

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7040/2021.

**Mukhtiar Ahmad Khan, S/o Sher Ali Khan, Constable No. 7187, FRP Police Post,
Rescue 15, Gandhi Chowke, Naurang Lakki Marwat.....Appellant**

VERSUS

**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.....Respondents.**

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RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7040/2021.

**Mukhtiar Ahmad Khan, S/o Sher Ali Khan, Constable No. 7187, FRP Police Post,
Rescue 15, Gandi Chowke, Naurang Lakki Marwat.....Appellant**

VERSUS

**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.....Respondents.**

**Subject:- Para-wise reply on behalf of Respondents.
Respectfully Sheweth:**

PRELIMINARY OBJECTIONS

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

FACTS

1. Para No. 1 is Pertains to Honorable Tribunal's record needs no comments.
2. Para No. 2 is admitted to the extent that the judgment of this Honorable Tribunal has been implemented in letter & spirit. Proper denovo enquiry has been initiated against the appellant in accordance with law/rules. Besides, a sufficient opportunity for defense at every level has already been offered to the appellant during the course of denovo enquiry.
3. Incorrect. The judgment of this honorable tribunal was implemented after completion of due codal formalities, vide this office order Endst: No. 10784/EC dated 30.12.2016 & subsequent followed by the respondent No. 1, vide OB No. 08, dated 04.01.2017. Later on the appellant was made his arrival report on 05.01.2017 vide daily dairy report No. 05 dated 05.01.2017. (Copies of implementation order and DD report dated 05.01.2017 are attached herewith as annexure "A" & "B").
4. Incorrect. That as per the decision of this Honorable Tribunal, the appellant was reinstated in to service as quoted above and proper denovo enquiry was initiated against him as per law/rules.
5. Para No. 05 is admitted to the extent that for the purpose of denovo enquiry the appellant was issued Charge Sheet with Summary of Allegations and served upon him accordingly.
6. Correct to the extent that reply of Charge Sheet submitted by the appellant was found unsatisfactory by the enquiry officer.
7. Incorrect. Proper (denovo) departmental enquiry has been initiated against the appellant as he was issued Charge Sheet with Summary of allegations and

enquiry officer was nominated to conduct enquiry into the matter. After completion of enquiry the Enquiry Officer submitted his findings, wherein the appellant was found guilty of the charges leveled against him and recommended that his absence/intervening period may be treated as absence from duty without pay as he did not performed any official duty during that period. Thus after completion of all codal formalities, his absence/intervening period from service was treated as absence from duty without pay by the competent authority by taking lenient view. (Copy of denovo enquiry report attached herewith as annexure "C").

8. Correct to the extent that departmental appeal submitted by the appellant was thoroughly examined and rejection being meritless and badly time barred.
9. Incorrect. Revision petition submitted by the appellant was thoroughly examined and rejected on the ground of badly time barred by the competent authority vide Order Endst; No. S/4025/19, dated 12.12.2019. (Copy of the rejection order is attached herewith as annexure "D").
10. Incorrect. The appellant submitted his second revision petition before the respondent No. 3 which was also rejected vide Order dated 12.07.2020 as there is no provision of second appeal in law. Moreover, the appellant was also informed accordingly well in time by respondent No. 01.

GROUND

- a. Incorrect. As per the decision of this Honorable Tribunal, the appellant was reinstated in to service and denovo enquiry was initiated against him and after adopting of all codal formalities, the competent authority has decided his case purely on merits and in accordance with law/rules. Moreover, an opportunity of personal hearing was also provided to the appellant by the enquiry officer and then by the competent authority, but he failed to present any justification regarding his innocence. The judgment of this honorable tribunal was implemented and the denovo enquiry was conducted/completed within two months of the receipt of judgment. However, during the course of denovo enquiry the appellant was found not entitled for the back benefits as he did not performed any official duty during that period.
- b. Incorrect. As explained in the preceding Paras above in pursuance with the directions of Honorable Tribunal, proper (denovo) departmental enquiry has been initiated against the appellant as he was issued Charge Sheet with Summary of allegations and enquiry officer was nominated to dig out the actual facts. After completion of enquiry the Enquiry Officer submitted his findings, wherein the appellant was found guilty of the charges leveled against him.
- c. Incorrect and denied. That the appellant trying to mislead this Honorable Tribunal by producing false and baseless grounds. In fact the appellant was dealt with proper (denovo) departmental enquiry and the Enquiry Officer found him guilty of the charges leveled against him and after fulfillment of due codal

formalities, the competent authority has correctly decided his case on merit basis.

