

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR AT  
CAMP COURT ABBOTTABAD.**

**Service Appeal No. 224/2019**

Date of Institution ... 19.02.2019

Date of Decision ... 19.11.2020

Nasir son of Sabir Khan, Ex-Constable No. 1421,  
Resident of Sultanpur, Tehsil & District Abbottabad.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa, through Secretary Home and  
Tribunal Affairs, Khyber Pakhtunkhwa, Peshawar and four other  
respondents.

... (Respondents)

MR. QAZI SHERAZ,  
Advocate

-----  
--- For appellant.

MR. RIAZ AHMAD PAINDAKHEIL,  
Assistant Advocate General

--- For respondents.

**MUHAMMAD JAMAL KHAN  
MIAN MUHAMMAD**

--- **MEMBER (Judicial)**  
--- **MEMBER (Executive)**

**JUDGEMENT:**

**MUHAMMAD JAMAL KHAN, MEMBER:-** This service appeal  
has been directed against the impugned order bearing No. 4874/PA  
dated 09.10.2018 passed by Regional Police Officer Hazara Range,  
Abbottabad, vide which the order passed by respondent No. 4  
bearing No. 1524-26/PA dated 30.04.2018 on the basis of inquiry  
conducted by DSP (Inquiry Officer) Abbottabad, was confirmed, the  
various of which has been challenged to be illegal, unjust, arbitrary,  
converse to the principles of natural justice and against the principles  
of law as enunciated in the principle laid down in the legal maxim,  
Audi alteram partem.

2. That on induction in to Police Services on 01.01.2009, he performed his duty and during the course of performing duty at Police Line Abbottabad, he gained unconsciousness on 22.11.2017. He was retrieved by family members who carried him to home and commenced his homeopathic treatment. That he belonged to a poor family of illiterates. That he gradually recovered and he was not in a position to inform the department having no male family member who could communicate that information to the department.


3. Departmental proceedings were initiated when the District Police Officer appointed respondent No. 5 as inquiry officer accompanied with charge sheet which he duly replied. However, the inquiry officer did not ponder over the reply while looking at the merits of the matter. He was issued a final show-cause notice on the strength of a biased inquiry on 21.03.2018, proposing certain grounds of action. He submitted his reply to the show-cause notice however, respondent No. 4 made the order of dismissal from service of appellant vide order dated 30.04.2018. The appeal made to respondent no. 3 (Regional Police Officer Hazara Range at Abbottabad) ended in failure who have just reproduced the impugned order by a stamp of accreditation without conscious application of mind. The representation made to Inspector General of Police Khyber Pakhtunkhwa, Peshawar, did not result in any positive decision in his favour by simply endorsing the order made earlier vide the order of the aforesaid authority dated 10.01.2019. The varies of all the impugned orders have been challenged to be against the principles of natural justice, without lawful justification thus are liable to be set-aside.

4. Respondents were summoned and they attended the Services Tribunal through their legally authorized representative and contested the appeal by raising of legal and factual objections such as cause of action, not coming to the Tribunal with clean hand, miss and non-joinder of unnecessary and necessary parties respectively and estoppel etc.

5. We have heard arguments of the learned counsel for appellant as well as learned Assistant Advocate General and perused the record with their valuable assistance.

6. Learned counsel for the appellant submitted that ex-parte action was taken against appellant as no notice was issued to him during the course of inquiry proceedings. That the days during which the inquiry proceedings were in progress, have been reckoned as absence period. The inquiry made at most could be declared as fact finding without holding of regular inquiry, the inquiry so made is biased and the element of malafide cannot be ruled out. Appellant was suffering from certain maladies and his mother was also suffering from certain diseases preventing him to have timely recourse to the authority concerned for the purpose.

7. On the other hand, the learned Assistant Advocate General for the respondents submitted that during the course of his long absence appellant was neither able to move a single application to the authority regarding his illness nor such application has been enclosed with the condonation application which do not delineate any impediment to have restrained him for a timely recourse to the authorities. He has just put forth lame excuses in the very application seeking condonation. As regards observing of codal formalities in this connection he referred to para-6 of appeal, the detail facts have been narrated therein explicitly, that during his tenure in service, appellant has earned multiple bad entries in service, therefore, he was rightly proceeded against by the department.



8. It is evident on record that on being recorded absent for a considerable period of time, departmental proceedings were initiated, charge sheet was framed followed by appointment of inquiry officer, who commenced inquiry proceedings, during the course of which he was provided with an opportunity to produce any supporting documents legally justifying his absence from duty but he deliberately did not appear before the inquiry officer. It was incumbent upon the appellant to have revealed, the credible source of evidence proving his assertions that his movement was restricted

to the bed due to catchment of a disease from which he purportedly suffered which questions his credulity and concomitantly. This has impaired his credibility. Had his claim contained an element of truth he would have been in possession of scores of credible evidence on the subject, however, the case was otherwise. The record reveals that appellant remained absent from 22.11.2017 to 26.01.2018 tantamounting to 154 days besides remaining absent till the passage of the order dated 30.04.2018 long absence without reasonable justification would definitely expose the violator to appropriate legal action, while keeping in view his date of appointment into service he must be aware of the fact as to how ordinary leave or medical leave is obtained and must be conversant with the mode and modalities set by the law and rules on the subject. It is also available on record that in the short span of service he earned multiple adverse entries particularly about his absence meaning thereby that it was in the habit of appellant to remain absent. As regards malice and biased proceedings appellant was under legal obligations to have proved the same but he failed to corroborate his assertions.

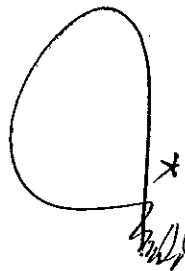
9. Appellant failed to substantiate that there was a genuine need for conducting of de-novo inquiry whether there was any need for doing so despite the fact that the codal formalities as envisaged by the law on the subject have been complied with? The outright response in this regard would be in the big No. Coming to the question of availability of medical facilities. Infact it is no ground viable enough to be agitated in the very appeal. There is a full fledged Services and Police Hospital at the provincial metropolis where the required treatment can be obtained on consulting the doctors or the staff of the hospital. Curious antiquarians of law are well aware of the golden principles laid down in the maxim *audire alteram partem* which means affording one a chance of audience, in this regard his attendance was requisitioned however, with no appropriate response at all in this regard, especially when he had due notice that punitive measures have been initiated against him, he utterly failed to bring home the very oft repeated assertions that his

attendance was not procured for giving him a fair chance of a conference, when he himself lost that precious occasion how he can level a blame on other, it means that having no viable defense he has attempted in vain, to take refuge and shelter behind the referred to principles. He must not be the looser of that right of audience at his own hand.

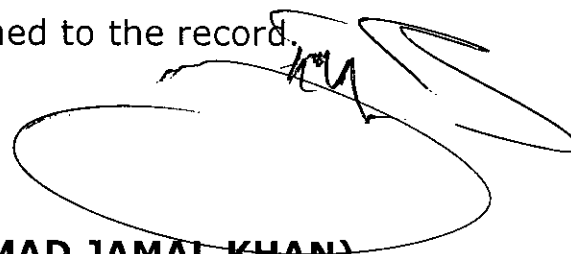
10. While adverting to the question of limitation appellant was dismissed from service by virtue of the order dated 30.04.2018 his departmental appeal/representation was decided on 09.10.2018 whereas his revision petition submitted under Rule-11-A of Khyber Pakhtunkhwa Police Rules, 1975, (amended in 2014) was disposed of on 10.01.2019 which was dismissed inter-alia on one of the ground of limitation whereas he has moved service appeal on 19.02.2019 which is time barred by considerable period of time, under section-5 of the Limitation Act, 1908. He was required to have explained the delay of each day by providing of sufficient cause but he failed to substantiate his averments in this regard. The delay is not of few days while looking at the first impugned order passed on 30.04.2018 and to the date of institution of appeal i.e 19.02.2019, therefore, the appeal is hopelessly time barred.

