

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Amended Service Appeal No. 210/2019

Date of Institution ... 14.02.2019

Date of Decision ... 15.02.2021

Kamran (Ex-Constable) S/O Gulab R/o Charpariza, Tehsil and District Peshawar.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Inspector General of Police, Khyber
Pakhtunkhwa, Peshawar and two others. ... (Respondents)

Present:

MR. HABIB ULLAH MOHMAND,
Advocate

--- For Appellant.

MR. MUHAMMAD RASHID,
Deputy District Attorney

--- For respondents.

MR. MIAN MUHAMMAD
MR. HAMID FAROOQ DURRANI,

--- MEMBER(Executive)
--- CHAIRMAN

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- The instant service appeal has been instituted under Section-4 of the Khyber Pakhtunkhwa Services Tribunal Act, 1974, assailing therein the impugned order of respondent No.2 (Capital City Police Officer) dated 16.01.2019 whereby major penalty of dismissal from service was awarded to the appellant.

FACTS.

02. Brief facts, as per memorandum of appeal leading to the Service appeal, are that the appellant was initially enlisted as Constable in Frontier Reserve Police on 14.06.2011. After having served the department for over eight years, he was

proceeded against departmentally and show cause notice was issued to the appellant on 16.02.2018 under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975. As per charge sheet and statement of allegations dated 03.04.2018 “Constable Kamran No. 1561 while posted at Police Lines Peshawar was enlisted as Constable in Police Department (FRP) in the year 2011 but failed to qualify the basic recruit training as yet and served whole service in Police Lines (different branches) i.e 10.07.2013 till date which is against the norms of discipline force. This amounts to gross misconduct on his part and is against the discipline of the force”. After departmental enquiry conducted by SP City Division Peshawar, the appellant was awarded the major penalty of “dismissal from service” by SP Headquarters Peshawar vide order dated 01.11.2018. The appellant preferred departmental appeal against the penalty on 22.12.2018 but it did not meet favourable consideration and the appellate authority i.e respondent No.2 (CCPO) rejected the departmental appeal and kept the impugned order of “dismissal from service” intact vide impugned appellate order dated 16.01.2019, hence, the instant service appeal instituted on 14.02.2019 in this Services Tribunal.

03. Respondents were summoned to produce relevant record and connected documents. They attended the Services Tribunal through their legally authorized representatives who contested the appeal on their behalf. We have heard the pro and counter arguments addressed by the learned counsels for the parties and perused the available record as well as additional material including law cases/authorities in support of their respective plea and contentions, with their assistance.

ARGUMENTS.

04. Learned counsel for the appellant at the very outset of the arguments contended that the appellant has not been provided fair chance of defense because

neither show cause notice has been served on the appellant nor opportunity of personal hearing extended to him. Essential requirements like charge sheet, proper enquiry, opportunity of cross examination on prosecution witnesses or recommendation with regard to the imposition of major punishment of dismissal from service have not been fulfilled. Moreover, major penalty like "dismissal from service" cannot be awarded without conducting a proper enquiry, therefore, the basic question and principles of *locus-poenitentiae* and *audi-ultroram-pertem* have been ignored and violated in the case. In support of his arguments, he relied on 1996 SCMR 1350, 1999 SCMR 965, 2005 SCMR 85, 2006 PLC(CS) 596, 2009 SCMR 663, 2011 PLC (CS) 331, 2012 PLC (CS)189, 2015 PLC (CS) 1519, 2017 PLC (CS)98, 2017 PLC (CS)587, 2018 YLR 776, 2019 PLC (CS) 194, 2019 PLC (CS) 475, 2019 SCMR 640 and PLD 2019 SC 189. He therefore, requested that the impugned order dated 16.01.2019 being not maintainable under these pathora of judgments may kindly be set aside allowing the appellant to be reinstated in service with all back benefits.

05. Learned Deputy District Attorney on behalf of respondents raised preliminary objection on the maintainability of appeal arguing that the question of maintainability is required to be addressed/ settled first and then merit of the appeal may be taken up for adjudication. The appellate order of respondent No.2 in his capacity as appellate authority dated 16.01.2019 has been in question and made as impugned leaving the original impugned order of the Competent Authority dated 01.11.2018, therefore, the departmental appeal being time barred the subsequent service appeal is also time barred. He further contended that there is no formal request with memorandum of appeal giving cogent and plausible reason (s) for the delay of each day and condonation there for. On the question of limitation he placed

reliance on 2004 SCMR 1426, PLD 2006 SC 572, 2007 SCMR 346, 2007 SCMR 513, 2009 SCMR 1435, PLJ 2009 SC, 1099, civil petition No.1706 of 2018 and Khyber Pakhtunkhwa Services Tribunal judgement dated 02.12.2019 in Service Appeal No. 381/2019 titled Ali Buhadar (ASI) -vs- DHO Buner and other. He vehemently contended that the ends of justice have been met by issuing proper charge sheet and statement of allegations to the appellant on 03.04.2018, issuance of show cause notice, conducting formal and proper enquiry and an opportunity of personal hearing afforded to the appellant before imposition of major penalty of "dismissal from service" hence the appeal being devoid of merit as well as time barred may be dismissed.

CONCLUSION.

06. Learned counsel for the appellant was confronted with the question of appeal being time barred by 21 days and request for condonation with plausible reason (s) not submitted with the appeal. He could not substantiate with documentary evidence the reason(s) for delay except that the appellant was telephonically informed that he had been "dismissal from service". On yet another query; he has assailed the appellate order dated 16.01.2019 in the service appeal and ignored to challenge the original impugned order of Competent Authority dated 01.11.2018, he simply replied that the appellate order dated 16.01.2019 has been assailed and is in question for adjudication being "impugned order" and it is pleaded that the same may be set aside.

07. The august Supreme Court in plethora of judgments has emphasized to take the question of limitation in an articulate and careful manner and not to be treated as casual matter in a casual manner. Taking a serious view of limitation in civil appeal

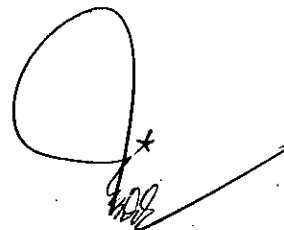
No. 44-P of 2015, the Apex court directed that “we may note that this court has time and again held and laid down that limitation is not a casual matter, rather it is a matter which has to be considered with due diligence”.

08. As a sequel to the above, having advanced no plausible reason (s) or any documentary evidence could be produced by the learned counsel for the appellant in support of his arguments to justify the delay/limitation and as such the entire edifice is standing without self substantiated and well articulated case to meet and be tested on the touchstone of legal affirmity on limitation, hence, the instant service appeal is dismissed. Parties are left to bear their respective costs. File be consigned to the record room.

ANNOUNCED
15.02.2021


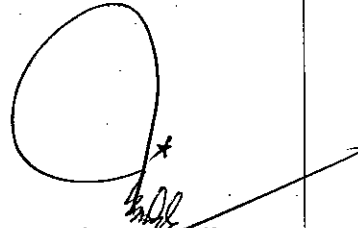


(HAMID FAROOQ DURRANI)
CHAIRMAN



(MIAN MUHAMMAD)
MEMBER(E)

Service Appeal No. 210/2019

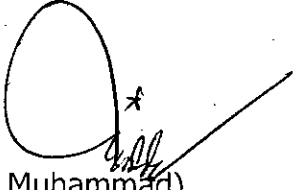
S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	15.02.2021	<p><u>Present.</u></p> <p>Mr. Habib Ullah Mohmand, ... For appellant Advocate</p> <p>Mr. Muhammad Rashid, ... For respondents Deputy District Attorney</p> <p>Vide our detailed judgment of today consisting of five pages placed on file, having advanced no plausible reason (s) or any documentary evidence could be produced by the learned counsel for the appellant in support of his arguments to justify the delay/limitation and as such the entire edifice is standing without self substantiated and well articulated case to meet and be tested on the touchstone of legal affirmity on limitation, hence, the instant service appeal is dismissed. The parties shall, however, bear their respective costs. File be consigned to the record room.</p> <p><u>ANNOUNCED</u> 15.02.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Chairman </div> <div style="text-align: center;">  (Mian Muhammad) Member(E) </div> </div>

01.12.2020

Appellant alongwith counsel and Addl. AG alongwith M. Raziq, H.C for the respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief.

