospital, Mardana  
 Superintendent

Dr. Sajid  
 MD, MS  
 Dr. Khalil-ur-Rehman  
 M.B.B.S  
 D.O.T

Pt. Name *Taseem Afzal*  
 Address *Taseem, D. Q. Hospital, Mardana*

D.A. *24413* Adm No *11-31* D.D *2-5-13*

Diagnosis *Scarf - 9*

Treatment *Conservative*  
*...*

Cap ACENAC SR

**CLINICAL RECORD**

No. 10  
4/1/57

**INVESTIGATIONS**

Ortho  
C.B.  
W.S.M.

ORTHOPEDIC

Cap ACENAC SR

**TREATMENT AT HOSPITAL**

1. Tendon of  
3. Flexor dig. profundus  
4. Volvulus  
5. Thrombosis  
6. Metatarsal

**OPERATION**

Conservative  
S.F.

Cap ACENAC SR

9

No.

Rs. 5.

OUT-PATIENTS DEPARTMENT

NAME.....

FEELRY NO.....

DATE.....

DISEASE.....

*Jeel...*  
31/1/63

26-3

FACE VALUE RUPEES 5

B.  
7

*Dr. K. K. ...*  
Hospital

*3 Path...*  
*Dr. Mel...*  
*Dr. Moul...*  
*Dr. ...*

*Ad Medical Leave for 13/7 to*

*01/7/13*

ORTHOPAEDIC SURGEON  
D.H.Q. Hospital, Madras

*[Signature]*

Rs. 5-

8

OUT-PATIENTS DEPARTMENT

NAME

*Person*

YEARLY NO.

*31*

DATE

*27-13*

DISEASE

PAGE VALUERUPES 5

COUNTERSIGNATURE

*LB* *LB*

Medical Superintendent  
D.H.Q Hospital, Madras.

*Dr. L. T. Fernando*  
*Dr. L. Dickson*  
*Dr. ...*

*At Medical Council of 13-70*

*01-08*  
*13*

ORTHOPAEDIC SURGEON  
D.H.Q

ATTESTE

*[Signature]*

No.

No.

OUTPATIENTS DEPARTMENT

NAME: *W. J. [unclear]*  
THARLY NO: 1571-131

DATE: *2-8-13*

COLD/DISEASE

*W. J. [unclear]*  
D.H.Q. Hospital

*met  
hpm*

PAGE VALUERS USE

9

*3. [unclear]*

*Leg. Deloat*

*Leg. Beafus*

*f. 2*

*Leg. fare*

*Medical leave for one month - [unclear]*

ORTHOPAEIC SURGEON  
D.H.Q. Hospital, Alford

13

No. \_\_\_\_\_ Rs. 5-

OUR PATIENTS DEPARTMENT

NAME... *John*  
U.M.O. HOSPITAL MARDIA

DATE... *02-8-13*

DISEASE...  
COUNT...

PAGE VALDERUPES 3

*[Signature]*  
Attendant  
U.M.O. Hospital, Mardia.

*[Signature]*

*Mr. Meloy*  
*to. Surgeon 2*

*U.*  
*Transfer*

*Mr. Meloy leave for 02-13*

ATTESTED *10*  
*13*

ORTHOGAIDIC SURGEON  
U.M.O. Hospital Mardia

No.

No.

OUT-PATIENTS DEPARTMENT

NAME

YEARLY NO. OF VISITS

DATE

NO. 37-13

06-10-23

DISEASE

COUNTERSIGNED

Medical Officer  
D.H.O. Hospital, Mardan

*[Handwritten signature]*

*to be moved by  
me  
to the front*

*All Medical Cases for 06-13*

*To 06-13*

ORTHOPAEDIC SURGEON  
D.H.O. Hospital Mardan

PAGE VALUE REEFERS

11

ATTESTED

*[Handwritten signature]*

No

Rs. 5-

PAGE VALUERUPES 5

12

OUT-PATIENTS DEPARTMENT

NAME - *M. J. JORDAN*  
 YEAR - *331-3*  
 DISCHARGE - *1-13*

COUNTERSIGNED

*[Signature]*  
 Medical Superintendent,  
 D.H.Q Hospital, Madras.

*[Signature]*  
 To Mr. S. S. S. S.  
 To Mr. J. J. J. J.

Ad Medical leave of  
 07<sup>11</sup> to 13

ORTHOPAEDIC SURGEON  
 D.H.Q. Hospital Madras

*[Signature]*  
 APPROVED



13

No.

Rs. 5-

OUT-PATIENTS DEPARTMENT

NAME

*Patel*

YEARLY NO.

*933-110*

DATE

*28-1-23*

DISEASE

*fitness certificate*

PAGE VALUE REBRS 5-

*He is fit for any  
duty*

ORTHOPEDIC SURGEON  
M.H.Q. Hospital, Mumbai

ATTESTED

*[Signature]*

C  
14

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

ORDER.

This order of mine is directed to dispose off the Enquiry Against Constable Jaseem Afzal No.1076.

It is alleged that Constable Jaseem Afzal No.1076, while posted to Police Check Post Anbar absented himself from duty with effect from 24.04.2013 till date without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross mis-conduct.