11. The upshot of what has been discussed above is that this appeal is devoid of any substance which stands dismissed. Parties are left to bear their own costs. File be consigned to the record.

**ANNOUNCED**  
**19.11.2020**

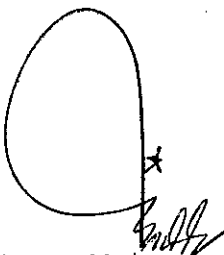
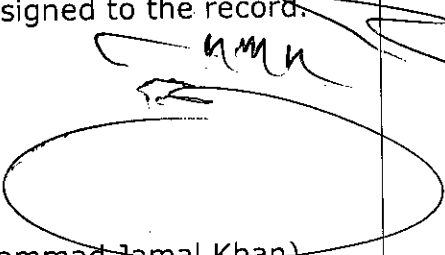


**(MIAN MUHAMMAD)**  
**MEMBER (EXECUTIVE)**  
**CAMP COURT ABBOTTABAD**



**(MUHAMMAD JAMAL KHAN)**  
**MEMBER (JUDICIAL)**  
**CAMP COURT ABBOTTABAD**

Service Appeal No. 224/2019

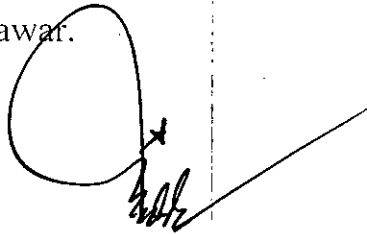
S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	19.11.2020	<p><u>Present.</u></p> <p>Mr. Qazi Sheraz, ... For appellant Advocate</p> <p>Mr. Riaz Ahmad Paindakheil, ... For respondents Assistant Advocate General</p> <p>Vide our detailed judgment of today, this appeal is devoid of any substance which stands dismissed. Parties are left to bear their own costs. File be consigned to the record.</p> <p><u>ANNOUNCED</u> 19.11.2020</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">               (Mian Muhammad)              Member (Executive)              Camp Court, Abbottabad         </div> <div style="text-align: center;">               (Muhammad Jamal Khan)              Member (Judicial)              Camp Court, Abbottabad.         </div> </div>

16.09.2020

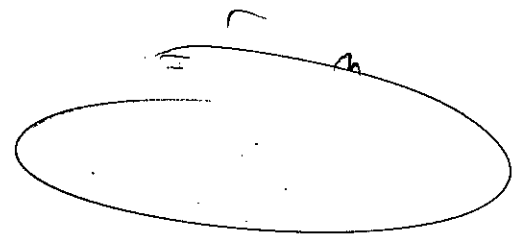
Appellant has not forth come despite making of repeated calls at different interval and the last call in this regard was made on 12:25 PM. Mr. Usman Ghani, District Attorney for respondents present.

The last two adjournments were made on the basis of note<sup>by</sup> Reader due to spread of disease of Covid-19, therefore, in the circumstances we deemed it appropriate to issue notice to the appellant as well as his respective counsel.

Adjourned to 19.11.2020 for arguments before D.B at Peshawar.



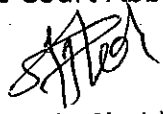
(Mian Muhammad)  
Member(E)



(Muhammad Jamal)  
Member  
Camp Court A/Abad

16.12.2019

Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present. Appellant requested for adjournment on the ground that his counsel is ill and cannot attend the Tribunal today. Adjourned to 23.01.2020 for rejoinder and arguments before D.B at Camp Court Abbottabad.



(Hussain Shah)  
Member  
Camp Court Abbottabad



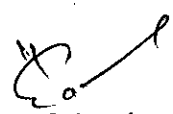
(M. Amin Khan Kundi)  
Member  
Camp Court Abbottabad

23.01.2020

Appellant in person present. Mr. Muhammad Jan, DDA for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings on 20.02.2020 before D.B at camp court Abbottabad.



Member



Member  
Camp Court A/Abad

Due to covid ,19 case to come up for the same on / /  
at camp court abbottabad.

Reader


Due to summer vacation case to come up for the same on  
16 / 9 / 20 at camp court abbottabad.





19.09.2019

Counsel for the appellant present. Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present and submitted para-wise comments on behalf of respondents No. 1 to 5 which is placed on record. Case to come up for rejoinder and arguments on 24.10.2019 before D.B at Camp Court Abbottabad.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

24.10.2019

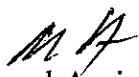
Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Shamriaz Khan, ASI for respondents present. Learned counsel for the appellant seeks time to submit rejoinder. Adjourn. To come up for rejoinder and arguments on 16.12.2019 before D.B at Camp Court, Abbottabad.

  
Member

  
Member  
Camp Court Abbottabad

24.05.2019

Counsel for the appellant present and requested for adjournment. Adjourned to 21.06.2019 for preliminary hearing before S.B at Camp Court Abbottabad.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

21.06.2019

Counsel for the appellant present.

Contends that the impugned order of dismissal from service passed against the appellant on 26.04.2019 was a result of summary proceedings. Regular/proper enquiry was not conducted nor the appellant was provided with opportunity to defend his cause. In case where major penalty is imposed upon a civil servant regular enquiry is all the more necessitated.

In view of the above, the appeal in hand is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 22.08.2019 before S.B at camp court, Abbottabad.


Appellant Deposited  
Security & Process Fee

28/6/19

  
Chairman  
Camp Court, A/Abad

22.08.2019



Appellant in person present. Written reply not submitted. Shamrez ASI Legal representative of the respondent department present and requested for time to furnish written reply/comments. Granted. To come up for written reply/comments on 19.09.2019 before S.B at Camp Court Abbottabad.

  
Member  
Camp Court A/Abad

Form- A  
FORM OF ORDER SHEET

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

Case No. 224/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/2/2019	<p>The appeal of Mr. Nasir presented today by Qazi Sheraz Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 19/2/19</p>
2-	28-2-19	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>24-05-2019</u></p> <p> CHAIRMAN</p>

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Appeal No. 224 /2019

Nasir son of Sabir Khan, Ex-constable No. 1421, resident of Sultanpur, Tehsil & District Abbottabad.

... APPELLANT

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Secretary Home and Tribunal Affairs, KPK, Peshawar & Others.

...RESPONDENTS

**APPEAL**

**INDEX**

S. No.	Description	Page No.	Annexure
1.	Memo of Appeal alongwith affidavit	1 to 8	
2.	Application for condonation of delay	9	
3.	Copy of order	10	"A"
4.	Copy of charge sheet	11 to 12	"B"
5.	Copy of reply	12	"C"
6.	Copy of show cause notice & grounds of action	13 to 14	"D" & "E"
7.	Copy of reply of show cause notice	15	"F"
8.	Copy of order	16	"G"
9.	Copy of appeal & order	17	"H" & "I"
10.	Copy of representation & order	18 to 19	"J" & "K"
11.	Wakalatanama	20	

Dated: 14/12 /2019

Through



(QAZI SHERAZ)

Advocate High Court Abbottabad

  
.... APPELLANT

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Appeal No. 224 /2019

Nasir son of Sabir Khan, Ex-constable No. 1421, resident of Sultanpur, Tehsil & District Abbottabad.

