

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 634/2016

Date of institution ... 03.06.2016

Date of judgment ... 10.04.2017

Irfan Ullah S/O Ajmeer Ullah,
Ex-Constable No. 737, District Police Hangu

... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police Kohat Region Kohat.
3. District Police Officer, Hangu.

..... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED
29.11.2013 WHEREBY THE APPELLANT HAS BEEN AWARDED
MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE AGAINST
WHICH HIS DEPARTMENTAL APPEAL DATED 04.03.2016 HAS ALSO
BEEN REJECTED ON 06.05.2016.

Mr. Zartaj Anwar, Advocate.

.. For appellant.

Mr. Ziaullah, Government Pleader

.. For respondents.

MR. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: This service appeal has been filed against the order dated 29.11.2013 whereby the appellant Irfan Ullah was dismissed from service and he preferred a departmental appeal against the afore-said order but the same was rejected on 06.05.2016, hence the present service appeal.

2. Brief facts of the present case are that appellant Irfan Ullah was appointed as constable in Police Department in 2007. That during service he was dismissed from the service by the respondent No. 3 District Police Officer, Hangu on the charge that he was absent from duty since 24.03.2013 without any leave or prior permission of the competent authority.

3. Learned counsel for the appellant contended that on 23.02.2013 while going to home after duty, some unknown persons took him in their car and made him unconscious. After few hours at Afghan border, Afghan security forces took him in their custody. It was further contended that after payment of ransom by the family he was released and as such his absence was not willful and deliberate. It was also contended that neither the respondents conducted proper inquiry, nor statement of any witnesses regarding absence of the appellant was recorded nor any opportunity of cross examination was afforded to the appellant. That no opportunity of personal hearing was provided to the appellant, as such the appellant was condemned unheard principles of natural justice were also violated in this case. It was vehemently contended that the impugned orders of the respondents are liable to be set-aside and requested/prayed for acceptance of the appeal by reinstating the appellant in service.

4. On the other hand learned Government Pleader for the respondents opposed the contention of learned counsel for the appellant and argued that the appellant was deliberately absent from the service for a long time and the respondents conducted a regular inquiry against the appellant wherein the charges of absence from duty were proved, hence respondents rightly dismissed him from service. It was further contended that the appellant had also filed the departmental appeal after a long time and the same was also time barred therefore the appeal of the appellant is liable to be dismissed.

M. Anwar
10-4-2017

5. We have heard the arguments on both sides.

6. Having gone through the record it transpired the major penalty of dismissal from service was imposed on the appellant on the charges of absence from duty but actually the appellant was kidnapped for ransom and circumstances were beyond his control. Furthermore inquiry was not conducted in the mode and manner prescribed in the rules, as such he was condemned unheard, therefore, the principles of natural justice were violated. Impugned order was passed with retrospective effect and was void ab-initio and nullity in the eyes of law. No limitation would run against a void order.

7. Keeping in view the above facts we are constrained to interfere in the case by setting-aside the impugned order dated 29.11.2013 by reinstating the appellant in service and directing the respondents to conduct de-novo inquiry against the appellant as per law/rules. The de-novo inquiry shall be completed within a period of two months of the receipt of this judgment and the appellant shall be provided full opportunity of defence. The intervening period since his dismissal from service shall be decided in the light of outcome of the de-novo inquiry. The appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room.


ANNOUNCED
10.04.2017


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

08.12.2016

Clerk to counsel for the appellant and Assistant AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 10.4.17.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

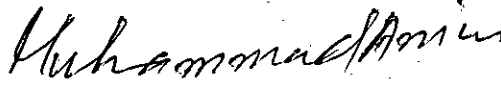
10.04.2017

Appellant alongwith his counsel present. Mr. Abdur Rehman, Inspector (legal) alongwith Mr. Ziaullah, Government Pleader for the respondents also present.

Vide our detailed judgment of today consisting of three pages placed on file. We are constrained to interfere in the case by setting-aside the impugned order dated 29.11.2013 by reinstating the appellant in service and directing the respondents to conduct de-novo inquiry against the appellant as per law/rules. The de-novo inquiry shall be completed within a period of two months of the receipt of this judgment and the appellant shall be provided full opportunity of defence. The intervening period since his dismissal from service shall be decided in the light of outcome of the de-novo inquiry. The appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.04.2017


(AHMED HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

16.06.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when vide impugned order dated 29.11.2013 awarded major punishment of dismissal from service on the allegations of willful absence where-against he preferred departmental appeal on 04.03.2016 which was rejected on 06.5.2016 and hence the service appeal on 03.06.2016.

That the appellant was in the confinement of Afghan Security Forces and never absented himself willfully. That the enquiry was not conducted in the prescribed manners.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.08.2016 before S.B.

Appellant Deposited
Security Process Fee


Chairman

25.08.2016

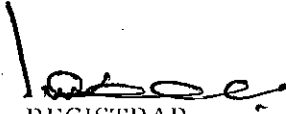

Appellant in person and Mr. Abdur Rehman, Inspector alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 08.12.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 634 /2016

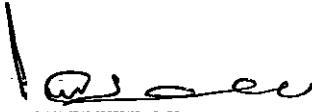
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/06/2016	<p>The appeal of Mr. Irfanullah resubmitted today by Mr. Zartaj Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	14-6-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>16-6-16</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Irfan Ullah son of Ajmeer Ullah Ex-Constable No.737 Distt. Police Hangu received to-day i.e. on 03.06.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of investigation reports mentioned in para-2 of the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 945 /S.T.

Dt. 6/6 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zartaj Anwar Adv. Pesh.

- 1) Copies of investigation Report attached with appeal
- 2) All the annexure to serial wise of the appeal
- 3) All the annexure to attested
- 4) All the annexure to Flagged
- 5) 5 copy of appeal submitted.


Zartaj Anwar Adv.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 634 /2016

Irfan Ullah.....Appellant

V E R S U S


The Provincial Police Officer,
Khyber Pakhtunkhwa, & others.....Respondents

I N D E X

S#	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Addresses of parties		9
4.	Copies of investigation reports	A	10-18
5.	Copy of inquiry reports	B	19-21
6.	Copy of the impugned order dated 06.05.2016 & Relevant document.	C	22-30
7.	Wakalatnama		31


Petitioner

Through


Zartaj Anwar
Advocate, Peshawar
Cell No.0331-9399185

Dated 31.05.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 634/2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 566

Dated 03-6-2016

Irfan Ullah S/o Ajmeer Ullah,
Ex-Constable No.737, District Police Hangu.....**Appellant**

V E R S U S

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police Kohat Region Kohat
3. District Police Officer, Hangu.....**Respondents**

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE ORDER DATED
29.11.2013 WHEREBY THE APPELLANT HAS
BEEN AWARDED MAJOR PUNISHMENT OF
DISMISS FROM SERVICE AGAINST WHICH
HIS DEPARTMENTAL APPEAL dated
04.03.2016 HAS ALSO BEEN REJECTED ON
06.05.2016.**

Filed to-day
Registrar
3/6/16

PRAYER-IN-APPEAL

**On acceptance of this appeal the
order dated 29.04.2013 and order
dated 06.05.2016, may please be set**

Re-submitted to -day
and filed.
Registrar
13/6/16

aside and the appellant may please be reinstated in service with full back wages and back benefits.