Therefore, he was served with Show Cause Notice. His reply to the Show Cause Notice was due to reach to the undersigned within seven days, but he failed. Thus, he was served with Charge Sheet and Summary of allegations. Mr. Nansher Khan Topi was appointed as Enquiry Officer. The Officer conducted proper enquiry, collected evidence and recorded statements. On the basis of the findings wherein he found Constable Jaseem Afzal No.1076 guilty of the offence and recommended him for Major punishment. The undersigned perused the enquiry papers, findings and by agreeing with the Enquiry Officer served him with final Show Cause Notice through local Police. He was clearly directed to submit his reply to the Final Show Cause Notice within seven days, but he did not submit his reply. He deserved to be proceeded against ex-parte, but the undersigned decided to give him an opportunity of personal hearing. He was time and again directed to appear in Orderly Room, but he ignored these directions and did not appear in Orderly Room, which means that he has nothing to offer in self defence.

Therefore, I, Sajjad Khan, P.P. District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Jaseem Afzal No.1076 Major Punishment of dismissal from service from the date of absence.

O.R No. 117

Dated 24/04/2014

(SAJJAD KHAN) P.P.  
District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 207/2014, dated Swabi the 24/04/2014

Copies to the:-

1. Pay Officer.
2. Establishment Clerk.
3. Fauji Missal Clerk

**ATTESTED**

*[Handwritten signature]*

2 1/2 gals = 6/12/13

*[Faint circular stamp]*

Best copy

C

14/A

OFFICE OF THE DISTRICT POLICE OFFICER SWABI

ORDER

This order of mine is directed to dispose off the Enquiry

Against Constable Jaseem Afzal No. 1076

It is alleged that Constable Jaseem Afzal No 1076 while posted to Police Check Post Anbar absented himself from duty with effect from 24-04-2013 till date without any leave /prior permission of the competent authority, which is highly against the discipline and amounts to gross mis-conduct.

Therefore, he was served with Show Cause Notice. His reply to the Show Cause Notice was due to reach to the undersigned within seven days, but he failed. Therefore, he was served with Charge Sheet and Summary of allegation. Mr. Nausher Khan DSP, Topi was appointed as Enquiry Officer. The Officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. He submitted his findings wherein he found Constable Jaseem Afzal No 1076 guilty for the mis-conduct and recommended him for Major punishment. The undersigned perused the enquiry papers, findings and by agreeing with the Enquiry Officer served him with final Show Cause Notice through local Police. He was clearly directed to submit his reply to the Final Show Cause Notice within seven days, but he did not submit his reply. He deserved to be proceeded against ex-parte, but the undersigned decided to give him an opportunity of personal hearing. He was time and again directed to appear in Orderly Room, but he ignored these directions and did not appear in Orderly room, which means that he has nothing to offer in self defence.

Therefore, I, Sajjad Khan, PSP, District Police Officer Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975 hereby award Constable Jaseem Afzal No. 1076 Major Punishment of dismissal from service from the date of absence.

OB No. 410

Dated 2-4- /2014

*Shi*  
(SAJJAD KHAN) PSP  
District Police Officer, Swabi

**ATTESTED**

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

No. 574-7/PA, dated Swabi the 03/04/2014

Copies to the:

1. Pay Officer
2. Establishment Clerk
3. Fauji Missal Clerk

Certified True Fair Copy

*Nargis Nisar*  
Ms. Nargis Nisar  
Assistant Professor  
FG Degree College for Women  
Peshawar

26/5 to 26/13  
13 14

2/13 0/06 1/14/13 0/13

ORDER.

D  
B

This order will dispose-off the appeal preferred by Ex-Constable Jaseem Afzal No. 1076/2796 of Swabi District Police against the order of District Police Officer, Swabi wherein he was dismissed from service vide District Police Officer, Swabi OB: No. 460 dated 02.04.2014.

Brief facts of the case are that he while posted to Police Check Post Anbar absented himself from duty with effect from 24.04.2013 to the date of dismissal without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross misconduct. In this connection he was issued Show Cause Notice, his reply to the Show Cause Notice was due to reach to the District Police Officer, Swabi within seven days, but he failed. Therefore he was served with charge sheet and summary of allegations, the then Deputy Superintendent of Police, Topi was appointed as enquiry officer. The enquiry officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. He submitted his findings wherein he found guilty for the misconduct and recommended him for major punishment. The then District Police Officer, Swabi perused the enquiry papers, findings and by agreeing with the enquiry Officer served him with Final Show Cause Notice through local Police. He was clearly directed to submit his reply to the Final Show Cause Notice within seven days, but he did not submit his reply. He deserved to be proceeded against ex-parte but the then District Police Officer, Swabi decided to give him an opportunity of personal hearing. He was time and again directed to appear in orderly room, but ignored these directions and did not appear in orderly room, which means that he has nothing to offer in self defence. Therefore he was dismissed from service

I have perused the record and also heard the appellant in Orderly Room held in this office on 02.07.2014. He failed to justify his absence period and could not advance any ground in his defence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed forthwith.

ORDER ANNOUNCED.

**ATTESTED**

(M) MUHAMMAD SAEED)PSP  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.

No. 4782-83/ES,

Dated Mardan the 08/7/2014.

Copy forwarded to the:-

1. District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 602/LB dated 23.06.2014. His service record is returned herewith.
2. District Police Officer, Swabi for information and necessary action.

