

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10693

Date: 22/1/24

Service Appeal No.1774/2023

Mr./ia Ur Rehman s/o Fazal Ur Rehman, Village Sharifa Central Kurram,
District Kurram.

.....Petitioner.

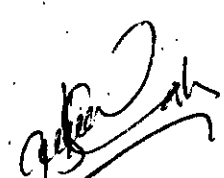
VERSUS.

1. District Police Officer, Kurram.
2. Deputy Superintendent of Police, Investigation, District Kurram.
3. Regional Police Officer, Kohat Region, District Kohat.

.....Respondents.

INDEX

S.NO	Description of Documents	Page
1.	Para-Wise Comments	1-3
2.	Affidavit	4
3.	Authority Letter	5
4.	Appointment Order	6
5.	Letter of Constitution Standing Medical Board	7
6.	Disciplinary Action	8
7.	Charge Sheet	9
8.	Inquiry Report	10
9.	Dismissal Order	11
10.	RPO Order	12


Javed Shah

(Focal Person DPO Kurram)

Respondent No.1

07-2-24

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

SA No. 1774/2023

Zia Ur Rehman S/O Fazal Ur Rehman R/O Ali Sherzai, Village Sharifa Cental Kurram,
District Kurram.

VERSUS

1. District Police Officer, Kurram.
2. Deputy Superintendent of Police, Investigation, District Kurram.
3. Regional Police Officer, Kohat.

COMMENTS ON BEHALF OF RESPONDENTS No 1,2,& 3.

RESPECTFULLY SHEWETH:

Preliminary Objections:-

That the instant appeal is not maintainable under the law.

That the appeal is not based on facts.

That the appellant has got no cause of action and locus standi.

That the appellant has concealed the real fact from the honorable court.

That the appellants estopped to file the appeal by his own conduct.

That the appeal is barred by law & limitation.

Para wise Comments.

1. Correct: pertains To record, regarding appointment of appellant who was appointed as Khassadar Vide Order No. 314-20/Kurram Levy, dated 07/03/2011.in Kurram Levy. After promulgation of 25th Constitutional Amendment, the Services of erstwhile Levies/Khassadars have been absorbed in Khyber Pakhtunkhwa, Police in accordance with Khyber Khassadar Force Act, 2019 and Khassadar Force (Absorption in the Khyber Pakhtunkhwa Police) Rules, 2019. Hence, the appellant was absorbed in Khyber Pakhtunkhwa Police, newly merged District Kurram.
2. Needs no comments.
3. Correct: That the appellant filed an application for Constitution of Standing Medical Board to exams the appellant properly and requested to have retirement from Police Service to the Respondent No.1 dated 17/06/2021. The respondent No.1 vide Letter No.2043-47 dated 30/06/2021 referred the matter to the Medical Superintendent, District Headquarter Teaching Hospital, Kohat for Constitution of Standing Medical Board to ascertain the fitness of the appellant whether he can perform his duty in Police Service.
4. As already explained in preceding Para.

5. Incorrect: The appellant was willingly absent from Swabi Training Center w.e.f 13.02.2021 to 28.03.2021 (45 days), therefore, a Charge Sheet was issued to the appellant on the allegations of absence from training in Swabi No. 1622/PA dated 25/05/2021. Hence, proper Departmental Inquiry proceedings were initiated against the appellant. The Inquiry Officer was nominated for proper inquiry against him that the inquiry Officer after fulfilling codal formalities submitted in findings, wherein the Inquiry Officer reported that the appellant was contacted time and again to appear before the inquiry Officer and was given opportunities to defend himself, but he failed and remained absent which showed that he was no more interested in Police Service. Upon the findings and recommendation of the Inquiry Officer Final report dated 01/07/2021. The appellant was dismissed from service from Order No.236 dated 12/07/2021, in accordance with rule/policy.
6. Needs no comments.
7. As already explained in preceding Para.
8. Correct to extent that the appellant approached to the Office Concern, but the appellant failed to provide any cogent justification regarding absence from training. Hence, his appeal was rejected on solid ground by the Region Police Officer, Kohat Region Vide Order No.8495/EC, date 08/08/2023.
9. Pertains to Medical Board Record.
10. Pertains to Medical Board Record.
11. Pertains to Medical Board Report.
12. As already explained in preceding Para.
13. Incorrect and Misleading: Both the Orders were convincing, based on cogent reasons and in accordance with rules/policy of Government and the Departmental appeal being unsatisfactory, hence rejected. Appellant has got no cause of action; therefore, the instant appeal may kindly ne dismissed on the following grounds.