Adjourned to 22.12.2020 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

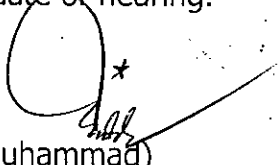
22.12.2020

Counsel for the appellant and Zara Tajwar, DDA alongwith Muhammad Raziq, H.C for the respondents present.

It is noted in the impugned order dated 01.11.2018 that some other officials seem to have been involved in the scandal of fraudulent recruitment and are equally liable for departmental proceedings as well as criminal Act. On the record, there is no document reflecting that the officials other than the appellant were proceeded against in connection with the charges attributable to the appellant.

Learned DDA requests for time to provide the requisite record alongwith other documents relevant for the purpose of appeal in hand.

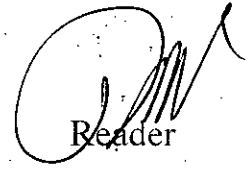
Adjourned to 15.02.2021 for hearing before the D.B. The record shall positively be produced on or before next date of hearing.


(Mian Muhammad)
Member(E)


Chairman

02.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 25.06.2020 before D.B.



Reader

25.06.2020

Nemo for the appellant. Mr. Kabirullah Khattak learned Addl. AG alongwith Mr. Raziq H.C for the respondents present.

Let the appellant be served through notice for 21.09.2020 before D.B.

Adjourned accordingly.



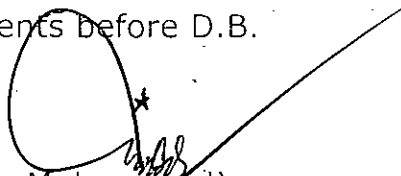
Member



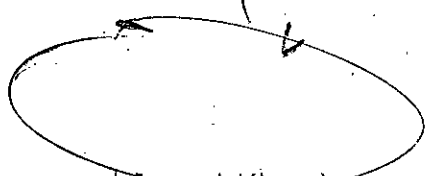
Chairman

21.09.2020

Appellant is present in person. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith representative of the department Mr. Muhammad Raziq, Head Constable are also present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 01.12.2020. File to come up for arguments before D.B.




(Mian Muhammad)
Member (Executive)




(Muhammad Jamal Khan)
Member (Judicial)

27.11.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney alongwith Ihsan S.I (Legal) present. Representative of the respondents submitted reply copy of which given to learned counsel for the appellant. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 30.01.2020 before D.B.


Member


Member

30.01.2020


Appellant in person present. Addl: AG for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 10.03.2020 before D.B.


Member


Member

10.03.2020

Appellant with counsel present. Mr. Usman Ghani learned District Attorney alongwith Aziz Shah Reader for the respondents present. Arguments heard. To come up for order on 02.04.2020 before D.B. Parties may submit additional documents in support of their arguments till the next date fixed.


Member


Member

26.06.2019

Learned counsel for the appellant present. Written reply not submitted. Ihsan SI Legal representative of respondent department present and requested for time to furnish written reply. Granted. To come up for written reply/comments on 20.08.2019 before S.B.



Member

21.08.2019

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Ihsan ASI for the respondents present. Written reply not submitted. Representative of the respondents seeks time to furnish written reply/comments. Last opportunity is granted. Granted. To come up for written reply/comments on 11.09.2019 before S.B.



(Hussain Shah)
Member

19.09.2019

Counsel for the appellant and Addl. AG alongwith Ihsanullah, ASI for the respondents present.

Representative of the respondents still requests for time to furnish reply on behalf of the respondents.

Since last opportunity was granted to the respondents, the matter is, therefore, posted to D.B for arguments on 27.11.2019.




Chairman

22.03.2019

Learned counsel for the appellant present.
Preliminary arguments heard.

The appellant was appointed as Constable in FRP KPK on 14.06.2011. All codal formalities were fulfilled in connection of his appointment and he was released his salary. However after rendering eight to nine years service the appellant was dismissed from service without issuing any charge sheet, without no inquiry and show cause notice. Being aggrieved the appellant submitted departmental appeal on 22.12.2018 which was rejected on 16.01.2019 without any cogent solid reason hence the service appeal submitted 14.02.2019. The learned counsel for the appellant argued that the appellant was dismissed form service arbitrarily without any legal grounds hence the appeal may be admitted for regular hearing

Points raised need consideration. The appeal is admitted for regular hearing. Subject to all legal objections. The appellant is directed to deposit security and process fee within ten (10) days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 06.05.2019 before S.B.


Appellant Deposited
Security & Process Fee


Member

06.05.2019

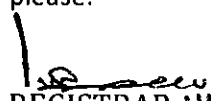

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Ihsanullah, ASI for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further time for filing of written reply. Adjourned to 26.06.2019 for written reply/comments before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 210/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/2/2019	<p>The appeal of Mr. Kamran presented today by Mr. Habibullah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 14/2/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right; font-size: small;">RECEIVED 2019-03-22</p>
2-		

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 210 /2019

Kamran (Ex-Constable).....(Appellant)

V E R S U S

Government of Khyber Pakhtunkhwa through Inspector
General of Police and others.....(Respondents)

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Copy of CNIC	A	9-9A-9B Amr
4.	Copies of all relevant documents	B	10 AnxB -23
5.	Wakalat Nama		24.

Appellant

Through

Dated: 14/02/2019

Habib Ullah Mohmand
Advocate High Court,
Peshawar.
Cell: 0321-9087842

①

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 210/2019

Khyber Pakhtukhwa
Service Tribunal

Diary No. 190

Dated 14-2-2019

Kamran (Ex-Constable) S/o Gulab R/o Charpariza, Tehsil and
District Peshawar.....(Appellant)

V E R S U S

1. Government of Khyber Pakhtunkhwa through Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, CPO, Police Lines, Peshawar.
3. The Commandant F.R.P Frontier Reserved Police, Peshawar.....(Respondents)

**SERVICE APPEAL UNDER SECTION 4 OF
KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL ACT 1974, AGAINST THAT ALL
THE IMPUGNED ORDER/ ACTION DATED
16/01/2019 PASSED BY THE CAPITAL
CITY POLICE OFFICER WHERE BY THE
APPELLANT WAS AWARDED MAJOR
PENALTY OF DISMISSAL FROM SERVICE.
THE APPELLANT PREFERRED**

Filed to-day

Registrar.

14/2/19

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**DEPARTMENTAL APPEAL BUT THE SAME
WAS REJECTED.**

Prayer:

By accepting of this appeal, the impugned order dated 16/01/2019 passed by the Capital City Police Officer, Peshawar may very kindly be set aside and the appellant may graciously be reinstated in service with full back consequent wages and benefits for which the appellant is entitled under the law.

Respectfully Sheweth:

1. That appellant is law abiding citizen of Pakistan of Pakistan. (Copy of CNIC is attached as annexure "A").
2. That appellant was initially appointment as Constable on dated 14/06/2011 as Constable at Frontier Reserve Police, Khyber Pakhtunkhwa.
3. That appellant continuously render services to the parent department and there is no objection/

complaint against the present appellant, but dismissed from the service, which is against law.

