

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

Service Appeal No. 7560/2021  
Muzaffar Iqbal  
Ex-Const: No. 583, District Kohat

..... Appellant

**VERSUS**

Inspector General of Police,  
Khyber Pakhtunkhwa & others

.... Respondents

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Deponent

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**PARAWISE COMMENTS BY RESPONDENTS NO. 1 TO 3.**

RESPECTFULLY SHEWETH:-

**PRELIMINARY OBJECTIONS:-**

- i. That the appeal is not based on facts.
- ii. That the appeal is not maintainable in the present form.
- iii. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- iv. That the appeal is barred by law & limitation.
- v. That the appellant is estopped to file the instant Service Appeal by his own conduct.
- vi. That the appellant has not come to this Honorable Tribunal with clean hands.
- vii. That the appellant has got no cause of action and locus standi to file the instant Service Appeal.

**FACTS:-**

1. Pertains to record hence no comments.
2. Pertains to record hence no comments.
3. Incorrect, the appellant was invalidated vide OB No. 587/SRC dated 20.08.2020 (annexure "A") on the request of appellant and opinion of Medical Board (annexure "B").

4. Incorrect and misleading. As already explained above that appellant was invalidated vide dated 20.08.2020. It is worth to add here that appellant filed application before the Regional Police Officer, Kohat wherein he has requested for re-enrolment in service and the same was marked to District Police Officer, Kohat for disposal as per rules/ policy. It is pertinent to mention here that in view of prevailing situation and meager strength, Police department always in need of active men for active duties while there is already a number of injured personnel and other suffering from different kind of diseases and deployed on light duties. Furthermore, by validation of the appellant will open a Pandora box, hence his application was filed/ rejected. The appellant has already availed pensionary benefits/ financial incentives thus his re-enrollment is unjustified under the challenging circumstances and will be burdened on public exchequer.
5. Incorrect, the application was rejected vide letter dated 10.08.2021, on the grounds of reasons as already mentioned in Para No. 4.
6. Incorrect, the order is in accordance with facts and legally justified.
7. Incorrect, as already explained in Para No. 4 & 5 hence no comments.
8. Incorrect and misleading. As already explained above that appellant was validated on his own request and on opinion of the Standing Medical Board.
9. Incorrect, as already explained in preceding Paras hence no comments.
10. Incorrect, the instant Service Appeal is not maintainable on following Grounds.

**GROUND:-**

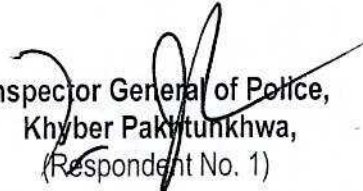
- A. Incorrect, as already explained in Para No. 4 & 5 hence no comments.
- B. Incorrect, as already explained in Para No. 4 hence no comments.
- C. Incorrect, as already explained above that appellant has already availed pensionary benefits/ financial incentives and his re-enrolment will open a Pandora box.
- D. Pertains to service record of the appellant hence no comments.
- E. Incorrect, no violation of human rights exists on part of answering respondents.
- F. Incorrect, the order passed by respondent No. 3 is in accordance with law/ rules.


- G. Incorrect, the order is based on solid grounds/ reasons/ facts and is sustainable.
- H. Incorrect and misleading. As already explained in Para No. 4 that the appellant was validated on his own request and on opinion of Standing Medical Board
- I. Incorrect.

**PRAYER:-**

Keeping in view the above stated facts and rules it is therefore humbly prayed that the appeal is not maintainable being devoid of merits hence, may kindly be dismissed with costs, please.

  
Regional Police Officer,  
Kohat  
(Respondent No. 2)

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

  
District Police Officer,  
Kohat  
(Respondent No. 3)

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**COUNTER AFFIDAVIT**

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.

  
Regional Police Officer,  
Kohat  
(Respondent No. 2)

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

  
District Police Officer,  
Kohat  
(Respondent No. 3)



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ORDER

As recommended by Standing Medical board, Constable Muzafar Iqbal No. 683 of this District Police Kohat is hereby invalidated out of service with effect from 18.08.2020 on Medical ground.

OB NO 587 /SRC

DATED 20.8. /2020

  
DISTRICT POLICE OFFICER,  
KOHAT

.....  
Copy to all concerned



**DIRECTOR  
KHYBER PAKHTUNKHWA**

All communications should be addressed to the Director General Health Services, Peshawar and not to any other office.  
Office # 091-9210269 Exchange # 091-9210187, 9210196 Fax # 091-9210230

**GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR**

ed to the Director General Health Services  
ame E-Mail Address [K.P.K.dghs@yahoo.com](mailto:K.P.K.dghs@yahoo.com)

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No. 4035 /M-SMB

Dated: 25/6/2021

**PROCEEDING OF KP APPELLATE MEDICAL BOARD.**

The Appellate Medical Board for psychiatric disorder and re-examining the Ex-Constable Muzaffar Iqbal No. 683, of District Police, Kohat having CNIC No. 14301-9959366-5, was conducted at Directorate General Health Services, Peshawar on 17-06-2021 at 10:00 am under the Chairmanship of Dr. Niaz Muhammad, Director General Health, Khyber Pakhtunkhwa, Peshawar.