Respectfully Sheweth:-

1. That the appellant was enlisted as a constable in the police department in the year of 2007. Even since his enlistment the appellant perform his duties as assigned zeal and devotion and there was no complaint whatsoever regarding his performance.
2. That the appellant while posted at police live Hangu performing his duty at Azgha masjid on 23.02.2013 after his duty, at Hangu Bazar same unknown persons took him in their car and make him unconscious. After few hours i.e. 4-5 hours he found himself at Afghan check post. Where Afghan Security Forces took him in custody. (Copies of investigation reports are attached as annexure "A").
3. That the appellant then was produced before the Judge and then he was convicted for 20 years but later on his family members paid lum sum Rs.20.lakh to the concern authorities, upon which they release him.

4. That soon after release the appellant duly reported to Police Lines, however to the great surprise of the appellant, departmental proceedings were initiated against him allegedly on the ground of absence. The appellant was served with charge sheet and statement of allegation containing the baseless allegation of absence from duty the appellant replied the charge sheet and refuted the allegation.
5. That a partial inquiry was conducted and the inquiry officer while submitting his findings recommended the appellant for major punishment. (Copy of inquiry reports are attached as annexure "B").
6. That thereafter the appellant was served with a final show cause notice, containing the same baseless allegation of absence and the same was also not replied because of the non availability of the appellant.
7. That the competent authorities without applying his prudent mind awarded the appellant major penalty of discharge from service from date of

absence vide order dated 06.05.2016. (Copy of the impugned order dated 06.05.2016 is attached as annexure "C").

8. That the appellant submitted his departmental appeal against the order of major Punishment however, his departmental appeal has been rejected vide order dated 06.05.2016.
9. That the impugned order are illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUNDS:

- A. That the appellant has not been treated in accordance with law, hence his rights of secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the penalty of discharge from service to the appellant, he was not properly associated with the enquiry proceedings, statement of witnesses were never recorded in his presence nor was he allowed opportunity of cross examination thus the whole proceedings are defective in the eyes of law.

- C. That the appellant has not been allowed opportunity of personal hearing before the imposition of penalty upon him, thus he has been condemned unheard.
- D. That the appellant did not absent himself nor he ever involved in any illegal, unlawful act he as performing his duties with zeal and devotion without any explanation whatsoever, and on day of accurance he was taken away by kidnapers and later on release on the payment of Rs.20,00,000/- (20 Lacks).
- E. That neither any witness ha been examined nor the appellant has been given opportunity to cross examined, during the inquiry proceedings.
- F. That the appellant has been awarded the penalty of discharge from service with retrospective effect, since no penalty order can be made with retrospective effect, therefore the penalty order is not tenable in the eye of law.
- G. That the punishment awarded to the appellant is not proportionate to the charge leveled against the appellant.

- H. That the charges leveled against the appellant were never proved in the enquiry the enquiry officer gave his findings on surmises and conjunctures.
- I. That the appellant never committed an act or omission which could be termed as misconduct, albeit he has been awarded the penalty. He never absented himself willfully; rather he was illegally confined by Afghan Security Agency/Forces.
- J. That since the appellant is jobless since his illegal discharge from service he has a large family dependent upon him, due to his illegal dismissal his whole family is suffering.
- K. That the appellant has at his credit a spotless service career, the penalty imposed upon him is too harsh and liable to be set aside.
- L. That the appellant seeks permission of this Honourable Tribunal to reply on additional grounds at the hearing of the appeal.

It is, therefore, humbly prayed that on acceptance of this appeal both the order dated 09.12.2014 and 18.02.2015 and 18.02.2015, may please be set aside and the appellant may please be re-instated in service with full back wages and benefits of service.



Appellant

Through



Zartaj Anwar

Advocate, Peshawar

Dated 31.05.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2016

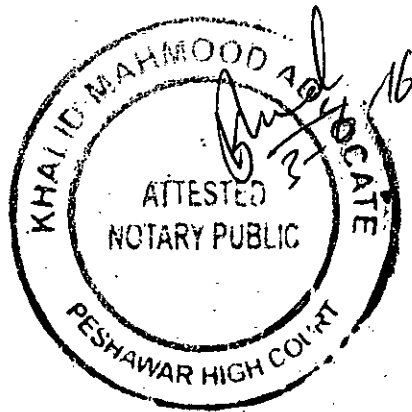
Irfan Ullah.....**Appellant**

V E R S U S

The Provincial Police Officer,
 Khyber Pakhtunkhwa, & others.....**Respondents**

A F F I D A V I T

I, Irfan Ullah S/o Ajmeer Ullah, Ex-Constable No.737, District Police Hangu, 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 Court.



Irfan Ullah
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2016

Irfan Ullah.....Appellant

V E R S U S

The Provincial Police Officer,
 Khyber Pakhtunkhwa, & others.....Respondents

ADDRESSES OF PARTIES

A P P E L L A N T:

Irfan Ullah S/o Ajmeer Ullah,
 Ex-Constable No.737, District Police Hangu

R E S P O N D E N T S:

1. The Provincial Police Officer, Khyber Pakhtunkhwa,
 Peshawar
2. Deputy Inspector General of Police Kohat Region
 Kohat
3. District Police Officer, Hangu



Appellant

Through



Zartaj Anwar
 Advocate, Peshawar

Dated 31.05.2016

Approved A

تعلقہ 25 اور تاریخ 26 9 08 بندش

پولیس ایجنسی

25 - رپورٹ سرکار کی ایک 26 9 08 اور تاریخ بندش دور 05:05:05

درج کیا سنگین سروریاں (عمران اللہ 678) سلمان شولکن 718

کو عبثاً ڈیڑھی راج گتے میں 2 بجے سے 10 بجے تک منگائی گئی تھی

جو ایسے میں علم موجود تھا کہ یہ دروں گنڈہ گنڈہ تھے

نیاستہ کام پور ڈیڑھی راج گتے اور غیر جانبدار

بار بار جانچا گیا باوجود وہ کھوکھوں سے باز نہیں رہے بلکہ اس وقت

تک وہ صرف رپورٹ سرکار کے راج گتے پر تعلق رکھتے تھے

اور وہ کھوکھوں سے باز نہیں رہے اور اس میں اس کے

عسر فاغری
13 دن

جس کا
تعلق نوائے اصل 2

Gas
Forwarded

Gas
forwarded

M.M. L. M. U. 2194
d. 26.9.08

dep line Hangu
d. 26-9-08

Ril line Hangu
d. 26.9.08

DISTRICT POLICE
OFFICER, HANGU

Attest
[Signature]

Attenu may be control as
leave with out pay II.

