

44 (5)

**BEFORE THE SERVICE TRIBUNAL KHYBER**

**PAKHTUNKHWA PESHAWAR**

**SERVICE APPEL NO.1787 of 2023**

Muhammad Sohail son of Muhammad Javed, Ex- Police Constable No. 2280 district Mansehra resident of Jhugian Shukraha, Tehsil Balakot District Mansehra  
.....**Appellant**

**VERSUS**

- 1) District Police Officer, Mansehra.
- 2) DIG Hazara Range, Abbottabad.

.....**Respondents**

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**Deponent**

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

**SERVICE APPEL NO.1787 of 2023**

Muhammad Sohail son of Muhammad Javed, Ex- Police Constable No. 2280 district Mansehra resident of Jhugian Shukraha, Tehsil Balakot District Mansehra  
.....Appellant

Khyber Pakhtunkhwa Service Tribunal

**VERSUS**

Diary No. 9922

- 1) District Police Officer, Mansehra.
- 2) DIG Hazara Range, Abbottabad.

Dated 15-12-2023

.....Respondents

**Reply/ COMMENTS ON BEHALF OF RESPONDENTS**

**RESPECTFULLY SHEWETH:-**

**PRELIMINARY OBJECTION:-**

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi to file the appeal..
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder and mis-joinder of necessary and proper parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appellant has not come to the Honorable Tribunal with clean hands.
- f) That the appeal is badly time barred.

**FACTS:-**

- 1. That the appellant was constable in frontier Corps where he deserted himself from duty and succeeded to get appointment in this department.
- 2. That the appellant applied for the post of constable in this department and concealed all the facts about his previous service in frontier corps.
- 3. That an anonymous complaint was received in the office of respondent No.01, on which a preliminary enquiry was conducted. During the enquiry, it was disclosed that the appellant was enlisted in frontier corps on 19/09/2021. He applied for NOC for appointment in Police Department but his request was

not acceded to by the FC authority and he applied for the post of constable without getting NOC and enlisted as Constable on 13/12/2022.

4. That the appellant deserted from his unit of frontier corps after completion of his guard duty by climbing over the wall but apprehended and confined in quarter guard. After proper enquiry he was dismissed from service of frontier Corps. **(Copy of dismissal order is enclosed as annex "A")**. That during the preliminary enquiry, the former unit of appellant was contacted regarding his recruitment in Police department, which replied that the appellant is not recommended for recruitment. **(Copy of letter is enclosed as annex "B")**
5. That the appellant was properly charge sheeted for concealment of facts of his previous service and during the enquiry he was given full chance to defend himself. The enquiry officer, after thorough enquiry recommended him for major punishment. **(Copies of enquiry file is enclosed as annex "C")**
6. That the appellant was also heard in person but could not convince the competent authority, hence, awarded punishment of dismissal from service vide OB No. 85 dated 01/06/2023. Similarly he filed service appeal which was also rejected by the competent authority.

The instant appeal is not maintainable on the following grounds:-

**GROUND:-**

- A. Incorrect. The order of dismissal is correct and according to law. As per circular order 1/2020 clearly describes that the deserter from armed forces or dismissed person can not be recruited in Police

department. **(Copy of circular order is enclosed as annex "D")**

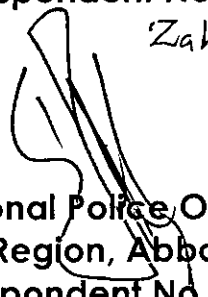
- B.** Incorrect. The appellant was not granted NOC nor recommended for appointment in Police Department by the Frontier Corps.
- C.** Incorrect. No such permission of former department was obtained rather he concealed and suppressed the material facts of his previous service in Frontier Corps.
- D.** Incorrect.
- E.** Incorrect. All the facts/allegations have been proved in preliminary enquiry and later on proper enquiry was conducted against him.
- F.** Incorrect. The appellant was finally heard in person in the orderly room.

**PRAYER:-**

In view of the above mentioned facts, the appeal in hand may kindly be dismissed with cost, being devoid of any legal force.