... APPELLANT

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 199

Dated 19-2-19

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home and Tribunal Affairs, KPK, Peshawar.
2. Inspector General of Police, KPK, Peshawar.
3. Regional Police Officer, Hazara Range. *A. Abad*
4. District Police Officer, Abbottabad.
5. DSP Mr. Ishtiaq Ahmad, Inquiry Officer. *ABBOTTABAD P/S cantt*

...RESPONDENTS

**Filed to-day**  
*19/2/19*  
**Registrar**

APPEAL UNDER SECTION 4 KPK SERVICE TRIBUNAL ACT, 1974, FOR THE DECLARATION TO EFFECT THAT THE ORDER NO. 84 DATED 10/01/2019 PASSED BY RESPONDENT NO. 2 THROUGH WHICH APPEAL FILED BY THE PETITIONER FOR REINSTATEMENT WAS DISMISSED AND DISMISSAL FROM SERVICE ORDER NO. 4874/PA DATED 09/10/2018 PASSED BY RESPONDENT NO. 3 VIDE WHICH ORDER PASSED BY RESPONDENT NO. 4 ORDER NO. 1524-26/PA DATED 30/04/2018 ON THE BASIS OF INQUIRY CONDUCTED BY RESPONDENT NO.5

IS CONFIRMED IS ILLEGAL, UNJUST, ARBITRARY, AGAINST THE PRINCIPLES OF NATURAL JUSTICE AND AGAINST THE COMMON AND KNOWN PRINCIPLE OF LAW THAT "AUDI ALTREM PALTREM, HENCE LIABLE TO BE SET ASIDE.

---

**PRAYER:** ON ACCEPTANCE OF INSTANT APPEAL, IMPUGNED DISMISSAL FROM SERVICE ORDER NO. 1524-26/PA DATED 30/04/2018 BY THE RESPONDENT NO. 4 ON THE BASIS OF THAT ORDER NO. 4874 DATED 09/10/2018 ISSUED BY RESPONDENT NO. 3, AND ORDER NO. 84 DATED 10/01/2019 BE SET ASIDE AND RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT FROM THE DATE OF DISMISSAL FROM SERVICE WITH ALL SERVICE BACK BENEFITS AND ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEM FIT AND PROPER.

---

Respectfully Sheweth:-

This appeal mainly proceeds on bellow stated factual and legal grounds.

1. That the appellant joined the police service as constable on 01/01/2009. ~~Copy of order is annexed~~

~~Annexure~~

2. That during the service appellant performed his duties honestly, diligently and efficiently.
3. That while performing awarded routine duties appellant also successfully qualified many courses.
4. That the petitioner is the only bread earner and care take of the family.
5. That on 22/11/2017, appellant at police line Abbottabad suddenly got unconsciousness where the family member took me to home and started homeopathical remedy, as petitioner belong to poor and illiterate family, appellant gradually got recovered as appellant was not in the position to inform the department and in the lake of any family member who could inform the department. Document would be presented at the time of arguments.
6. That through order No.89 dated 14/02/2018 respondent No.4 started disciplinary action and respondent No.5 was appointed as inquiry officer with issuance of

charge sheet. Copy of disciplinary action is annexed as Annexure "A", charge sheet is annexed as Annexure "B".

7. That in response to charge sheet appellant duly filed reply on within week but inquiry officer did not took into consideration the reply of appellant, and had not inquired the matter on merit. Copy of reply is annexed as Annexure "C".
8. That on the basis of biased inquiry final show cause notice No.213 dated 21/03/2018 was given alongwith grounds of action. Copy of show cause notice is annexed as Annexure "D". grounds of action is annexed as Annexure "E".
9. That appellant duly replied to show cause notice. Copy of reply of show cause notice is annexed as Annexure "F".
10. That on the basis of inquiry respondent No. 4 report through order No.1524-26/PA dated 30/04/2018 announced the order of dismissal from service of appellant. Copy of order is annexed as Annexure "G".



11. That appellant made appeal to respondent No.3 but who have reproduce the impugned order with stamp of confirmation without look into the matter through order No.4874 dated 09/10/2018. Copy of appeal is annexed as Annexure "H" and order is annexed as Annexure "I".
12. That being aggrieved appellant have to made representation to respondent No.2 but again without using any brain and logic dismissal order was reconfirmed through order No.84 dated 10/01/2019. Copy of representation is annexed as Annexure "J" & order is annexed as Annexure "K".
13. That the order No. 84 dated 10/01/2019 by respondent No. 2, and order No. 4874 dated 09/10/2018 and order No. 1524-26/PA dated 30/04/2018 are illegal, void, discriminatory, against the natural justice and without lawful justification and liable to be set aside hence, the instant appeal is filed inter-alia on the following grounds:-

**GROUNDS;**

- (a) That no inquiry as provided by law and principles of natural justice is being conducted in the petitioner's matter which is only and

enough ground for declaring whole proceedings void ab-initio.

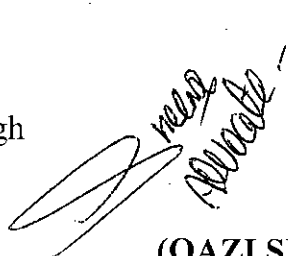
- (b) That the petitioner who have served for 11 precious years in department, have not been heard properly so condemned unheard.
- (c) That it is the basic obligation on department to provide health facilities to petitioner and family, rather then department have ordered the dismissal from service of the 11 years servant, who is only bread earner and care taker of the family.
- (d) That the appellant, tenure of service is satisfactory and always uplifted the norms of department and hard worked for establishment of writ of state.
- (e) That the appellant case basically sheer example of the principle "Audi Aultrm Putrum".
- (f) That the tenure of the absence is wrongly calculated just to made the case most worse.
- (g) That as the appellate authority respondents No.2 and 3 could make order of de-novo inquiry but they both used their offices as a rubber stamp.

- (h) That as appellant belongs to police force who normally remained full time on service should not be treated alike.
- (i) That the other points shall be argued at the time of arguments with the kind permission of this Honourable Court Tribunal Court.

It is, therefore, humbly prayed that on acceptance of instant appeal, impugned dismissal from service order No. 1524-26/PA dated 30/04/2018 by the respondent No. 4 on the basis of that order No. 4874 dated 09/10/2018 issued by respondent No. 3, and order No. 84 dated 10/01/2019 be set aside and respondents may be directed to reinstate the appellant from the date of dismissal from service with all service back benefits and any other relief which this Honourable court deem fit and proper.

Dated: 14/2 /2019

Through



(QAZI SHERAZ)

Advocate High Court Abbottabad

  
.... APPELLANT

**VERIFICATION**

Verified that the contents of the foregoing appeal are true and correct and nothing has been suppressed from this Honourable Court.

Dated: 14/2 /2019

  
....APPELLANT

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Appeal No. \_\_\_\_\_/2019

Nasir son of Sabir Khan, Ex-constable No. 1421, resident of Sultanpur, Tehsil & District Abbottabad.

... APPELLANT

VERSUS

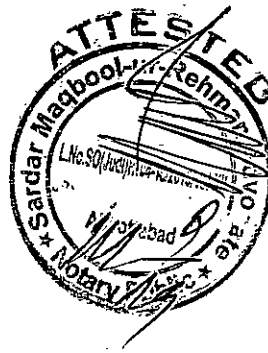
Govt. of Khyber Pakhtunkhwa through Secretary Home and Tribunal Affairs, KPK, Peshawar & Others.

...RESPONDENTS

**APPEAL**

**AFFIDAVIT**

I, Nasir son of Sabir Khan, Ex-constable No. 1421, resident of Sultanpur, Tehsil & District Abbottabad, do hereby declare on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Tribunal.



*Nasir*  
DEPONENT

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Appeal No: \_\_\_\_\_/2019

Nasir son of Sabir Khan, Ex-constable No. 1421, resident of Sultanpur, Tehsil & District Abbottabad.

... APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Home and Tribunal Affairs, KPK, Peshawar & Others.

...RESPONDENTS

**APPEAL**

**APPLICATION FOR CONDONATION OF DELAY.**

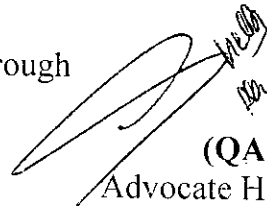
Respectfully Sheweth;-

1. That the appeal in hand is going to be filed before this Honourable Tribunal.
2. That the appellant could not arrange the copies in time, as appellant is not yet fully recovered from the illness, hence instant appeal is filed with the delay of three days.
3. That delay is not intentional but due to unavoidable circumstances, so instant application is being annexed, precious rights are involved.

It is humbly request that delay of three days be condoned in appeal.

Dated: 14/12 /2019

Through



(QAZI SHERAZ)

Advocate High Court Abbottabad



.... APPELLANT

(10)

Annexed A

1421

*[Handwritten initials]*

**ORDER**

This office order will dispose of the departmental enquiry against FC Nasir No. 1421 Police Lines Abbottabad. He while posted Police Lines Abbottabad absented himself vide Daily Diary No. 26, dated 22-11-2017 to 26-04-2018 (154 days) and are still absent without any leave of permission.

He was issued Charge Sheet along with statement of allegations. Mr. Muhammad Ishtaiq, DSP Cantt., Abbottabad was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. He was provided ample opportunity to defend himself and rebut the allegations leveled against him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations have been proved. Consequently he was issued Final Show Cause Notice. He was summoned to appear in Orderly Room on 26-04-2018 but he failed to appear in Orderly Room.

Therefore, in exercise of the powers vested in the undersigned under of Police Disciplinary Rules-1975, I, Syed Ashfaq Anwar PSP, District Police Officer Abbottabad as a competent authority, am constrained to award him the punishment of **Dismissal from service** with immediate effect.

Order announced.

OB No. 132  
26-04-18

*[Signature]*  
District Police Officer  
Abbottabad  
*[Signature]*

No. 24-26/PA 30-04-18

CC.

Establishment Assistant.

Pay Officer, DPO Office Abbottabad.

OASI DPO Office alongwith complete Enquiry File containing

21 pages for completion of record.

\*\*\*\*\*

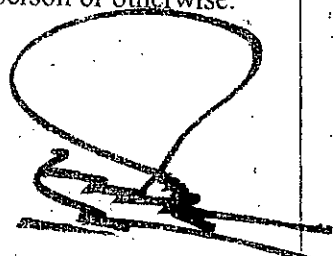
Attested  
Nasir  
1421

(11)

Annexes Bn

CHARGE SHEET

- 1). I Syed Ashfaq Anwar (PSP) District Police Officer Abbottabad as competent authority hereby charge you Constable Nasir No. 1421, Police Lines Abbottabad, as explained in the attached statement of allegations.
- 2). You appear to be guilty of misconduct under Police disciplinary Rules 1975, and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.
- 3). You are therefore, directed to submit your written defense within seven days on the receipt of this Charge Sheet in the Enquiry Officer.
- 4). Your written defense, if any shall reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
- 5). Intimate whether you desire to be heard in person or otherwise.
- 6). A statement of allegations is enclosed.

  
SYED ASHFAQ ANWAR (PSP)  
District Police Officer  
Abbottabad

a/

Attested

Nasir  
Khan  
11/1



DISCIPLINARY ACTION

I Syed Ashfaq Anwar (PSP) District Police Officer Abbottabad as Competent Authority of the opinion that you Constable Nasir No. 1421, Police Lines Abbottabad, rendered yourself liable to be proceeded against as you committed the following act/omission within the meaning of Police Disciplinary Rules 1975.

STATEMENT OF THE ALLEGATIONS

- 1). You while posted Police Lines Abbottabad absented yourself vide Daily Diary No. 26, dated 22-11-2017 and are still absent without any leave or permission.
- 2). For the purpose of scrutinizing your conduct with reference to the above allegations, Mr. Ishtaiq Ahmed DSP Cantt is appointed as Enquiry Officer.
- 3). The Enquiry Officer shall in accordance with the provision of this ordinance, provide reasonable opportunity of hearing to the accused, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action the accused.
- 4). The accused a well conversant representative of departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer.

**SYED ASHFAQ ANWAR (PSP)**  
**District Police Officer**  
**Abbottabad**

No: 89 /PA, Dated Abbottabad the 14 10 2018.

CC:

1. Constable Nasir No. 1421, Police Lines Abbottabad, with the direction to submit his defense within 07 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer of the date, time and place fixed for the purpose of departmental proceedings.

\*\*\*\*\*

Attested  
Nasir  
14/10/18



جواب چارج شیت جناب کپٹن صاحب علی 1421 پولیس ڈپارٹمنٹ

نڈیت جناب ۵۲۰ صیبا ایبٹ آباد

جناب صلا۔  
جوڈا چارج شیت جاری شدہ دفتر جناب محروسی  
پولیس اسٹیشن بوجہ ایجنٹ بیمارانی غائبہ اور برمان  
لبغیر چھٹی۔ اور المدعہ اجازت سے دوران ڈیوٹی پولیس  
ڈپارٹمنٹ ایبٹ آباد سے برائے عدیم صاحب کو فرود چلایا۔

۲۔ دوران عدیم صاحب کو پوچھنا سے ملنے والا  
اور ادویات اسٹال کے رٹا رہا۔ بیمارانی اسٹور بند رہی  
کہ کچھ عاؤف بھی ضرب ہوئی۔

۳۔ دوران بیمارانی و عدیم صاحب پولیس ڈپارٹمنٹ محروسی چارج ڈپارٹمنٹ ایبٹ  
آباد جناب R1 یا R2 سے ملنے والا  
یا المدعہ نہ کر سکا۔ اور میرا غیر عاؤف سے ملنے میں  
چارج شیت دکائی۔ چھٹی نہ لیا اور المدعہ نہ کرنا دیا

مذکورہ سے اور اس کو تاحی اور ملنے سے جناب سے  
مذکورہ چائی ہوئی۔ ماتحت مددزم ہوں

Attested  
Nasir Khan

جناب کے دائرہ اختیار میں ہے معافی کی جاوے آئندہ حفاظت رکھو

اپنی آباد

مستندہ پولیس سٹیشن اپنی آباد

1421  
72

نمبر 1421

Mansoor

(14)

Amended D<sub>2</sub>

**OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD**

No: 213 /PA, Dated Abbottabad, the 21/10/2018.

**FINAL SHOW CAUSE NOTICE**  
**(Unit Rule (3) KPK Police Rules, 1975)**

1. That you Constable Nasir No. 1421, Police Lines Abbottabad, rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct;
  - I. You while posted at Police Station Lines Abbottabad absented yourself vide Daily Dairy No. 26 dated 22-11-2017 and are still absent without any leave or permission.
  - II. During proper departmental enquiry the allegations have been proved against you.
2. 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 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 encouragement of inefficient Police officers;
5. 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.
6. You are, therefore, called upon to Final 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 Final 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.
9. Grounds of action are also enclosed with this notice.

District Police Officer  
Abbottabad

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

Dated \_\_\_\_ / \_\_\_\_ /2018.

Attested  
Nasir  
Khan

(15)

Amir 6/2/18

**OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD**

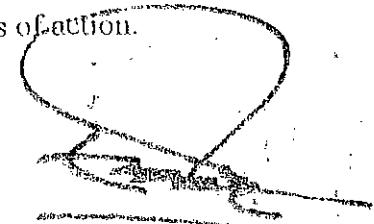
No: 213 /PA, Dated Abbottabad, the 21/10/2018.