کتھور ہینا انڈیکس ویل ہے۔ خصوصاً خیر پختور کھو اور پتھار

آپیل / رحم درخواست میرا کھائی بندرت

1. یہ تم میں پہلے ہوا ہے اسباب جب پوسٹ

میں ٹینٹا بنا۔

2. یہ تم میں کسب اجازت انچارج مادی آپ دن کی

دفعت اسٹیشن ہلا کیا۔ ماضی میں دریں پاؤں آور دیس کھ تو

نیمت درد شروع ہو گیا ہے جس میں کھ فعال تھا مگر پھر کورڈر سہیل

وردن مایا کھ یوم داخل ہسپتال دیم آور علاج مبالغہ کرنا دیم

ہسپتال ماضی میں کھ یوم کھ ماہ کی سہارن کی - کھ ماہ گزرے

کے بعد کھانہ اور میں اپنی ماضی کی مبالغہ پر سے معلوم ہوا کھ مبالغہ کھ

وردن مایا کھ یوم کھ مبالغہ کھ مبالغہ کھ مبالغہ کھ مبالغہ کھ

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ATTESTED

P.T.O

میں نے صواب دیا ہے۔ یہ کہ صورت میں ہر حال میں عزت میں  
دار کی ہے صواب دیا ہے۔ وہی ہیں۔ ہر حال میں

میں نے صواب دیا ہے۔ وہی ہیں۔ ہر حال میں  
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میں نے صواب دیا ہے۔ وہی ہیں۔ ہر حال میں

03452429118

ASEM

24-07-2014



GOVERNMENT OF KHYBER PAKHTUNKHWA  
RIGHT TO INFORMATION COMMISSION  
7<sup>th</sup> Floor, Tasneem Plaza, Near Benevolent Fund Building,  
6<sup>th</sup> Saddar Road, Peshawar  
Email: [complaints@kprti.gov.pk](mailto:complaints@kprti.gov.pk)  
Ph: +92-91-9212643  
Fax: +92-91-9211163

F  
18

No. RTIC/AR/1-668/15  
Dated: 23<sup>rd</sup> June, 2015

To

✓ Mr. Jaseem Afzal,  
Village & P.O. Dobian, Tehseil Lahore,  
District Swabi.

Ref: Mr. Jaseem Afzal vs. IG Police, Peshawar.

Subject: **Supply of Information under RTI. Act, 2013 (Complaint No. 00668)**

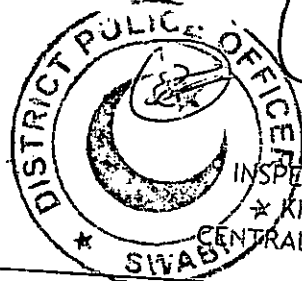
Memo,

Attached please find the requisite information received from Government of KPK; Office of the District Police Officer, Swabi vide letter No. 65-66/Insp Legal, Swabi, dated: 17<sup>th</sup> June, 2015, regarding your case.

AC  
RTI  
Registrar

Assistant Registrar  
Right to Information Commission,  
KPK, Peshawar.

**ATTESTED**



19

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
\* KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE, PESHAWAR

745  
18/3

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 Jaseem Khan No. 1076/2796 of district Police Swabi against the Punishment order i.e dismissal from service passed against the appellant by DPO/Swabi vide his order Book No. 460 dated 02.04.2014.

In the light of recommendations of Appeal Board meeting held on 19.02.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was also heard in person and record perused. He absented from duty w.e from 24.04.2013 to 02.04.2014. The board rejected his appeal as he failed to account for his long absence and could not produce any justification for the act he committed being police personnel.

Order announced in the presence of appellant.

ATTESTED  
District Police Officer Swabi



Sd/-  
NASIR KHAN DURRANI  
Inspector General of Police,  
Khyber Pakhtunkhwa  
Peshawar.

No. 3068-72 /E-IV dated Peshawar the 11/03/2015

Copy of above is forwarded to the:-

1. DIG/Mardan Region.
2. DPO/Swabi. The Service Roll, Fauji Missal and Departmental Enquiry, file of above named Ex-Head Constable are returned herewith for record in your office.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.

Certified to be True Copy.

Ec/OHE

*[Signature]*  
20/3

Ec/D.P.O ~~Swabi~~ Swabi

For necessary action

DIG Mardan  
13/3/2015

*[Signature]*  
(SYED FIDA HASSAN SHAH)  
AIG/Establishment  
For Inspector General of Police,  
Khyber Pakhtunkhwa  
Peshawar.

10/3/15

ATTESTED  
176/ES  
13-3-15





2114  
12-11-18

OFFICE OF THE  
DISTRICT POLICE OFFICER, SWABI  
PHONE NO. 0938-221399, 0938-223390  
FAX NO. 0938-222434.  
EMAIL ADDRESS: dpo\_swabi@yahoo.com.

No. 10255 /GB, dated Swabi the 8 / 11 /2018

To:

The Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Subject:

JUDGMENT IN APPEAL NO. 857/2018, MR. JASEEM AFZAL.

Memo:

Kindly refer to your office Memo: No. 2181/ST, dated 31.10.2018 on the subject noted above.

Judgment dated 03.10.2018 passed by Service Tribunal received with your letter under reference is returned herewith with the remarks that the same may please be send to DPO Mardan as the Constable Jaseem Afzal No. 2796 is serving in Mardan District Police, please.