11/10
By: Superintendent of Police
H. S. Hangu

۱۱

تاریخ: ۳۰ سپتامبر ۲۰۱۲ء

مقام: ...

۲۵

مقام: ...
 تاریخ: ۳۰ سپتامبر ۲۰۱۲ء
 موضوع: ...

...
 ...
 ...
 ...
 ...

ذات

...

NP 1011 - M J 171 MS

30-9-12

...

تلمیذ کے روزنامے 28/9/08

ظلع ہنگو

مذکورہ ہافزی از غیر ہافزی Asi و غیر 28/9/08 وقت 08.40 بجے کنڈین
 عزمان اللہ 678 (3) ریلمان شہرت 718 کی 25 ویں روزنامے
 26/9/08 غیر ہافز شدہ سے ہافز آئے۔ اور ہر دو کنڈین
 اپنے اپنے غیر ہافزی کے منسلک کوئی معقول جواب فرمائیے
 اب ہافز آئے ہوں۔ اور ہافزی لیجاء۔ منگورہ کنڈین
 سی ہافزی راج روزنامے کے تلمیذ علیٰ حضرت پور کے تلمیذ
 مناسب کارروائی فرموان باآئی خدمت سے ریال لیجائی ہے
 کنڈین عزمان اللہ 678 کو کارروائی سے ریال ریلمان شہرت 718
 کو ہنگو DP صاحب روانہ کر کے ہمدردی مناسب ہوئی۔

ضامی

تذیب القاری میں

Dindal

MM. Mue. Hangu
4.10.08

Sir
Forwarded

(u)

MM. Mue. Hangu
4.10.08

Sir,
Forwarded

Hangu

Ri (Mue Hangu)
D-4-10-08

پولیس لائن

نمبر 18 - روزنامہ 17/1/09

ضلع منگل

نمبر 18 - رپورٹ حاضری از عم ہاشمی - صا خود 17/09 وقت 14.10 بج
 درج ہیکل اس وقت کنسٹیبل عرفان اللہ 737 کی الرمز 13 روزنامہ 17/09
 عم ہاشمی سے حاضری اکر اپنی عم ہاشمی کے متعلق کوئی
 معقول جواب نہ دے سکا۔ اب حاضری اکر اپنی عم ہاشمی حاضری درج
 روزنامہ جو کہ نمبر 18 صا مناسب کارروائی اور ان باہر کی خبر سے جس
 ارسال ہوگی - مہاشمی -

11-2-09
 11-2-09

فخر عطاء
 Yasrab

Sir,
 Forwarded,
 Ameen

MHC, Line, Hangu,
 30-1-2009.

to, Police line,
 30-1-2009,

کل سٹیٹ ہاؤس
 3/1/09

سزا 40/09/09

Amee

By: Superintendent Of Police
 H. Qre Hangu

Handwritten signature and checkmark

Handwritten signature

DISTRICT POLICE
 OFFICER, HANGU

نمبر 13 - روزنامہ 17-1-59

13 دہریہ پولیس لاٹری وغیرہ فوری 1/8 حصے 17-1-59 سے 11-45 بجے اس وقت
کے لیے غیر قابل الاصل 737 و 12 بہ روزنامہ 17-1-59 میں دفتر ہنگو میں

D.P.O صاحب روٹوں کو مقررہ کٹیل نے صاف زبان میں کہہ دیا،
کہ میں دفتر نہیں جاتا ہوں، جو کچھ کر سکتے ہو، وہی کرو۔ مذکورہ
کٹیل بہ فوری کا شوقین نہیں ہے، اس کے عاقلانہ ہے کہ افسران
بالا اس کے نوٹس سے گریز نہ کریں۔ پولیس درج روزنامہ
میں کہ لکھنے کے لیے مناسب کارروائی اختیار کرنا کہ اس میں سوال ہی نہیں ہے۔

صالح

نقل و نقل کے لیے اصل ہے

سربراہ پولیس

MHC Lmie Hangu
17-1-59

Sir,

Forwarded

~~Ameer~~

Co-Hangu

17-1-59

Katunga

[Signature]

نقلہ 12 روزہ تا 15/8

14

مر 18

ایورٹ میں چارج ہونے کے بعد 11/8 کو وقت 21:00 بج اس وقت

وقت قبضہ کے بعد 11/8 کو دفعہ ان امداد

کی افزائش دہشت گردی کی ہوئی تھی۔ مذکورہ قبضہ

مطرحہ پر مدغم موجود تھا۔ حینا خلاف (نوٹس) کے خلاف

درج روزہ تا 15/8 کو نقلہ کے بعد سے حساب کارروائی

آئینہ ان 14 مہینوں کی صورت میں ارسال ہوئی۔

مناسبتاً

15/8 تا 16/8

فیلو سنٹر (پولیس)

M. M. Line Hangu

21-8-2011

Police Lines Hangu

1

رہنما

CR No. 472 / 13/9/11

Recommended for leave with out pay.

ORDER

01 day leave with out pay, final Rs-50/-

Signature of Asstt. Sub-Division Police Officer Hangu

Asstt. Sub-Division Police Officer Hangu

District Police Officer Hangu.

Signature of District Police Officer

پولیس لائن

(15)

ضلع ہنگو

تقدیم روزنامہ 16/8

صفحہ 8
حاضری از عمر حاضر یا 5/10 مورخہ 16/8 وقت 14:00 بجے درج شدہ اس وقت

کنٹینل عرفان 337 عمر حاضر شدہ بحوالہ ص 18

روزنامہ 15/8 سے حاضر اکثر منگی حاضری درج روزنامہ

سوکر تقدیم لغرض مناسب کارروائی آمران بالا مامان

کی صورت میں ارسال ہوگی

خدا حافظ

فصل مطابق 1/1/19

M. J. J. J.

21-8-2011

M. M. L. H. H.

Police Lines
Hangu

Attest
D

تعداد 46 روزہ 7 24 ³/₁₃ ۴۷

۴۷ روزہ ۱۷ علیہ غیر ظاہری ۵۰ علیہ 24 ³/₁₃ وقت ۵۷:۵۰
پہلے وقت کے سرورضامان Ri ہے، نیز یہ بھی ہو سکتا ہے کہ اس کا
مقدار ان کا ہے، ان کی نسبت ان کی یہ ایک روزہ ہے۔
میں زائرین میں ہر روز صبح۔ چلتے ہیں، فقیرانہ صبح
کا وہی نظم صبح و آفتاب کی صورت میں ہے اور ہر روز
اسے گا، اور اس کا جو ہے، اور اس کا روزہ نماز کے دوران
صبح و شام کی نسبت کا ایک عرفان اللہ 737 ہے جو وہ نماز ہے۔
جس روزہ نماز کا ہے، اس کا عرفان اللہ 737
عرفان اللہ 737 کے خلاف اس کا عرفان اللہ 737 ہے، اور اس کا
تعداد ان کے خلاف اس کا عرفان اللہ 737 ہے، اور اس کا