4. That all legal/ codal formalities have been observed by respondent department i.e. appointment order, medical test, arrival report, issuance of service card and continuously salaries have been drawn from the government exchequers from 8/9 years, but dismissed with one pen struck, which is against the law and also against the norms of justice. (Copies of all relevant documents are attached as annexure "B").
5. That the respondents department did not give any kind of show cause notice, no personal hearing, no charge sheet, no inquiry, no recommendation for dismissal, no cross-examination on PW, but despite of that the appellant dismissed from service, which is against was the law and also against the norms of justice.
6. That the respondent department are legally bound to follow the legal procedure of inquiry but suddenly passed the impugned order i.e. dismissal, which is against the law and also against the norms of justice.

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7. That the respondents department cannot award the major penalty i.e. dismissal from service without property inquiry, without personal hearing and without adopting the legal procedure and the appellant also reliance on locus penententia, (Natural Justice) and "AUDI ALTERAM PARTEM"
8. That other colleagues/ batch mates were also recommended to initiate against them but only the appellant awarded the major penalty i.e. dismissal from service which touch Article 25 of the Constitution of Islamic Republic of Pakistan 1973.
9. That whenever all legal and codal formalities have been observed the respondents department cannot dismiss the services of the petitioner, nor award major penalty to the appellant but respondent department awarded the impugned dismissal order, which is against the law and also against the norms of justice.
10. That there are plethora judgments of the August Supreme Court of Pakistan that whenever authority awarded the Major Penalty i.e. dismissal from service,

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there shall be proper legal procedure and without following the legal procedure, the major penalty shall be illegal and also against the norms of justice.

11. That appellant also submit the departmental appeal on dated 22/12/2018 before the respondents department for reinstatement in the service, which was rejected/ regretted by the respondents on 16/01/2019 without any cogent solid reason, which is against the law and also against the norms of justice.

GROUND:

- A. That the impugned order of respondent is illegal, unlawful, void and ineffective beside being against the law and facts.
- B. That an illegal and unlawful inquiry has been conducted by respondent and statement has been recorded in absence of appellant and appellant was not confronted with any document which is against the law and also against the norms of justice.

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- C. That it is also pertained to mention here that non of the PW was summon/ interviewed by inquiry committee/ after which is against law and also against the inquiry procedure etc.
- D. That there is no complaint/ allegations against the appellant there is no black & white but falsely has been implicated in instant inquiry which is against the law and natural justice.
- E. That inquiry committed did not touch considered the record of appellant during the inquiry proceeding and did not check the record on the whole file which is against the law and also against the norms of justice.
- F. That all the proceedings of said inquiry is without lawful authority and by unauthorized officer in which they have no experience of the inquiry of any kind.
- G. That each and every citizen of Pakistan (appellant/ employee) shall be treated equally.
- H. That there shall be no discrimination on base of creed and colour.

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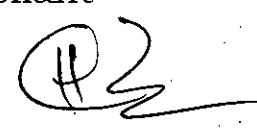
- I. That each and every citizen should be treated Under Article 4, 8, 25 of Constitution of Islamic Republic of Pakistan, 1973.
- J. That appellant will take other ground with permission of this Hon'ble Court.

It is, therefore, most humbly prayed that by accepting of this appeal, the impugned order dated 16/01/2019 passed by the Capital City Police Officer, Peshawar (respondent No. 2) may very kindly be set aside and the appellant may graciously be reinstated in service with all back consequent wages and benefits for which the appellant is entitled under the law.

Appellant

Through

Dated: 14/02/2019



Habib Ullah Mohmand
Advocate High Court,
Peshawar.

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**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019

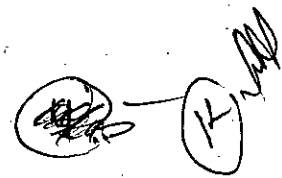
Kamran (Ex-Constable).....(Appellant)

V E R S U S

Government of Khyber Pakhtunkhwa through Inspector
General of Police and others.....(Respondents)

AFFIDAVIT

I, Kamran (Ex-Constable) S/o Gulab R/o Charpariza,
Tehsil and District Peshawar. do hereby solemnly affirm and
declare on oath that the contents of the accompanying **Service
Appeal** are true and correct to the best of my knowledge and
belief and nothing has been concealed from this Hon'ble
Tribunal.



DEPONENT

CNIC: 17301-5927518-3

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**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019

Kamran (Ex-Constable).....(Appellant)

V E R S U S

Government of Khyber Pakhtunkhwa through Inspector
General of Police and others.....(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT:

Kamran (Ex-Constable) S/o Gulab R/o Charpariza, Tehsil and
District Peshawar.

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Inspector
General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, CPO, Police Lines, Peshawar.
3. The Commandant F.R.P Frontier Reserved Police, Peshawar.



Appellant

Through



Habib Ullah Mohmand
Advocate High Court,
Peshawar.

Dated: 14/02/2019



حکومت پاکستان

قومی شناختی کارڈ

17301-5927518-3



نام: کاروان

پتو: ...
شناختی ماہیت: ہر سے پرس

10/02/1993

علی احمد حکیم

دستور: ...

...

...

Aux A

9A



S922NV

17301-5927518-3

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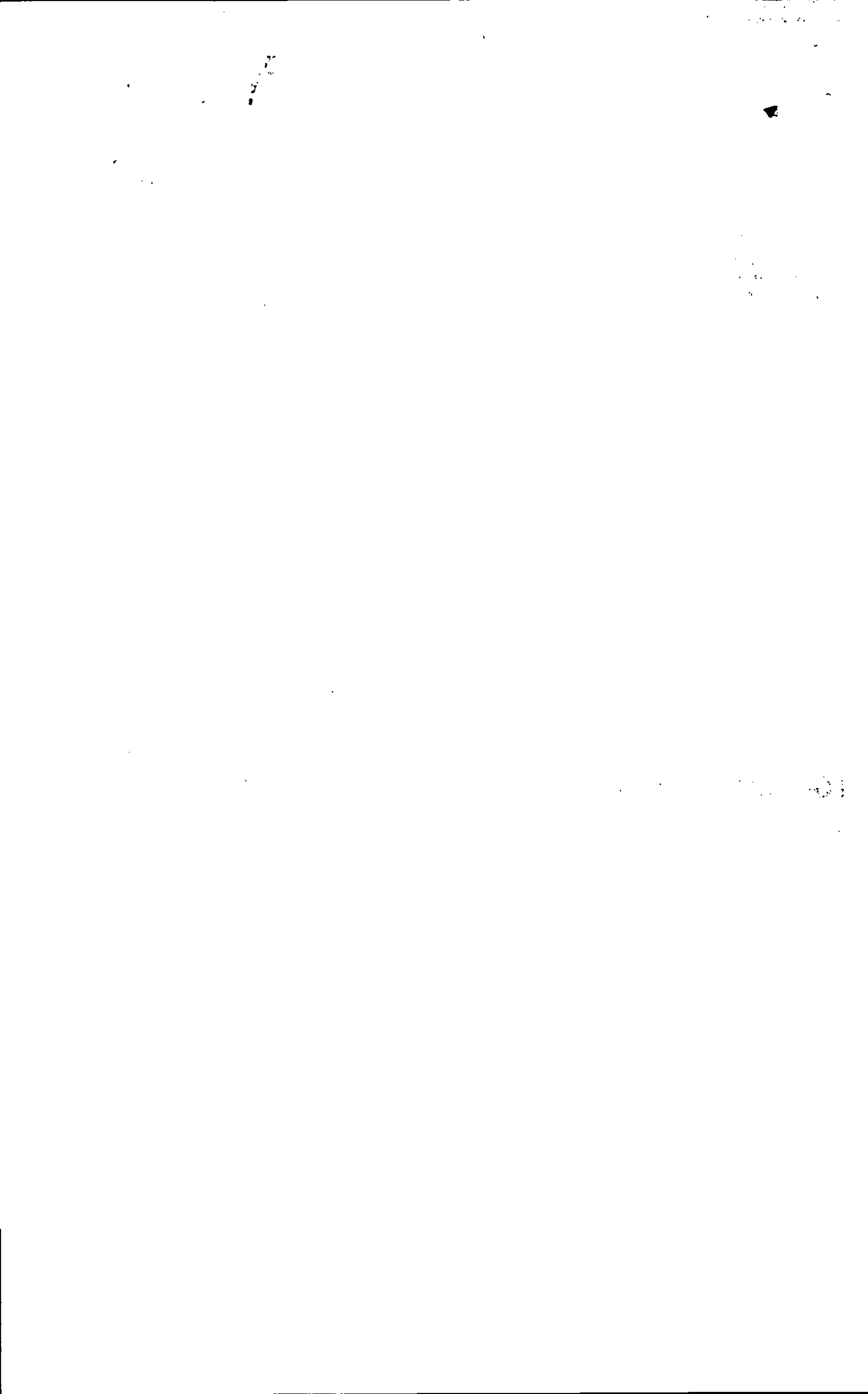


28/10/2021

28/10/2011

...