- d. Incorrect. The appellant was never reinstated in service by the Honorable Tribunal with back benefits, while he was reinstated in service for the purpose of denovo enquiry. In the light of directions of Honorable Tribunal the appellant was reinstated in service and denovo enquiry was conducted against him as per law/rules. The appellant was not entitled for back benefits therefore, his absence/intervening period correctly treated as absence from duty without pay.
- e. Incorrect. For disposal of departmental appeal the relevant record was obtained and the appellant was also called in orderly room for personal hearing held on 09.10.2019 in the office of respondent No. 02 as he is appellate authority. During the course of personal hearing he failed to produce any cogent reason before the appellate authority regarding his prolong absence. After scrutiny the relevant record and enquiry file his departmental appeal was rejected on sound grounds through a speaking order dated 14.02.2019.
- f. Incorrect. The allegations are false and baseless. The denovo enquiry has already been conducted by the replying respondent in the light of direction of this Honorable Tribunal in accordance with law/rules, thus the orders passed by the respondents are legally justified and in accordance to law/rules.
- g. Incorrect. it is worth mentioning here that the appellant was reinstated in to service by the Competent Authority by taking lenient view, otherwise the punishment of removal from service was commensurate with the gravity of his gross misconduct. Moreover, the appellant is failed to prove himself during the course of enquiry, therefore, he is legally not entitled for the back benefits.
- h. Incorrect. The orders passed by the respondents are legally justified and in accordance to law/rules.

PRAYERS

Keeping in view, the above stated facts & reasons it is most humbly prayed that the service appeal being barred by law may kindly be dismissed with costs please.


Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 01)


Commandant FRP,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 02)


Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.
(Respondent No.03)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7040/2021.

**Mukhtiar Ahmad Khan, S/o Sher Ali Khan, Constable No. 7187, FRP Police Post,
Rescue 15, Gandhi Chowke, Naurang Lakki Marwat.....Appellant**

VERSUS

Provincial Police Officer,

Khyber Pakhtunkhwa, Peshawar..... Respondents.

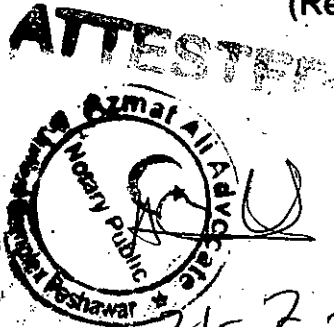
AFFIDAVIT

We respondents No. 1 to 3 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.

**Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 01)**

**Commandant FRP,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 02)**

**Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.
(Respondent No.03)**



D

13

A

4-1-17

ORDER

In compliance with the directions / instructions issued vide Service Tribunal KPK Peshawar vide Judgment dated 06-10-2016, followed by CPO Peshawar letter No.4281/Legal dated 27-12-2016 as well Commandant FRP KPK Peshawar order Endst. No. 10784/EC dated 30-12-2016 Ex-Constable Mukhtar Ahmed No. 810/FRP Bannu is hereby re-instated into his service subject to initiate de-novo enquiry with immediate effect.

OB No. 08

Dated: 01/01/2017

SKC

Copy to all concerned for compliance.

AMS
Superintendent of Police,
FRP Bannu
Superintendent of Police
FRP Bannu




ORDER

✓ B^v 88

In Compliance with the directions of Service Tribunal KPK Peshawar followed by CPO Peshawar letter No.4281/Legal dated 27-12-2016 as well Commandant FRP KPK, Peshawar Order Endst: No.10784/EC dated 30-12-2016, Ex Constable Mukhtiar Ahmed No.810 of FRP Bannu Range Bannu is hereby re-instated into his service subject to initiate de-novo enquiry. He has reported back to his duty at FRP Police Line II Bannu vide Daily Diary Mad No.05 dated 05-01-2017 and hereby allotted new Constabulary No.6722/FRP Bannu Range Bannu with immediate effect.