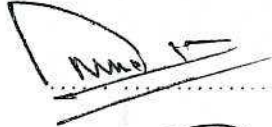
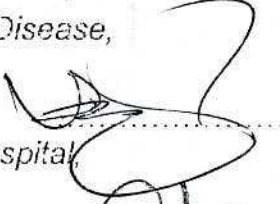
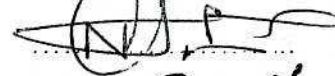

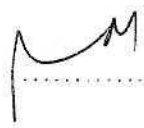
The Standing Medical Board for Psychiatric illness is carried out at Services after proper approval from this Directorate but not at District Level. In contrary to that, the official concerned was referred for Medical Board by his controlling officer (DPO Kohat) to MS, DHQ Hospital Kohat, who conducted the proceeding of Medical Board at his own level without following the standard procedures. The controlling officer was supposed to refer the case to DGHS office for Standing Medical Board, therefore proceeding of Medical Board conducted at DHQ Hospital Kohat are not valid.

In the board examination, the official concerned was examined and the finding of the Appellate Medical Board is as under;

1. On current mental state examination, he is well composed.
2. His speech is normal and having no delusions and hallucination in any sense modality.
3. He has no thought disorder and his abstract thinking is normal.
4. He is having no major mental illness.
5. However keeping in view the opinion of previous medical board, the following recommendations are made.
  - i. He is advised light duty without weapon.
  - ii. He will be under observation for a period of six months and after that he will be reviewed by the Board.
  - iii. Currently the Board is of the opinion that he can resume his duty.

**APPELLATE BOARD EXAMINATION.**

1. Dr. Muslim Khan, ... Member  
Sr: District Specialist,  
Sherhad Hospital for Psychiatric Disease,  
Peshawar.
2. Dr. ASIF KHAN Member  
Medical Specialist of Services Hospital,  
Peshawar.
3. Dr. Noor Ullah, ..... Member  
Deputy Director (Medical)  
DGHS office, Peshawar.
4. Dr. Fahim Hussain, .... Member  
Addl: Director General (Admn)  
DGHS Office Peshawar.
5. Dr. Niaz Muhammad, .. Chairman  
Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

As per Supplemental  
 [For Administrative Instructions  
 Amendment with Fundamental Rule 10 regarding  
 Fitness of Government Servants, New Part I of 1973 and  
 Fitness of Government Servants, New Part I of 1973 and  
 Fitness of Government Servants]

Whenever a person is asked to produce a medical  
 certificate of fitness for entry into Government service and  
 permanent or temporary capacity and has actually been examined  
 and declared unfit, it is not open to the authorities concerned to  
 require the Government to use their discretion to ignore the certificate  
 if a medical certificate has been produced.

[G.O. F.D. Endorsement No. F. 6 (13) R.II/14, dated the 11th May  
 1974]

[F.R. 10-A. (a) The authority competent to fill the post of  
 Government servant may require him to appear before a medical authority  
 for medical examination if, in the opinion of the competent authority,  
 the Government servant is suffering from a disease which renders him  
 incapable of performing his duties or from a disease which is  
 communicable and is likely to endanger the health of other Government  
 servants.

(b) If the medical authority concerned, after examining the  
 Government servant, certifies that the Government servant requires a  
 period of absence from duty for the purpose of rest and treatment and that  
 there is reasonable prospect of his recovery, the competent authority may  
 grant him leave, including extraordinary leave, for such period as the  
 medical authority recommends, provided that it is due and admissible to the  
 Government servant, and the competent authority may do so even if the  
 Government servant had himself applied for the leave.

(c) (i) If the medical authority after examining the Government  
 servant, certifies that the Government servant is permanently incapacitated  
 for service, the findings of the medical authority shall be

\* Inserted by G.P. MF. Notification No. F.5 (2)-R2/69, dated the 6th January, 1962.



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communicated to the Government servant immediately. The Government servant may, within seven days of the receipt by him of the official intimation of the findings of the medical authority, apply to the Director-General, Health, for a review of his case by a second medical board. His application shall be accompanied by fee the amount of which shall be fixed by the Director-General, Health. The Director-General, Health, shall arrange for the convening of reviewing medical board consisting of persons who were not members of the first medical board. If the reviewing medical board also certifies that the Government servant is permanently incapacitated for further service, the competent authority may require him to retire from service and may grant him such invalid pension and gratuity as may be admissible to him under the rules, and the competent authority may do so as if the Government servant had himself applied for an invalid pension.

(ii) If case the reviewing medical board holds that the Government servant is fit for Government service, he shall be reinstated forthwith and the period of his absence will be treated as duty. If, however, the board certifies that the Government servant is not fit but there is a reasonable prospect of his recovery, the case will be regulated under the provisions of clause (b) above.

(iii) In case the Government servant concerned does not apply for a review of his case within seven days of the receipt by him of the official intimation of the findings of the first medical board, the competent authority may require him to retire from service and may grant him invalid pension and/or gratuity as provided for in sub-clause (i) above.

(d) The General Government may make rules prescribing the form in which the medical certificate should be prepared and the medical officers by whom it should be signed.

*(For rules made by the President under Fundamental Rule 10 A, see Supplementary Rule 4-AA.)*

**F.R. 11.** Unless in any case it be otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government which pays him, and he may be employed in any manner required by proper authority, without claim for additional remuneration whether the services required of him are such as would ordinarily be remunerated from general revenues, from local fund or from the revenues of a State that has acceded to Pakistan.

**F.R. 12.** (a) Two or more Government servants cannot be appointed substantively to the same permanent post at the same time.

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.... Respondents

**AUTHORITY LETTER**

Mr. Arif Saleem steno (Focal Person) of this office is hereby authorized to file the parawise comments and any other registered documents in the Honorable Tribunal on behalf of respondents / defendant and pursue the appeal as well.

  
District Police Officer,  
Kohat  
(Respondent No. 3)