Capital City Police Peshawar

S.No. 1561

Name: **Kamran**
Rank: **Constable**
Belt No: **1561**
Date of Issue: **01.01.2014**
Valid Upto **31.12.2016**



[Signature]
Signature
Issuing Authority

9B

Khyber Pakhtunkhwa Police

C.N.I.C. No : 17301-5927518-3

Height: "5-5" Blood Group: Nil

Address: Charpariza Peshawar

1. This card is non transferable and is the property of Govt. of Khyber Pakhtunkhwa
2. In the event of loss report immediately to nearest Police Station and the issuing authority giving original number of the card.
3. Finder of the lost card is requested to deposit the card in the nearest Police Station.

Verification Contact No.
091-5284953



ORDER

10

Annex B

This office order relates to the disposal of formal departmental enquiry against Constable Kamran No.1561 of Capital City Police Peshawar on the allegations that he while posted at Police Lines, Peshawar was enlisted as Constable in Police Department (FRP) in the year-2011 but failed to qualify the basic recruit training as yet and served whole service in Police Lines (different branches) i.e. 01.07.2013 till date which is against the norms of discipline force.

In this regard, he was issued charge sheet & summary of allegation. SP-City was appointed as E.O. He conducted the enquiry proceedings & submitted his report/findings that;

1. Kamran (accused official) was shown enlisted in FRP during the year-2011. He was required to undertake basic training but he failed to join/qualify recruit course and maneuvered his transfer to CCP Peshawar vide DIG H.Qrs: order No.8293-94/E-II dated 08.04.2013. The service record of accused official was not prepared neither Fauji Missal is found available on FRP record. The E.O further recommended him for major punishment of dismissal from service.

Handwritten notes in Urdu script on the right margin.

2. The E.O further stated that the officer/official of the following category i.e. OASI, R.I and Pay Officer of FRP in the year 2011 and onward who were at the helm of affairs and seemed to be involved in the scandal of fraudulent recruitment are equally liable for departmental proceedings as well as criminal act under section 420/468/471/109-PPC/5(2)PC Act for this mal-practices vide Enquiry Report No.5642/PA dated 23.10.2018

In the light of recommendations of E.O & other material available on record, the undersigned came to conclusion that he is guilty of this misconduct. In exercise of the power vested to me under Police & Disciplinary Rules-1975, he is therefore, awarded the major punishment of dismissal from service with immediate effect.

[Signature]
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 3350 / Dated 01 / 11 / 2018

No. 2424-31/PA/SP / dated Peshawar the 1 / 11 / 2018

Copy of above is forwarded for information & n/action to:

- ✓ The Capital City Police Officer, Peshawar.
- ✓ The Commandant, FRP Khyber Pakhtunkhwa Peshawar. He is requested to initiate departmental proceedings against the alleged officials under intimation to this office.
- ✓ DSP/HQrs, Peshawar.
- ✓ Budget Officer
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Official concerned.

[Signature]
2-11-2018



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

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ORDER.

This order will dispose off the departmental appeal preferred by Ex-Constable Kamran No. 1561, who was awarded the major punishment of "Dismissal from service" by SP/HQrs Peshawar vide No 3350, dated 01-11-2018.

2- The allegations leveled against him were that he while posted at Police Lines Peshawar was enlisted as constable in Police Department (FRP) in the year 2011 but failed to qualify the basic recruit training as yet as served whole service in Police Lines (different branches) i-e 01-07-2013 till date which is against the norms of discipline force.

3- He was issued charge sheet and statement of allegations by SP/HQrs Peshawar and SP/City Peshawar was appointed as enquiry officer. The enquiry officer after conducting proper departmental enquiry submitted his findings, recommended the delinquent official for major punishment. The competent authority in light of the recommendation of the enquiry officer awarded him the major punishment of dismissal from service under Police & Disciplinary Rules 1975.

4- He was heard in person in O.R. The relevant record perused along with his explanation. During personal hearing the appellant failed to submit any reasonable reply. Therefore the appeal of Ex-Constable Kamran No.1561 for reinstatement in service is hereby dismissed/rejected.


(QAZI JAMIL UR REHMAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 136-41 /PA dated Peshawar the 16-01- 2019

Copies for information and n/a to the:-

1. SP/HQrs Peshawar.
2. BO/OASI/CRC for making necessary entry in his S.Roll.
3. FMC along with FM
4. Official concerned.

۱۲

تاب عالی!

بحوالہ چارج شیٹ نمبری معروض خدمت ہوں کہ سائل سال 2011 میں پولیس ڈیپارٹمنٹ میں نحشیت کانسٹیبل بھرتی
س ایک غریب اور بے سہارا شخص ہے۔ سائل نے بہت کوشش کی مگر ابھی تک افسران بالا سے ٹریننگ پر جانے کے حکم کے انتظار
۔ جب بھی ٹریننگ پر جانے کا حکم ملا میں نحشیت ماتحت اپنے افسران بالا کے حکم کی تعمیل کرونگا۔ اور اسی دن ٹریننگ حاصل
لیلیئے روانہ ہو جاؤنگا۔ اس میں میرا کوئی قصور نہیں۔ لہذا انکو اتری بغیر کسی کارروائی کے فائل کرنے کا حکم صادر فرمائے۔

۱۲

العارض

تابعدار کانسٹیبل کامران، بڈٹ نمبر 1561 متعینہ ملک سعد شہید پولیس لائن پشاور، ڈرائیور DSP لاجسٹک CPO پشاور

13

جناب عالی!

گزارش ہے کہ سائل مورخہ 14.06.2011 کو ٹیکہ پولیس FRP پشاور ریج میں بطور کنسٹیبل بھرتی ہو کر کنسٹیبلری ممبری 2825 الاٹ کیا گیا۔ دو سال FRP میں ڈیوٹی سرانجام دینے کے بعد میرا تبادلہ بحوالہ انگریزی چھٹی نمبری II-E/94-8293 مورخہ 08.04.2013 کو CCP پشاور ہو کر بیلٹ نمبری 1561 الاٹ کیا گیا۔ اور 2013 سے 2018 تک CCP پشاور میں ڈیوٹی سرانجام دی ہے۔

سائل نے بارہا بیکروٹ ٹریننگ کے لئے درخواستیں دی ہیں لیکن سائل کو ٹریننگ کے لئے نہیں بھیجا گیا۔ اب جبکہ سائل نے 2018 میں دوبارہ بیکروٹ ٹریننگ کے لئے درخواست جمع کرائی تو پورے اوپر انکو ایئر بنائی گئی۔ اور مجھے اس بنا پر نوکری سے برخاست کیا گیا کہ میرا کوئی ریکارڈ نہیں۔