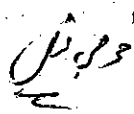
OB NO. 17

Dated: 05 / 01 / 2017


Superintendent of Police
FRP, Bannu

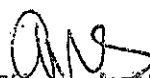
Copies to:

1. Pay officer
2. Service Roll Clerk



~~Inspector General of Police Peshawar, Peshawar as the secretary to the Service Tribunal cited above.~~

SRC
For n/action.


Superintendent of Police,
FRP Bannu

2/1

پرفیکشن 49/1144-74/27 کے وقت ریجنل ڈیپارٹمنٹ کے احکامات کے تحت

دو بار اپیل ریجنل ڈیپارٹمنٹ کے زیر اہمیت کی گئی۔ مذکورہ کے سرورس ٹریبونل میں لکھنے والی سرورس اپیل بھی گئی۔ جس پر سرورس ٹریبونل نے اپنی رائے لکھی۔

انگریزی آرڈر فرم 6/10/16 پر سرورس پر خالی اور ساتھ ساتھ DE-NOVO اختیار کے احکامات جاری کیے۔ جس پر جی۔ ٹی۔ ڈی کے پاس سے PPD/PPR

نے پورے انڈوسٹریل سیکٹر میں 10784/EC فرم 30/12/16 پر حکم اجراء کیا گیا۔ اور پورے انڈوسٹریل سیکٹر میں 456/EC فرم 16/1/17 پر جی۔ ٹی۔ ڈی کے پاس سے PPD/PPR

نیز ریٹریبونل بھی لکھی۔ جس پر جی۔ ٹی۔ ڈی کے پاس سے PPD/PPR نے ریٹریبونل کو حوالہ دیا ہے۔ جس پر جی۔ ٹی۔ ڈی نے 19/1/17

نے بحالہ 08 DE-NOVO اختیار کے احکامات جاری کیے۔ اور پورے انڈوسٹریل سیکٹر میں 4/1/17 پر سرورس پر خالی کرنے اور ساتھ ساتھ

DE-NOVO اختیار کے احکامات جاری کیے۔ اور پورے انڈوسٹریل سیکٹر میں 196-97 فرم 1/4/17 جاری کیے گئے۔

جاری شدہ چارٹرز سمیت انڈسٹری سیکٹر میں 196-97 فرم 1/4/17 جاری کیے گئے۔

ریجنل ڈیپارٹمنٹ کے احکامات کے تحت ریجنل ڈیپارٹمنٹ کے احکامات کے تحت ریجنل ڈیپارٹمنٹ کے احکامات کے تحت

مذکورہ کے باقاعدہ فرم 28/1/17 پر خیر خواہی کے احکامات جاری کیے گئے۔

کامیابی کے ساتھ اور اپنے وقت پر خیر خواہی کے احکامات جاری کیے گئے۔

نمبر 1۔ جس کے تحت ضلعی ہیڈ کوارٹرز میں پولیس پوسٹوں کے احکامات جاری کیے گئے۔

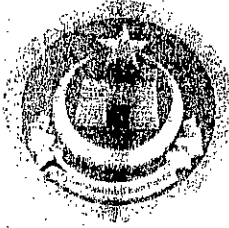
اس کے تحت ضلعی ہیڈ کوارٹرز میں پولیس پوسٹوں کے احکامات جاری کیے گئے۔