District Police Officer,  
Swabi.

Placed on file and copy of Judgment be  
Sent to DPO Mardan

13 / 11 / 18

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 2181 /ST

Dated 31/10/2018

To


The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Swabi.

Subject: -

JUDGMENT IN APPEAL NO. 857/2018 MR. JASEEM AFZAL.

I am directed to forward herewith a certified copy of Judgement dated 03.10.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Jaseem Azzal (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Dept. (Respondent)  
(Defendant)

I/We Jaseem Azzal (Appellant):

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

JASEEM  
(CLIENT)

ACCEPTED

M. Asif Yousafzai

**M. ASIF YOUSAFZAI**  
Advocate

Taimur Ali Khan  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

C

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

*Service Appeal No. 857/2015.*

**Jaseem Afzal Ex-Constable..... Appellant**

**VERSUS**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Mardan.
4. District Police Officer, Swabi..... **Respondents.**

**WRITTEN REPLY ON BEHALF OF RESPONDENTS.**

**1. Preliminary Objections.**

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come to the Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant has concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

**2. REPLY ON FACTS.**


1. Para No. 1 of appeal is correct to the extent of appointment, however appellant during service proved himself an inefficient police official.
2. Para No. 2 of appeal is incorrect. Appellant while posted to Police Check Post Anbar absented himself from duty with effect from 24.04.2013 till 03.04.2014 without any prior leave from the competent authority.
3. Para No. 3 of appeal is incorrect. Appellant absented himself from duty without prior permission nor applied for any medical leave and availed the alleged medical leave on his own sweet will.

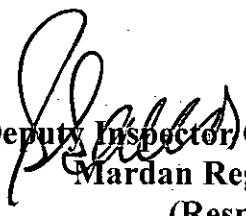
4. Para No. 4 of appeal is incorrect. The appellant absented himself from duties without any prior permission and did not bother to join the enquiry proceedings despite of service/knowledge of the same. However, during enquiry he reported his arrival in Police Lines, Mardan.
5. Para No. 5 of appeal is incorrect. Appellant has not applied for any medical leave and absented himself from duty on his own which is against the discipline force, however appellant admitted his absence period.
6. Para No. 6 of appeal is correct to the extent of rejection of departmental appeal as well as revision/mercy petition, however appellant despite of knowledge of rejection of his petition did not applied for copy, as the same was announced in his presence, hence instant appeal is hit by limitation while his application to RTI Commission was not based on fact (**Copies annexed**).
7. The instant appeal is liable to be dismissed on the following grounds.


#### GROUND.

- A. Incorrect. The orders dated 02.04.2014, 08.07.2014 and 11.03.2015 are quite legal and in accordance with law/rules.
- B. Incorrect. The appellant was treated in accordance with law/rules, however appellant has no justification for his long absence, therefore willfully not associated with enquiry proceedings despite of service/knowledge.
- C. Incorrect. Reply already given vide para above.
- D. Incorrect. Appellant has not informed his superior officer nor applied for any kind of medical leave and availed alleged medical leave on his own, which is against the rules.
- E. Incorrect. Reply already given vide para above.
- F. Incorrect. Reply already given vide para above.
- G. Incorrect. The order dated 02.04.2014 is quite legal because the mis-conduct of appellant was committed under the competency of respondent No. 4.
- H. Incorrect. The orders of respondents are quite legal and speaking in nature.
- I. Incorrect. The penalty of appellant is commensurate with the guilt of appellant.
- J. Incorrect. The appellant admitted his absence period for which he has no justification as during enquiry as well as during departmental appeal he has not raise the alleged plea of illness.
- K. Incorrect. The order dated 11.03.2015 is very much clear and speaking in nature.
- L. The respondents also seek the permission to advance other grounds and proof during arguments.

It is therefore prayed that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.

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

  
**Deputy Inspector General of Police,  
Mardan Region-I Mardan.  
(Respondent No. 2)**

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

  
**District Police Officer, Swabi.  
(Respondent No. 4)**

**ORDER.**

This order will dispose-off the appeal preferred by Ex-Constable Jaseem Afzal No. 1076/2796 of Swabi District Police against the order of District Police Officer, Swabi wherein he was dismissed from service vide District Police Officer, Swabi OB: No. 460 dated 02.04.2014.

Brief facts of the case are that he while posted to Police Check Post Anbar absented himself from duty with effect from 24.04.2013 to the date of dismissal without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross misconduct. In this connection he was issued Show Cause Notice, his reply to the Show Cause Notice was due to reach to the District Police Officer, Swabi within seven days, but he failed. Therefore he was served with charge sheet and summary of allegations, the then Deputy Superintendent of Police, Topi was appointed as enquiry officer. The enquiry officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. He submitted his findings wherein he found guilty for the misconduct and recommended him for major punishment. The then District Police Officer, Swabi perused the enquiry papers, findings and by agreeing with the enquiry Officer served him with Final Show Cause Notice through local Police. He was clearly directed to submit his reply to the Final Show Cause Notice within seven days, but he did not submit his reply. He deserved to be proceeded against ex-parte but the then District Police Officer, Swabi decided to give him an opportunity of personal hearing. He was time and again directed to appear in orderly room, but ignored these directions and did not appear in orderly room, which means that he has nothing to offer in self defence. Therefore he was dismissed from service

I have perused the record and also heard the appellant in Orderly Room held in this office on 02.07.2014. He failed to justify his absence period and could not advance any ground in his defence. Therefore, I **MUHAMMAD SAEED** Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed forthwith.