  
 District Police Officer,  
 Mansehra  
 (Respondent No. 01)

*Zahoor Baber Afsidi*

  
 Regional Police Officer,  
 Hazara Region, Abbottabad  
 (Respondent No. 02)

*Gjaz Khan*

**BEFORE THE SERVICE TRIBUNAL KHYBER**

**PAKHTUNKHWA PESHAWAR**

**SERVICE APPEL NO.1787 of 2023**

Muhammad Sohail son of Muhammad Javed, Ex- Police Constable No. 2280 district Mansehra resident of Jhugian Shukraha, Tehsil Balakot District Mansehra  
.....**Appellant**


**VERSUS**

- 1) District Police Officer, Mansehra.
- 2) DIG Hazara Range, Abbottabad.

.....**Respondents**

**AFFIDAVIT**

We respondents do solemnly affirm and declare that the contents of the comments are true and correct to our knowledge and belief and that nothing has been concealed from this Honorable tribunal. *It is further stated on oath that the answering respondents has been neither placed under arrest nor their defenses swept off table.*

  
 District Police Officer,  
 Mansehra  
 (Respondent No. 01)

*Zahoor Baber Afridi*

**ATTESTED**  
 Muhammad Adil  
 OATH COMMISSIONER  
 Advocate Mansehra

11/12/23

  
 Regional Police Officer,  
 Hazara Region, Abbottabad  
 (Respondent No. 02)

*Ijaz Khan*

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

**SERVICE APPEL NO.1787 of 2023**

Muhammad Sohail son of Muhammad Javed, Ex- Police Constable No. 2280 district Mansehra resident of Jhugian Shukraha, Tehsil Balakot District Mansehra  
.....**Appellant**

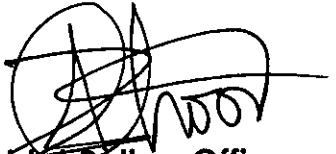
**VERSUS**

- 1) District Police Officer, Mansehra.
- 2) DIG Hazara Range, Abbottabad.

.....**Respondents**


**AUTHORITY LETTER**

I, District Police Officer, Mansehra, hereby authorized Mr. Gul Shahzad Khan SI Legal Mansehra to attend Honorable Court of Service Tribunal, KPK, Peshawar in Service Appeal NO. 1787/2023 on my behalf.

  
**District Police Officer,  
Mansehra**  
*Zahoor Baber Afridi*

RESTRICTED  
CHARGE SHEET

AGAINST NO. G-19904 RECT MUHAMMAD SOHAIL, HZRA OF 242W BADAR RIFLES

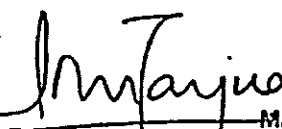
Place	Offence	Witness	Punishment Awarded	By Whom Awarded
Spinwam 02 Oct 2022	<p><u>FC ORD 1959 Sec-8 (dd)</u></p> <p>Deserts the Frontier Corps, or In that, he, On 30 Sep 2022 at about 1200 hrs, deserted himself from unit line, after completing his gd duty by climbing over the perimeter wall. Later on the indl was apprehended by own tps near Tabai-3 post and was brought back to unit and placed in Quarter Guard. Thus the indl willingly deserted himself from svc.</p>	BHM/JA/SM	Dismiss from service	 Brig Comdt (Anjum Riaz)

*Remanded to Court*

HQW Badar Rifles  
Spinwam  
Tele No: 8723- 3253  
No.25/27/Discpl IA  
3 Oct 2022

Fwd to:- HQ BR (A Br) for further nec action, please.