اور اس کے تحت ضلعی ہیڈ کوارٹرز میں پولیس پوسٹوں کے احکامات جاری کیے گئے۔

بج ۱۲۔ یہ کہ جن سائل نے خوشی اور کثرت سے جوئے دیا $\frac{4}{10}$ سے شروع ہوا۔
 جو ان کی۔ جوئے ۱۹ دن جاری رہا۔ ورثہ کے قسم ہونے کے بعد جن سائل
 کو صدمہ ہوا کہ آرم ہنگو سے سائل کی فحش کو غیر حلالی تصور کر کے سائل کو
 صلح والوں کی گیا۔ اس پر سائل نے آرم ہنگو سے لڑائی آج میں دوبارہ اپنی ڈیوٹی
 لیجو سائل جاری رکھنے کے لئے تھا اور وہی۔ لیکن آرم ہنگو نے سائل کو صلح دینے
 سے انکار کیا۔ اور جن سائل کو غیر حلالی سمجھا۔ اور یوں چہرہ ۱۹ دن غیر حلالی
 جس کے بعد جن سائل نے مامعہ فحش کی درخواست کی تھی۔ مگر وہ ۶۶ دن
 تک نہیں ہوئی۔ اس کے بعد سائل کو حلالی کی اجازت دے دی گئی۔ اور
 باقی سائل سے ایسا فریق نہیں ہوا۔ اور جن سائل نے $\frac{6}{10}$ سے $\frac{8}{10}$ تک
 کے مختلف صفات پر اپنی ڈیوٹی سرانجام دینا ہوا کہ یہاں تک جوئے $\frac{8}{10}$
 کو ڈیوٹی سے مرعاشی کا پروانہ ملے۔ دستاویزی ثبوت کے لئے
 جوئے مارے۔ ۱۔ ۲۔ ۳۔ ۴۔ ۵۔ ۶۔ ۷۔ ۸۔ ۹۔ ۱۰۔ ۱۱۔ ۱۲۔ ۱۳۔ ۱۴۔ ۱۵۔ ۱۶۔ ۱۷۔ ۱۸۔ ۱۹۔ ۲۰۔

بج ۱۴۔ یہ کہ جن سائل کی دلچسپی بابت کوئی بات اس چیز سے بیان ہے۔ جن سائل
 نے ڈیوٹی 7000 روپے میں بوقت فحش ہونے سے پہلے جمع کیا تھا۔ لیکن جن سائل کو یہی
 فحش نہیں کی بابت تاریخی میں لکھا گیا۔ اور جن سائل کو یہی فحش نہیں ہوئی
 ہے۔ یہ صدمہ ہوا کہ آرم ہنگو سے صلح والوں کی گیا ہے۔ اور جن سائل کی فحش کو
 غیر حلالی تصور کیا گیا ہے۔

بج ۱۵۔ یہ کہ جن سائل نے جن سائل کے حوالے اور ڈیوٹی پر کوئی توجہ نہیں دی۔
 اور جن سائل کو ڈیوٹی پر دینے دئے جانے کا شوق ظاہر نہیں کیا۔ جن سائل کو وضع
 کا وضع نہیں دیا۔ جن سائل کو اس یا کثرت کے بنیادی نکات بابت بنیادی
 حوالے کے وقت اصرار دلائے جائے۔ نیز پھر وہی اور «Humanitarian»
 کے تقاضے پورے کئے جائے۔ فریڈ ہراں جن سائل کو بنیاد پر فوری بنایا جائے
 اپنے حوالے کے اویسی توجہ اور رستہ دہی کی۔ کہ جن سائل کو ڈیوٹی
 سرانجام دینے کی اجازت دیا جائے۔ اور جن سائل کے صلح والوں کا نام لیا
 ہم کر دی جائے۔ اور جن سائل کو صلح فراموشی کے ساتھ حال کے احکامات
 پھر فرمادیں۔ اور اس طرح کی داد دینی جو حوزوں میں دلائی جاوے۔



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

No. S/ 4025 /19, dated Peshawar the 12/12/19

To The Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

Copy No. 11103
Date 12-12-2019

Subject: APPLICATION/REVISION PETITION.

Memo:

Please refer to your office Memo: No. 10601/SI Legal, dated 13.11.2019

The Competent Authority has examined and filed the revision petition submitted by
Constable Mukhtiar Ahmad No. 7187 of FRP Bannu against the order of SP/FRP Bannu issued vide
OB No. 98, dated 13.02.2017, being badly time barred.

The applicant may please be informed accordingly.

Sifegal
M. J. Khan
M. J. Khan

(SYED ANIS-UL-HASAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar
554
23/12/19

OFFICE OF THE COMMANDANT FRP, KP, PESHAWAR
No. 11949 /SI Legal, dated Peshawar the 17/12/2019

copy of the above is forwarded to the SP FRP
Bannu Range, Bannu for information & further
necessary action with direction to inform the
applicant accordingly.