تعداد ان کے خلاف اس کا عرفان اللہ 737 ہے، اور اس کا

Am
M. H. Kiney Hanga
26-3-13
Police
Hanga

512
pomasolal
Am
Kaj Kiney Hanga
27-3-13

Attest
to

(17)

مولا محمد

درخواست عباد میر حسن ننگوالہ

درخواست نمبر 47 روز 24/3/13

میر حسن عباد میر حسن ننگوالہ

میر حسن عباد میر حسن ننگوالہ

میر حسن عباد میر حسن ننگوالہ

میر حسن عباد میر حسن ننگوالہ

درخواست نمبر 47

میر حسن عباد میر حسن ننگوالہ

29.3.13

Police Lines
Hangu

Sri
Ponamded

29/3

میر حسن عباد میر حسن ننگوالہ

میر حسن عباد میر حسن ننگوالہ

Sub-Divisional Police Officer
Hangu

4-4-13

PA/PO

Issue charge sheet

PA/PO

DISTRICT POLICE
OFFICER, HANGU

OB NO. 277

17/4/13

Handwritten signature

بیان از اہل محمد حسین خیر لوہن لہن بیگر

(18)

بدریافت بیان کیا۔

کہ کائناتیں عرفان اللہ بہ 737 مسجد از علیہ میں

لغینت نما۔ بدووران چیلند: کل سرور خان نے اطلاع
دی۔ کہ مذکورہ کئی مسجد میں موجود ہے۔ جن کے قدر

رپورٹ میز خاں کا درجہ کی جاوے۔ لیکن اس صورت

کو اس قدر 47 صرف 3/24 کو وقت 0.750

2013

رپورٹ میز خاں کو بر صدف کئی مذکورہ درجہ کی

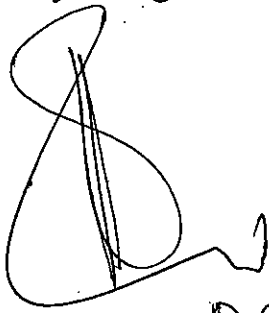
ہو کہ تا حال میز خاں ہے۔ اب لوگوں کے زمانا خلیج

ہو ایہ۔ کہ کئی مذکورہ اذخالت ان میں سکور کی

اداروں نے ترمیم کیا خواہے۔ لیکن میرا اس قدر

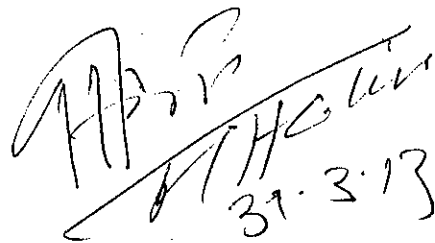
بیان ہے۔ ما خاں۔ میں آنے کا بعد میں
جو کہ کئی لوگوں کا نام ہے کہ میں افغانوں کے لئے

سن اور دست لکھی ہے۔



Dell

31/5/2013



31-3-13



ENQUIRY FINDING REPORT.

This is departmental enquiry against Irfanullah No.737 on the basis of allegations that he while posted in Police Lines Hangu has absented himself w-e-f 24.03.2013 without any leave or permission from his senior officer vide DD No.47 dated 24.03.2013 of Police Lines Hangu.

The said Constable was charge sheeted vide charge sheet No.1017/PA dated 19.04.2013 and I was appointed as enquiry officer to scrutinize the conduct of said Constable with reference to the allegations leveled against him.

In order to dig out the fact, I recorded the statement of Moharir Mohammad Hussain Police Line Hangu. According to statement of Moharrir Police Line Hangu the said Constable has absented himself from the date of absence i-e 24.03.2013 and is absent till todate. The said Constable had gone to Afghanistan in connection with business of custom free vehicle where he was arrested by the security forces of Afghanistan. Now, there is no hope of his return to Pakistan in near future.

Taking into account the long absence of the constable coupled with his engagement in act of business amount ^{to} gross misconduct and deserve major punishment if approved please.

Submitted please.

WORTHY DPO HANGU

ENQUIRY OFFICER/DSP LEGAL HANGU

27/6/2013

*Know fsc
3 Propag
Carr*

From: The District Police Officer, Hangu
To: The Dy: Inspector General of Police,
Kohat Region, Kohat

No. _____/LB, dated Hangu the _____/2013.

Subject: **CONFIDENTIAL REPORT.**

Memo:

Kindly refer to your office Letter No.11176-89, dated 08.05.2013.

It is submitted that according to the report of local Police one Mehmood alias Dadaki s/o Mait Khan is proclaimed offender in case FIR No.905 dated 28.12.2012 u/s 365/5Exp/353/7ATA PS City Hangu. He is also reported to be the local commander of Mula Nabi Group. As per information, the said proclaimed offender alongwith other duly armed persons are stated to be present in the hilly area of village Mirobak Banda and Kando Kally. Which fact shall require the confirmation of District Security Branch and Special Branch. As soon as correct information about his presence from DSB, Special Branch or any source is received to the local Police, prompt and quick action shall be initiated to arrest the desperate PO please

**DISTRICT POLICE OFFICER,
HANGU.**

2/25
RECONCILED

63
65
13

From: The District Superintendent of Police,
Legal Branch, Hangu.

20

To: The RI Police Lines Hangu.

No. 36 /LB, dated Hangu the 25.04 /2013.

Subject: DEPARTMENTAL ENQUIRY.

Memo:

Please inform Constable Irfan Ullah No.737 attend the office of undersigned in connection with departmental enquiry on 25.04.2013 10:00 hours positively as the enquiry proceeding and lingering on due to want of his evidence.



g c

D.S.P Legal Hangu.

Handwritten signature
Handwritten mark

51

From: The District Superintendent of Police,
Legal Branch, Hangu.

To: The RI Police Lines Hangu.

No. 44 /LB, dated Hangu the 26.04 /2013.

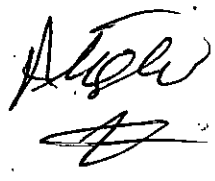
Subject: **Departmental Enquiry**

Memo:

Please inform Constable IRFAN ULLAH No. 737 to attend the office of undersigned in connection with departmental enquiry on 29 /04 /2013 10:00 hours positively as the enquiry proceeding and lingering on due to want of his evidence.



D.S.P Legal Hangu.



صا علی

بیل عرفان 737 حوالہ 47 مورخہ 24³/₁₃ سن 1301

عزیز علی . اگوست عدالت

Agis
M. H. Ali Hage

29.4.13

22

Approved: C

ORDER.