ORDER ANNOUNCED.

*DSP/Leah/EC*

*For Mardan*

*(Signature)*  
**(MUHAMMAD SAEED)PSP**  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.

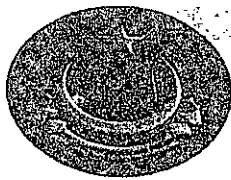
No. *4782-83* /ES,

*(Signature)*  
Dated Mardan the *08/07* /2014.

Copy forwarded to the:-

1. District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 602/LB dated 23.06.2014. His service record is returned herewith.
2. District Police Officer, Swabi for information and necessary action.

(\*\*\*\*\*)



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE, PESHAWAR

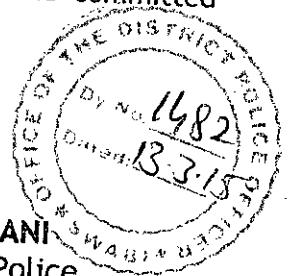
ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex- Constable Jaseem Khan No. 1076/2796 of district Police Swabi against the Punishment order i.e dismissal from service passed against the appellant by DPO/Swabi vide his order Book No. 460 dated 02.04.2014.

In the light of recommendations of Appeal Board meeting held on 19.02.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was also heard in person and record perused. He absented from duty w.e from 24.04.2013 to 02.04.2014. The board rejected his appeal as he failed to account for his long absence and could not produce any justification for the act he committed being police personnel.

Order announced in the presence of appellant.

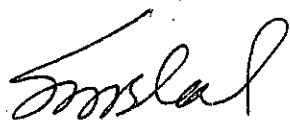


Sd/-  
**NASIR KHAN DURRANI**  
Inspector General of Police,  
Khyber Pakhtunkhwa  
Peshawar.

No. 3068-72 /E-IV dated Peshawar the 11/03/2015

Copy of above is forwarded to the:-

1. DIG/Mardan Region.
2. DPO/Swabi. The Service Roll, Fauji Missal and Departmental Enquiry, file of above named Ex-Head Constable are returned herewith for record in your office.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.

  
(**SYED FIDA HASSAN SHAH**)  
AIG/Establishment  
For Inspector General of Police,  
Khyber Pakhtunkhwa  
Peshawar. 10/3/15



SUBJECT:

DEPARTMENTAL ENQUIRY AGAINST CONSTAB JASEEM AFZAL NO.1076  
CONDUCTED BY MR.NAUSHER KHAN DSP TOPI.

It is submitted that a departmental enquiry against the above named Constable was entrusted to the undersigned vide Dy:No.189/CC/PA, dated 30.09.2013 on the following allegations:-

ALLEGATIONS.

It is alleged that Constable Jaseem Afzal No.1076, while posted to Police Post Anbar absented himself from duty w.e.f.24.04.2013 till dated without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross mis-conduct.

PROCEEDING:-

During the course of enquiry the delinquent Police officer was called for recording his statement and provision of relevant record.

STATEMENT OF CONSTABLE JASEEM AFZAL NO. 1076.

Constable Jaseem Azal No.1076 stated in his statement "that on 22.04.2013 he was gone to his home on routine SHABASI. In the meanwhile he was ill and on 23.04.2013 he carried out medical checkup in the local hospital Yarhusain from Dr,Akhtar Ali Shah. The said doctor referred him to DHQ Hospital Mardan for further Medical checkup. On 24.04.2013 the doctor concerned admitted him in the DHQ hospital Mardan till 02.05.2013. After discharge from the hospital the doctor advised him 01 month bed rest. After his bed rest he made his arrival in the PS: Lahor vide Mad No.19 dated 04.12.2013. The MHC Lahor told him that you are transferred to Mardan district vide OB No.1358 dated 19.11.2013 and hence I departed in the same Daily Dairy No.19 to Mardan district accordingly.

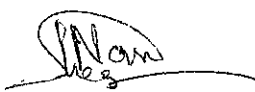
CONCLUSION.

From perusal of the above statement and relevant Medical certificates it is concluded that the delinquent officer absented himself from lawful duty on 24.04.2013 without any leave/prior permission from his superior. Similarly there is no "Discharge Slip" of the concerned hospital is exist in the medical documents, which also create doubts. If he was actually ill, he was required to made his departure to hospital in the "Register BIMARAN" properly. On the other side he did not bother to make a single entry in the DD regarding his illness or produce before his senior. But he left his duty point on his own accord.

While on other side during enquiry MASI Police Lines Mardan namely Fazal Malik have also been contacted on PTCL Police Lines No.0937 9230116 regarding arrival of the delinquent constable in Mardan District. He (Moharrar Police Lines Mardan) told on telephone that the said constable has not made his arrival till now in the Mardan,Police Lines. Again on 12.12.2013 at 1220 hrs: and 24.12.2013 at 0100 hrs:MASI Police Line was contacted, but he stated the same story. Similarly once again on 31.12.2013 at 1240 hrs: MASI was contacted on the above PTCL No. while OASI Khadimin Khan contacted on Mobile No. 0300.5716912 and Line Officer Police Line SI: Sher Nawaz Khan on Mobile No. 0333.9862060 have been contacted and enquired from them arrival of constable Jaseem, but all they replied that the said constable has not made his arrival till now.