RESTRICTED

  
 Maj  
DAA&QMG  
(Hasham Zahoor Janjua)

*Alerted*  
  
 DSP LEGAL  
MANSEHRA

ANNEX - B

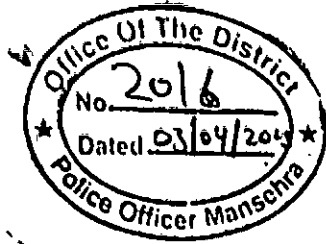
(3)

HO STF-5 US

FAX NO. : 0723-32284

1 Jan. 2000 1:41 PM

RESTD



HQ Badar Rifles  
 24<sup>th</sup> Scouts Corps  
 Ops Area (NWD)  
 Tel: 8723 - 322289  
 No. 15/01/Appl/ 32/A  
 31 March 2023

To: The Additional Superintendent of Police Department  
 District Manshara

Subj: Verification /Clarification Regarding Dismissal Order of One Muhammad Sohail s/o Muhammad Javed R/O Shukrha Tehsil Balakot, District Manshara, Having CNIC No. 13501-640697-5

Your ltr no. 96/PA/Addl: SP, Manshara dated 27 February 2023 ref.

1. Required information in respect of Number G-18904 Sepoy Muhammad Sohail is forwarded herewith as per detail given below.

Ser	Subj	Reply
a.	When did he join the Frontier Corps, KP South	He join the Frontier Corps on 19-09-2021 (Copy of Sheet Roll title cover attached)
b.	How long did he serve in the Frontier Corps, KP South	He serve 01 Year & 14 days in Frontier Corps
c.	On what reason he was dismissed from the service	Charge sheet Copy att
d.	During the enquiry he produced his dismissal order and charge sheet, has it been issued by your office or not.	Yes Charge sheet issued by HQ BR vide our ltr no. 25/27/DischVA dated 03 October 2022.
e.	Is he a military deserter from 242W Badar Rifles, Frontier Corps KP South or otherwise	No the indl got dismissed by Commandant Badar Rifles
f.	Whether he can be enlisted in Police Department or not.	Indl is not recommended for enlisting in Police department.

2. Forwarded as desired, please

0997-920104

Attested  
 Captain  
 for Commandant Badar Rifles  
 (Aqib Fiaz)  
 DSP LEGAL  
 MANSEHRA

RESTD

PA to. Addl: SP

For  
 m/o.  
 DPO/MIA  
 03-04-2023  
 tai



CHARGE SHEET

I, Zahoor Babar Afridi (PSP), District Police Officer, Mansehra as Competent Authority, hereby charge you Recruit Constable Muhammad Sohail No. 2280 Police Lines as follows.

On anonymous complaint made by unknown people of village Jaraid preliminary enquiry has been conducted through Addl: SP Mansehra. The enquiry officer after conducting preliminary enquiry has submitted his report stating therein that you fraudulently got recruited yourself in Police Department by concealing real facts of your previous service in Frontier Corps from where you was awarded major punishment of dismissal from service. It amounts to gross misconduct.


Due to reasons stated above you appear to be guilty of misconduct under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 (amended in 2014) and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry officer.

Your written defense, if any, should reach the enquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person or otherwise.

Statement of allegation is also enclosed.

  
District Police Officer,  
Mansehra

*Attended*  
*2/19*  
DSP LEGAL  
MANSEHRA

9

2

**DISCIPLINARY ACTION**

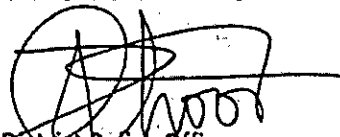
Zahoor Babar Afridi (PSP), District Police Officer Mansehra, as Competent Authority of the opinion that Recruit Constable Muhammad Sohail No. 2280 Police Lines has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of Khyber Pakhtunkhawa Police Disciplinary Rules 1975 (amended in 2014).

On anonymous complaint made by unknown people of village Jaraid preliminary enquiry has been conducted through Addl; SP Mansehra. The enquiry officer after conducting preliminary enquiry has submitted his report stating therein that you fraudulently got recruited yourself in Police Department by concealing real facts of your previous service in Frontier Corps from where you was awarded major punishment of dismissal from service. It amounts to gross misconduct.

For the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegations. Mr. Dsp H6<sup>rs</sup> is deputed to conduct formal departmental enquiry against Recruit Constable Muhammad Sohail No. 2280 Police Lines

The Enquiry Officer shall in accordance with the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975 (amended in 2014), provide reasonable opportunity of hearing the accused, record findings and make recommendations as to punishment or other appropriate action against the accused.