GROUNDS:-

- A. Incorrect. Both the Orders were convincing, based on reason and in accordance with rule/policy of the Government and the departmental appeal being unsatisfactory, hence rejected.
- B. Incorrect: As already explained in preceding Para.
- C. Incorrect: As already explained in preceding Para.
- D. Incorrect: As already explained in preceding Para.
- E. As already explained in Para and Answering respondents never violated Art 10-A of the constitution of Pakistan nor deprived the appellant from his fundamental rights.
- F. Needs no comments.

(3)

G. Incorrect: The appellant has been treated in accordance with Law/rules and no violation of constitution of Islamic Republic of Pakistan 1973, exist of answering respondents.

H. Needs no comments.

I. Needs no comments.

J. The Respondents seek leave to raise additional grounds at the time of arguments.

PRAYERS:

Keeping in view the above stated facts it is humbly prayed that the appeal being not maintainable, barred by law/ limitation may kindly be dismissed with costs, please.



(Mazhar Jehan)
Deputy Superintendent of Police,
Investigation, District Kurram
(Respondent No. 02)

(Muhammad Emran) PSP
District Police Officer Kurram
(Respondent No.01)

21/12/2023



(Sher Akbar) PSP, S.ST
Regional Police Officer, Kohat Region, Kohat.
(Respondent No. 03)

(9)

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

Service Appeal No.1774/2023

Mr. Zia Ur Rehman S/O Fazal Ur Rehman R/O Alisherzai, Village Sharifa Central Kurram,
District Kurram.

.....**Petitioner.**

VERSUS.

1. District Police Officer, Kurram.
2. Deputy Superintendent of Police, Investigation, District Kurram.
3. Regional Police Officer, Kohat.

.....**Respondents.**

AFFIDAVIT.

I, Mr. Muhammad Imran District Police Officer Kurram (Respondent No.1) do hereby solemnly affirm and declare on oath that the contents of this accompany Para-Wise Comments on behalf of respondents are true and correct to the best of my knowledge and belief and 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/cost.

**Muhammad Imran), PSP
District Police Officer Kurram
(Respondent No.1)**



12 2 JAN 2024

(5)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

SA No. 1774/2023

Zia Ur Rehman S/O Fazal Ur Rehman R/O Ali Sherzai, Village Sharifa Cental Kurram,
District Kurram.

VERSUS


1. District Police Officer, Kurram.
2. Deputy Superintendent of Police, Investigation, District Kurram.
3. Regional Police Officer, Kohat.

AUTHORITY LETTER.

Mr. Javed Shah s/o Said Wazir Focal Person bearing CNIC No. 21303-92733132-9
is hereby authorized to institute para-wise comments duly signed by respondents in the Honorable
Court on behalf of the respondents.



(Mazhar Jehan)
Deputy Superintendent of Police,
Investigation, District Kurram
(Respondent No. 02)



(Muhammad Imran) PSP
District Police Officer Kurram
(Respondent No.01)
21/12/2023



(Sher Akbar) PSP, S.ST
Regional Police Officer, Kohat Region, Kohat.
(Respondent No. 03)


OFFICE OF THE POLITICAL AGENT,
KURRAM AGENCY, PARACHINAR.

No 314-20 / Kurram Levy
Dated 7 / 03 / 2011.

ORDER

The following individuals are hereby appointed as Khassadars against the newly created posts of Kurram Khassadars Force with immediate effect, subject to the production of Health/Age Certificates and Surety Bonds.