In view of the above it is concluded that the delinquent officer is a malingerer Police officer and did not take interest in his lawful duty. He is therefore, recommended for the award of SUITABLE PUNISHMENT, please.

*J. Naushar*  
*fsc*  
*2*

  
Sub-Divisional Police Officer Topi  
SWABI.

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

*Service Appeal No. 857/2015.*


**Jaseem Afzal Ex-Constable..... Appellant**


**VERSUS**

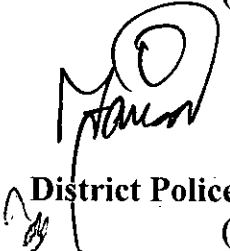
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Mardan.
4. District Police Officer, Swabi.....**Respondents.**

**POWER OF ATTORNEY.**

We, the undersigned No. 1 to 4 do hereby appoint Mr. Shafiq Khan, Inspector Legal Mardan as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.

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

  
**Deputy Inspector General of Police,  
Mardan Region-I Mardan.  
(Respondent No. 2)**

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

  
**District Police Officer, Swabi.  
(Respondent No. 4)**

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

**PESHAWAR.**

*Service Appeal No. 857/2015.*


**Jaseem Afzal Ex-Constable..... Appellant**


**VERSUS**


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.  
& others..... **Respondents.**


**AFFIDAVIT**

We, the respondents No. 1 to 4 do hereby solemnly affirm and declare on oath that the parawise comments to the above service appeal are true and correct to the best of our knowledge and belief and the nothing has been concealed from this Honorable Tribunal.

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

  
**Deputy Inspector General of Police,  
Mardan Region-I Mardan.  
(Respondent No. 2)**

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

  
**District Police Officer, Swabi.  
(Respondent No. 4)**

**BEFORE THE KPK, SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No. 857/2015**

JASEEM AFZAL

VS

POLICE DEPTT:

.....  
**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 In para-1 of the reply respondent's department admitted First portion of para-1 of the appeal as correct hence no comments, while the rest of the para-1 of the reply is incorrect, hence denied. While the Para-1 of the appeal is correct.
- 2 Incorrect. While Para-2 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant was severely fell ill and went to DHQ Mardan for his treatment where doctor recommended bed rest for one month and grant proper leave from the high ups.

- 3 Incorrect. While Para-3 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explained in the above mentioned in Para-2.
- 4 Incorrect. While Para-2 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant was getting fitness on 28.11.2013, and reported for his official duty.
- 5 Incorrect. While Para-2 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant was on proper medical leave which was recommended by competent doctor.
- 6 In para-6 of the reply respondent's department admitted First portion of para-6 of the appeal as correct hence no comments, while the rest of the para-6 of the reply is incorrect, hence denied.
- 7 The appellant has good cause of action and may kindly accepted on the following grounds:

**GROUNDS:**

- A) Incorrect. The orders dated 11.3.2015 and 2.04.2014 are unjust, illegal and were not passed in accordance with law and rules on the subject. Therefore, liable to be set aside.

- B) Incorrect. While Para-B of grounds of the appeal is correct as mentioned in the main appeal, of the appellant.
- C) Incorrect. No chance of personal hearing was provided to the appellant and as such the appellant was condemned unheard which is against the law and rule.
- D) Incorrect. While Para-D of grounds of the appeal is correct as mentioned in the main appeal, of the appellant.
- E) Incorrect . While Para-E of grounds of the appeal is correct as mentioned in the main appeal, of the appellant.
- F) Incorrect. While Para-F of grounds of the appeal is correct as mentioned in the main appeal, of the appellant.
- G) Incorrect. While Para-G of grounds of the appeal is correct as mentioned in the main appeal, of the appellant. moreover, at that time the appellant was performing his duties in Mardan and for him the competent authority at that time was DPO Mardan ,And not Respondent No.4.
- H) Incorrect. The order has not been quite legal of the Respondents accordance with law & rules.
- I) Incorrect. The penalty order has not commensurate with the guilt of appellant.
- J) Incorrect. The appellant is not absent from his lawful duties. But the appellant was compel to remain on leave from his duties due to his illness. Which was wrongly calculated. The appellant has raise on several occasion plea illness. So Therefore the

appellant cannot be punished on the basis of faulty and wrongly based charges.

K) Incorrect. While Para-K of grounds of the appeal is correct as mentioned in the main appeal, of the appellant.

L) Legal.

### PRAYER

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

**APPELLANT**

Through:



**(M. ASIF YOUSAFZAI)  
ADVOCATE, PESHAWAR.**

### AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



**DEPONENT**

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

**Service Appeal No.857/2015**

*[Handwritten Signature]*  
7-8-2018

Jaseem Afzal

V/S

Police Deptt:

=====

**APPLICATION FOR WITHDRAWAL OF VAKALAT NAMA IN THE  
ABOVE MENTIONED APPEAL.**

=====

**RESPECTFULLY SHEWETH:**

- 1) That the appellant filed the above titled appeal in this Honourable Tribunal, in which the date has been fixed for today.
- 2) That the appellant filed the above mentioned appeal with the request to re-instate the appellant into service with all back benefits.
- 3) That due to some reasons the I (M. Asif Yousafzai) can't proceed with the case so I want to withdraw my vakalt Nama.