**GROUND OF ACTION**

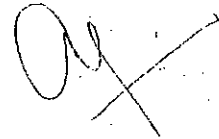
That, you Constable Nasir No. 1421, Police Lines Abbottabad, committed following misconduct:-

- I. You while posted at Police Station Lines Abbottabad absented yourself vide Daily Dairy No. 26 dated 22-11-2017 and are still absent without any leave or permission.
- II. During proper departmental enquiry the allegations have been proved against you.

By reasons of above you have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules, 1975, hence these grounds of action.



District Police Officer  
Abbottabad



Attested  
Amir  
6/2/18

جواب فائنل سٹوڈنٹس انٹرنیشنل سوسائٹی (16) نمبر 1921  
قسم اولیٰ  
اپریل 1921

عزیز مناب جو صوبہ اپنی آباد

جناب اللہ عوالی شرمکاز فوٹس فرم 2018 3/13 دفتر مناب نورمن ویلا  
من سائل کو بوجہ سیر فافرا شرمکاز فوٹس ویلا ایڈیشن  
چارج شیٹ ویلا صوبہ صوبہ مناب دفتر مناب میں  
جمع ذرا ویلا

شیر فافرا ایڈیشن یلیم برقان انائی نامیڈ کے صلح  
عالم سے ہی - جو ہے اعزازت چھی - یا اللہ علم اپنے سہرا  
نورمن بر علی ایڈیشن ہوتا 9 جس پر چارج شیٹ  
جواب ویلا صافی نامی کا ایڈیشن فائنل سٹوڈنٹس  
میں چارج ویلا 9 ایڈیشن اللہ علم ایڈیشن مناب  
بر صافی چارج ویلا صافی ویلا چارج انٹرفا چارج ویلا  
فائنل سٹوڈنٹس فوٹس دفتر ویلا چارج

اپنی آباد

نمبر 1921 قسم اولیٰ اپنی آباد

Attested  
M. S. Khan

1921

(17)

M. N. Khan R. M.

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by Constable *Nasir No: 1421* Abbottabad District against the order of punishment **Dismissal from Service** awarded to him by the DPO Abbottabad vide his office order OB No: 132, dated 26-04-2018.

Facts leading to punishment awarded to him are that he while posted at Police Lines Abbottabad absented himself from duty from 22.11.2017 to 26.04.2018 (150 days) without any leave or permission.

After receiving his appeal, comments of DPO were obtained which were perused. The undersigned called appellant in O.R on 03.10.2018 and heard in person where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by DPO Abbottabad i.e **Dismissal from Service** is genuine, hence his appeal is *filed*.

REGIONAL POLICE OFFICER  
Hazara Region Abbottabad

No. *6274* /PA, dated Abbottabad the *09-10* 2018.

Copy of above is forwarded to the District Police Officer, Abbottabad vide his office Memo: No: 2805 dated 17-07-2018 for information and necessary action. Service Roll & Fauji Missal containing enquiry file are returned herewith for your office record.

REGIONAL POLICE OFFICER  
Hazara Region Abbottabad

*Attested*  
*Nasir*  
*R. M.*

جناب ڈی. اے. صاحب پولیس پزارہ روکن ایسٹ آباد

رحم اپیل بنا رہی حکم صدرہ بحوالہ آرڈر ایک  
نمبر 132 مورخہ 26/11/84، جسے انگریزی  
1524-26/11/84 مورخہ 4 جو جاریہ از دفتر  
جناب ڈی. اے. صاحب ایسٹ آباد جو  
کے تحت جناب ڈی. اے. صاحب مصروف  
نے سائل کو غیر حاضری کی بنا پر جو نمونہ  
بہرہ بڑا بخار پونے کی بنا پر سونپی تھا۔  
ملازمت سے وٹس پی کر کے میرا گیارہ ماہ  
ملازمت سے وٹس پی کر دیا۔

استعمال کیلئے رقم فرمایا جا کر صدرہ غیر حاضری  
رخصت بلا تنخواہ شمار فرمایا جا کر سائل کو  
ملازمت پر بحال فرمایا جا کر مزید پر  
فرمائی جاوے۔

جناب عالی مہربانیت رحم اپیل عرض ذیل ہیں۔

یہ کہ سائل مورخہ 26/11/84 کو محکمہ پولیس ضلع ایسٹ آباد میں  
بھرتی ہو کر ریکروٹ گورنمنٹ آفیس میں پاس کر کے  
رہا پولیس ضلع میں آکر پولیس لائن کی کارروائی میں  
مقامہ جات میں خوش اسلوبی اور دلچسپی سے خدمات  
سے انجام دیتا رہا۔  
یہ کہ شرمیل قسمت سے دوران تعیناتی پولیس لائن

Attested  
Asst. Insp.

ایسٹ آباد  
پولیس لائن

۱۰۱۷  
 کوئی شہر پر نجا رہیں جبلا پر جانے کو  
 بے پرویشی کے عالم میں میرے رویوں نے  
 میں اظہار دعا جو میرے گھر والوں نے مجھے لپوٹ  
 ایسٹ آباد سے میرے گھر لجا کر میرا دیس  
 کٹے کھائے اور بوجہ عزیت اور غلی کے نہ  
 کے پاس لے گئے اور نہ ہی کسی ہسپتال لے گئے

گئے یہ کہ میں نے چارج شیٹ وغیرہ کا جواب دیا اور وہ  
 انکار کیا چونکہ میں بے قصور تھا نہ مجھے کوئی  
 گیا۔ اور نہ ہی میرا دفائی جواب کو لکھا یا  
 نہ ہی میرا بیماریا کی تصدیق کی گئی۔ اور نہ ہی  
 میں پیشی کیلئے کوئی اطلاع دی گئی۔ اور کیلئے کارروائی کر کے  
 ملازمت سے واپس کر دیا گیا۔

استمداد صبیحہ رحمہ اپیل پڑھا منظور فرمائی جا کر  
 رخصت بلا تنخواہ شمار فرمایا جا کر مجھ سے استمداد  
 پونے کی ضمانت لجا کر مجھے ملازمت پر بحال فرمایا  
 دعا گور ہو گیا۔

ناصر علی بٹ کینٹ ۱۹۲۱ء ولد صاحب خان کینٹ  
 تحصیل جلیان صاحب ایسٹ  
 راجستھان ۵۸۳۶۱ - ۵ - ۳۱۳



حضرت جناب IG صاحب خیبر پختونخوا پولیس، پشاور

رحم اپیل بناراضی حکم مصدرہ بحوالہ آرڈر بک نمبر مورخہ 26-04-2018، چٹھی انگریزی PA/26-1524 مورخہ 30-04-2018 بحاریہ از دفتر جناب DPO صاحب ایٹ آباد جس کے تحت جناب DPO صاحب موصوف نے مسائل کو غیر حاضری کی بناء پر جو مجھ سے بوجہ بڑا بخار ہونے کی بناء پر ہوئی تھی، ملازمت سے ڈس مس کر کے میری دس سالہ ملازمت سے محروم کر دیا۔ DIG صاحب پراپیل کی گئی اور DIG صاحب نے نوکری پر بحال نہ کرتے ہوئے اپیل ضائع کر دی چٹھی انگریزی نمبر PA/48974 مورخہ 09-10-2018 کو جاری کر دی۔

استدعا ہیکہ رحم فرمایا جا کر عرصہ غیر حاضری رخصت کلاں شمار فرمایا جا کر مسائل کو ملازمت پر بحال فرمایا جا کر غریب پروری فرمائی جائے۔