1. Liaqat Khan s/o Farid Khan Parachamkani r/o Daya
2. Dawood Khan s/o Machakai Parachamkani r/o Nargas.
3. Rehman Gul s/o Zeri Gul Alisherzai r/o Shamkhai.
4. ✓ Zia ur Rehman s/o Fazal Rehman Alisherzai r/o Zaya.
5. Naeem Khan s/o Sabir Khan Alisherzai r/o Tindo.
6. Ihsanullah s/o Saifullah Massozai r/o Ossay.
7. ✓ Abul Manan s/o Abdul Khanan Massozai r/o Dogar.
8. Muhammad Jamil s/o Muzafar Khan Massozai r/o Dargai.
9. Muhammad Amin s/o Taj Muhammad Zaimusht r/o Zarana.

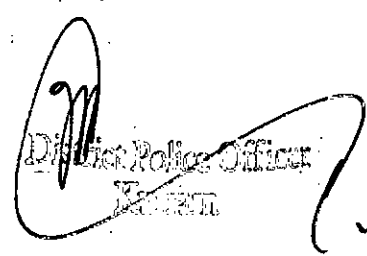

Political Agent, Kurram

No. and date even
Copy forwarded to the:-

1. Assistant Political Agent, Central Kurram at Sadda
2. Agency Accounts Officer Kurram.
3. Political Naib Tehsildar Central Kurram, at Sadda.
4. Superintendent PA'S Office.
5. Subedar Major Kurram Khassadar Force.
6. Quarter Master Kurram Levy Force.
7. Official concerned.


Political Agent, Kurram

Attested


District Police Officer
Kurram



(7)

OFFICE OF THE
DISTRICT POLICE OFFICER
KURRAM, KHYBER PAKHTUBKHIWA

Tel/Fax:0926-311354*Email:policekurr@m@gmail.c
No...20/3...4...7...Dated: Parachinar, 17/08/2021


To

The Medical Superintendent,
District Headquarter Teaching Hospital,
District Kohat.

Subject: CONSTITUTION STANDING MEDICAL BOARD FOR PENSION EMOLUMENTS.

Memorandum.

An application dated: 17/08/2021 submitted by Constable Zia ur Rehman s/o Haji Fazal ur Rehman Caste, Alisherzai resident of village Zaya Sharifa Central Kurram requesting therein for grant of standing medical board for pension as he is suffering mentally & physical illness and he is unable to perform his official duties, is enclosed herewith for report.


District Police Officer,
Kurram.

No. & date is even.
Copy forwarded to the:-

1. Superintendent of Police (Investigation) at Sadda.
2. District Accounts Officer, District Kurram.
3. Deputy Superintendent of Police, Central Kurram.
4. OASI Kurram Police.
5. Official Concerned.

*Attested to be
true copy*


District Police Officer,
Kurram.


District Police Officer,
Kurram

(8)



**OFFICE OF THE
DISTRICT POLICE OFFICER
KURRAM, KHYBER PAKHTUNKHWA**

Tel/Fax: 0926-311354 * Email: policekurram@gmail.com

No. 1681/PA Dated Parachinar 25-5-2021

DISCIPLINARY ACTION

MR. TAHIR IQBAL DISTRICT POLICE OFFICER KURRAM as

competent authority, am the opinion that you Constable Zia ur Rehman n/o Fazal Rehman P.No.00669169 have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (amended 2014) as you have committed the following act.

STATEMENT OF ALLEGATIONS

That you are willingly absent from Swabi Training which is a gross misconduct on your part.

For the purpose of conduct inquiry with reference to the above allegations DSP Investigation is appointed as Inquiry officer. The inquiry officer shall in accordance with the provision of the Police Rule 1975 (amended 2014), provide reasonable opportunity of hearing to the above official within (07) days of the receipt of this order, recommendations as to punishment or other appropriate action against the official.

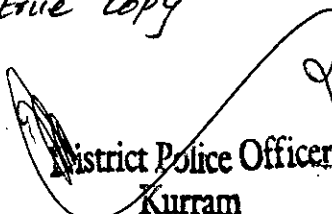
The official shall join the proceeding on the date, time and place fixed by the inquiry officer.


District Police Officer
Kurram


Copy to the:

1. Inquiry Officer for initiating proceedings against the official under the provision of Police Rule 1975.
2. The official with the direction to appear before the Inquiry Officer on the date, time and place fixed by him for the purpose of inquiry proceedings.