It is, therefore, most humbly prayed that the Vakalt Nama in the above titled appeal of the appellant may kindly be withdrawn.

**Appellant**  
Jaseem Afzal

THROUGH:

*[Handwritten Signature]*  
**(M. ASIF YOUSAFZAI)**  
ADVOCATE SUPREME COURT



**AFFIDAVIT:**

I, the appellant state on oath that the contents of the above application is true and correct to the best of knowledge and belief, and nothing has been withheld or concealed from the Honorable Tribunal.

**Deponent**

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

**Service Appeal No.857/2015**

Jaseem Afzal

V/S

Police Deptt:

=====

**APPLICATION FOR WITHDRAWAL OF VAKALAT NAMA IN THE  
ABOVE MENTIONED APPEAL.**

=====

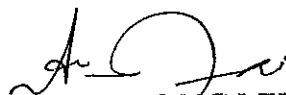
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- 1) That the appellant filed the above titled appeal in this Honourable Tribunal, in which the date has been fixed for today.
- 2) That the appellant filed the above mentioned appeal with the request to re-instate the appellant into service with all back benefits.
- 3) That due to some reasons the I (M. Asif Yousafzai) can't proceed with the case so I want to withdraw my vakalt Nama.

It is, therefore, most humbly prayed that the Vakalt Nama in the above titled appeal of the appellant may kindly be withdrawn.

**Appellant**  
Jaseem Afzal

THROUGH:

  
**(M. ASIF YOUSAFZAI)**  
ADVOCATE SUPREME COURT

*Handwritten signature*

**AFFIDAVIT:**

I, the appellant state on oath that the contents of the above application is true and correct to the best of knowledge and belief, and nothing has been withheld or concealed from the Honorable Tribunal.

**Deponent**

FINAL SHOW CAUSE NOTICE.

Whereas, you Constable Jaseem Afzal No.1076, while posted to Police Check Post Anbar absented yourself from duty with effect from 24.04.2013 till date without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross mis-conduct.


In this connection you were charge sheeted and served with summary of allegation and Mr. Nausher Khan, DSP, Topi was appointed to conduct proper departmental enquiry. The enquiry officer held you responsible for the above misconduct.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I **Sajjad Khan**, PSP District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to make.

You can also appear for personal hearing before the undersigned if you wish.

  
District Police Officer,  
Swabi.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2181 /ST

Dated 31/10/2018

To


The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Swabi.

Subject: -

JUDGMENT IN APPEAL NO. 857/2018, MR. JASEEM AFZAL.

I am directed to forward herewith a certified copy of Judgement dated 03.10.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

2118 Adhoc Relief Allow ( 1,377.00  
 2148 15% Adhoc Relief All 1,044.00

PAYMENTS 20,677.00  
 Branch Code:

DEDUCTIONS 539.00  
 Payment through DD

NET PAY 20,138.00  
 Accnt. No:

00004666 SUB NAME	Prev Pers	No:	Desc:	Constable	(00000394)	Grade: 05 NTR:	Buckle No.:	3295	Gazetted/Non-Gazetted: N
PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT			LOAN/FUND	PRINCIPAL	REPAID	BALANCE
0001 Basic Pay	6,940.00	3085 EPF Subscription - Rs	465.00-						22,000.00
1000 House Rent Allowance	1,002.00	3511 Adh Group Insurance	7.00-						
1210 Convey Allowance 20	1,940.00	3604 Group Insurance	67.00-						
1300 Medical Allowance	1,000.00								
1547 Ration Allowance	481.00								
1567 Washing Allowance	100.00								
1646 Constabulary R Allow	300.00								
1901 Risk Allowance (Pol)	5,010.00								
1902 Special Incentive Al	775.00								
1970 Adhoc Relief Allow 1	573.00								
2118 Adhoc Relief Allow (	1,377.00								
2148 15% Adhoc Relief All	1,044.00								

PAYMENTS 20,677.00  
 Branch Code:

DEDUCTIONS 539.00  
 Payment through DD

NET PAY 20,138.00  
 Accnt. No:

00004999 JASIM AFZAL	Prev Pers	No:	Desc:	Constable	(00000394)	Grade: 05 NTR:	Buckle No.:	2796	Gazetted/Non-Gazetted: N
PAYMENTS	AMOUNT	DEDUCTIONS	AMOUNT			LOAN/FUND	PRINCIPAL	REPAID	BALANCE
0001 Basic Pay	6,940.00	3085 EPF Subscription - Rs	465.00-						22,570.00
1000 House Rent Allowance	1,002.00	3511 Adh Group Insurance	7.00-						
1210 Convey Allowance 20	1,940.00	3604 Group Insurance	67.00-						
1300 Medical Allowance	1,000.00								
1547 Ration Allowance	481.00								
1567 Washing Allowance	100.00								
1646 Constabulary R Allow	300.00								
1901 Risk Allowance (Pol)	5,010.00								
1902 Special Incentive Al	775.00								
1970 Adhoc Relief Allow 1	573.00								
2118 Adhoc Relief Allow (	1,377.00								
2148 15% Adhoc Relief All	1,044.00								

