


# FORM OF ORDER SHEET

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

**Appeal No. 131/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/01/2024	<p>The appeal of Mr. Rizwan Khan resubmitted today by Hira Babar Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Rizwan Khan received today i.e on 04.01.2024 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 be prepared according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- ✓ Appeal has not been flagged/marked with annexures marks.
- 3- ✓ Check list is not attached with the appeal.
- 4- ✓ Annexures of the appeal are unattested.
- 5- Copy of departmental appeal is not attached with the appeal be placed on it.
- 6- Annexures B, C, D & E of the appeal are illegible be replaced by legible/better one.
- 7- Annexures of the appeal are not in sequence be annexed serial wise as mentioned in the memo of appeal.
- 8- Five copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 42 /S.T.

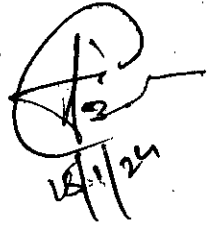
Dt. 5/11 /2024.



REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Hira Babar Adv.  
High Court at Peshawar.

All objections are cleared please resubmit again



12/1/24

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 31/2021

Rizwan Khan Constable No-2291, Police Post Mazanga, District Bannu.

VERSUS

Province of KPK through Inspector General of Police/ Provincial Police Officer,  
Central Police Office, Peshawar & others.

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APPELLANT

THROUGH

**HIRA BABAR**  
Advocate High Court  
Peshawar

①

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 131/2023

Rizwan Khan Constable No-2291, Police Post Mazanga, District Bannu.

APPELLANT

VERSUS

1. Province of KPK through Inspector General of Police/ Provincial Police Officer, Central Police Office, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Bannu.

RESPONDENTS

**APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974 AGAINST IMPUGNED ORDER DATED 18-01-2023, PASSED BY RESPONDENT NO-3 WHEREBY THE APPELLANT HAS BEEN AWARDED THE MAJOR PENALTY OF DISMISSAL FROM SERVICE AND HIS DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER IBID WAS REJECTED BY RESPONDENT NO-2 VIDE IMPUGNED FINAL ORDER DATED 20-04-2023, DISREGARD OF THE RULES AND PRINCIPLES OF NATURAL JUSTICE, PRAYS AND AGAINST NOT TAKING ACTION ON THE REVISION OF THE APPELLANT WITH IN STATUTORY PERIOD**

Respectfully Sheweth:

**FACTS OF THE CASE**

1. That the appellant joined the Police Force as Constable on 01-03-2020 and from day one of his service, he performed his statutory duties to the entire satisfaction of his superiors and about with full devotion and honesty.
2. That on 12-01-2023, the appellant while posted as constable at police post Mazanga Haved Bannu had a serious health emergency while leaving for his daily duty and was not able to perform his services for a day..

- ( )
3. That unfortunately on 18-01-2023 the respondent No-3 passed the impugned order and imposed the major penalty of Dismissal from service upon the appellant on the pretext of absence from duty, disregard of the rules and procedure provided under the law. (Copy of the notification and dismissal are attached as annexure A and B).
  4. That feeling aggrieved the appellant filed his departmental appeal before the respondent No-2, but the appellate authority (respondent No-2) rejected the departmental appeal of the appellant vide impugned final order dated 20-04-2023. It is strange and surprising that after the impugned order of dismissal from service dated 18-01-2023 a show cause notice dated 19-01-2023 was served upon the appellant, which is illegal and a blatant violation of the law, procedure and rules. (Annex C, D and E)
  5. That the appellants' revision petition regarding reinstatement has been communicated to respondents no 01 on 08/06/2023 but no reply or response till this date within statutory period.

Hence the present appeal is being filed inter alia on the following grounds:

**GROUND S :**

- A. That both the impugned orders are passed without due process of law, therefore, illegal and void.
- B. That the impugned order dated 18-01-2023 passed by respondent No-3 is based on malafide as the Authority passed the impugned order, *ibid* on 18-01-2023 while served the show cause notice dated 19-01-2023 upon the appellant after the issuance of impugned order, thus entire proceeding is illegal, void and unsustainable under the law.
- C. That before passing the impugned order dated 18-01-2023 no inquiry was conducted through inquiry committee/inquiry officer to dig out the truth and impugned order was passed in a haphazard manner in haste, therefore, all proceedings and impugned orders are arbitrary and liable to be set-aside.
- D. That before issuance of impugned order dated 18-01-2023 and final order dated 20-04-2023 by competent authority and appellate authority, no chance of personal hearing was afforded to the appellant, thus the appellant was condemned unheard in clear violation of the rules and principles of natural justice. The action of the respondents is in utter violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 which reads as under:

(3)

"Right to fair trial. For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.