*Attested to be
true copy*


District Police Officer
Kurram


District Police Officer
Kurram



(9)

OFFICE OF THE
DISTRICT POLICE OFFICER
KURRAM, KHYBER PAKHTUNKHWA

Tel/Fax: 0926-311354*Email:policekurram@gmail.com

No. 1622...../PA Dated Parachinar 25-5-2021.

CHARGE SHEET

MR. TAHIR IQBAL DISTRICT POLICE OFFICER KURRAM as competent authority under Khyber Pakhtunkhwa Police Rule 1975 (amended 2014), am the opinion that you Constable Zia ur Rehman s/o Fazal Rehman P.No.00669169 had rendered yourself liable to be proceeded against as you have committed the following act within the meaning of the Police Rules 1975 amended 2014.

That you are willingly absent from Swabi Training which is a gross misconduct on your part..

By reason of the above, you appear to be guilty of misconduct under the Police Rule 1975 (amended 2014) and have rendered yourself liable to all or any of the penalties specified in the Police Rules.

You are, therefore, required to submit your written statement within (03) days of the receipt of this charge sheet to the inquiry officer.

Your written defense if any should reached the inquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

A statement of allegation is enclosed.

Attested

District Police Officer
Kurram

District Police Officer
Kurram

فائل رپورٹجناب عالی

بذوالہ جاری شیٹ نمبر 162 مورخہ 021-05-25 جاریہ جناب DPO صاحب کرم معروف خدمت ہیں۔ کہ کانٹینٹیل ضیاء الرحمان ولد فضل رحمان نمبری 00669169 کو جناب DPO صاحب صوابی پولیس ٹریننگ سے غیر حاضری کے بناء پر جاری شیٹ کیا ہے۔ منکرہ کانٹینٹیل کو بار بار مزید یہی ٹیلی فون OHC سے رابطہ کیا۔ کہ منکرہ کانٹینٹیل کے حلف جاری شیٹ جاری ہو ہے۔ وہ فوراً اپنی صفائی پیش کرنے کیلئے انکوائری آفیس کو حاضری دے۔ اور اپنے ڈیوٹی سرانجام دینے کیلئے پولیس لائٹ بار جنار حاضر ہو جائے۔ مگر منکرہ کانٹینٹیل کی طرف سے جاری شیٹ کا کوئی جواب طلبی نہیں ہوئی ہے۔ منکرہ کانٹینٹیل تاحال بدستور غیر حاضر ہے۔

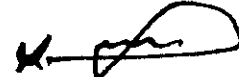
عالیجاہ:-

منکرہ کانٹینٹیل پولیس ٹریننگ صوابی سے بھی غیر حاضر رہتا ہے۔ اور صفائی پیش کرنے کیلئے انکوائری آفیس بھی نہیں آیا ہے۔ اور نہ ہی آئیناب کے دیے ہوئے جاری شیٹ کا کوئی جواب دیتا ہے۔ جو کہ جواب دینے کا وہ پابند ہے۔ پولیس رول 1975 اپنی (amended 2014) کے تحت منکرہ کانٹینٹیل سزا کا مستحق ہے۔ لہذا کانٹینٹیل کا انکوائری مکمل ہو کر جناب - DPO - صاحب کو (major Punishment) سزا کیلئے ارسال خدمت ہے۔

رپورٹ غلط ہے

Attested to be
true copy

District Police Officer
Kurram



DSP (inv) Kurram

01/7/2021

No 196/1

dt. 01/07/21

(11)



DISTRICT POLICE
OFFICER KURRAM, KHYBER PAKHTUNKHWA
Tel/Fax: 0926-311354*Email:policekurram1@gmail.com
No. 2197-99/PA Dated Parachinar. 12-7-2021.

ORDER

This order is passed on the Charge Sheet against Constable Zia u Rehman s/o Fazal Rehman Salary No. 00669169 under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014).

Brief facts are that while posted at Center Kurram had absented himself from official duty and Training reported by OHC since long time without any leave or Permission from the competent authority, which shows his in-efficiency and lack of interest in the discharge of government duties.

He was served with charge sheet, he never bothered to reply charge sheet.