جناب عالی! موجبات رحم اپیل عرض ذیل ہے۔

- 1- یہ کہ مسائل مورخہ 01-01-2009 کو محکمہ پولیس ضلع ایٹ آباد میں بھرتی ہو کر ریکروٹ کورس لسٹ A میں پاس کر کے واپس ضلع میں آ کر پولیس لائن کی گارڈاٹ، چوکیات و تھانہ جات میں خوش اسلوبی اور دلچسپی سے خدمات سرانجام دیتا رہا۔
- 2- یہ کہ شوکی قسمت سے دوران تعیناتی پولیس لائن ایٹ آباد مورخہ 22-11-2017 کو شدید بخار میں مبتلا ہوا جانے کی وجہ سے مجھے بے ہوشی کے عالم میں میرے رو میسٹوں نے میرے گھر میں اطلاع دی۔ جو میرے گھر والوں نے مجھے پولیس لائن ایٹ آباد سے میرے گھر لیجا کر میرا ایسی علاج شروع کیے رکھا اور بوجہ غربت اور مفلسی کے نہ تو کسی ڈاکٹر کے پاس لے گئے اور نہ ہی کسی ہسپتال لے گئے۔
- 3- یہ کہ میں نے چارج شیٹ وغیرہ کا جواب دیا اور دوران انکوائری چونکہ میں بے قصور تھا نہ مجھے کوئی دفاع کو موقع دیا گیا اور نہ ہی میرا دفاعی جواب کو لکھا یا سنا گیا اور نہ ہی میری بیماری کی تصدیق کی گئی۔ اور نہ ہی مجھے اردلی روم میں پیشی کیلئے کوئی اطلاع دی گئی۔ اور یکطرفہ کارروائی کر کے مجھے ملازمت سے ڈس مس کر دیا گیا۔

لہذا استدعا ہیکہ رحم اپیل ہذا منظور فرمائی جا کر میرا عرصہ غیر حاضری رخصت کلاں میں شمار فرمایا جا کر مجھ سے آئندہ غیر حاضر نہ ہونے ہونے کی ضمانت لیجا کر مجھے ملازمت پر بحال فرمایا جاوے۔ من مسائل تاحیات دعا گور ہوں گا۔

Attested

Amir  
10/10/18

ناصر سابق کانٹیل 1421 ولد صابر خان سکنہ سلطان پور، تحصیل جویلیاں ضلع ایٹ آباد

رابطہ نمبر: 0313-5858361



EX-1421  
 OFFICE OF THE  
 INSPECTOR GENERAL OF POLICE  
 KHYBER PAKHTUNKHWA  
 PESHAWAR.

Donnerus J  
 4, 2

No. S/ 84 /19, dated Peshawar the 10/10/2019.

EC/PA  
 15/11/2019

**ORDER**

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Nasir No. 1421. The petitioner was dismissed from service by DPO/Abbottabad vide OB No. 132, dated 26.04.2018 on the charge of absence from duty for 154 days.

His appeal was filed by Regional Police Officer, Hazara at Abbottabad vide order Endst: No. 4874/PA, dated 09.10.2018.

Meeting of Appellate Board was held on 03.01.2019 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but he was ill.

Petitioner was heard in detail but he failed to advance any plausible explanation in rebuttal of the charges. He was earlier thrice dismissed from service in the year 2014, 2016 & 2017 on the charge of absence from duty which establishes that he is habitual absentee and there is no prospects of mending his ways. His petition is also time barred. Therefore, the Board decided that his petition is hereby rejected.

**This order is issued with the approval by the Competent Authority.**

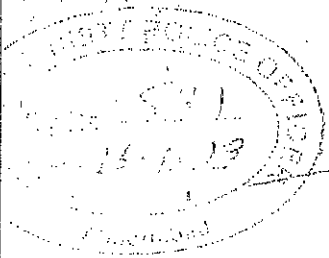
(SADIQ BALOCH) PSP  
 AIG/Establishment,  
 For Inspector General of Police,  
 Khyber Pakhtunkhwa,  
 Peshawar.

No. S/ 85-90 /19.

Copy of the above is forwarded to the:

1. Regional Police Officer, Hazara at Abbottabad.
2. District Police Officer, Abbottabad. Service Roll alongwith Fauji Missal containing enquiry file of the above named Ex-Constable received vide your office Memo: No. 6543/Legal, dated 26.12.2018 is returned herewith for your office record.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

NO. 133/PA,  
 DATED 15-1-2019.  
 DPO Abbottabad  
 For information.



EC/OAS/PO

Far N/A

Attested RPO Hazara  
 Naresh  
 15/11/19

DPO/PA  
 15/11/19

کورٹ فیس

## وکالت نامہ

حاج سروس انٹرنیشنل کورٹ سامرا

بعدالت

گورنمنٹ وینچر

بنام

ناصر

عنوان:

ایئر سٹریٹ

منجانب:

لاہور

نوعیت مقدمہ:

## باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آن مقام

حاج سروس انٹرنیشنل کورٹ سامرا

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرنے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

جگہ تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استخراج شناس بھینچہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لاہور وکالت نامہ تحریر گردیاتا کہ مندرجہ ہے۔

الرقوم: ۱۳/۱۲/۱۴

بمقام:

لاہور  
 ۱۳/۱۲/۱۴  
 ۱۳۱۱-۲۵۹۸ ۷۷۳-۷

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

**Service Appeal No. 224/2019.**

Nasir son of Sabir Khan, Ex- constable No. 1421 resident of Sultanpur, Tehsil and District Abbottabad.

(Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Hazara Region, Abbottabad.
4. District Police Officer, Abbottabad.
5. DSP Mr. Ishtiaq Ahmed, Inquiry officer.

(Respondents)

**Respectfully Sheweth**

**Parawise Comments on behalf of Respondents are as under:-**

**Preliminary Objections.**

1. That the appellant has got no cause of action or locus standi to file instant appeal.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appeal is bad for miss-joinder and non-joinder of necessary parties.
4. That the appellant is estopped by his own conduct.
5. That the appeal is barred by law.
6. That the appellant has suppressed the material facts from this Honourable Tribunal hence, not entitled for any relief and the appeal is liable to be dismissed.

**FACTS.**

Para 1. Pertains to record.

Para 2. Incorrect. That during short Spain of service, the appellant remained absent from his duty on multiple times and awarded punishment by competent authority i.e. dismissed from service for 03 times, and 23 bad entries had also been added in his service record. (Record of bad

entries, absentees and punishment awarded to the appellant is annexed herewith as annexure A).

Para 3. Pertains to record.

Para 4. Need no comments.

Para 5. Incorrect. hence, rebutted. The appellant in this Para admitted about his absentee from duty however he was provided an opportunity of personal hearing, to produce document during enquiry but he deliberately avoided to appear before enquiry officer. Had he been innocent he would have furnished all documents verbal explanation to the enquiry officer.

Para 6. Pertains to record.

Para 7. Incorrect. The appellant did not replied the charge sheet and statement of allegation. The enquiry officer waited for his response for sufficient time but he did not bother to reply nor appear before the enquiry officer. Finally the enquiry officer got recorded the statement of MHC Police Lines Abbottabad wherein he produce DD No. 26 dated 22-11-2017 and stated that the constable under enquiry was still absent. (Statement of MHC and DD No. 26 is annexed as Annexure "B").

Para 08. Incorrect. That he was served with final show cause notice on 21-03-2018 and reply furnished by him was found un-satisfactory.

Para 09. Incorrect, that the appellant could not produce any plausible Explanation in his defence, therefore, he was awarded major punishment.

Para 10. That on the basis of enquiry report, the appellant was awarded major punishment in accordance with law by respondent No. 04.

Para 11. That the appeal of the appellant was thoroughly examined by Respondent No. 03. Comments were sought from respondent No. 04. Personal hearing opportunity was also provided to him but the appellant could not produce any plausible explanation in his defence.

hence his appeal was rejected by respondent No. 02 in accordance with rules/law.