- E. That it is pertinent to mention here that his fellow colleagues (constables) who were dismissed along with him on the same date were reinstated in the services by this Hon'ble Court. (attested copies of the order is attached)
- F. That both the impugned orders passed by respondents are harsh and not proportionate to guilt of the appellant. The august Supreme Court of Pakistan time and again reiterated that the penalty should be proportionate to the guilt of the delinquent civil servant. (2006 SCMR-443)
- G. That the appellant seeks the permission of this Honourable Court for further/ additional grounds at the time of arguments.

*In view of the aforesaid facts and circumstances of the case it is humbly prayed that the impugned order dated 18-01-2023 passed by respondent No-3 and Final order dated 20-04-2023 passed by respondent No-2 both may graciously be set aside being illegal and void, directing the respondents to reinstate the appellant into service with all back benefits.*

*Any other relief if this court deems appropriate in the circumstance of the case may also be granted in favour of appellant.*

APPELLANT

THROUGH

**HIRA BABAR**

**Advocate High Court**

**Peshawar**

**AFFIDAVIT:**

I, mentioned above, do hereby declare on oath that the contents of this appeal is true and correct to the best of my knowledge and nothing has been concealed there in

Deponent

4

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 979 12023

Rizwan Khan Constable No-2291, Police Post Mazanga, District Bannu.

VERSUS

Province of KPK through Inspector General of Police/ Provincial Police Officer,  
Central Police Office, Peshawar & others.

**ADDRESSES OF PARTIES**

***PETITIONER.***

Rizwan Khan Constable No-2291, Police Post Mazanga, District Bannu.

**ADDRESSES OF RESPONDENTS**

1. Province of KPK through Inspector General of Police/ Provincial Police Officer, Central Police Office, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Bannu.

APPELLANT

THROUGH

**HIRA BABAR**

**Advocate High Court**

**Peshawar**

ضلع بنوں


SRC دفتر

پروانہ اطلاعیاتی

بنام۔ انچارج کنٹرول روم

بکار سرکار تحریر ہے کہ ذیل عہدیداران پولیس کو مطلع کریں کہ وہ کل بروز بدھ مورخہ 18.01.223  
دفتر DPO صاحب بنوں کے SRC برانچ سے اپنے شوکا زونٹس وصول کریں۔

- 1- ASI ارشد اللہ خان SHO تھانہ ہوید
- 2- ASI عبدالحی پولیس لائن (Suspended)
- 3- HC ممتاز خان MHC تھانہ ہوید
- 4- HC شفیع اللہ AMHC تھانہ ہوید
- 5- FC رمضان نمبر 2291 چوکی مزانگہ
- 6- FC دسم خان نمبر 1592 چوکی مزانگہ
- 7- FC سائیر اللہ نمبر 566 چوکی مزانگہ
- 8- FC والی نواز نمبر 677 چوکی مزانگہ
- 9- FC حق نواز نمبر 157 چوکی مزانگہ

  
SRC  
DPO Office, Bannu  
17-01-023



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ضلع بنوں

Annex B

از دفتر SRC

پروانہ اطلاعیاتی

بنام۔ انچارج کنٹرول روم

بکار سرکار تحریر ہے کہ ذیل اہلکاران پولیس کو مطلع کریں کہ ان کو جناب DPO صاحب بنوں نے بحوالہ OB نمبر 58 مورخہ 18.01.2023 نوکری سے برخاست (Dismiss) کرنے کا حکم کیا ہے۔

- 1 کانسٹیبل وسیم اللہ نمبر 1562 چوکی مزانگہ
- 2 کانسٹیبل رضوان خان نمبر 2291 چوکی مزانگہ
- 3 کانسٹیبل حق نواز نمبر 157 چوکی مزانگہ
- 4 کک کانسٹیبل سائیر اللہ نمبر 566 چوکی مزانگہ
- 5 کک کانسٹیبل نایاب خان نمبر 571 چوکی شیخ لندے
- 6 کک کانسٹیبل پریمز خان نمبر 662 تھانہ ہوید

A/SRC

DPO Office, Bannu

Better copy "B"

**PUNISHMENT ORDER**

The following Constables posted to sensitive Police Posts: However. It has been reported that they remain absent most of the time and do not perform their duty efficiently. They pay no attention to the directions issued, by, the undersigned and do not mend their ways. They are habitual absentee.