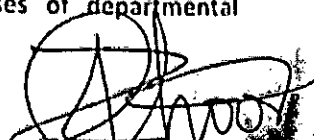
The accused and a well conversant representative of the department shall in the proceedings on the date, time and place fixed by the Enquiry Officer.

  
District Police Officer,  
Mansehra

No 1520-21/PA dated Mansehra the 28 -04-2022

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

1. The Enquiry Officer for initiating proceedings against the defaulter officer under the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975. Preliminary enquiry conducted by Addl; SP Mansehra containing 16 pages is enclosed.
2. Recruit Constable Muhammad Sohail No. 2280 Police Lines with the direction to submit his written statement to the Enquiry Officer within 07 days of the receipt of this charge sheet/statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purposes of departmental proceedings.

  
District Police Officer,  
Mansehra

*Attested*  
  
DSP LEGAL  
MANSEHRA

10

ضلع مانسہرہ

ڈسٹرکٹ ہیڈ کوارٹر

منجانب: ڈپٹی پرنسٹنٹ آف پولیس ہیڈ کوارٹر مانسہرہ  
بجانب: جناب ڈسٹرکٹ پولیس آفیسر صاحب ضلع مانسہرہ  
نمبر 286 تاریخ 26/5/2023

عنوان: قائمہ نگنٹھکمانا انکوائری رپورٹ بر خلاف ریکورڈ کا ٹیبل محمد سہیل نمبر 2280 متعینہ پولیس لائن پولیس روڈ 1975 ترمیم شدہ 2014

جناب عالی!

بحوالہ مشمولہ چارج شیٹ حکم نمبری PA/21-1520 مورخہ 28-04-2023 بجاریہ آنجناب DPO صاحب مانسہرہ ڈیپارٹمنٹل انکوائری ازاں ریکورڈ کا ٹیبل محمد سہیل نمبر 2280 متعینہ پولیس لائن مانسہرہ برائے انکوائری میرے نام مارک ہوئی اور مجھے بطور انکوائری آفیسر مقرر کیا گیا۔ چارج شیٹ کا مطالعہ کرنے سے پایا گیا کہ ایک نامعلوم شکایت جو کہ جریدہ گاؤں کے کسی نامعلوم شخص نے دی جس پر ابتدائی انکوائری ایڈیشنل SP صاحب نے کی انکوائری افسر نے ابتدائی انکوائری کرنے کے بعد اپنی رپورٹ جمع کر دئی کہ مذکورہ نے پولیس میں یہ حقیقت چھپاتے ہوئے کہ وہ سابقہ فرنٹیئر کور میں ملازمت کے دوران نوکری سے سزایاب ہو کر برخواست ہوا دھوکہ دہی سے بھرتی ہوا جو کہ ضابطہ اخلاق کی سنگین خلاف ورزی ہے جس سے ظاہر ہوتا کہ وہ غیر ڈسپلن اور غیر ذمہ دار پولیس آفیسر ہیں جو اس کی طرف سے سنگین بدانتظامی کے ذمہ میں آتا ہے۔

من انکوائری آفیسر نے حسب ضابطہ انکوائری کرتے ہوئے مذکورہ کا بیان قلمبند کیا ہمراہ لف کاغذات اور جناب ایڈیشنل SP صاحب کی انکوائری کا مطالعہ ہوا۔

