

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 1451/2020**

**Adnan S/O Gohar Nosh, R/O Mardan, Ex-constable No. 1628, FRP, Kohat Range,  
Kohat .....Appellant.**

**VERSUS**

**Commandant FRP, Khyber Pakhtunkhwa, Peshawar &  
others.....Respondents.**

**INDEX**

<b>S. NO</b>	<b>DESCRIPTION OF DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE No.</b>
1.	Para-wise Comments		03
2.	Enquiry Report	A	04-5
3.	Affidavit		06
4.	Authority Letter		07
<b>Total</b>			<b>08</b>

  
**RESPONDENTS**

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**VERSUS**

**Commandant FRP, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.**

**PARAWISE REPLY BY RESPONDENTS 1 to 2.**

**RESPECTFULLY SHEWETH.**

**PRELIMINARY OBJECTIONS:-**

**Khyber Pakhtunkhwa  
Service Tribunal**

**Diary No. 10508**

**Date 11-1-2024**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has no cause of action and locus stand to file the instant appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

**FACTS:-**

1. Correct to the extent that the appellant was dismissed from service after adopting of all codal formalities required as per law/rules. The rest of Para pertains to the record of this Honorable Tribunal.
2. Correct to the extent that the Service Appeal filed by the appellant was partially accepted vide judgment dated 14.01.2022 subject to denovo enquiry.
3. Incorrect. The judgment of Honorable Tribunal was implemented in letter and spirit as the appellant was reinstated in service and denovo enquiry has been initiated against him accordingly.
4. Correct to the extent that on reinstatement in service the appellant was directed to join the enquiry proceedings.
5. Incorrect. In the light of direction of this Honorable Tribunal the appellant was issued a fresh Charge Sheet alongwith Summary of Allegations and Enquiry Officer was nominated. The reply of Charge Sheet submitted by the appellant was found unsatisfactory by the Enquiry Officer.
6. Incorrect. Proper denovo enquiry has been initiated against the appellant under Police Rules 1975 amended 2014. After completion of enquiry, the Enquiry Officer submitted his findings, wherein the appellant was found guilty of the charges leveled against him and recommended for major punishment. Besides, he was called in orderly room and heard in person, but he failed to present any

justification regarding to his innocence. After fulfillment of codal formalities he was awarded major punishment of removal from service under the law. (Copy of enquiry report, is attached herewith as annexure "A")

7. Correct to the extent that departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.
8. Incorrect. All the relevant documents have already been provided to the appellant. The appellant has not come to this Honorable Tribunal with clean hands; hence the instant appeal being devoid of merits may kindly be dismissed on the following grounds.

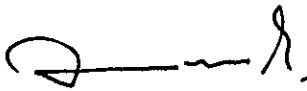
**GROUND:-**

- a. Incorrect. The appellant was enlisted in Police Department as admitted. However, he has found an inefficient and habitual absentee as during the service he was previously remained absent from his lawful duty on different occasions for a long period of 204 days, which he was awarded different punishments including two time dismissal from service and in this regard there are 09 bad entries with no good entry in his credits. Besides, the appellant being a member of Police Force is obligated to secure the property and lives of the public, but he involved himself in heinous criminal case of murder vide FIR No. 705, dated 08.11.2008 U/S 302/34 PPC Police Station Rustam District Mardan.
- b. Incorrect. The appellant was remained absent from lawful duty with effect from 13.07.2017 till the date of his dismissal from service i.e 12.10.2017 for a period of 02 months and 29 days without any leave or prior permission of the competent authority. The appellant failed to submit any medical prescription before the Enquiry Officer or before the competent authority.
- c. Incorrect. The absence period of the appellant was correctly treated as leave with pay by the competent authority as he has not performed any official duty during such period. It is worth mentioning here that leave with pay is not fallen in the ambit of punishment as per Police Rules 1975 amended in 2014.
- d. Incorrect. All proceedings initiated against the appellant strictly in accordance to law/rules. The statements of all witness were recorded and the proceedings of cross examination have also been carried out by the Enquiry Officer during the course of enquiry.
- e. Incorrect. After completion of necessary process, the judgment of the Honorable Tribunal was implemented on 18.04.2022 and the enquiry proceedings against the appellant have already been completed within stipulated period as he was issued Charge Sheet on 19.04.2022 and the final order i.e removal from service was passed on 07.07.2022.

- f. Incorrect. On the allegations of absence the appellant was dealt with proper denovo enquiry as directed by this Honorable Court and the allegations of willful absence of the appellant was fully established by the Enquiry Officer during the course of enquiry. Moreover, the other officials, who were dismissed from service and later on reinstated in service on departmental appeal or by the Honorable Tribunal, are not at par with the case of appellant.
- g. Incorrect. As the appellant was thoroughly associated with all proceedings of enquiry and it is evident from Charge Sheet, Final Show Cause Notice and his replies. Hence, after participation with enquiry proceedings, there is no need of such publication in the newspapers.

**PRAYERS:-**

Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being not maintainable may kindly be dismissed with costs please.