Para 12. That the appeal of the appellant was referred to the appellant board and meeting of the appellant board at CPO was held on 03-01-2019 wherein petitioner was heard in person but he failed to advance any plausible explanation in rebuttal of charges. He was earlier thrice dismissed from service in year 201,2016 and 2017 on the charge of absence from duty which established that he is habitual absentee. His petition was also time barred. Therefore, the board rejected his petition.

Para 13. Incorrect that orders of respondents based on law and merits.

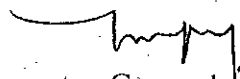
**GROUND:**


- A. Incorrect proper department enquiry was conducted in accordance with rule.
- B. That during 11 year service, he was dismissed from service three times. During the enquiry he was also provided personal hearing.
- C. The department has its own rules and regulations regarding provision of health facility to the force personal but the petitioner never applied for any such facilities.
- D. That during short Spain of service, appellant three times dismissed from service itself sufficient reply to this Para.
- E. Incorrect. Appellant has been given ample opportunity of personal hearing, the reply submitted by appellant was found un-satisfactory, thence, he was rightly dismissed from service..
- F. Incorrect. Appellant also dismissed from service three times, being habitual absentee.
- G. That, action of Respondent No. 2 and Respondent No. 3 are based on law, and merit. Respondent No. 02 and Respondent No. 03 acted in accordance with law and rule.
- H. Incorrect, as explained in above paras.

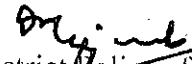
I. Respondents may also be allowed to raise additional grounds at the time of arguments.

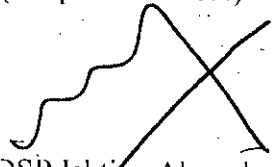
**PRAYER:**

It is therefore humbly prayed that the appeal of the appellant may graciously be dismissed being meritless.

  
Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 1&2)

  
Regional Police Officer,  
Hazara Region, Abbottabad.  
( Respondent No. 3)

  
District Police officer,  
Abbottabad.  
(Respondent No.4)

  
DSP Ishtiaq Ahmed  
Enquiry Officer.  
(Respondent No. 5)

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

**Service Appeal No. 224/2019.**

Nasir son of Sabir Khan, Ex- constable No. 1421 resident of Sultanpur, Tehsil and District Abbottabad.

**(Appellant)**

**VERSUS**


1. Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs Department Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Hazara Region, Abbottabad.
4. District Police Officer, Abbottabad.
5. DSP Mr. Ishtiaq Ahmed Inquiry officer.


**(Respondents)**


**AFFIDAVIT.**

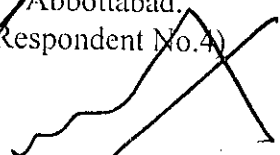
We, do hereby affirm on oath that the contents of written comments are true to the best of our knowledge & belief and nothing has been concealed from the Honorable Service Tribunal.

Submitted please.

  
Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 1&2)

  
Regional Police Officer,  
Hazara Region, Abbottabad.  
( Respondent No. 3)

  
District Police officer,  
Abbottabad.  
(Respondent No.4)

  
DSP Ishtiaq Ahmed  
Enquiry Officer.  
(Respondent No. 5)



(2)

From: The Dy: Superintendent of Police,  
Cantt Abbottabad.

To : The District Police Officer,  
Abbottabad.

No. 336 /Dated Abbottabad the 14/ 03/2018.

Subject: DEPARTMENTAL ENQUIRY AGAINST  
CONSTABLE NASIR NO. 1421 POLICE  
LINES ABBOTTABAD.

Memo:

BRIEF FACTS.

He while posted in Police Lines absented himself vide daily diary No. 26 dated 22.11.2017 and is still absent without any leave or permission.

For the purpose of scrutinizing his conduct with reference to the above allegations, undersigned was appointed as enquiry officer.

ENQUIRY PROCEEDINGS.

Undersigned proceeded accordingly and awaited for the reply of Charge Sheet and Statement of Allegations but he did not bother to reply nor appear before the undersigned. He was awaited from the receiving of enquiry till 07.03.2018 but he did not inform the undersigned through any source.

MHC Police Lines appeared his statement was recorded. He also produced daily diary vide No. 26 dated 22.11.2017 and stated that constable under enquiry is still absent.

Perusal of his service record transpired that :-

1. He was enlisted on 10.01.2009.
2. There are 23 bad entries and awarded punishment by the competent authority. Detailed is given below:-
  - i. While at Police Lines Abbottabad absented himself for 2 days from 15.03.2008 to 17.03.2008.  
Punishment = 02 days leave without pay vide OB No. 127 dated 18.04.2009.
  - ii. While posted at Police Lines Abbottabad absented himself from duty for 01 days 13 hours and 5 minutes.  
Punishment = 01 day leave without pay vide OB No.205 dated 01.09.2007.

E-1105/10

- iii. While posted in Police Lines absented himself from duty.  
Punishment = 02 days extra drill vide OB No. 204 dated 30.06.2009.
- iv. While posted at Police Lines Abbottabad absented himself from duty for 11 hours.  
Punishment = Warned vide OB No. 239 dated 40.08.2009.
- v. While absented himself from training program for 04 days from 01.04.2010 to 05.04.2010.  
Punishment = 04 days leave without pay vide OB No. 134 dated 21.05.2010.
- vi. Absented himself from duty for 01 day from 08.06.2011 to 09.06.2011.  
Punishment = 01 day leave without pay and fine Rs. 50/- vide OB No. 221 dated 07.07.2011.
- vii. Absented himself from duty from for 16 hours and 35 minutes.  
Punishment = Warning OB No. 370 dated 01.11.2011.
- viii. Absented himself from duty for 2 days, 22 hours and 50 minutes.  
Punishment = 03 days leave without pay and fine Rs. 50/- vide OB No. 46 dated 06.12.2012.
- ix. Absented himself for 2 days from duty 02.04.2012 to 04.04.2012.  
Punishment = 02 days leave without pay and 01 days extra drill vide OB No. 146 dated 03.05.2012.
- x. While posted at Police Lines Abbottabad absented himself for 2 days from 01.07.2012 to 03.07.2012.  
Punishment = 02 days leave without pay vide oB No. 257 dated 02.08.2012.
- xi. While posted at Police Lines Abbottabad absented himself for 1 day from 31.07.2012 to 01.08.2012.  
Punishment = 01 day leave without pay vide OB No. 270 dated 17.08.2012.
- xii. Absented himself from duty from 02.09.2012 & 09.09.2012.

Punishment = Fine Rs.100/- vide OB No. 321 dated 04.10.2012.

xiii. While posted at Police Lines absented himself for 23 hours.

Punishment = Fine Rs. 100/- vide OB No. 104 dated 01.04.2013.

xiv. While posted at Police Lines Abbottabad absented himself for 32 days from 04.04.2013 to 07.05.2013.

Punishment = Forfeiture 01 year approved service. Period of absence treated as leave without pay & 03 days extra drill vide OB No. 292 dated 11.10.2013.

xv. While posted at PS Mirpur absented himself for 3 days from 07.11.2013 to 10.11.2013.

Punishment = 02 days extra drill vide OB No. 337 dated 11.12.2013.

xvi. While posted at PS Mirpur absented himself for 171 days from 06.12.2013 to 06.05.2014 and again from 30.07.2014 to 19.08.2014.

Punishment = Dismiss from service with immediate effect and period remained out of duty treated as leave without pay vide OB No. 221 dated 20.08.2014.

xvii. While posted at Police Lines Abbottabad absented himself for 32 days from 06.11.2014 to 08.12.2014.