PAYMENTS 20,677.00  
 Branch Code:

DEDUCTIONS 539.00  
 Payment through DD

NET PAY 20,138.00  
 Accnt. No:

NTS  
Code:

20,677.00

E N T S	Prev Pers No:		Design: CONSTABLE	AMOUNT	(00000394) Grade: 05 NTN: LOAN/FUND	Buckle No. 1823 PRINCIPAL	Gazetted/Non-Gazetted: N REPAID	BALANCE
	AMOUNT	DEDUCTIONS						
Basic Pay	6,700.00			465.00-				CPF: PALHR005099 NET PAY 19,763.00 01.03.2014 31.03.2014 Accat.No: 25,978.00
House Rent Allowance	1,002.00	3005 EPF Subscription - Rs		7.00-				
Convey Allowance 20	1,840.00	3511 Addl Group Insurance		67.00-				
Medical Allowance	1,000.00	3604 Group Insurance						
Diets Allowance	681.00							
Washing Allowance	100.00							
Instability R Allow	300.00							
Risk Allowance (Poli	5,010.00							
Special Incentive Al	775.00							
Adhoc Relief Allow 2	549.00							
Adhoc Relief Allow (	1,340.00							
2% Adhoc Relief All	1,005.00							
<b>E N T S</b>	<b>20,302.00</b>	<b>DEDUCTIONS</b>		<b>539.00-</b>				
Code:		Payment through DDO						

E N T S  
Code:

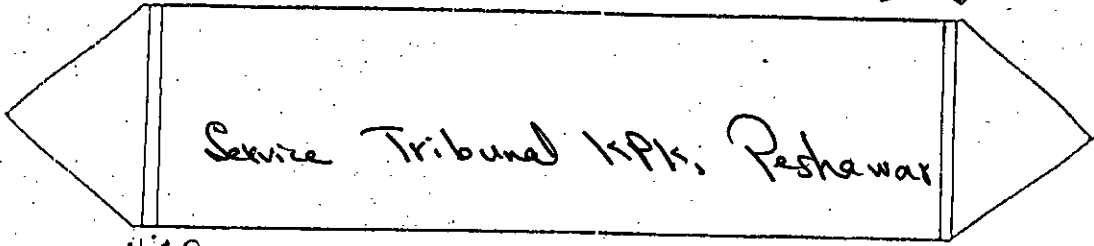
20,302.00

E N T S	Prev Pers No:		Design: CONSTABLE	AMOUNT	(00000394) Grade: 05 NTN: LOAN/FUND	Buckle No. 1823 PRINCIPAL	Gazetted/Non-Gazetted: N REPAID	BALANCE
	AMOUNT	DEDUCTIONS						
Basic Pay	6,960.00			465.00-				CPF: NET PAY 20,138.00 01.03.2014 31.03.2014 Accat.No: 5,668.00
House Rent Allowance	1,002.00	3005 EPF Subscription - Rs		7.00-				
Convey Allowance 20	1,840.00	3511 Addl Group Insurance		67.00-				
Medical Allowance	1,000.00	3604 Group Insurance						
Diets Allowance	681.00							
Washing Allowance	100.00							
Instability R Allow	300.00							
Risk Allowance (Poli	5,010.00							
Special Incentive Al	775.00							
Adhoc Relief Allow 2	573.00							
Adhoc Relief Allow (	1,392.00							
5% Adhoc Relief All	1,044.00							
<b>E N T S</b>	<b>20,677.00</b>	<b>DEDUCTIONS</b>		<b>539.00-</b>				
Code:		Payment through DDO						

E N T S  
Code:

20,677.00

# بعدالت



2 منجانب

جسین افضل بنام

پولیس

موزخہ	-----
مقدمہ	-----
دعویٰ	-----
جرم	-----

## باعث تحریر آنکھ

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

آن مقام ~~Peshawar~~ کیلئے ~~حفظی سپرو~~ ~~ادارے~~ ~~میں~~ ~~موجود~~ ~~ہے~~

مقرر کر 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 ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بسورت ڈگری کرنے اجراء اور صولی چیک وردیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو کسی دہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا ادکالت نامہ لکھو یا کہ سندر ہے۔

Accepted

المرقوم 2 10 2018

واہ الب

بمقام Peshawar کے لئے منظور ہے۔



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

**Service Appeal No.857/2015**

Jaseem Afzal

V/S

Police Deptt:

=====

**APPLICATION FOR WITHDRAWAL OF VAKALAT NAMA IN THE  
ABOVE MENTIONED APPEAL.**

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**RESPECTFULLY SHEWETH:**

- 1) That the appellant filed the above titled appeal in this Honourable Tribunal, in which the date has been fixed for today.
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- 3) That due to some reasons the I (M. Asif Yousafzai) can't proceed with the case so I want to withdraw my vakalt Nama.

It is, therefore, most humbly prayed that the Vakalt Nama in the above titled appeal of the appellant may kindly be withdrawn.

**Appellant**  
Jaseem Afzal

THROUGH:

  
**(M. ASIF YOUSAFZAI)**  
ADVOCATE SUPREME/COURT

**AFFIDAVIT:**

I, the appellant state on oath that the contents of the above application is true and correct to the best of knowledge and belief, and nothing has been withheld or concealed from the Honorable Tribunal.

**Deponent**