This order is meant to dispose of appeal preferred by Ex-Constable Irfanullah No.737 of Hangu District against the order of dismissal from service awarded by DPO/Hangu vide O.B. No.673 dated 29.11.2013. He was proceeded against on the allegations that he while posted in Police Lines Hangu had absented from lawful duty w.e.from 24.3.2013

Proper departmental enquiry was conducted by DSP/Legal Hangu. The E.O. held him guilty. It was established in the enquiry report that the Constable had gone to Afghanistan in connection with business of Custom Free vehicles, from where he was arrested. He was awarded major punishment of dismissal from service on 29.11.2013 by DPO, Hangu.

He preferred appeal to the undersigned upon which comments of DPO were obtained. After thorough probe into the enquiry report and comments as well as his appeal, it came to light that the appellant was dismissed on 29.11.2013 but he made appeal on 8.3.2016 which is time barred. Furthermore the order of punishment of dismissal passed by DPO, Hangu is genuine, hence his appeal is filed.

REGIONAL POLICE OFFICER
KOHAT REGION KOHAT

No. 1914-15 /PA.

Dated Kohat the 02 6-5 /2016

Copy for information and necessary action to

1. The District Police Officer, Hangu, with reference to his letter No.2616/LB,26.11.2016.His service record is returned herewith.
2. Establishment Clerk RPO Office, Kohat.

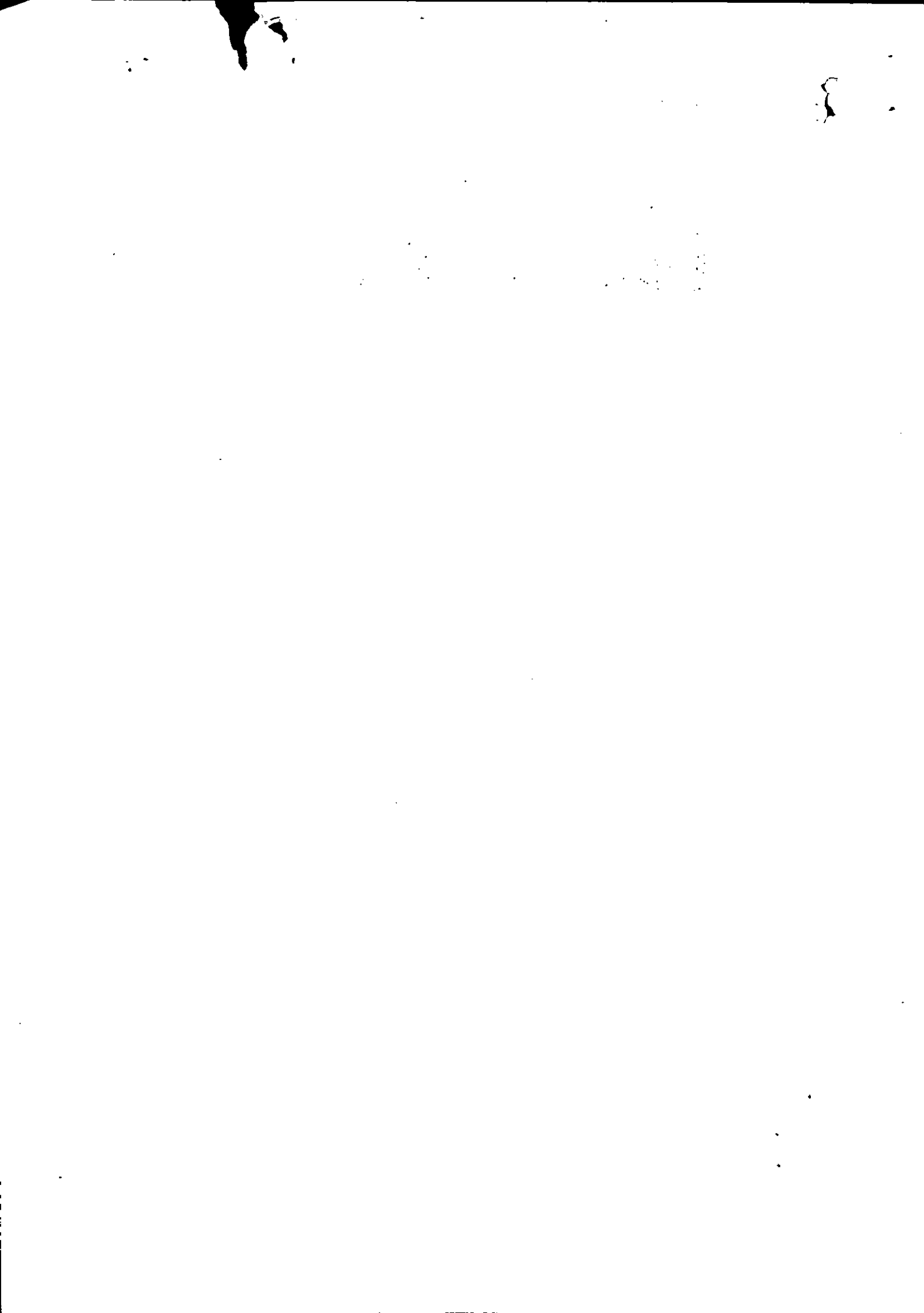
REGIONAL POLICE OFFICER
KOHAT REGION KOHAT

*Insp. Legal/Sec/OHc
For information and
no action*

District Police Officer
Hangu



Attested



CHARGE SHEET.

I, MR. SAJJAD KHAN, D.P.O, HANGU as competent authority, hereby charge you Constable Irfanullah No. 737 while posted at Police Lines, Hangu committed the following irregularities :-

a) You, Constable Irfanullah No. 737 while posted at Police Lines, Hangu had absented yourself from official duty with effect from 24.03.2013 till now without any leave or prior permission vide DD No. 47 dated 24.03.2013 of Police Liens, Hangu.

b) Your absentee shows disinterest and also amount to gross misconduct on your part.

2. By reasons of the above, 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 section - 3 of the Ordinance ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

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

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.


(SAJJAD KHAN) PSP
DISTRICT POLICE OFFICER,
HANGU

No. 1017 /PA,

Dated 19/04/2013.





DISCIPLINARY ACTION.

I, **MR. SAJJAD KHAN, D.P.O, HANGU** as competent authority, am of the opinion that Constable Irfanullah No. 737 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975 :-

STATEMENT OF ALLEGATIONS.

a). You, Constable Irfanullah No. 737 while posted at Police Lines, Hangu had absented yourself from official duty with effect from 24.03.2013 till now without any leave or prior permission vide DD No. 47 dated 24.03.2013 of Police Liens, Hangu.

b) Your absentee shows disinterest and also amount to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted under section - 3 of the Ordinance :-

i. Mr. Aziz-ur-Rehman, DSP Legal Hangu

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


(SAJJAD KHAN) PSP
DISTRICT POLICE OFFICER,
HANGU

A copy of the above is forwarded to :-

1. Mr. Aziz-ur-Rehman, DSP Legal Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.

2. Constable Irfanullah No. 737. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.



FINAL SHOW CAUSE NOTICE.