جناب عالی اس میں میرا کوئی قصور نہیں ہے ریکارڈ بنانا میرا کام نہیں تھا۔ جبکہ سائل کے پاس اپنے اعمال نامے اور میڈیکل کی فوٹو سٹیٹ کا پی موجود ہے جس میں بقاعدہ سائل کی ٹرانسفر انٹری بھی درج ہے (جو کہ لف درخواست ہے)۔

جناب عالی سائل نے آٹھ سال بقاعدگی سے مکمل ایمانداری سے اپنی ڈیوٹی سرانجام دی ہے اور کبھی کسی افسر کو شکایت کا موقع نہیں دیا۔ سائل ایک انتہائی غریب آدمی ہے اور گھر کا گزارہ اسی تنخواہ سے کرتا تھا۔ اب جبکہ سائل کو برخاست کیا گیا ہے گھر والوں کے لئے جینا مشکل ہے۔

جناب عالی سائل بے قصور ہے سائل کا اس میں کوئی گناہ نہیں ہے لہذا بذریعہ درخواست استدعا ہے کہ سائل کو نوکری میں بحال کرنے کا حکم صادر فرما کر مشکور فرمائیں۔ سائل اور سائل کے گھر والے تاحیات دعا گو رہیں گے۔

آپکا تابعدار ایکس کنسٹیبل

1

کامران بیلٹ نمبری 1561/CCP

پشاور

Dated

22-12-2018

March 2015 14

GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL KHAYBER PAKHTUNKHWA
DISTRICT AG NWFP PESH
SR: 2 PAYROLL SYSTEM

PAYMENT ADVICE

P Sec: 006 Month: March 2015
PR4093--DDO--FOR--CAPITAL CITY POLI
Min: Home & Tribal Affairs
NTN:
GPF #:
Old #:

Pers #: 00698067 Buckle: 156
Name: KAMRAN
Dsg.: CONSTABLE
CNIC No: 1730159275183

DEPTT CODE

BPS GPF Interest Applied
05 Active Temporary

PR4093

PAYS AND ALLOWANCES:

1970-Adhoc Relief Allow 2011	501.00
2118-Adhoc Relief Allow (2012)	1,184.00
2148-15% Adhoc Relief All-2013	888.00
2168-Fixed Daily Allowance	2,730.00
2174-Adhoc Relief Allow-2014	592.00

Gross Pay and Allowances 23,316.00

DEDUCTIONS:

GPF Balance 11,255.00

Subrc:

Total Deductions

657.00

NET AMOUNT PAYABLE

22,659.00

QUALIFYING SERVICE	D.O.B
YRS MONTH	10.02.1993
03 Years 09 Months 019 Days	

LSP Quota:
Payment through DDO.

از دستورات

3 • "میزبان" DSP "میرا" ...

تاریخ کاغذ 1561 نفعی شرکتی مجموعہ

کاغذ

میرا

1/11/17

16

of office _____
 of _____
 of _____
 of _____
 of _____
 of _____
 of _____
 of _____
 of _____
 of _____

10-02-1993
 10-02-1993

10-02-1993

I hereby state that the
 information furnished to me
 is true and correct to the best
 of my knowledge and belief.
 I do not consider this as a
 legal proceeding to his own state
 of _____ 20 Year

DIRECTOR GENERAL
 FEDERAL BUREAU OF INVESTIGATION
 U.S. DEPARTMENT OF JUSTICE

LEFT HAND THUMB AND FINGER IMPRESSIONS



10-02-1993



OFFICE OF THE
SUPERINTENDENT OF POLICE
CITY DIVISION PESHAWAR

18

No. 5642 /PA, Dated Peshawar the 23-10-2018

To: The Superintendent of Police,
HQrs., Peshawar.

Subject: DEPARTMENTAL ENQUIRY AGAINST KAMRAN No. 1561 POSTED AT POLICE LINES PESHAWAR.

Kindly refer your office endst: No. 61/E/PA dated 03.04.2018 on the subject cited above.

BACKGROUND:

On receipt of reliable information that Constable Kamran No. 1561, who was enlisted in Frontier Reserve Police back in the year 2011 has not qualified the basic recruit course so far and was found allegedly to have committed the following misconduct. He was accordingly served with the charge sheet and summary of allegation. I was appointed as Enquiry Officer.

STATEMENT OF ALLEGATION:

"Constable Kamran No. 1561 posted at Police Lines Peshawar was enlisted in Police Department i.e. (FRP) in the year 2011 but failed to qualify the basic recruit training course as on his transfer to Police Lines Peshawar since 10.07.2013 he served as an unqualified member of the force and at different branches, which was against the norms of disciplined force and amounts to gross misconduct on his part.

PROCEEDINGS:

In reply to the charge sheet accused officer submitted his written reply.

STATEMENT OF ACCUSED OFFICIAL:

In his written statement he admitted to have been enlisted in the year 2011 in Police Department as Constable in (KPRP). He struggled time & again to attend the basic recruit course but in vain. He is waiting for the orders of seniors regarding selection for the recruit course. He will comply the orders as & when received. In order to know the reasons as to why the recruit was not sent for the basic recruit course, his service record was requisitioned. Surprisingly his service record was not traceable both in KPRP and Capital City Police.

Following witness were examined:-

PW-I:

Aslam Khan Senior Clerk I/C SRC branch KPRP/HQrs: disclosed that no record of Constable Kamran No. 963 is available.

EO:-

When was Kamran recruited and what about constabulary No. 963 allotted to him on enlistment?

Ans:

As per record dated 14.07.2011, name of Akhter Nawaz against constabulary No. 963 exists, who was then transferred to KPRP/Bannu on 13.12.2011. This number was later on allotted to Constable Ishtiaq Khan, who possess the same till date.

PW-II:- Muhammad Altaf Khan SI KPRP I/C Fauji Missal section deposed that constable Kamran No. 963 is not on our record since 2011. Hence, no question of Fuji Missal. He also produced the extract of record, which is Ex PW/2. Annex-"A"

PW-III:- Fazal-e-Maula, Senior Clerk, record keeper CRC, CCP stated that constable Kamran No. 963/KPRP/HQrs: was received on transfer during the year 2013 and was allotted No. 1561 but his service record and original Fauji Missal has not been received despite our letters. Hence no record is available with us till date.

Replying to a question by the EO, the witness deposed that constabulary No. 1561 was lying vacant since 2008 on the dismissal of Muhammad Shahzad.


FINDING/RECOMMENDATION:

The perusal of record/reveals that Kamran (the accused official) was shown enlisted in (FRP) during the year 2011 and was required to undertake the basic training (Recruit Course) in regular programme (whenever available) but he failed to join the training course for unknown reasons and hence did not qualify to be called as constable. He then maneuvered his transfer to Police Lines in regular cadre on 10.07.2013 against the spirit of SOP notified for the purpose that only a constable having 3-5 years service in KPRP could be considered for transfer in the regular force (order was issued by the DIG/HQrs: vide No. 8293-94/E-II dated 08.04.2013, which also seems as bogus one) complied with the statements of above mentioned witnesses. It further revealed that neither his service roll was prepared nor Fauji Missal could be found out in the KPRP (record). Only on this score he cannot be treated as constable of the Police Department and retained in service. He may therefore be dismissed from service forthwith.

It has further opened a Pandora box and the officers, of the following category i.e. OASI/Reserve Inspector and Pay officer of KPRP in the year 2011 and onward who were at the helm of affairs and involved in the scandal of fraudulent recruitment are equally liable for departmental proceedings as well as criminal act under section 420/468/471/109 PPC/5(2) PC Act as neither the service record was prepared nor kept in the office. The vacant constabulary number was utilized fraudulently in KPRP as well as Capital City Police and the Pay etc was deceitfully drawn and misappropriated by the accused Kamran with the collaboration of the responsible officers.