SRE

To inform the applicant has
also no entry in his SI Roll for Commandant FRP, KP, Peshawar
accordingly.

M. J. Khan
Superintendent of Police
FRP Bannu
23/12

I 29 34-10-19 17/2

ORDER

This order will dispose of the departmental appeal preferred by constable Mukhtiar Ahmad No. 7187 of FRP Bannu Range, against the order of SP FRP Bannu Range, Bannu issued vide OB No. 98, dated 13.02.2017, wherein his period of absence and intervening period from service was treated/counted without pay. The applicant was proceeded against on the allegations that he was deputed for basic recruit course at PTC Hangu, from wherein he absented himself from training program with effect from 06.04.2010 to 10.06.2010 for a period of 64 days, without any leave or prior permission of the competent authority. Resultantly, he was returned back to District Bannu as un-qualified vide PTC Hangu Signal No. 1772-74/GC, dated 25.05.2010.

Brief facts of the case are that on the allegation of absence, proper departmental proceeding had been initiated against him, wherein the delinquent constable was found guilty of the charges leveled against him and therefore, he was dismissed from service vide OB No. 542, dated 04.08.2010.

Feeling aggrieved the appellant filed Service Appeal before the Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar for his reinstatement in service. The Honorable Service Tribunal accepted his appeal by reinstating the appellant into service, subject to conduction of denovo enquiry into facts, vide Judgment dated 06.10.2016.

In compliance of decision of the Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar proper denovo departmental proceedings were initiated against him. After completion of departmental proceeding the Enquiry Officer submitted his finding report dated 10.02.2017, wherein he reported that the plea taken by the defaulter official was not based on facts even did not follow the rules/regulation laid down for NOC/leave, while he remained absent from duty without any leave or prior permission of the competent authority. Finally the reinstatement order of the appellant was recommended by the Enquiry Officer for confirmation, while the intervening period was recommended as leave without pay.

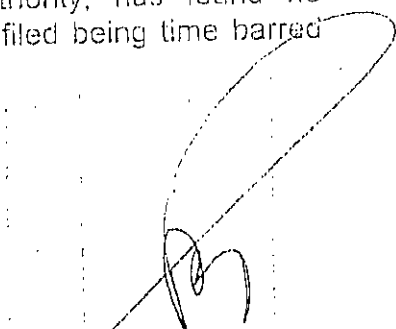
Keeping in view the recommendation of Enquiry Officer and other material available on record, the total absence period of 64 days and intervening period were treated as leave without pay and his reinstatement order issued in the light of judgment of Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar was decided stand confirmed vide OB No.98, dated 13.02.2017.

Feeling aggrieved against the impugned order of SP FRP Bannu Range, Bannu the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 09.10.2019.

During the course of personal hearing the applicant failed to present any justification regarding to his innocence. From perusal of enquiry file it has been found that the appellant was not awarded any minor or major punishment by the competent authority, while his intervening period from service and the period of his absence was treated as leave without pay, which is not fall in the ambit of punishment as per rules. There doesn't seem any infirmity in the order passed by the competent authority, therefore, no ground exist to interfere in same.

Based on the findings narrated above, I, Sajid Ali PSP Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal; therefore, the same is rejected and filed being time barred and meritless.

Order Announced.


Commandant

Frontier Reserve Police

Khyber Pakhtunkhwa, Peshawar.

No 9535 /EC, dated Peshawar the 14/10/2019.

Copy of above is forwarded for information and necessary action to the SP FRP Bannu Range, Bannu. His service record and D file sent herewith.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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**Mukhtiar Ahmad Khan, S/o Sher Ali Khan, Constable No. 7187, FRP Police Post,
Rescue 15, Gandi Chowke, Naurang Lakki Marwat.....Appellant**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.....Respondents.

AUTHORITY LETTER

Respectfully Sheweth: -

We respondents No. 1, to 3, do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQ: to attend the Honorable Tribunal and submit affidavit/Para wise comments required for the defense of above Service Appeal on our behalf.



**Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 01)**



**Commandant FRP,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 02)**



**Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.
(Respondent No.03)**