**Aman ullah khan**  
**Superintendent of Police FRP,**  
Kohat Range, Kohat  
(Respondent No. 01)



**(Tahir Ayub Khan) PSP**  
**Commandant FRP,**  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 02)

(A)

No. 461 /PA

Dated 13 / 06 /2022

Subject: **DE-NOVO DEPARTMENTAL INQUIRY AGAINST EX-CONSTABLE  
ADNAN BELT NO. 1628 OF FRP KOHAT RANGE.**

Please refer to the attached enquiry papers received from your good office vide No. 1768/PA, dated 30.05.2022

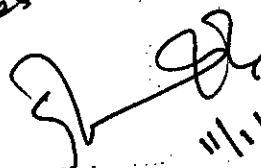
(A) **BACKGROUND**

1. The accused official was alleged as follows:-
2. "That you were relieved from security point vide DD No. 10, dated 13.07.2017 to report at FRP HQrs, Peshawar for further departure to FRP, Kohat, but you failed to do so and absented yourself w.e.f 13.07.2017 vide FRP HQrs Peshawar DD No. 33, dated 13.07.2017 and have not reported aback till date.
3. "That your previous record is not good as you previously you had remained absent for 47 days and were awarded punishment for the same but you did not mend your trend."

(B) **PROCEEDINGS**

- i. In order to probe into the matter and ascertain the real facts, Ex-Constable Adnan Belt No. 1628 was summoned, and his written statement was also recorded. Brief thereof is as below:-
- ii. **Ex-Constable Adnan Belt No. 1628** stated in his written statement that he became seriously ill and thus absented himself from duty, owing to which he was dismissed from service. The accused Ex-Constable further stated that after dismissal from service he went to Kashmir for labor to earn bread for his family as he is very poor. He also stated that his charge sheet was received by his father and he was not informed about the charge sheet. He also requested that he may be pardoned and may kindly be re-instated in service. His written statement is attached herewith at **Annexure "A"**
- iii. **GOHAR NOSH (Father of Ex-Constable Adnan Belt No.1628)** stated in his written statement that he received a charge sheet of his son bearing No. 391, dated 15.08.2017 however as his son had went to Kashmir for

Attested

  
11/1/22

'A/2'

labor he could not inform him. Resultantly, his son was dismissed from service. The father of Ex-Constable Adnan Belt No. 1628 requested that his son may be pardoned as he is sole bread earner of their family and that he may kindly be re-instated in service. His statement is attached at Annexure "B".

(C) **FINDINGS**

1. The accused Ex-Constable Adnan Belt No. 1628 was enlisted in FRP KP on 23.10.2004 and during his entire service he was awarded punishments as follows other:-

S.No	Absence	Minor Punishments	Major Punishment
1.	168 days		1. Removed from service by Dy: Commdt FRP owing to involvement in Case FIR No. 705, dated 08.11.2008 u/s 302/34 PPC PS Rustam, District Mardan. 2. Dismissed from Service on 3.07.2017 after re-instatement on 28.05.2014

2. The accused official didn't submit reply to the charge sheet to the authority or even to the then Enquiry Officer who conducted previous enquiry. The reason is that he was not present at home as per statement of his father.

3. The father of the accused official had admitted and stated that he received written charge sheet in the name of his son but he could not inform him because his son was gone to Kashmir for labor.

4. The absence period of 44 days was thus proved willingly and not as a compulsion of natural cause like illness or other legal pretext.

Therefore, Ex-Constable Adnan Belt No. 1628 is found guilty of the charge.

(RAHIM HUSSAIN)

Superintendent of Police, HQrs  
City Traffic Police, Peshawar

Attested

11/1/24

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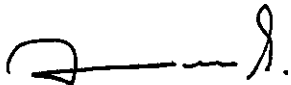
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others.....Respondents.**

**AFFIDAVIT**

We respondents No. 1 to 2 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of our knowledge and belief that nothing has been concealed from this Honorable Court.

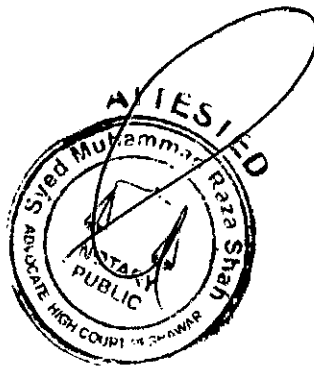
It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/costs.



**Aman ullah khan  
Superintendent of Police FRP,  
Kohat Range, Kohat  
(Respondent No. 01)**



**(Fahir Ayub Khan) PSP  
Commandant FRP,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 02)**



**03 JAN 2024**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

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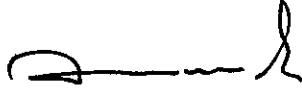
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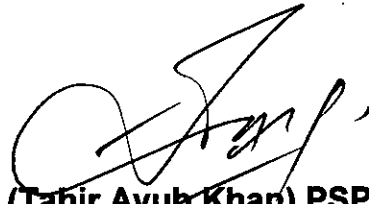
**AUTHORITY LETTER**

Respectfully Sheweth:-

We respondents No. 1 to 2 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs; to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.



**Aman ullah khan  
Superintendent of Police FRP,  
Kohat Range, Kohat  
(Respondent No. 01)**



**(Tahir Ayub Khan) PSP  
Commandant FRP,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 02)**