WHEREAS, you Constable Irfanullah No. 737 while posted at Police Lines Hangu had absented yourself from official duty with effect from 24.03.2013 till now without any leave or prior permission from his senior officer with shows disinterest and also amounts to gross misconduct on your part.

THEREFORE, you were served with charge sheet and statement of allegation. An Enquiry Officer was appointed to conduct departmental enquiry. The Enquiry Officer has submitted findings and recommended you for major punishment.

NOW, THEREFORE, I, Sajjad Khan, PSP, District Police Officer, Hangu have vested the power under Police Disciplinary Rules, 1975 liable to take action against you, which will render you to a Major Punishment.

Your reply to this Final Show Cause Notice must reach to the office of the undersigned within **7 days** of the receipt of the Final Show Cause Notice. In case your reply is not received within the stipulated period otherwise, it shall be presumed that you have no defence to offer and ex-parte departmental action will be taken against you. Also state whether you desire to be heard in person?

(Copy of the findings of the Enquiry Officer is enclosed).

No. 1693 /PA,

Dt: 14 /06/ 2013.

(SAJJAD KHAN) PSP,
DISTRICT POLICE OFFICER,
HANGU

[Handwritten signature]

[Handwritten signature]

Judge, Hangu/Di

er, Hangu

si

mer. Hangu

طا

احمد حسن اللہ خان ولد رسول سکن محلہ گڑھی بازار سہیل

شناختی کارڈ نمبر 3-1538143-14101
خوراکی

Handwritten signature

مکتبہ محمدیہ بازار ولد محمد رفیق سکنہ سہیل

Handwritten signature

NUMBARDAR
Mohammadi Ayaz Khan
DISTT: HANGU

جلد نمبر

سرفہر ہو گا کہ اگر کسی اطباء و جوبہ لو سٹور جو کسٹمیز عرفان اللہ خان 737
کو اسٹوریج کے لئے لکھنا ہے کہ اس کے لئے اس سے کچھ رقم لینے سے لیکن حکام انکار کرے
کو اسٹوریج کے لئے اس سے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے
بقول احمد حسن اللہ خان کہ میرا بیٹا احمد حسن اللہ خان کا بیٹا ہے لیکن اس کے لئے
و ایسا ہے کہ اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے
والوں نے گھر سے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے

کسٹمیز جان محمد سہیل 516
DFC نوٹس
28/11/2013

26

DEPUTY INSPECTOR GENERAL OF POLICE KOHAT RANGE KOHAT

Subject: Appeal for Re-instatement in Police Department As Constable Against The Order Vide O.B NO. 673 29.112013 Passed By DPO Hangu.

Respected Sir,

1. That I was enlisted in Police Department on 24-8-2007 by DPO Hangu.
2. After completion of recruit course, I remained posted in District Hangu in different Police Stations and Police Posts. I am Matriculate, and have performed my duties with honesty and with best performance.
3. I was posted in Police Line and was performing my duty on Azgha Masjid in Hangu. On 23-2-2013, after my duty, I was in Hangu Bazar at morning time for purchasing some vegetables etc., in the meanwhile a motorcar in which probably 3-4 persons were already sitting, called me and desired me to sit with them in car for asking something. I seated them and then they started moving car on Hangu - Thall road towards Thall but, in the meanwhile they smelled me some spray, and then I became unconscious. Probably, after 4-5 hours travelling, when I became in senses, I found my self at the boarder check-post of Afghanistan where the Afghan security forces took me into possession, searched my pockets and took my I.D card, Police Card etc.
4. I was produced before the Judge and then I was convicted for 20 years but later on my family members paid Rs. 20 Lakh to the concerned authorities and they released me on 5-2-2015.
5. When I came back to District Hangu, I was informed that I have been dismissed from the service in absentia, because I was not present here.
6. It is un-justice and against the natural law of the land that someone could not be dismissed without hearing a person or in his presence, from the service without hearing

[Handwritten signature]

57

him. My dismissal order against me is ex-party order, which has violated the principle of law and constitutional rights.

Subsequently, I was very upset and was under treatment for a long time due to depression. I with very difficulty succeeded to get my record i.e show cause notice, summary of allegation & dismissal order which is made on 29-11-2013 vide O.B No. 673 by the office of DPO Hangu.

My dismissal order from the department in absentia is against the law, natural justice and violation of fundamental rights. It was my right, that the department have supported me, while I was in the prison of enemy.

7. There are many judgments of the Supreme Court that in absentia without hearing a person is void or of no legal effect. The judgment of the Supreme Court in this regard is 2000 PSC 139.
8. According to the judgment of the Supreme Court, PLJ 1096 Trc (Service) 899, PLJ 1997 Supreme Court 393, the departmental appeal and appeal in the Service Tribunal could be entertained even after 16 years of period.

It is humbly prayed that if I could not be restored in Police Department with back benefits, I will suffer with irreparable loss i.e from the date of dismissal.

I belong from a very poor family, my parents are old, and there is no livelihood except me to support my parents and small kids.

It is further requested that my this appeal may kindly be accepted on humanitarian grounds for which I and my family will pray for your long life.

Dated: 4-3-2016

ATC
[Signature]

Applicant

[Signature]

Irfan Ullah

S/o Ajmeen Ullah

Ex-Police Constable 737

District Hangu

fg 275

28

To

The S.P. Sahab,
Hangu.

$5 \times 6 \frac{1}{6}$
 $33 \frac{1}{2} \times 31 \frac{1}{2}$

Subject: Application for the post of constable,

With due respect I would like to state that I have come to know through reliable resource that the post of constable police in District Hangu is being vacant under your kind control.

I have therefore, applied for the same post to offer my services for the department I hope that you will have a kind look at my application and give me a chance to serve for the Department.

My documents are attached here with.

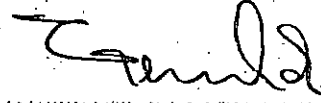
Yours Sincerely,
Irfanullah s/o Ajmeenuallah
Mohallah Ghari Bazar
Tehsil & District Hangu.

AIC
to

ORDER.

(29)

Name Id Farullah S/O AJminullah R/O Chuari Baras
Village _____ P.S Hangu District Hangu
Enlisted as Foot Constable with effect from 28.8.07 and allotted Constabulary No.
737/0 Education Matric Age 25 Year 25 Month 7
Days 15 Height 5 Feet 7 $\frac{1}{2}$ Inches 32 $\frac{1}{2}$ 133 Service _____ To.


DISTRICT POLICE OFFICER,
HANGU.

ATC
DD

30

ORDER

This order of mine will dispose of the departmental enquiry initiated against Constable Irfanullah No. 737 on the basis of allegation that he while posted at Police Lines Hangu absented himself from official duty with effect from 24.03.2013 till now without any leave or prior permission.