- |                                   |                        |
|-----------------------------------|------------------------|
| 1. Constable Wasim Ullah No, 1562 | PP Mazanga             |
| 2. Constable Rizwan Khan No. 2291 | PP Mazanga             |
| 3. Constable Haq Nawaz No. 157    | PP Mazanga             |
| 4. Constable Sair Ullah No. 566   | Cook PP Mazanga        |
| 5. Constable Nayab Khan No. 971   | Cook PP. Sheikh Landak |
| 6. Constable Parmez Khan No. 662  | Cook PS Haved          |

Keeping in view of the above, the undersigned meticulously perused all the relevant record. Being habitual absentee their further retention in service would be detrimental and burden over shoulders of the Department. In the current situation of terrorism, their absence have put other officials of the concerned Police Posts at risk, therefore, I, Dr. Muhammad Iqbal, District Police Officer, Bannu, in exercise of the power vested in me under Police Rule 1975(As amended vide Govt: of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27th of August 2014) hereby awarded them Major Punishment of "Dismissal from Service" with immediate effect.

OB No. 55

Dated: 15-01-2023

**(Dr. MUHAMMAD IQBAL)**

PSP District Police Officer, Banuu.

Tel: 0928-9270038

Fax:0928-9270045

Email: dpobannu2@gmail.com

AT TEB/10



(6)

B

PUNISHMENT ORDER

The following Constables posted to sensitive Police Posts: However, it has been reported that they remain absent most of the time and do not perform their duty efficiently. They pay no attention to the directions issued by the undersigned and do not mend their ways. They are habitual absentee.

- |                                   |                       |
|-----------------------------------|-----------------------|
| 1. Constable Wasim Ullah No. 1562 | PP Mazanga            |
| 2. Constable Rizwan Khan No. 2291 | PP Mazanga            |
| 3. Constable, Haq Nawaz No. 157   | PP Mazanga            |
| 4. Constable, Sair Ullah No. 566  | Cook PP Mazanga       |
| 5. Constable Nayab Khan No. 971   | Cook PP Sheikh Landak |
| 6. Constable Parmez Khan No. 662  | Cook PS Haved         |

Keeping in view of the above, the undersigned meticulously perused all the relevant record. Being habitual absentee their further retention in service would be detrimental and burden over shoulders of the Department. In the current situation of terrorism, their absence have put other officials of the concerned Police Posts at risk, therefore, I, Dr. Muhammad Iqbal, District Police Officer, Bannu, in exercise of the power vested in me under Police Rule 1975 (As amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27<sup>th</sup> of August 2014) hereby awarded them Major Punishment of "Dismissal from Service" with immediate effect.

OB No. 55  
Dated: 15 / 01 / 2023

(Dr. MUHAMMAD IQBAL)PSP  
District Police Officer,  
Bannu,  
Tel: 0928-9270038  
Fax: 0928-9270045  
Email: [dpoannu2@gmail.com](mailto:dpoannu2@gmail.com)

**OFFICE OF THE DISTRICT POLICE OFFICER, BANNU**  
**SHOW CAUSE NOTICE**

(Under Rules 5(03) KPK Police Rules, 1975)

That you FC Rizwan No. 2291, FC Waseem Khan No. 1592, FC Sairullah No. 566, FC Wali Nawaz No. 677, FC Haq Nawaz No. 157 have rendered yourselves liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules (As amended vide Khyber Pakhtunkhwa gazette Notification No. 27<sup>th</sup> of August 2014) for the following misconduct:

- The perusal of supervision report of SDPO/Rural-1, Mr Imran Ullah Khan, dated 11.12.2023, time 11PM to 05 AM, depicts that out of total strength of 16 individuals in PP Mazanga, PS Haved, 05 were on leave while you the above named 05 officials were absent from your place of duty without any leave or prior permission from the competent authority. Thus only 06 personnel were present in the PP whose lives were at stake because of your absence. It means that you are not taking interest in your official duty and are not obeying the orders of your seniors which amounts to gross misconduct and make you liable to be punished departmentally.
- That you were issued Explanation Notices vide this office No. 12/SRC, dated 13.01.2023 but your replies have been found illogical, irrational, irrelevant and unsatisfactory.
- Such an act on your part is against service discipline and amounts to gross misconduct / negligence in duty.

That by reason of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general police proceeding without aid of enquiry officer.

That the misconduct on your part is prejudicial to good order of discipline in the police force.

That your retention in the police force will amount to encourage in efficient and unbecoming of good police officers:

That by taking cognizance of the matter under inquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.

You are, therefore called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules 1975 for the misconduct referred to above.

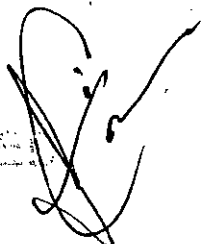
You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.

You are further directed to inform the undersigned that wish to be heard in person or not. By reason of above you have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules (As amended vide Khyber Pakhtunkhwa gazette Notification No. 27<sup>th</sup> of August 2014), hence these ground of action.

(Dr. MUHAMMAD IQBAL) PSP  
District Police Officer  
Bannu

No. \_\_\_18\_\_\_/SRC, dated 17/01/2023.