قائد نگ

انکوائری سے پایا گیا کہ مورخہ 03-10-2022 کے آرڈر کے مطابق مذکورہ مورخہ 30-09-2022 بوقت 12:00 بجے یونٹ سے غیر حاضر ہوا اور دیوار پھلانگ کر بھاگنے لگا جسے پکڑ لایا گیا اور بعد میں سروس سے ڈس کیا گیا مورخہ 31-03-2022 کو جو لیٹر ایڈیشنل SP صاحب مانسہرہ کے جواب میں لکھا گیا اس میں مذکورہ کو ٹھکے پولیس میں بھرتی نہ کرنے کی سفارش کی گئی۔ اسی طرح ایڈیشنل SP صاحب نے اپنی انکوائری میں سہیل OHC کے بیان کی روشنی میں تحریر فرمایا کہ سرکلر آرڈر نمبر 01/2020 پیرا "C" کے مطابق فوج سے بھاگنے والا یا گورنمنٹ سروس سے ڈس ہونے والا بطور کانسٹیبل پولیس میں بھرتی نہیں کیا جائے گا اسی طرح اس انکوائری میں 1975 KPK پولیس روڈ کا حوالہ دیا گیا جس کے مطابق بھی ڈس ہونے والا دیگر کوئی سرکاری ملازمت نہیں کر سکتا۔ اس طرح مذکورہ سابقہ انکوائری میں بھی قصور وار پایا گیا تھا۔ مذکورہ نے چارج شیٹ میں جو جواب دیا ہے وہ بھی تسلی بخش نہیں ہے اسی طرح مذکورہ اپنے حق میں کوئی ثبوت پیش نہ کر سکا ان حالات میں مذکورہ کو بڑی سزا دینے کی سفارش کی جاتی ہے۔

انکوائری رپورٹ مرتب ہو کر گزارش ہے۔

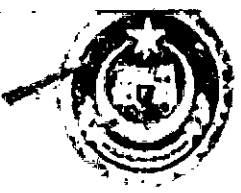
M. (محمد ارشد)

ڈپٹی پرنسٹنٹ آف پولیس  
ہیڈ کوارٹر مانسہرہ

OHC/OR

DPO Manshehra

Attest  
DSP LEGAL  
MANSEHRA



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

ANNEX-1B  
131  
28-7-20  
(11)

CIRCULAR ORDER NO. 01/2020

To ensure transparency and merit, the Khyber Pakhtunkhwa Police has outsourced the process of recruitment of Constables through accredited testing agency.

After enlistment of qualified candidates as Constable when necessary verification of their character/antecedents was made, number of individuals found involved in different categories of criminal offences recommended by the Regional Selection Board in the year 2019.

The cases were examined in light of relevant rules/law by the committee constituted for the purpose, vide this office order No. 768-7203-IV dated 17.02.2020 and submitted its recommendations. After approval of the Worthy Inspector General of Police, Khyber Pakhtunkhwa, the following clarification/guidance has been made to all concerned:-

- a. Any person involved in a criminal case "but acquitted by the Court will be eligible for enlistment as Constable."
- b. Convicted person will not be eligible for enlistment in Police Department "Except in offences under Motor Vehicle Ordinance, s/279 PPC and 13A0/15AA when only a single weapon has been recovered being unlicensed and no further incriminating allegations".
- c. As already circulated vide this Office Endst: No. 20461-99/E-II dated 06.10.2004, a military deserter or any other person dismissed from government service shall not be considered for enlistment as Constable in the Police.
- d. The persons involved in the criminal cases which are still pending trial will be considered for enlistment after their acquittal from the criminal charge by the court concerned before validation of merit list according to Sub-Rule-10 of Rule-12.15 of Amended Police Rules -2017.
- e. Any person involved in "Heinous Crime or Moral Turpitude will not be eligible for enlistment as Constable."

Circular Order No. 08/2007 issued vide this Office Endst: No. 4807-72/C-1 date: 16.06.2007 in the matter is hereby repealed.

35-3  
21.2.2020

-sd-  
(Dr. Sanaullah Abbasi) PSP  
Inspector General of Police,  
Khyber Pakhtunkhwa

Approved  
DSP LEGAL  
MANSEHRAH

DM/EL  
for MA &  
Compliance

No. 3563-10-ISE-IV, dated Peshawar the 12/02/2020.  
Copy to the:-

- 1. All Heads of Police Offices in Khyber Pakhtunkhwa.
- 2. All Branches in Central Police Office, Peshawar.

NC-6188-95/EL  
dt. 26-7-2020  
All OOs in Mansehra  
[Signature]  
24/2/2020

(ZABULLAH KHAN) PSP  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

[Signature]  
DR. Sanaullah Abbasi  
27/2