An enquiry committee may be constituted to find out the culprits in the offices of KPRP and CCP, who kept mum over this scandal and responsibility be fixed to proceed them departmentally and for the criminal act please.

Encl- 34-jun-13


(SHAHZADA KAUKAB FAROOQ)
SUPERINTENDENT OF POLICE
CITY DIVISION PESHAWAR

19

Handwritten signature and initials

OFFICE OF THE SUPERINTENDENT OF POLICE HQRS, CCP PESHAWAR

No. 53 /PA

Dt: 16/2/2018

SHOW CAUSE NOTICE

(Under Rule 5(3) KPK, Police rules 1975)

1. That you Constable Kamran No.1561 while posted at Police Lines have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for the following misconduct:

"It has allegedly been reported that you were enlisted in Police department (FRP) in the year 2011 but you failed to qualify the basic recruit training as yet and served whole service period in Police Lines (different branches) i.e from 10.07.2013 till date which is against the norms of discipline force."

2. That by reason of above, as sufficient material is placed before the undersigned, therefore is decided to proceed against you in general police proceeding without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the police force will amount to encourage in efficient and unbecoming of good police officer;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action you by awarding one or more of the kind punishments as provided in the rules.
6. 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.
7. 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.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.

Handwritten Urdu text: *ان کا عدل سو حاکم ہوں گا کی دفتر*

Handwritten signature and date: *26/2/18*

**SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR**

2825

(90)

Reg. No. 50
P. No. 52(2)

PR

(FORM NO. 12.28)

963

District Peshawar

CHARACTER AND SERVICE ROLL
OF

KAMRAN So GULAB KHAN

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20.	Medical History Sheet.	
21.	Leave Account of Constables and Head Constables.	
22.	Marking Sheet in connection with promotions to the Selection grade of Constables.	

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OFFICE
DISTRICT
DISTRICT

1	Name		Date of Birth		Place of Birth		Religion		Caste		Education		Date of Enrolment		Age at Enrolment		Enrolment Mark					
	KARRAN		1993		AFGHAN		CHITRA PAKISTAN		H		MAITHALI PESHAWAR		10-02-1993		5-4		34 X 352		18-06-2011		20	
2.	Verification Roll No.			Date			Reference back attached to the Form A/MSA															
3.	Government Service prior to present employment, which entitles for pension services																					
	Service or Department	Rank or Grade	Pay of last appointment	From	To	Period																
						Years	Month	Days														
4.	Cause of and character on discharge from above service		Very good			Reference to order approving above service for pension service in the Police Department																

Agreement: I understand that I have been appointed under section 7 of the Police Act (Vol 1951) and the purport of that section and the provision of the Act and of the Rules issued under it and now in force, by which my discipline and conduct are governed have been explained to me. I agree to serve faithfully under the provision of the said Police Act and to obey all lawful orders issued to me by my Superior Officers and under the provision to resign my appointment within three years from the date of my enrolment. I have received a certificate of appointment issued under section 8 of the Police Act (Vol 1951)

[Signature]
Signature

Date _____

5. Rolled impression of fingers and thumb of left hand.

Left Little	Left Ring	Left Middle	Left Index	Left Thumb

Mentioned in the order of the order	2. To what grade and pay appointed, promoted or reduced	3. Date	4. No. of District	5. For Superintending
	APPOINTED AS CONSTABLE BPS VIDE OB NO 539 DT 14-06-2011 VIDE PAY FIXED Rs 5400/-			
	Fixed as Const. In BPS No. 05 at Rs. 5400/- from 14-06-2011 SP/FR/PR			

26

ENLISTMENT ORDER

Mr. W. H. KHAN S/O A. ULAN KHAN
 R/O ...
 PS ...
 is hereby Enlisted as Constable (BPS-05) w.e.f. 14-06-2011
 and allotted Constabulary No. ...

Height ... Weight ...
 Education ... D/O/Birth ...
 Age on enrolment ... Years ... Months ... Days ...

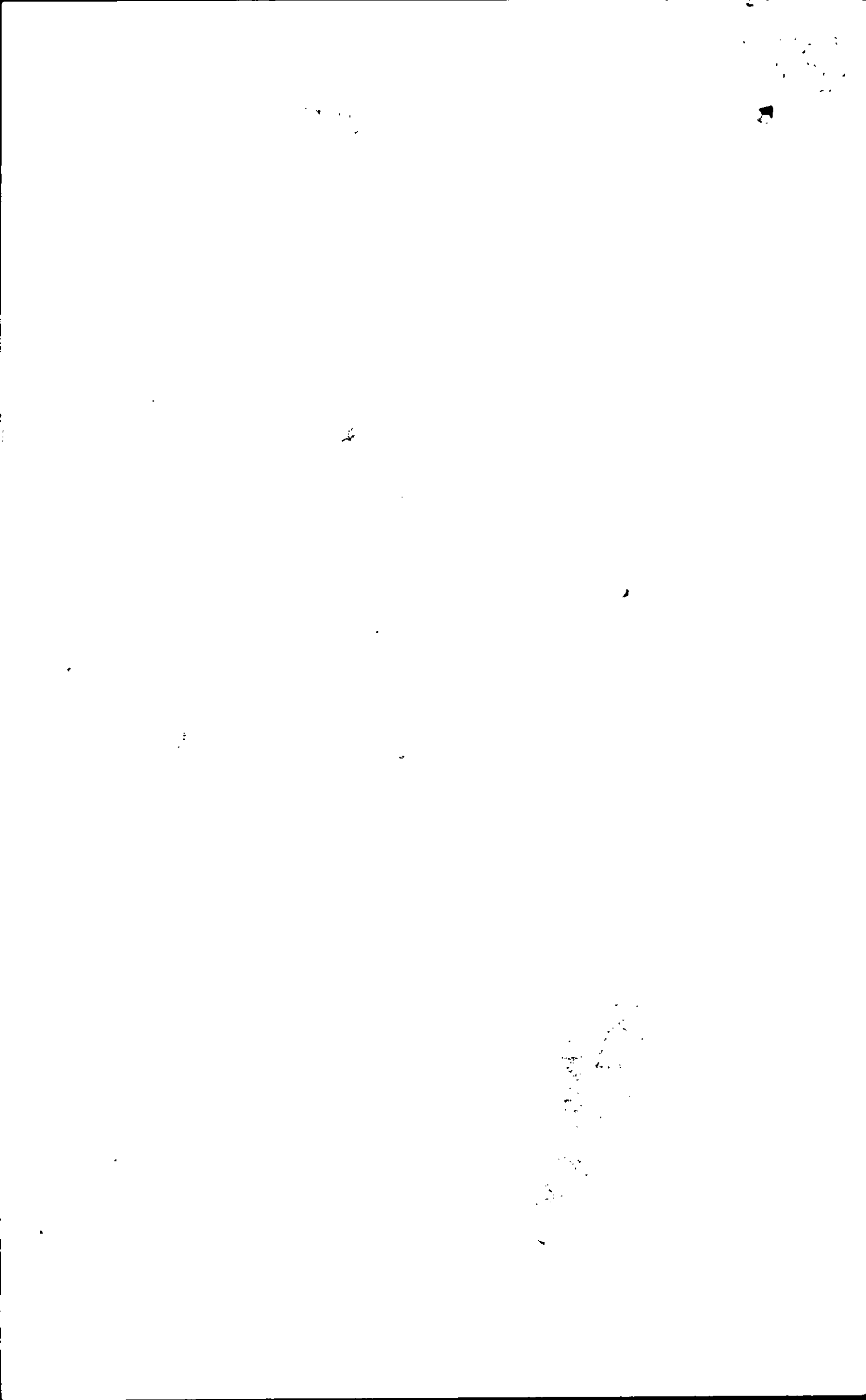
His Service is purely on temporary basis and liable for termination at any time without any notice.