Received by : \_\_\_\_\_



ATTESTED

OFFICE OF THE DISTRICT POLICE OFFICER, BANNU

SHOW CAUSE NOTICE

(Under rules 5 (B3) KPK Police Rules, 1975)

That you FC Nazirullah No. 2291, FC Waseem Khan No. 1592, FC Sakrullah No. 366, FC Wali Mawaz No. 677, FC Haq Nawaz No. 157 have rendered yourselves liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules (As amended vide Khyber Pakhtunkhwa Gazette Notification No.27 of August 2014) for the following misconduct:

- The perusal of supervision report of SPO Nazirullah, Mr. Imran Ullan Khan, dated 11.12.2023, time 05 AM, states that out of total strength of 16 individuals in PP Mirza, PS Haved, 05 were on leave with you the above named 03 officials were absent from your place of duty without any leave or prior permission from the competent authority. Thus only 06 personnel were present in the PP whose lives were at stake because of your absence. It means that, you are not taking interest in your official duty and are not obeying the orders of your seniors which amounts to gross misconduct and make you liable to be punished departmentally.
- That you were issued Explanation Notices vide this office No. 12/SRC, dated 13.01.2023 but your replies have been found irrational, irrelevant and unsatisfactory.
- That your conduct on your part against service discipline and attempts to gross misconduct are in defiance of law.

That by reason of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general police proceedings without aid of enquiry officers.

That the misconduct on your part is prejudicial to good order and discipline in the police force.

That your retention in the police force will amount to demoralization of officers and undermining of good police officers.

That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.

You are, therefore called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.

You should submit reply to this show cause notice within 07 days of the receipt of the notice (during which an ex parte action shall be taken against you).

You are further directed to inform the undersigned that wish to be heard in person or not.

By reason of above you have rendered yourselves liable to be proceeded under Khyber Pakhtunkhwa Police Rules (As amended vide Khyber Pakhtunkhwa Gazette Notification No.27 of August 2014), hence these grounds of action.

(Dr. MUHAMMAD IQBAL) PSP  
District Police Officer,  
Bannu.

No. 19 / SRC, dated 17/1/2023.

Received by: \_\_\_\_\_

حناجہ عالی  
 بولہ شوکار نوشہ، انجمن من البیوتین نمبر 14 سڑک 227، ضلع ڈاکہ، بنگالہ  
 بولہ صہبہ سائل برنڈم اور بھاریہ، بولہ سائل بولہ سائل بولہ سائل بولہ سائل  
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انہیں بار بار ڈیڑھ لاکھ روپے فراہم ہوں۔  
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عین نوشہ بولہ  
 بولہ - 19-01-23

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## BETTER COPY "8"

جناب عالی!

بحوالہ شوکاز نوٹس ----- نمبر ----- مورخہ 17/1/23 جناب ڈی سی صاحب بنوں جسمیں سائل پر الزام لگایا گیا ہے۔ من سائل پولیس چوکی مزنگہ (تھانہ ہوید) میں تعیناتی کے دوران مورخہ 12/01/23 رات کو غیر حاضر پایا گیا۔ جوہ میری نااہلی، غیر ذمہ داری اور عدم دلچسپی کو ظاہر کرتا ہے وغیرہ۔ اندریں بارے تفصیلاً معروض خدمت ہوں۔

کہ من سائل تقریباً 03 ماہ سے چوکی مزنگہ (تھانہ ہوید) میں تعینات ہے۔ اس دوران سائل نے ہمیشہ دیانتداری اور مخلصی کے ساتھ ڈیوٹی سرانجام دی ہے۔ اس دوران من سائل نے کبھی بھی افسران بالا کو شکایت کا موقع نہیں دیا۔

جناب عالی! من سائل کے والد محترم Heart Patient ہیں جو اکثر اوقات گھر سے زیادہ ہسپتال میں زیر علاج ہوتا ہے۔ مورخہ 12/1/23 و میں شباشی سے ڈیوٹی کیلئے نکل رہا تھا۔ کہ اچانک میرے والد صاحب کی طبیعت ناساز ہو گئی۔ جس کو میں بغرض علاج معالجہ ----- گلونہ ہسپتال -----، ٹاؤن شپ لے گیا۔ چونکہ میں گھر میں موجود تھا اور دوسرا کوئی بڑا نہیں تھا اس لیے مجبوراً مجھے اپنے باپ کو ہسپتال لے جانا پڑا۔

جناب عالی! (-----) ہسپتال کے مورخہ 12/01/23 کے تمام Test وغیرہ ہمراہ لف شوکاز نوٹس ہیں۔ اسی طرح ہم نے مورخہ 12/1/23 کی رات ----- ہسپتال میں گزاری، چوکی انچارج سے موبائل کے ذریعے رابطے کی کوشش کی لیکن نہ ہو سکا۔