In view of the above I, Tahir Iqbal District Police Officer Kurram in exercise of the powers conferred upon me, hereby award him a major punishment of "Dismissal from Service" with immediate effect and his absence period is treated as leave without pay.

OB No. 236

Date. 12 / 07 / 2021

District Police Officer
Kurram

No and Date is even:

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat.
2. District Account Officer, Kurram.
3. Reader/RI/SRS/OHC for necessary action.

Attested

District Police Officer
Kurram

District Police Officer
Kurram

13

(12)

1

ORDER.

This order will dispose of the departmental appeal, preferred by **Ex-Constable Zia Ur Rehman S/O Fazal Rehman Personnel No. 00669169** of district, Kurram against the order of District Police Officer, Kurram whereby he was awarded major penalty of dismissal from service and absence period was treated as leave without pay vide OB No. 236 dated 12.07.2021. **Brief facts of the case** are that the appellant while posted at Central Kurram absented himself from official duties and Training program with effect from 13.02.2021 till the date of his dismissal from service i.e. 12.07.2021.

Proper departmental enquiry proceedings were initiated against him and DSP Investigation Kurram was nominated as Enquiry Officer. The Enquiry Officer after fulfillment of all codal formalities submitted his findings wherein he stated that the appellant neither appeared before Enquiry Officer nor submitted his reply to Charge Sheet. He was, therefore, recommended for major penalty under the relevant rules.

Keeping in view recommendations of the Enquiry Officer and the above cited circumstances, the delinquent official was awarded major punishment of dismissal from service and leave without pay under the relevant rules by the District Police Officer, Kurram vide OB No. 236 dated 12.07.2021.

Feeling aggrieved from the order of District Police Officer, Kurram, the appellant preferred the instant appeal on 03.09.2021. Comments were requisitioned from DPO Kurram in this regard. He was heard in person in Orderly Room held in this office on 15.03.2022. It merits a mention here that on 30.06.2021, an application of the appellant had been referred to the Medical Superintendent, District Headquarters Hospital Kohat for constitution of Standing Medical Board. However, on the completion of the departmental enquiry proceedings, the appellant was awarded major punishment of dismissal from service on 12.07.2021. He was heard in person in O.R in this office on 15.03.2022 by the then Regional Police Officer, Kohat. Subsequently, in pursuance of the Letter of District Police Officer, Kurram vide No. 2043-47, dated 30.06.2021, this office wrote a Letter to Medical Superintendent, DHQ Hospital KDA Kohat for constitution of Standing Medical Board and submission of opinion. The opinion of Medical Board was received to this office on 17.05.2023 wherein it was recommended that he is medically unfit for job at the moment but surgical procedure is available for stability of joints. He was again summoned and heard in person in Orderly Room held in the office of the undersigned on 18.07.2023. During personal hearing the appellant contended that his absence was not intentional and deliberate but due to his illness.

From the perusal of the enquiry file, service record of the appellant and the reasons advanced by Ex-Constable Zia-ur-Rehman during personal hearing it is clear that the appellant had been proceeded against departmentally for willful absence from duties. The allegations leveled against him were established during the course of regular departmental enquiry. On the basis of recommendations of Enquiry Officer, the DPO Kurram awarded him major punishment of dismissal from service. The report of Standing Medical Board was received vide MS DHQ Parachinar Kurram Letter No. 562/MB dated 11.05.2023 wherein he has been declared medically unfit for the job at the moment.

Since the appellant has remained absent for a period of about 05-months without any authorization from his senior officers, and his appeal is also time-barred about 23-days, therefore, the undersigned is not inclined to interfere with the order of dismissal from service passed by District Police Officer, Kurram vide order No. 2197-99/PA dated 12.07.2021.

Based on the above, I, Sher Akbar, PSP S.St, Regional Police Officer, Kohat, being the appellate authority, do not find any substance in his appeal. Hence, the instant appeal is hereby **rejected**, being without merits and time-barred.

Order Announced

No. 8495 /EC, Dated Kohat the 8/8 /2023

Copy forwarded to District Police Officer, Kurram for information and necessary w/r to his office Memo: No. 1622/PA, dated 25.05.2021. His Service Record is returned herewith.

Attested

District Police Officer,
Kurram

Regional Police Officer,
Kohat Region