Punishment = leave without pay, 01 increment withhold with cumulative effect vide OB No. 235 dated 21.09.2015.

xviii. While posted at Police Lines Abbottabad absented himself for 13 days from 14.09.2015 to 21.09.2015.

Punishment = 13 days leave without pay vide OB No. 268 dated 06.11.2015.

xix. While posted at PP Chamhatti absented himself for 07 month and 21 days from 31.10.2015 to 21.06.2016.

Punishment = Dismiss from service vide OB No. 212 dated 08.09.2016.

xx. While posted at Police Lines Abbottabad absented himself vide DD No. 53 dated 30.01.2017 still absent.

Punishment = Dismiss from service vide OB No. 133 dated 08.06.2017.

xxi. While posted at Police Lines Abbottabad absented himself for 02 days from 26.09.2017 to 27.09.2017.

Punishment = Fine RS. 2000/- vide OB No. 242 dated 05.10.2017.

xxii. Absented himself for 02 days.

Punishment = Warning vide OB No. 247 dated 05.10.2017.

xxiii. Absented himself for 55 minutes.

Punishment = Fine RS. 500/- vide OB No. 255 dated 13.10.2017.

Besides his above achievements, his present absence is about 4 months.

**FINDINGS.**

Keeping in view of above, undersigned reached to the conclusion that he is an habitual absentee. He was dismissed from service three times by the competent authority and awarded other punishments like as fine, extra drill, quarter guard etc. His present absence is about 4 months. Allegations leveled against Constable Nasir No. 1421 are proved. Therefore, he is recommended for major punishment for the lesion of other force.

Submitted please.

PA.

*[Handwritten signature]*

*[Handwritten signature]*  
24/10/17

*[Handwritten signature]*  
**(MOHAMMAD ISHTIAQ)**  
Dy: Superintendent of Police,  
Cantt Abbottabad.

6

Handwritten Urdu text, possibly a signature or address, including the name 'M.A. Khan' and some numbers like '26' and '17'.

Handwritten Urdu text, possibly a signature or address, including the name 'M.A. Khan' and the number '7/3/98'.

Attested

S.D. PO CIRCLE CANTT  
ABBOTTABAD

لوہن لائن (7)

لؤل ریب 26 22 11 17

صوبہ لؤل

(26) رولور عر حدری 22 11 17  
دوت 19:10 رولور عر حدری  
حدریان 3/1/11 23/1/11  
ر افر 499. عریان 83. عثمان 537 - وائی 710. عریان 162  
عدم 3/3/11  
لؤل ریب 26 22 11 17

صاعی

لؤل ریب

1421

رولور عر حدری

h  
AFATC-police line ATC

07-03-18

07-03-18

Attestel

S.D.P. SINGH  
AMBAL

1421

12  
Yadasth  
Jaconny

**ORDER**

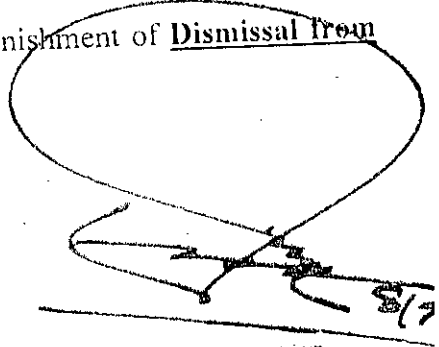
This office order will dispose of the departmental enquiry against **Constable Nasir No. 1421**. He while posted at Police Lines absented himself vide Daily Dairy No. 53 dated 30-01-2017 and are still absent without any leave or information.

He was issued Show Cause Notice. In response to Show Cause Notice. He submitted his reply which was found unsatisfactory. He was summoned to appear in Orderly Room on 08-06-2017. He was given a patient hearing but he had nothing plausible to state in his defence.

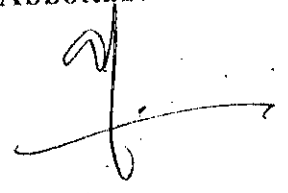
Forgoing in view, the undersigned is of the considered opinion that there is no chance that **Constable Nasir No. 1421** will become a good Police Officer. His further retention in service is bound to affect the discipline of the entire force. The undersigned has come to the conclusion that the charges against the delinquent officer who remained absent from duty without any permission for 92 days stand established. Consequently, I, Syed Ashfaq Anwar, PSP, District Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from service with immediate effect.

**Order announced.**

OB # 133  
8-6-2017



**District Police Officer  
Abbottabad**



OB/133  
12/5  
19/17  
Po  
P.R.C.

ORDER

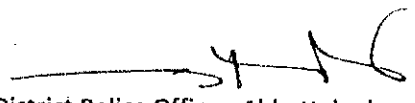
Constable Nasir Khan No. 1421 while posted at Police Post Chammatti absented himself from Official duty willfully and deliberately vide D.D No. 05 dated 31-10-2015 and remained absented uptill 21-06-2016 ( total 07 months and 21 days ) without any leave or information.

He was issued Charge Sheet along with statement of allegations and Mr. Asif Goher DSP, Havelian was deputed as Enquiry Officer, who conducted proper departmental enquiry against the delinquent official and recorded the statements of all concerned. He has provided ample opportunity to the delinquent officer to defend the allegations leveled upon him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations have been proved. Consequently he was issued Final Show Cause Notice. He was summoned to appear in Orderly Room. He was given a patient hearing but he had nothing plausible to state in his defence.

Forgoing in view, the undersigned is of the considered opinion that there are no chances that Constable Nasir Khan No. 1421 will become a good Police Officer. His further retention in service is bound to affect the discipline of the entire force. Therefore, in exercise of the powers vested in the undersigned under Rules 2(iii) of Police Disciplinary Rules-1975, I, Muhammad Khurram Rashid P.S.P, District Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from Service w.e.f date of absence with immediate effect.

Order announced.

DB-No- 212  
8-9-2016

  
District Police Officer, Abbottabad.





(ORDER)

This order would disposes off departmental enquiry conducted against Constable Nasir Khan No. 1053 who while posted at Police Station Mirpur absented himself from official duty w.e.f 06-12-2013 to 06-05-2014 & again from 30-07-2014 to 19-08-2014, i.e the day he was heard in O.R. His total absence became 171 days.

Charge sheet/summary of allegation was issued and served upon him through SHO PS Havelian. SDPO Circle Cantt was deputed to conduct formal departmental enquiry. Constable Nasir Khan No. 1053 failed to join the enquiry proceedings. The Inquiry Officer in his findings proved his absence to be unlawful.

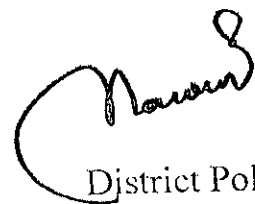
Final Show Cause Notice was issued and served upon him. Previously he was called in O.R on 11-06-2014. He beseeched that he was sick and remained under treatment at Ayub Teaching Hospital Abbottabad, therefore he shown his inability to join enquiry proceedings. The enquiry was sent back to SDPO Cantt with the directions to ascertain the genuineness of his plea or otherwise.

He was again called by the Inquiry officer and directed to produce his documents proof about illness but he again failed to submit the required documents proof to Inquiry officer. Thus he kept on deceiving his seniors.

Again he was called in O.R held on 19-08-2014 but He failed to submit convincing and plausible explanation.

In the light of the inquiry report it transpired that he is habitual absentee and remained absent for a long period i.e. 171 days in instant inquiry. The Inquiry Officer has also recommended him major punishment. Therefore, in exercise of powers vested in me, I award him major punishment of dismissal from service with immediate effect and period he remained out of duty treated as leave without pay.

Order announced.



District Police Officer,  
Abbottabad.

OB No - 221

20-08-14