جناب عالی! مورخہ 13/01/23 کو میں صبح سویرے چوکی آیا تو معلوم ہوا کہ کل رات مورخہ 12/01/23 کو میں غیر حاضر ہوا ہوں۔ اس سلسلے میں --- صاحب کو پیشی بھی ہوئی۔

جناب عالی! من سائل ----- ڈیوٹی کو فرض سمجھ کر سرانجام دیا ہے اور کرتا بھی رہوں گا اور انشاء اللہ آئندہ بھی افسران بالا کو شکایت کا موقع نہیں دوں گا۔

لہذا آپ صاحبان سے خصوصی التماس ہے کہ من سائل کا شوکاز نوٹس جواب مزید پیش رفت کی بجائے فائل کر کے داخل دفتر کیجاوے۔

عین نوازش ہوگی

مورخہ 19-01-23

سائل کنسٹیبل رضوان 2291/FC متعینہ چوکی مزنگہ (تھانہ ہوید)

ATTESTED

بخدمت جناب ریجنل پولیس آفیسر بنوں ریجن بنوں

عنوان: اپیل برائے بحالی ملازمت بوجوہات ذیل

جناب عالی!

گزارش کی جاتی ہے کہ من سائل کو جناب ڈسٹرکٹ پولیس آفیسر بنوں نے بحوالہ آرڈر بک نمبر 58 مورخہ 18/01/2023 بسلسلہ غیر حاضری ڈسمس کیا۔ متذکرہ سزا کے خلاف ذیل اپیل گزارش خدمت ہے۔

1- یہ کہ سائل چوکی مزانگہ (تھانہ ہوید) سے دیدہ دانستہ غیر حاضر نہیں ہوا تھا چونکہ سائل کے والد صاحب Heart patient ہیں اور اچانک طبیعت خراب ہونے کی وجہ سے علاج معالجہ کیلئے خلیفہ گلنواز ہسپتال لے گیا تھا۔ بدوران انکو آری سائل جملہ میڈیکل دستاویزات انکو آری آفیسر کی خدمت میں پیش کیئے تھے لیکن بد قسمتی سے پیکر نظر انداز کیئے گئے۔

2- یہ کہ سائل غریب گھرانے سے تعلق رکھتا ہے۔ چھوٹے چھوٹے بال بچے ہیں۔ آپ صاحبان سے رحم فرمانے کی امید ہے اور اسی امید کی وجہ سے اپیل ہذا کی ضرورت درپیش ہوئی۔

لہذا استدعا ہے کہ سائل کو ملازمت پر بحال فرمانے کا حکم صادر فرمائیں۔ تازیت دعا گور ہونگا۔

عین نوازش ہوگی۔

المرقوم:

ارض

Ex-Constable رضوان خان 2291 ضلع بنوں

ATTESTED



BETTER COPY "P"

**ORDER:**

This order will dispose of departmental appeal, preferred by Ex-Cook constable Rizwan Khan No. 2291 of District Bannu, wherein he has prayed for setting aside the order of major punishment of "Dismissal from service", imposed upon him by DPO Bannu vide OB No. 58 dated 18.01.2023 for committing of following misconduct:

- That as reported by SDPO Rural-I, Bannu, the appellant was found absent without any sanctioned leave or prior permission from the competent authority. The appellant did not perform his duty efficiently. He did not pay attention to the directions issued by he DPO Bannu and did not mend his way. He is habitual absentee.

Comments, service record and other relevant papers were received from DPO Bannu vide his office letter No. 968/SRC, dated 21.02.2023 and perused in detail. The DPO Bannu has reported that the appellant was issued Show Cause Notice vide No. 18/SRC dated 17.01.2023 but his reply was found unsatisfactory. The appellant being habitual absentee, his further retention in service would be detrimental and burden over the shoulder of the department. In the current situation of terrorism his absence has put other officials of the concerned Police Post at risk. Therefore, the competent authority (DPO Bannu) has awarded the appellant major punishment of "Dismissal From Service" vide OB No. 58 dated 18.01.2023. the appellant was heard in person in orderly room held in RPO Office Bannu on 06/04/2023. His plea was not found convincing. He had recruited an "Iwazi" at a rate of Rs; 10,000/- per month to perform duties in his place while he himself was doing private business. The introduction of his dirty culture is extremely dangerous in police department and cannot be allowed to go unchecked.

Therefore, I Syed Ashfaq Anwar PSP, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby reject his appeal and endorse the punishment awarded to him by DPO Bannu vide OB No. 58 date 18.01.2023.

**ORDER ANNOUNCED**

**OB No. 23**

**Dated: 20-04-2023**

Regional Police Officer,  
Bannu Region,  
Bannu

No. 1217 / EC, dated Bannu the 20/04/2023  
Cc:

DPO Bannu for necessary action \_\_\_ his office letter No. cited above. Complete Service Roll and other relevant papers of Ex-FC Rizwan Khan No. 2291 of District Bannu are sent herewith for record in your office, which may be acknowledged, please.



Regional Police Officer,  
Bannu Region,  
Bannu

ORDER

This order will dispose of departmental appeal, preferred by Ex-Cook constable Rizwan Khan No.2291 of District Bannu, wherein he has prayed for setting aside the order of major punishment of "Dismissal from service", imposed upon him by DPO Bannu vide OB No.58 dated 18.01.2023 for committing the following misconduct:-

- That as reported by SDPO Rural-, Bannu, the appellant was found absent without any sanctioned leave or prior permission from the competent authority. The appellant did not perform his duty efficiently. He did not pay attention to the directions issued by the DPO Bannu and did not mend his way. He is habitual absentee.

Comments: service record and other relevant papers were received from DPO Bannu vide his office letter No.968/SRC, dated 21.02.2023 and perused in detail. The DPO Bannu has reported that the appellant was issued Show Cause Notice vide No.18/SRC dated 17.01.2023 but his reply was found unsatisfactory. The appellant being habitual absentee, his further retention in service would be detrimental and burden over the shoulder of the department. In the current situation of terrorism his absence has put other officials of the concerned Police Post at risk. Therefore, the competent authority (DPO Bannu) has awarded the appellant major punishment of "Dismissal from Service" vide OB No. 58 dated 18.01.2023. The appellant was heard in person in orderly room held in RPO Office Bannu on 06.04.2023. His plea was not found convincing. He had recruited an "Iwazi" at a rate of Rs:10,000/- per month to perform duties in his place while he himself was doing private business. The introduction of this dirty culture is extremely dangerous in police department and cannot be allowed to go unchecked.

Therefore, I, Syed Ashfaq Anwar, PSP, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby reject his appeal and endorse the punishment awarded to him by DPO Bannu vide OB No. 58 dated 18.01.2023.

ORDER ANNOUNCED

OB No. 615  
Dated: 20/04/2023.

No. 1217 EC, dated Bannu the 20/04/23  
Cc:

DPO-Bannu for necessary action vide his office letter No. cited above. Complete Service Roll and other relevant papers of Ex-FC Rizwan Khan No.2291 of District Bannu are sent herewith for record in your office which may be acknowledged, please.

Regional Police Officer,  
Bannu Region,  
Bannu

Regional Police Officer,  
Bannu Region,  
Bannu

بخدمت جناب انسپکٹر جنرل صاحب پولیس، خیبر پختونخواہ پشاور

جناب عالی!

نہایت ادب کے ساتھ التجا کی جاتی ہے کہ من سائل کا تعلق ڈسٹرکٹ پولیس بنوں سے ہے۔ من سائل تقریباً 10 ماہ پہلے چوکی مزانگہ (تھانہ ہوید بنوں) میں تعینات تھا۔ دوران ڈیوٹی سائل نے ہمیشہ مخلصی اور دیانتداری سے ڈیوٹی سرانجام دی اور افسران بالا کو کبھی شکایت کا موقع نہیں دیا۔

جناب عالی! من سائل کا والد محترم Heart Patient ہے جو اکثر گھر سے زیادہ ہسپتال میں زیر علاج ہوتا ہے۔ مورخہ 12/01/23 کو میں شباشی سے ڈیوٹی کیلئے نکل رہا تھا کہ اچانک والد صاحب کی طبیعت ناساز ہو گئی جسکو میں بغرض علاج معالجہ خلیفہ گلنواز ہسپتال (KGN) ٹاؤن شپ لے گیا۔ چونکہ میں گھر میں موجود تھا اور دوسرا کوئی بڑا نہیں تھا۔ اس لیے مجبوراً مجھے والد صاحب کو ہسپتال لے جانا پڑا۔ اس طرح 12/01/23 کی رات ہم نے KGN ہسپتال میں گزاری۔ (KGN ہسپتال کے تمام Tests وغیرہ کے Documents ہمراہ لف درخواست ہے)۔ چوکی انچارج سے موبائل کے ذریعے رابطے کی کوشش کی لیکن نیٹ ورک پر اہلم کی وجہ سے نہ ہو سکا۔

جناب عالی! مورخہ 12/01/23 کو میں صبح سویرے چوکی آیا تو معلوم ہوا کہ کل رات یعنی 12/01/23 کو میں غیر حاضر ہوا ہوں اور بعدہ 18/01/23 کو DPO صاحب نے بحوالہ OB نمبر 58 کو مجھ سمیت 5 کنسٹیبلان کو نوکری سے برخاست کیا۔

جناب عالی! من سائل نے RPO صاحب کو رحم اپیل کی درخواست کی لیکن RPO صاحب بنوں نے رحم اپیل درخواست اس وجہ سے reject کی کہ من سائل کلک کا نشیبل ہے حالانکہ میرا باقاعدہ ریگولر آرڈر ہے اور یہ Big Mistake میرے درخواست کی Rejection باعث بنی۔

من سائل کے ساتھ جو کنسٹیبلان برخواست ہوئے تھے ان میں سے دو (1) کانٹیبیل و سیم اللہ نمبر 1562 (چوکی مرنگہ) (2) کانٹیبیل حق نواز نمبر 157 (چوکی مرانگہ) بحال ہوئے ہیں اور من سائل تاحال بحال نہیں ہوا ہے۔

جناب عالی! من سائل بال بچے دار ہے اس مہنگائی کے دور میں گھر کا گزارہ بڑی مشکل سے چلتا ہے۔ گھر میں دوسرا کوئی کمانے والا بھی نہیں ہے۔ والد صاحب بھی اکثر بیمار رہتے ہیں۔

لہذا آپ صاحبان سے خصوصی التماس ہے کہ من سائل کو نوکری پر بحال کرنے کے احکامات دیکر مشکور فرمائیں، سائل تاحیات دعا گو رہے گا۔

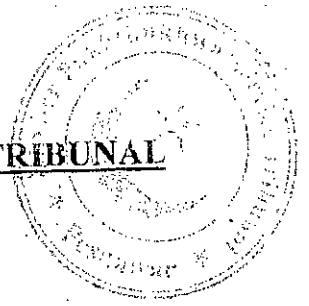
عین نوازش ہوگی

المرقوم:

ارض

سائل: کنسٹیبل رضوان FC/2291 ضلع بنوں

13



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

**Service Appeal No. 979/2023**

BEFORE: MR. SALAH-UD-DIN ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Sair Ullah Constable No. 566/Cook, Police Post Mazanga, District Bannu. .... (Appellant)

Versus

1. Province of Khyber Pakhtunkhwa through Inspector General of Police/Provincial Police Officer, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Bannu. .... (Respondents)

Shahzada Irfan Zia, Advocate ... For appellants

Mr. Muhammad Jan, District Attorney ... For respondents

Date of Institution..... 03.05.2023  
 Date of Hearing..... 21.11.2023  
 Date of Decision..... 21.11.2023

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** Through this single judgment, we intend to dispose of instant appeal as well as connected Service Appeal No. 980/2023, titled "Nayab Khan Versus Province of Khyber Pakhtunkhwa through Inspector General of Police, Peshawar and others", as in both the appeals common questions of law and facts are involved.

2. The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 18.01.2023, passed by respondent No.3, whereby the appellant was awarded the major penalty of dismissal from service and his departmental

ATTESTED

ATTORNEY  
  
 Khyber Pakhtunkhwa Service Tribunal  
 Peshawar

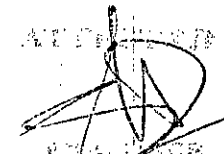
appeal was rejected by respondent No. 2 vide impugned final order dated 20.04.2023 in disregard of the rules and principles of natural justice, with the prayer to set aside both the impugned orders and reinstate the appellant into service with all back benefits, alongwith any other relief which the Tribunal deemed appropriate.

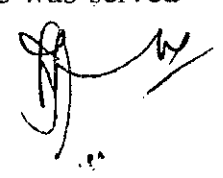
2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant joined the Police Force as Constable on 01.01.2015. On 18.01.2023, the respondent No.3 passed the impugned order and imposed the major penalty of dismissal from service upon the appellant on the pretext of absence from duty. Feeling aggrieved, the appellant filed his departmental appeal before the respondent No. 2 but the appellate authority rejected his departmental appeal vide impugned final order dated 20.04.2023. After the impugned order of dismissal from service dated 18.01.2023 a show cause notice dated 19.01.2023 was served upon the appellant, which was illegal and a blatant violation of the law, procedure and rules; hence the instant service appeal.

3. Respondents were put on notice who submitted their reply/comments on the appeal. We heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that impugned orders were passed without due process of law and hence they were illegal and void. He further argued that the impugned order was passed on 18.01.2023 while the show cause notice was served