[Signature]
 Superintendent of Police, FRP,
 Peshawar Range, Peshawar

OB No. ...
 Dated 14-06-2011

7. TRANSFERS BEYOND THE DISTRICT

2	3	3
---	---	---



DOCUMENT NUMBER

Transfer to COL/Peshawar via
J.P./J.P.H., Peshawar order number
no. 3293-94/E-II dt. 8-4-2013

Lt.

30-4-2013

AS ORDERED BY THE COMMANDANT

COMMANDANT

...

...

...

...

...

...

بعد الت موافقاً
مقام لیسٹا ورسروس ٹریڈنگ
آفس رطینول ۱۹۹۶ لیسٹا ورسروس



مورخہ
مقدمہ
دعویٰ
جرم

۲۰۱۹ء پنجاب

کامران

بنام

گورنمنٹ آف آج
لیسٹا ورسروس

باعث تحریر آنکہ

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

آن مقام لیسٹا ورسروس کیلئے حسب الترتیب و سہولت ایڈولڈر آف

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو جس ویسی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہونا یا عدالت سے باہر ہونا وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھنے یا کاسٹنڈ ہے۔

Attest
and accept

۶۶

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۲۰۱۹

ماہ فروری

الرقوم

اللہ اعلم
مقام لیسٹا ورسروس ٹریڈنگ آفس رطینول ۱۹۹۶ کے لئے منظور ہے۔ لیسٹا ورسروس

کامران ولہ گلاب خان سکینہ ڈسٹریکٹ ایڈولڈر
لیسٹا ورسروس

APPellant

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BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 210/2019.

Ex Constable Kamran No.1561Appellant

Versus

- 1- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
- 2- Capital City Police Officer, Peshawar.
- 3- Commandant Frontier Reserve Police KPK, Peshawar.....Respondents

Reply on behalf of Respondents No. 1, 2 and 3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

- 1- That the appellant has not come with clean hands to this Hon'ble Tribunal.
- 2- That the petition is not maintainable due to mis-joinder and non-joinder of necessary parties.
- 3- That the appeal is time barred.
- 4- That the appellant concealed material facts from the Honorable Tribunal.
- 5- That the appellant is estopped by his own conduct.
- 6- That the appellant has got no cause of action/locus standi.

FACTS:-

- 1- Para No.1 pertain to record, hence needs no comments.
- 2- Para No.2 is incorrect. The appellant shown was enlisted in FRP during the year 2011. The appellant was required to undergo basic recruit course but he failed to join recruit course. The appellant then maneuvered his transfer to CCP, Peshawar vide DIG/HQrs: order No. 8293-94/E-II dated 08.04.2013, which was also found by the enquiry officer as bogus. Neither his service roll and fauji missal was prepared nor found the same in the FRP record. During enquiry proceedings it came to surface that the appellant was enlisted in FRP through fraudulent manner. The concerned dealing hands involved in the fraudulent recruitment were properly dealt with departmentally and taken to task. (copy of FRP letter is annexure as "A")
- 3- Para No.3 is totally incorrect. The appellant was enlisted as a constable in (FRP) in the year 2011, but failed to qualify the basic recruit training.
- 4- Para No.4 is incorrect. Actually appellant was recruited as constable, and was required to undergo mandatory basic recruit training at Police Training Centre but he avoided to join the said course. Therefore enquiry against him was initiated which eventually after completion of laid down procedure was culminated in dismissal from service by the competent authority on its merits.
- 5- Para No.5 is totally incorrect. In fact the appellant was issued charge sheet and statement of allegations. SP/City was appointed as enquiry officer. The enquiry officer after through probe into the matter submitted findings wherein he recommended him

for major punishment. The appellant was issued Final Show Cause Notice and proper opportunity of self defence was provided to him. The appellant was also heard in person, but failed to rebut the charges, therefore he was awarded major punishment of dismissal from service.

- 6- Para is incorrect. The enquiry officer conducted detailed enquiry in accordance with law/rules. Proper opportunity of defense was provided to appellant. After completion of all legal/codal formalities he was awarded the major punishment.
- 7- Incorrect. Proper charge sheet and statement of allegations were issued to the appellant. Proper departmental enquiry was conducted purely on merit and in accordance with law/rules. The enquiry officer after detailed probe into the matter recommended him for major punishment. Proper opportunity of self-defense was provided to appellant, but the appellant failed to defend himself. After fulfilling all the codal formalities he was awarded major punishment. (Copy of charge sheet, statement of allegations, enquiry report and final show cause notice were annexed as B, C, D and E).
- 8- Para No.8 for the appellant to prove.
- 9- Para No.9 is incorrect. Proper charge sheet and statement of allegations were issued to appellant. Proper departmental enquiry was conducted and a final show cause notice was issued before passing the punishment order.
- 10- Para No.10 is incorrect. The appellant was treated as per law/rules. After fulfilling all legal formalities he was awarded major punishment of dismissal from service.
- 11- Para No.11 is incorrect. In fact the appellant filed departmental appeal, which was thoroughly processed and ample opportunity of hearing was provided to appellant by the appellate authority, but appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected/filed.


GROUND:-

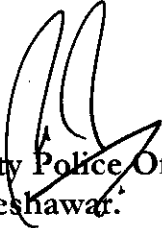
- A- Incorrect. The punishment order is just legal and has been passed in accordance with law/rules.
- B- Incorrect. The enquiry proceedings were initiated purely on merit and in accordance with law/rules. The appellant availed the opportunities of defense, but he could not prove himself innocent. The allegations were proved beyond any shadow of doubt.
- C- Incorrect. The appellant was associated in the enquiry proceedings and proper opportunity of defense was provided to appellant but he failed to defend the charges leveled against him.
- D- Incorrect. During the course of enquiry the appellant failed to rebut the charges and the enquiry officer conducted through probe into the matter, found the appellant guilty of the charges the charges levelled against were proved, hence he was awarded the major punishment.

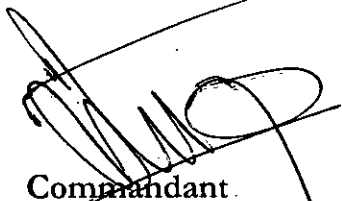
- E- Incorrect. The whole enquiry proceedings were initiated purely on merit and in accordance with law/rules.
- F- Incorrect. Proper departmental enquiry was conducted against him by a responsible police officer in accordance with law/rules.
- G- Incorrect. The appellant was treated as per law/rules.
- H- Incorrect. The allegations leveled against him were stood proved, hence he was awarded major punishment.
- I- Incorrect. The appellant was treated as per law/rules.
- J- That respondent may also be allowed to advance any additional ground at the time of hearing of the appeal.

PRAYER.

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Commandant
Frontier Reserved Police,
Khyber Pakhtunkhwa, Peshawar.

BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 210/2019.


Ex Constable Kamran No.1561Appellant


Versus

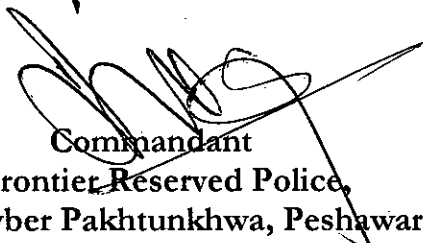
- 1- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
- 2- Capital City Police Officer, Peshawar.
- 3- Commandant Frontier Reserve Police KPK, Peshawar.....Respondents

AFFIDAVIT

We respondents No. 1,2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


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


**Capital City Police Officer,
Peshawar.**


**Commandant
Frontier Reserved Police,
Khyber Pakhtunkhwa, Peshawar.**

15

11

OFFICE OF THE
COMMANDANT
FRONTIER RESERVE POLICE
KHYBER PAKHTUNKHWA, PESHAWAR
Email: comdtfrpofficial@gmail.com
Ph: No. 091-9214114 Fax No. 091-9212602

No. 5722/SRC, dated 17/4 /2018.