Charge Sheet together-with statement of allegations under Police Disciplinary Rules 1975 was initiated against him vide No. 1017/PA dated 19.04.2013, to which he failed to submit his reply. Mr. Aziz-ur-Rahman DSP Legal Hangu was appointed as Enquiry Officer to conduct departmental enquiry against him. After completion of enquiry, the enquiry officer submitted his findings on 03.06.2013, from the perusal of available record and after going to the finding to the enquiry office it has established that the above named constable has gone to Afghanistan in the connection with business of custom free vehicle from where he was arrested by the security forces of Afghanistan. Now there is no hope of his returned to Pakistan in future.

Therefore, the enquiry officer recommended him for major punishment under the prescribed rules.

Thereafter, Final Show Cause Notice was issued to him vide this office No. 1693/PA dated 14.06.2013, which was served through DFC Jan Muhammad of Police Station City Hangu, who has endorsed written report with regard to his Final Show Cause Notice stating therein that the above named Constable Irfanullah No. 737 has gone to Afghanistan.

Keeping in view of above and having gone through available record, the undersigned has come to the conclusion that the defaulter Constable absented himself from duty which amounts to gross misconduct, which indicates that he was not interested to serve further. Moreover, in these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Iftikhar Ahmad, District Police Officer, Hangu in exercise of the powers conferred upon me, award him major punishment of "**Dismissal from Service**" from the date of his absence i.e 24.03.2013.

OB No. 673 Order Announced.
Dated 29/11/2013.


IFTIKHAR AHMAD
DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 3347-52/PA, dated Hangu, the 21/11/2013.

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OHC for necessary action.


IFTIKHAR AHMAD
DISTRICT POLICE OFFICER,
HANGU

U/C C/S
N



POWER OF ATTORNEY

In the Court of MR Justice Feroz Khan Noon
16 June 2011

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

The P.P.O and others

} Defendant
} Respondent
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____

I/W, the undersigned, do hereby nominate and appoint Fixed for _____

ZARTAJ ANWAR KHAN ADVOCATE, my true and lawful attorney, for me in my same and on my behalf to appear at 16/6/11 to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Companies or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee 2/11

Zartaj Anwar Khan

Zartaj Anwar Khan
Advocate High Courts

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3-4, Fourth Floor, Bloor Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0331-9309185

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

Service Appeal No. 634/2016

Irfan Ullah

..... Appellant.

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa, and others

..... Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary objections:-

1. That the appeal is not maintainable in the present form.
2. That the appellant has got no cause of action.
3. That the appellant has not come to this Hon: Tribunal with clean hands.
4. That the appeal is badly time barred.
5. That the appeal is bad for misjoinder of unnecessary parties and non-joinder of necessary parties.

Reply on Facts:-

1. Pertains to record.
2. Incorrect. The appellant while posted in Police Lines Hangu absented himself from lawful duty w.e.from 24.03.2013 without any leave or permission from senior officer. In this respect a proper departmental inquiry was initiated in which it has been established that he had gone to Afghanistan in connection with business of custom free vehicles, where he was arrested by the security forces of Afghanistan. (Copy of charge sheet and statement of allegations are annexure "A").
3. Subject to proof, however, detail reply has been given in the above para.
4. Incorrect. Infact on conclusion of inquiry a final show cause notice No. 1693/PA dated 16.06.2013 was issued which was served through concerned DFC of Police station City Hangu who endorsed written report duly signed by the father of the appellant that his son (appellant) has gone to Afghanistan where he was arrested by security forces. Copy of final show cause notice and report bearing the signature of father of appellant enclosed as annexure "B".
5. Incorrect. A proper departmental inquiry was initiated against the appellant in accordance with law & rules in which allegations leveled against him have been established beyond any shadow of doubt. (Copy of inquiry report is annexure "C").
6. Incorrect. The final show cause notice was served through the father of appellant who mentioned that the appellant has gone to Afghanistan where he was arrested by security forces of Afghanistan.
7. Incorrect. The order was passed by the Authority in accordance with law & rules after proper departmental proceedings

The appellant filed a departmental appeal against the order of major punishment of dismissal from service after three years which was examined and filed by the Authority. (Copy is annexure "D").

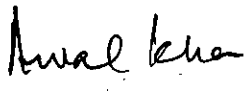
9. Incorrect. The order was passed by the Authority in accordance with law & rules, thus are maintainable.


Grounds:-

- A. Incorrect. The appellant has been treated in accordance with law & rules and no rights secured and guaranteed under the law have been violated.
- B. Incorrect. A proper procedure has been followed before passing the orders by the competent Authority.
- C. Incorrect. The appellant had absented himself from lawful duty and had gone to Afghanistan in connection with illegal business of non custom paid vehicles and this fact has been established during the course of inquiry.
- D. Incorrect. The allegations of willful absence and involving in illegal business of non-custom paid vehicles in Afghanistan has been established in a proper departmental inquiry and was held guilty.
- E. Incorrect. Infact a proper departmental inquiry was initiated against the appellant in which he was held guilty.
- F. Incorrect. The order was passed by the Authorities in accordance with law & rules.
- G. Incorrect. The order was passed by the Authorities in accordance with law & rules.
- H. Incorrect. The allegations leveled against the appellant have been established in a proper departmental proceedings conducted purely on merits and in accordance with law & rules in which he was held guilty.
- I. Incorrect. The allegations leveled against the appellant have been established against him beyond any shadow of doubt during the course of inquiry and he was held guilty.
- J. Incorrect. The order was passed by the Authority in accordance with law & rules after proper departmental proceedings in which he was held guilty.
- K. Incorrect. The order was passed by the Authority in accordance with law & rules after proper departmental proceedings in which he was held guilty.
- L. The respondents may also be allowed to advance additional grounds at the time of hearing.

In view of the above, it is prayed that on acceptance of this reply, the instant appeal may kindly be dismissed with cost.


District Police Officer,
Hangu
(Respondent No. 3)


Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

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

Service Appeal No. 634/2016

Irfan Ullah

..... Appellant.

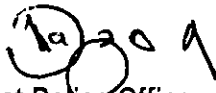
VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa, and others


..... Respondents.

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Court.



District Police Officer,
Hangu
(Respondent No. 3)



Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

CHARGE SHEET.

I, **MR. SAJJAD KHAN, D.P.O, HANGU** as competent authority, hereby charge you Constable Irfanullah No. 737 while posted at Police Lines, Hangu committed the following irregularities :-

a). You, Constable Irfanullah No. 737 while posted at Police Lines, Hangu had absented yourself from official duty with effect from 24.03.2013 till now without any leave or prior permission vide DD No. 47 dated 24.03.2013 of Police Liens, Hangu.

b) Your absentee shows disinterest and also amount to gross misconduct on your part.

2. By reasons of the above, 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 section - 3 of the Ordinance ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

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

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.


(SAJJAD KHAN) PSP
DISTRICT POLICE OFFICER,
HANGU

No. 1017 /PA,

Dated 19/04/2013.



DISCIPLINARY ACTION.

I, **MR. SAJJAD KHAN, D.P.O, HANGU** as competent authority, am of the opinion that Constable Irfanullah No. 737 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975 :-

STATEMENT OF ALLEGATIONS.

a) You, Constable Irfanullah No. 737 while posted at Police Lines, Hangu had absented yourself from official duty with effect from 24.03.2013 till now without any leave or prior permission vide DD No. 47 dated 24.03.2013 of Police Liens, Hangu.

b) Your absentee shows disinterest and also amount to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted under section - 3 of the Ordinance :-

i. Mr. Aziz-ur-Rehman, DSP Legal Hangu

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


(SAJJAD KHAN) PSP
DISTRICT POLICE OFFICER,
HANGU

A copy of the above is forwarded to :-

1. Mr. Aziz-ur-Rehman, DSP Legal Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.

2. Constable Irfanullah No. 737. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

FINAL SHOW CAUSE NOTICE.

WHEREAS, you Constable Irfanullah No. 737 while posted at Police Lines Hangu had absented yourself from official duty with effect from 24.03.2013 till now without any leave or prior permission from his senior officer with shows disinterest and also amounts to gross misconduct on your part.

THEREFORE, you were served with charge sheet and statement of allegation. An Enquiry Officer was appointed to conduct departmental enquiry. The Enquiry Officer has submitted findings and recommended you for major punishment.

NOW, THEREFORE, I, Sajjad Khan, PSP, District Police Officer, Hangu have vested the power under Police Disciplinary Rules, 1975 liable to take action against you, which will render you to a Major Punishment.

Your reply to this Final Show Cause Notice must reach to the office of the undersigned within **7 days** of the receipt of the Final Show Cause Notice. In case your reply is not received within the stipulated period otherwise, it shall be presumed that you have no defence to offer and ex-parte departmental action will be taken against you. Also state whether you desire to be heard in person?

(Copy of the findings of the Enquiry Officer is enclosed).

No. 1693 /PA,

Dt: 14 /06 / 2013.

(SAJJAD KHAN) PSP,
DISTRICT POLICE OFFICER,
HANGU



محمد حسین اللہ خان ولد رسول سکنہ محلہ گڑھی بازار شہر

شناختی کارڈ نمبر 3-1538143-14101
فون نمبر 9188896-0345

Handwritten signature/initials

صک محمد ایاز ولد محمد رفیق سکنہ گڑھی بازار

M. Ayaz (Handwritten signature)

NUMBARDAR
Mohammad Ayaz Khan
DISTT: HANGU

جدا بہ ملک

سرفراز کوہ کاغذی اظہار وجوہ لوٹس عدالت عرفان اللہ نمبر 737
کے ساتھ ساتھ ساتھ گڑھی بازار سے کد پتھر سے لکھن ٹھکانا کاروان
کو آفری شکل دینے کے لیے سے ان کے والد صاحب ابین اللہ خان کے حوالے کیا
بقول ابین اللہ خان کہ میرا بیٹا افغانستان گیا ہوا تھا لیکن ابھی
واپس نہیں آیا ہے (بعض) ہوا ہوں کہ وہ افغانستان میں کسی کو نہیں فوراً
والوں نے گرفتار کیا ہے اور راج کر رہے ہیں

آؤٹ کان محمد عرفان نمبر 516
کسٹم ڈیوٹی ڈسٹریکٹ
29/11/2013

ENQUIRY FINDING REPORT.

This is departmental enquiry against Irfanullah No.737 on the basis of allegations that he while posted in Police Lines Hangu has absented himself w-e-f 24.03.2013 without any leave or permission from his senior officer vide DL No.47 dated 24.03.2013 of Police Lines Hangu.

The said Constable was charge sheeted vide charge sheet No.1017/PA dated 19.04.2013 and I was appointed as enquiry officer to scrutinize the conduct of said Constable with reference to the allegations leveled against him.

In order to dig out the fact, I recorded the statement of Mohamir Mohammad Hussain Police Line Hangu. According to statement of Mohamir Police Line Hangu the said Constable has absented himself from the duty of absence i-e 24.03.2013 and is absent till todate. The said Constable had gone to Afghanistan in connection with business of custom free vehicle where he was arrested by the security forces of Afghanistan. Now, there is no hope of his return to Pakistan in near future.

Taking into account the long absence of the constable coupled with his engagement in act of business amount ^{to} gross misconduct and deserve major punishment if approved please.

Submitted please.

WORTHY DPO HANGU



ENQUIRY OFFICER, DSP LEGAL HANGU

27/6/2013

Done & signed
by Enquiry
officer

ORDER

FER

477

This order of mine will dispose of the departmental enquiry initiated against Constable Irfanullah No. 737 on the basis of allegation that he while posted at Police Lines Hangu absented himself from official duty with effect from 24.03.2013 till now without any leave or prior permission.

Charge Sheet together with statement of allegations under Police Disciplinary Rules 1975 was initiated against him vide No. 1017/PA dated 19.04.2013, which he failed to submit his reply. Mr. Aziz-ur-Rahman DSP Legal Hangu was appointed Enquiry Officer to conduct departmental enquiry against him. After completion of enquiry, Enquiry Officer submitted his findings on 03.06.2013, from the perusal of available records after going to the finding to the enquiry office it has established that the above named constable has gone to Afghanistan in the connection with business of custom free vehicle from where he was arrested by the security forces of Afghanistan. Now, there is no hope of him returned to Pakistan in future.

Therefore, the enquiry officer recommended him for major punishment under the prescribed rules.

Thereafter, Final Show Cause Notice was issued to him vide this office No. 1693/PA dated 14.06.2013, which was served through DFC Jan Muhammad of Police Station City Hangu, who has endorsed written report with regard to his Final Show Cause Notice stating therein that the above named Constable Irfanullah No. 737 has gone to Afghanistan.

Keeping in view of above and having gone through available records, the undersigned has come to the conclusion that the defaulter Constable absented himself from duty which amounts to gross misconduct, which indicates that he was not interested to serve further. Moreover, in these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Iftikhar Ahmad, District Police Officer, Hangu in exercise of the powers conferred upon me, award him major punishment of "**Dismissal from Service**" from the date of his absence i.e 24.03.2013.

Order Announced.

OB No. 673

Dated 29/11/2013.


IFTIKHAR AHMAD
DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 3849-52/PA, dated Hangu, the 2/12/2013.

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OHC for necessary action.


IFTIKHAR AHMAD
DISTRICT POLICE OFFICER,
HANGU

5/10/13
سید

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 976 /ST Dated 25 / 4 / 2017

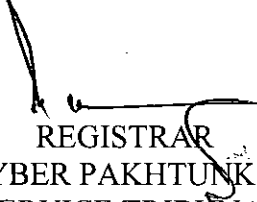
To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Hangu.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 10.4.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.