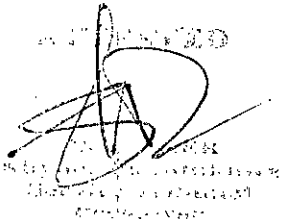
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Public Law Officer  
District Court, Bhubaneswar



upon the appellant on 19.01.2023, after issuance of the impugned order, thus making the entire proceedings illegal, void and unsustainable under the law. He further argued that before passing the impugned order, no proper inquiry was conducted to dig out the truth and that the order was passed in a haphazard manner. No chance of personal hearing was afforded to him and he was condemned unheard. According to him, the impugned order was in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan. He requested that the appeal might be accepted as prayed for.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was appointed as a Cook Constable but he did not perform his duty regularly and was a habitual absentee. According to him on 13.01.2023, SDPO Rural-I found him absent from the official duty and it was found that he had hired a private person for cooking, in his place. He further argued that punishment was imposed after observing all the codal formalities and his departmental appeal was rejected being devoid of merit. He referred to Section 5, sub section (3) of the Khyber Pakhtunkhwa Police Rules, 1975 and stated that as per the said rule, the punishment proceedings would be of two kinds, (a) Summary Police Proceedings and (b) General Police Proceedings. He read out sub-section 3 that if the authority decided that the misconduct or act of omission or commission should be dealt with in general police proceedings, it should determine if in the light of facts of the case or in the interest of justice, a departmental enquiry, through an enquiry officer was necessary. He further stated that if the authority decided that it was not necessary then he should,

  
 DISTRICT ATTORNEY  
 DISTRICT JUDICIAL OFFICE  
 DISTRICT HEADQUARTERS  
 DISTRICT JUDICIAL OFFICE



ATTESTED

by order in writing, inform the accused of the action proposed to be taken and give him a reasonable opportunity of showing cause against that action. He requested that the appeal might be dismissed.

6. Arguments and record presented before us shows that the appellant was appointed as cook constable in provincial police in 2015. Through the impugned order dated 18.01.2023, he, alongwith five other constables, was dismissed from service on the charge of absence from duty by the District Police Officer, Banau. Later on, a show cause notice was issued to him, alongwith four other constables, under rules 5(3) of Police Rules 1975, on 19.01.2023 and he was directed to submit reply within seven days of the receipt of that notice, failing which ex-parte action would be taken against him. It has been noted that the DPO Banau did not bother to give any heed to the rules under which he had to proceed against the appellant. He issued the order of dismissal first and later on, as an afterthought, issued a show cause notice on the next day. The rule to which he was referring in the show cause notice, i.e. Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975, clearly mentions that a reasonable opportunity of showing cause had to be given to the appellant before passing any order of punishment, which was not done in this case. It has been further noted that the charge of absence is also not specified in the dismissal order.

7. From the above discussion, it transpires that the appellant had been dismissed from service without following the due process. He had been awarded a major punishment without giving him any opportunity of defence, which is highly against the spirit of fair trial. The service appeal in

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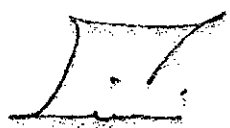


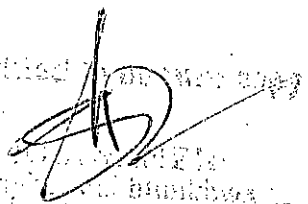
hand, as well as connected service appeal No. 980/2023, is allowed as prayed for. Costs shall follow the event, Consign.

8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 21<sup>st</sup> day of November, 2023.

  
(FARZANA PAUL)  
Member (C)

\*Farda Sabhan, P.S.\*

  
(SALAH-UD-DIN)  
Member (J)

  
The Chief Justice  
Service Tribunal  
Peshawar

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hirra43@gmail.com

قیمت 50 روپے	27147	پشاور بار ایسوسی ایشن، خیبر پختونخوا
ایڈریس: <u>حسرا باہر ایڈریس</u>	بار کونسل ایسوسی ایشن نمبر: <u>BC-16-6658</u>	
رابطہ نمبر: <u>0307-5935426</u>		
		

بعدالت جناب:

منجانب:	دعویٰ: <u>سروس</u>
	علت نمبر: <u>بد</u>
	مورخہ: <u>ر</u>
	جرم: <u>ر</u>
	تھانہ: <u>ر</u>
<b>باعت تحریر آنگہ</b>	

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

آن مقام سروس کیلئے حسرا باہر ایڈریس کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو

راضی نامہ کرنے و تقریر نمائندگی و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق

زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز

دائر کرنے اپیل نگہبانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی

کارروائی کے واسطے اور وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب

مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ برداشت منظور و قبول ہوگا

دوران مقدمہ میں جو خرچہ ہر جانب التوا کے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے

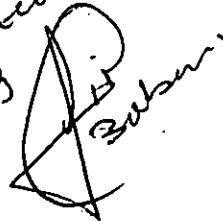
باہر ہو تو وکیل صاحب چاہنا نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: /20

الع بد واد شد الع بد

مقام \_\_\_\_\_ کے لیے منظور ہے۔

Attested  
and  
Accepted  
رہا



ATTESTED

نوٹ: اس وکالت نامہ کی فوٹوکاپی نام قابل قبول ہوگی۔