To: - The Capital City Police Officer,
Peshawar.

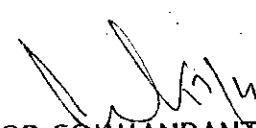
Subject: - SERVICE RECORD.

Memo: -

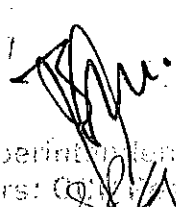
16

FA/HQrs No. 2109
Date: 18/4/18

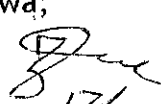
Please refer to your letter No. 578/PA/SP/HQ, dated 21.02.2018.
It is communicated that Constable Kamran No. 963-FRP/1561 is
not on the Roll of this establishment.


FOR COMMANDANT,
Frontier Reserve Police,
Khyber Pakhtunkhwa,
Peshawar.

SP/city (E.O)
For n/a WIR No. 61/PA
dt. 03/4/2018


Superintendent of Police
HQrs: Capital City Peshawar.

18/4/18


17/04/18

3
5

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Kamran No.1561 of Capital City Police Peshawar with the following irregularities.


"That you Constable Kamran No.1561 while posted at Police Lines Peshawar was enlisted as Constable in Police Department (FRP) in the year 2011 but he failed to qualify the basic recruit training as yet and served whole service in Police Lines (different branches) i.e 10.07.2013 till date which is against the norms of discipline force".

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Kamran No.1561 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That you Constable Kamran No.1561 while posted at Police Lines Peshawar was enlisted as Constable in Police Department (FRP) in the year 2011 but ~~he~~ failed to qualify the basic recruit training as yet and served whole service in Police Lines (different branches) i.e 10.07.2013 till date which is against the norms of discipline force ". This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and SP City Kausar Farooq is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

[Signature]
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 61 /E/PA, dated Peshawar the 03/04 /2018

1 SP City Jb is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

Received

[Signature]
22-6-2018

PA
Call the accused
Official *[Signature]*
SUPERINTENDENT OF POLICE
CITY DIVISION CCP PESHAWAR



OFFICE OF THE
SUPERINTENDENT OF POLICE
CITY DIVISION PESHAWAR

No. 5642 /PA, Dated Peshawar the 23-10-2018

To: The Superintendent of Police,
HQrs:, Peshawar.

Subject: **DEPARTMENTAL ENQUIRY AGAINST KAMRAN No. 1561 POSTED AT POLICE LINES PESHAWAR.**

Kindly refer your office endst: No. 61/E/PA dated 03.04.2018 on the subject cited above.

BACKGROUND:

On receipt of reliable information that Constable Kamran No. 1561, who was enlisted in Frontier Reserve Police back in the year 2011 has not qualified the basic recruit course so far and was found allegedly to have committed the following misconduct. He was accordingly served with the charge sheet and summary of allegation. I was appointed as Enquiry Officer..

STATEMENT OF ALLEGATION:

"Constable Kamran No. 1561 posted at Police Lines Peshawar was enlisted in Police Department i.e. (FRP) in the year 2011 but failed to qualify the basic recruit training course as yet, on his transfer to Police Lines Peshawar **since 10.07.2013 he served as an unqualified member of the force and at different branches**, which was against the norms of disciplined force and amounts to gross misconduct on his part.

PROCEEDINGS:

In reply to the charge sheet accused officer submitted his written reply.

STATEMENT OF ACCUSED OFFICIAL:

In his written statement he admitted to have been enlisted in the year 2011 in Police Department as Constable in (KPRP). He struggled time & again to attend the basic recruit course but in vain. He is waiting for the orders of seniors regarding selection for the recruit course. He will comply the orders as & when received. In order to know the reasons as to why the recruit was not sent for the basic recruit course, his service record was requisitioned. Surprisingly his service record was not traceable both in KPRP and Capital City Police.

Following witness were examined:-

PW-I:-

Aslam Khan Senior Clerk I/C SRC branch KPRP/HQrs: disclosed that no record of Kamran No. 963 is available.

EO:-

When was Kamran recruited and what about constabulary No. 963 allotted to him on enlistment ?

Ans:

As per record dated 14.07.2011, name of Akhter Nawaz against constabulary No. 963 exists, who was then transferred to KPRP/Bannu on 13.12.2011. This number was later on allotted to Constable Ishtiaq Khan, who possess the same till date.

PW-II:- Muhammad Altaf Khan SI KPRP I/C Fauji Missal section deposed that constable Kamran No. 963 is not on our record since 2011. Hence, no question of Fuji Missal. He also produced the extract of record, which is Ex PW/2. Annex-"A"

PW-III:- Fazal-e-Maula, Senior Clerk, record keeper CRC, CCP stated that constable Kamran No. 963/KPRP/HQrs: was received on transfer during the year 2013 and was allotted No. 1561 but his service record and original Fauji Missal has not been received despite our letters. Hence no record is available with us till date.

Replying to a question by the EO, the witness deposed that constabulary No. 1561 was lying vacant since 2008 on the dismissal of Muhammad Shahzad.


FINDING/RECOMMENDATION:

The perusal of record/reveals that Kamran (the accused official) was shown enlisted in (FRP) during the year 2011 and was required to undertake the basic training (Recruit Course) in regular programme (whenever available) but he failed to join the training course for unknown reasons and hence did not qualify to be called as constable. He then maneuvered his transfer to Police Lines in regular cadre on 10.07.2013 against the spirit of SOP notified for the purpose that only a constable having 3-5 years service in KPRP could be considered for transfer in the regular force (order was issued by the DIG/HQrs: vide No. 8293-94/E-II dated 08.04.2013, which also seems as bogus one) complied with the statements of above mentioned witnesses. It further revealed that neither his service roll was prepared nor Fauji Missal could be found out in the KPRP (record). Only on this score he cannot be treated as constable of the Police Department and retained in service. **He may therefore be dismissed from service forthwith.**

It has further opened a Pandora box and the officers, of the following category i.e. OASI/Reserve Inspector and Pay officer of KPRP in the year 2011 and onward who were at the helm of affairs and involved in the scandal of fraudulent recruitment are equally liable for departmental proceedings as well as criminal act under section 420/468/471/109 PPC/5(2) PC Act as neither the service record was prepared nor kept in the office. The vacant constabulary number was utilized fraudulently in KPRP as well as Capital City Police and the Pay etc was deceitfully drawn and misappropriated by the accused Kamran with the collaboration of the responsible officers.

An enquiry committee may be constituted to find out the culprits in the offices of KPRP and CCP, who kept mum over this scandal and responsibility be fixed to proceed them departmentally and for the criminal act please.

Encl 34-jan-13


(SHAHZADA KAUKAB FAROOQ)
SUPERINTENDENT OF POLICE
CITY DIVISION PESHAWAR

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OFFICE OF THE SUPERINTENDENT OF POLICE HQRS, CCP PESHAWAR

No. 53 /PA

Dt: 16/2/2018

2

SHOW CAUSE NOTICE

(Under Rule 5(3) KPK, Police rules 1975)

1. That you Constable Kamran No.1561 while posted at Police Lines have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for the following misconduct:
"It has allegedly been reported that you were enlisted in Police department (FRP) in the year 2011 but you failed to qualify the basic recruit training as yet and served whole service period in Police Lines (different branches) i.e from 10.07.2013 till date which is against the norms of discipline force."
2. That by reason of above, as sufficient material is placed before the undersigned, therefore is decided to proceed against you in general police proceeding without aid of enquiry officer.
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the police force will amount to encourage in efficient and unbecoming of good police officer;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action you by awarding one or more of the kind punishments as provided in the rules.
6. 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.
7. 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.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.

26/2/18

SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR