

Service Appeal No. 469/2016

09.10.2017

None is present on behalf of the appellant. Mr. Ziaullah, Deputy District Attorney for the respondents present. Called several times till the last hours of the court but none appeared on behalf of the appellant. As such the appeal is dismissed in default. File be consigned to the record room.

ANNOUNCED

09.10.2017



(Muhammad Amin Khan Kundi)  
Member



(Muhammad Hamid Mughal)  
Member

02.02.2017

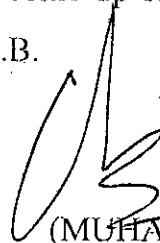
None present on behalf of appellant. Mr. Muhammad Raziq, H.C. alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents not submitted despite last opportunity and requested for further time. Last opportunity further extended subject to payment of cots of Rs. 500/- which shall be borne by the respondents form their own pockets. To come up for written reply/comments positively on 08.03.2017 before S.B.



(ASHFAQUE TAJ)  
MEMBER

08.03.2017

Counsel for the appellant and Mr. Muhammad Raziq H.C alongwith Addl: AG for respondents present. Written reply submitted. To come up for rejoinder and arguments on 07.06.2017 before D.B.



(MUHAMMAD AMIR NAZIR )  
MEMBER

07.06.2017

None present on behalf of the appellant. Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Notice be issued to appellant and his counsel for attendance for 09.10.2017 before D.B.

(GUL ZEB KHAN)  
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

05.10.2016

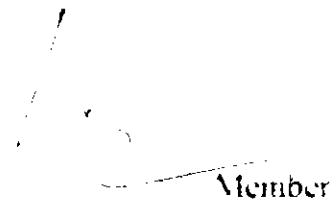
Appellant with counsel and Addl. AG for respondents present. Notice be issued to respondents to submit written reply comments on next date. To come up for written reply comments on 07.11.2016 before S.B.



(Muhammad Aamir Nazir)  
(Member)

07.11.2016

Clerk to counsel for the appellant and Mr. Muhammad Raziq, H.C. alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply comments on 29.12.2016 before S.B.



Member

29.12.2016

Counsel for the appellant and Mr. Muhammad Raziq, H.C. alongwith Addl. AG for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply comments on 02.02.2017 before S.B.



Chairman

11.05.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as constable when dismissed from service vide impugned order dated 03.07.2014 on the allegations of willful absence for 20 months and 9 days where-against he preferred departmental appeal on 19.1.2015 which was rejected on 14.03.2016 and hence the instant service appeal on 12.04.2016.

That the absence attributed to the appellant was not willful as the appellant belongs to Shiah Sect and due to militancy confined on certain occasions to his house and that the enquiry was not conducted in the prescribed manner and prescribed procedure also not adopted.

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 08,09.2016 before S.B.

Chairman

08.09.2016

Counsel for the appellant and Addl. AG for respondents present. Security and process fee not deposited. Appellant is directed to deposit security and process fee within seven days, thereafter notices be issued to the respondents for written reply/comments on 05.10.2016 before S.B.




Member

Appellant Deposited  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

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

Case No. \_\_\_\_\_ **469/2016** \_\_\_\_\_


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.05.2016	<p style="text-align: center;">The appeal of Syed Shafaat Hussain resubmitted today by Syed Amjid Hussain 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	9-5-2016	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>11-5-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right;"></p>

The appeal of Mr. Shafaat Hussain son of Salman Shah Distt. Peshawar received to-day i.e. on 12.04.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 4- Appeal may be page marked according to the index.
- 5- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 6- Copy of appointment order mentioned in para-1 of the appeal memo of appeal is not attached with the appeal which may be placed on it.
- 7- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 587 /S.T,

Dt. 13/4 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Syed Amjid Hussain Adv. High Court.

*Resubmitted*  
*S*

**BEFORE THE HONOURABLE**  
**SERVICES TRIBUNAL, KPK PESHAWAR**

Service Appeal No. 469 /2016

Shafaat Hussain

(Appellant)

**V E R S U S**

Capital City Police, Peshawar and others

(Respondents)

**INDEX**

S. No.	Documents	Annexure	Page No.
1	Appeal		1-4
2	Stay Application		5-6
3	Addresses of Parties		7
4	Copy of appointment order		8
5	Copy of order 2158 dated 03.07.2014 <i>Charge Sheet</i>		9-10
6	Copy of departmental appeal / <i>order of CCP Peshawar</i>		11-12-13
7	Wakalat Nama		14

Appellant

Through

**Syed Ajmal Hussain**

Advocate, High Court,  
Peshawar

**Syed Sajjad Haider**

Advocate, Peshawar

Dated: 12.04.2016

①

**BEFORE THE HONOURABLE**  
**SERVICES TRIBUNAL, KPK PESHAWAR**

Service Appeal No. 469 /2016

N.W.F. Province  
Services Tribunal  
Diary No. 366  
dated 12-4-2016

Shafaat Hussain S/o Salman Shah

R/o Wadpaga, Tehsil & District Peshawar

(Appellant)

**V E R S U S**

- 1) Capital City Police, Peshawar
- 2) Superintendent of Police Headquarters, Peshawar
- 3) Deputy Superintended of Police City-1, Circle Peshawar
- 4) Deputy Superintendent of Police University Campus, Peshawar

(Respondents)

**Appeal U/s 4 of N.W.P. Services Tribunal Act, 1974**  
**against the impugned termination order OB No.**  
**2158 dated 03.07.2014.**

**Prayer:**

On the acceptance of this appeal to set aside the impugned termination order vide OB No. 2158 dated 03.07.2014 issued by SP/HQRs Peshawar and to reinstate the petitioner w.e.f. 03.07.2014 with all back benefits.

ATTESTED

*[Handwritten Signature]*

re-submitted to-day  
and filed.

*[Handwritten Signature]*  
Registrar,  
12/5/16



Respectfully Sheweth,

2

Brief facts of the instant appeal are as under:

- 1) That the appellant was appointed as Police Constable in District Police Peshawar on 09.03.2002. (Copy of appointment order is attached herewith)
- 2) That the appellant performed his duties to the entire satisfaction of his superiors.
- 3) That the appellant became ill and could not perform his duties and an application to this effect was also submitted by the appellant before the departmental authorities.
- 4) That due to his illness and fear of target killing of believer of Fiqa Jaffria (Shiasect), the appellant disappeared from Peshawar as the appellant also belongs to Shaia Sect-9.
- 5) That there was row of target killing in Peshawar and many of friends and relatives of appellant were killed during the period when the appellant absented from duty and, during this period the appellant came to know that he was finally charged sheeted by the departmental authority / respondent No.2 and respondent No. 3 & 4 were nominated as enquiry officer, who conducted enquires against appellant. (Copy is attached)
- 6) That thereafter the appellant submitted written reply to the same but was not considered by the authority and the appellant was dismissed from service, vide

ATTACHED



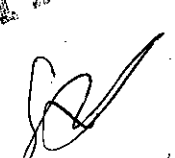
impugned order BO No. 2158 dated 03.07.2014.  
(Copy is attached)

- 7) That the appellant submitted departmental appeal against his termination order before respondent No. 1 which was also dismissed vide Order No. 666-72/PA dated 04.03.2016. (Copies are attached)
- 8) That the appellant has no other remedy but to challenge his termination order dated 03.07.2014 inter alia on the following grounds.

**GROUND**

- a) That the impugned order is illegal, against the established principles of law.
- b) That no notice, charge sheet etc. was given to the appellant and the appellant was condemned unheard.
- c) That it was categorically brought on record by the appellant that there was row of target killing of Shia Sect at Peshawar and the appellant due to his illness and fear could not attend his duties, but this fact was not considered by respondents, which is against the norms of justice.
- d) That any other ground will be taken at the time of arguments with the permission of this honourable tribunal.

ATTACHED




(4)

It is, therefore, most humbly prayed that on the acceptance of this appeal the oral termination order of appellant OB No. 2158 dated 03.07.2014 may kindly be set aside and the respondents may kindly be directed to re-instate the appellant into his service from the date of termination with all back benefits.

Appellant 

Through

  
**Syed Ajmal Hussain**  
Advocate, High Court,  
Peshawar

**Syed Sajjad Haider**  
Advocate, Peshawar

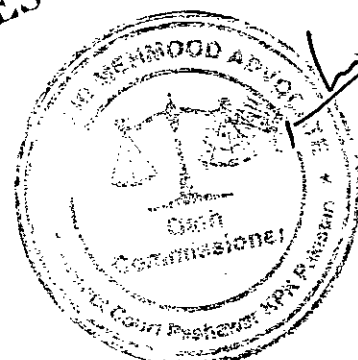
Dated: 12.04.2016

**AFFIDAVIT**

I, Shafat Hussain S/o Salman Shah R/o Wadpaga, Tehsil & District Peshawar, do hereby solemnly affirm and declare on Oath that the contents of service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.

  
DEPONENT

**ATTESTED**



12-4-2016

8

**BEFORE THE HONOURABLE**  
**SERVICES TRIBUNAL, KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2016

Shafaat Hussain

\_\_\_\_\_ (Appellant)

**V E R S U S**

Capital City Police, Peshawar and others

\_\_\_\_\_ (Respondents)

**Application for the suspension of termination**  
**order BO No. 2158 dated 03.07.2014 of**  
**termination of the appellant till the final**  
**disposal of appeal.**

**Respectfully Sheweth,**


The applicant submits as under:

- 1) That the instant appeal has been filed before this honourable court in which no date of hearing is fixed.
- 2) That the applicant has good prima facie case.
- 3) That the balance of convenience lies in favour of the applicant and there is ever success of the instant appeal.
- 4) That the applicant will suffer irreparable loss if the interim relief is not granted in his favour.

ATTESTED

\_\_\_\_\_

It is, therefore, most humbly prayed that on acceptance of this application the termination order OB No. 2158 dated 03.07.2014 of applicant may kindly be suspended till final decision of the appeal.

Appellant 

Through

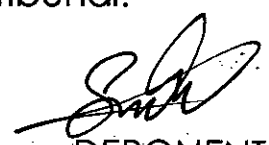
**Syed Ajmal Hussain**  
Advocate, High Court,  
Peshawar

**Syed Sajjad Haider**  
Advocate, Peshawar

Dated: 12.04.2016

**AFFIDAVIT**

I, Shafat Hussain S/o Salman Shah R/o Wadpaga, Tehsil & District Peshawar, do hereby solemnly affirm and declare on Oath that the contents of instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.

  
DEPONENT

**ATTESTED**



  
12-4-2016

**BEFORE THE HONOURABLE**  
**SERVICES TRIBUNAL, KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2016

Shafaat Hussain

\_\_\_\_\_(Appellant)

**V E R S U S**

Capital City Police, Peshawar and others

\_\_\_\_\_(Respondents)

**ADDRESSES OF PARTIES**

**Appellant**

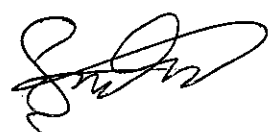
Shafaat Hussain S/o Salman Shah  
R/o Wadpaga, Tehsil & District Peshawar

**Respondents**

- 1) Capital City Police, Peshawar
- 2) Superintendent of Police Headquarters, Peshawar
- 3) Deputy Superintended of Police City-1, Circle Peshawar
- 4) Deputy Superintendent of Police University Campus,  
Peshawar

Appellant


Through

  
**Syed Ajmal Hussain**  
Advocate, High Court,  
Peshawar

**ATTESTED**

  
**Syed Sajjad Haider**  
Advocate, Peshawar

Dated: 12.04.2016



ENLISTMENT ORDER

(8)

Recruit/Constable SHARAT HUSSAIN S/O SULAMAN SHAH  
NO WADPAGA CHAMKAN District PESHAWAR

is hereby enlisted as recruit/Constable in EPS No.(5) w.e.from

9.3.2002 and allotted c.no-4232

Height 5' - 7 1/2" Chest 37 1/2" x 39 1/2"

Education 10th D/O Birth 06.04.1980

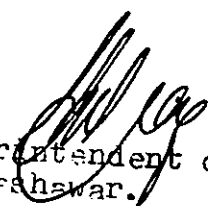
Age On Enrolment \_\_\_\_\_ Years \_\_\_\_\_

Month and days.

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

OB NO. 685

Dated 29-3-2002

  
Senior Superintendent of Police,  
Operation, Peshawar.

Annexure - A

Page - 8

REVISED



**ORDER.**

11/20  
2012

286  
13

9

This office or enquiry against Constabl Peshawar on the allegatic was absent from duty on the following period without taking permission or leave.

o the disposal of formal departmental issain No.4232 of Capital City Police while posted at Police Lines, Peshawar

S No	From	To	Total absentee
01	10.10.2012	12.11.2012	33-days
02	27.11.2012	Till date	19-months & 06-days
03	<b>Total</b>		<b>20-months &amp; 09-days</b>

Annexure-B

Page No: 9

ENC-63

In this regard, he was issued charge sheet and summary of allegations. Two separate enquiries were initiated, conducted by SDPO City & DSP Campus.

SDPO City conducted the enquiry proceedings in the 1<sup>st</sup> absence period & submitted his report that the defaulter official did not attend the enquiry proceedings. The E.O further recommended ex-parte decision after issuing of final show cause notice to the said official vides Enquiry Report No.57/ST dated 03.04.2013.

DSP Campus conducted the enquiry proceedings in 2<sup>nd</sup> absence period & submitted his report that the defaulter official did not attend the enquiry proceedings. The E.O further recommended major punishment for the defaulter official vide Enquiry Report No.414/R/CPC dated 08.10.2013.

Upon the finding of E.Os, he was issued final show cause notice and delivered him on home address through local Police of PS Chamkani which received by his brother namely Bakhtiar wherein stated that his brother is not available in Pakistan and proceeded abroad.

Lastly, the report of MASI Police Lines was obtained. He reported that the defaulter official is still absent from duty vide DD report No.17 dated 27.11.2012 till date.

In light of the findings of E.Os and other material available on record, the undersigned came to conclusion that the alleged official has no interest in official duties and, found guilty of this misconduct. Therefore, in exercise of the power vested to me under Police Disciplinary Rules, 1975, he is hereby dismissed from service with immediate effect. Hence the period he remained absent for 20-months & 09-days is treated without pay.

**SUPERINTENDENT OF POLICE**  
**HEADQUARTERS, PESHAWAR**

OB. NO. 2158 / Dated 3/7 /2014

No. 2701-07 /PA/SF/dated Peshawar the 03/11 /2014

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

Capital City Police Officer, Peshawar.

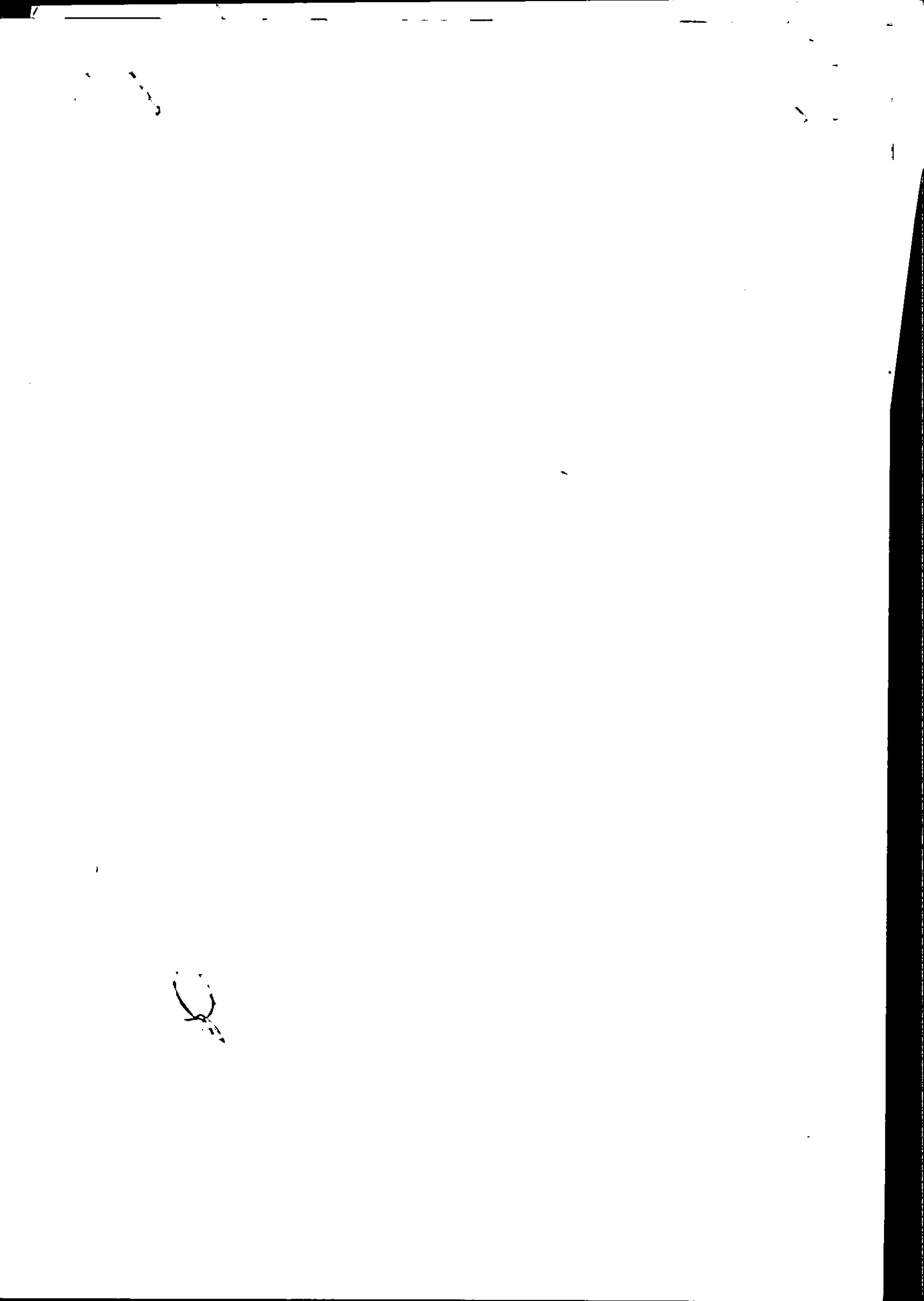
DSP/HQrs, Peshawar.

Pay Office, OASI, CRC & FMC along-with complete departmental file.

Officials concerned.

Handwritten signature and date stamp: 2014





27

10

**CHARGE SHEET**

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Shafat Hussain No.4232 of Capital City Police Peshawar with the following irregularities.

"That you Constable Shafat Hussain No.4232 while posted at Police Lines, Peshawar were absent from duty w.e.f. 10.10.2012 till date without taking permission or leave. This amounts to gross misconduct on your part and is against the discipline of the force."

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

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

Annexures - C

Page - 10

**ATTESTED**  


Annexure - No - 1A

Page - 11

11

To,

The CCPO, Peshawar.

Dy: No	262	PA-CCPO
Dt:	26.1.15	
Encl:	①	

Subject; APPLICATION FOR THE REINSTATEMENT OF THE  
APPLICANT NAMELY SYED SHAFAT HUSSAIN SHAH  
BELT NO. 4232, EX. CONSTABLE.

No 13 - LB  
 27/1/2015  
 ul ①

Respected Sir,

Most respectfully petitioner submits as under:-

1. That the applicant was appointed on 2002 as police constable in district police Peshawar.
2. That the applicant performed his duties efficiently to the entire satisfaction of his officials.
3. That the applicant unfortunately become ill and could not perform his duty.
4. That applicant submitted an application for sick leave along with medical certificate.
5. That the applicant was dismissed from his service on 3/7/2014.
6. That the applicant was condemned unheard and was no opportunity / chance of personal hearing was given to the petitioner.
7. That inquiry officer did not try to inform the applicant nor applicant was personally served upon with any notice.

DSP/L  
for comments

PL

File  
Enclos

F.M.C/R.C

Noted Secret 1/1

Signature

RECEIVED

Signature

27-1-2015

8. That enquiry report is against the facts and circumstances, therefore, is liable to be turned down.
9. That the applicant is a young and healthy person having a large family including minor under education children.
10. That the applicant get received information of his dismissal on 15/1/2015.

*IT IS, THEREFORE, REQUESTED THAT ON THE ACCEPTANCE OF THIS APPLICATION, THE APPLICANT BE REINSTATED ON HIS DUTY.*


Dated: 19/01/2015



**Syed Shafat Hussain Shah**

S/o Suleman Shah

0346-9204523

17-10  
2015  




Annexure - 13

**OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR**

Phone No. 091-9210989  
Fax No. 091-9212597


**ORDER**

This order will dispose off departmental appeal preferred by ex- constable **Shafat Hussain No.4232** who was awarded the major punishment of **Dismissal** from service under Police Rules-1975 vide OB No. 2158 dated 3.7.2014 by SP/HQrs: Peshawar on the charge mentioned below:-

He while posted at Police Lines Peshawar, absented himself w.e.f. 10.10.2012 to 12.11.2012 (33-days) and 27.11.2012 to 3.7.2014 (19-months & 6-days) (**Grand Total 20-months & 9-days**).

2- Two separate departmental proceedings were initiated against him and DSP/City-I and DSP-CPC were appointed as E.Os. They summoned the delinquent official time and again but he deliberately avoided to appear and join the departmental proceedings. On receipt of the findings of the E.Os, the delinquent constable Shafat Hussain was issued Final Show Cause Notice at his home address through local Police which was delivered to him through father Suleman Shah on 16.5.2013, but he did not respond, hence the Competent Authority awarded him the above major punishment.

3- He was called in O.R. on 11.3.2016, and heard in person. Enquiry file was thoroughly examined. He was provided full opportunity to defend himself but he miserably failed to produce any cogent reason in his favour. All codal formalities have been completed before awarding him punishment by the Competent Authority. There is no justification to interfere in the order passed by SP-HQRs. The appeal is also time barred by 5 months and 23-days. The charge of absence stand proved against him, hence his appeal for re-instatement in service is rejected/filed.

  
(MUBARAK ZEB)  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR.

No. 666-72 /PA dated Peshawar the 14/03 2016.

Copies for Information and n/a to the:-

1. SP/HQRs: Peshawar.
2. PO/OASI/ Complain Cell, CCP Peshawar.
3. CRC along with S.Roll for making necessary entry in his S.Roll.
- ✓ 4. FMC along with FM
5. Official concerned.

ATTESTED



تہمت  
10 روپے

47014



ایڈووکیٹ/دستخط

بار کونسل ابار ایسوسی ایشن خیبر پختونخواہ

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

رابطہ نمبر: 8346910046

بعدالت جناب: سرور سز ٹریبونل صوبہ خیبر پختونخواہ

منجانب: وپبلانٹ	دعویٰ: <i>میرزا حسن علی</i>
<p>کیس نمبر: <i>1204</i></p>	علت نمبر: <i>1204</i>
	موضوع: <i>میرزا حسن علی</i>
کیس نمبر: <i>1204</i>	جرم: <i>میرزا حسن علی</i>
تھانہ: <i>میرزا حسن علی</i>	

بامث تحریر آگہ

*All Filled Accepted*  
*Signature*

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ *میرزا حسن علی* کو ذیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز ذیل صاحب کو راضی نامہ کرنے و تقریر جاننا و فیصلہ برطاعت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں ہر دستخط کرنے کا اختیار ہوگا، نیز *میرزا حسن علی* کو پیروی یا اجیل کی فراہمی اور منسوخی، نیز دائر کرنے اجیل نگرانی و نظارتی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور ذیل یا اختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا مانتہ بہ درخواست منظور قبول ہوگا دوران مقدمہ میں جو فریہ ہر جانہ التوائے مقدمہ کے نتیجے سے ہوگا وہ ذیل موصوف و ذیل کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو ذیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: *1204*

الع بد \_\_\_\_\_ واہ شد \_\_\_\_\_ الع بد

مقام *پشاور* کے لئے منظور ہے۔

تہمت اس وقت ہوگی کہ کاروائی تمام قبول ہوگی

*Signature*

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

**Service Appeal No.469/2016.**

Shafaat Hussain Ex- Constable No.4232 Police Line Peshawar.....Appellant.

**VERSUS.**

1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, HQrs: Peshawar.
3. Deputy Superintendent of Police, City-1 Circle, Peshawar.
4. Deputy Superintendent of Police University Campus, Peshawar. Respondents.

**Reply on behalf of Respondents No. 1, 2, 3 & 4.**

**Respectfully shewth:.**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.
7. That this Hon'ble tribunal has no jurisdiction to entertain the appeal.
8. That the appeal is not maintainable in its present form.

**FACTS:-**

- 1- Para No. 1 Pertains to record , hence needs no comments.
- 2- Para No. 2 is totally incorrect and denied. The appellant is a habitual absentee and is not interested in performing his duties.
- 3- Para No. 3 is totally incorrect and concocted one. The appellant wilfully absented himself from his lawful duty without taking permission or leave. He also admitted in his service appeal that due to fear of target killing he remained absent for about 20 months and 09 days.
- 4- Para No. 4 is correct to the extent that the appellant wilfully absented himself from his lawful duty.
- 5- Para No. 5 is incorrect. He was issued charge sheet and statement of allegations which he himself admitted in the paras. In fact two separate proceedings were initiated against him by DSP/City-I and DSP-CPC. They summoned the delinquent official time and again but he deliberately avoided to appear and join the departmental proceedings. After fulfilling all codal formalities, he was issued final show cause notice at his home address through local Police but he did not respond, hence after fulfilling all codal formalities, he was awarded major punishment of dismissal from service.(copy of charge sheet and statement of allegations and inquiry report and show cause notice annexed)
- 6- Para No. 6 is totally incorrect and denied. In fact the appellant was called time and again by the enquiry officers but he deliberately avoided the proceedings, which shows that he is not interested in his duties.

Para No. 7 is correct to the extent that he filed a departmental appeal which was also time barred for about 05 months and 23 days, however after due consideration was filed/rejected.

- 8- That appeal of appellant being devoid of merits may kindly be dismissed with cost.

**GROUNDS:-**

- A- Incorrect. The punishment order is legal and per the law.  
B- Incorrect. Proper charge sheet was issued to him. He was also called and heard in person in OR on 11.03.2016.  
C- Incorrect. The appellant deliberately absented himself from his lawful duty without taking permission/leave. Being a police force member he is to protect innocent citizen against such acts but instead he absented himself.  
D- That the respondents also seek permission of this honorable Service Tribunal to raise additional grounds during the time of arguments.

**PRAYERS:-**

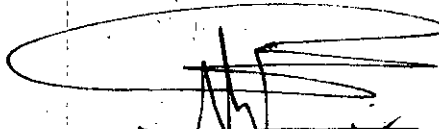
It is therefore most humbly prayed that in light of above stated facts/submissions, the appeal of the appellant may kindly be dismissed being devoid of merit and baseless.



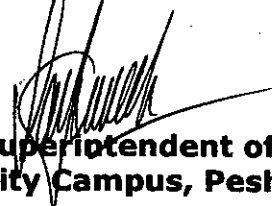
**Capital City Police Officer,  
Peshawar.**



**Superintendent of Police,  
HQs, Peshawar.**



**Deputy Superintendent of Police,  
City-1 Circle, Peshawar.**



**Deputy Superintendent of Police,  
University Campus, Peshawar.**



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

**Service Appeal No.469/2016.**

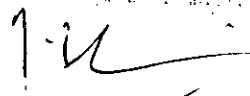
Shafaat Hussain Ex- Constable No.4232 Police Line Peshawar.....Appellant.

**VERSUS.**

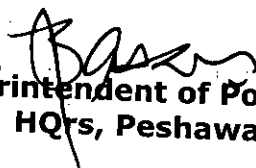
1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, HQrs: Peshawar.
3. Deputy Superintendent of Police, City-1 Circle, Peshawar.
4. Deputy Superintendent of Police University Campus, Peshawar. Respondents.

**AFFIDAVIT**

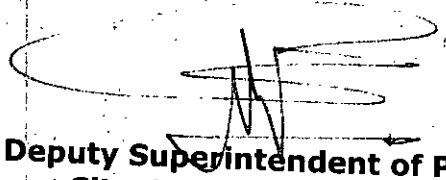
We respondents No. 1 ,2 , 3 & 4 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



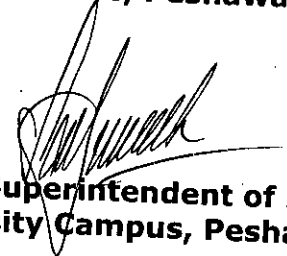
**Capital City Police Officer,  
Peshawar.**



**Superintendent of Police,  
HQrs, Peshawar.**



**Deputy Superintendent of Police,  
City-1 Circle, Peshawar.**



**Deputy Superintendent of Police,  
University Campus, Peshawar.**

2

**CHARGE SHEET**

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Shafat Hussain No.4232 of Capital City Police Peshawar with the following irregularities.

"That you Constable Shafat Hussain No.4232 while posted at Police Lines, Peshawar were absent from duty w.e.f. 27.11.2012 till date without taking permission or leave. This amounts to gross misconduct on your part and is against the discipline of the force."

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

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

6

## DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Shafat Hussain No.4232 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

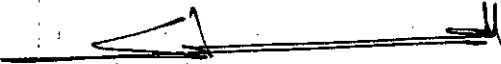
### STATEMENT OF ALLEGATION

"That Constable Shafat Hussain No.4232 while posted at Police Lines, Peshawar absented himself from duty w.e.f. 27.11.2012 till date without taking permission or leave. This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and DSP Traffic HQ is appointed as Enquiry Officer.  
CAMPUS

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

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

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 226 /E/PA, dated Peshawar the 25/04 /2013

1. DSP Traffic HQ is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

**FINAL SHOW CAUSE**

**CE**

3

I Superintendent of Police, Headquarters, Capital City Police Peshawar as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve you Constable Shafat Hussain No.4232 of Capital City Police, Peshawar as follows.

1 (i) That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.

(ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.

I am satisfied that you have committed the following acts/omissions specified in Police Disciplinary Rules 1975 of the said Ordinance.

"That you Constable Shafat Hussain No.4232 while posted at Police Lines, Peshawar were absent from duty w.e.f. 27.11.2012 till date without taking permission or leave. Your act amounts to gross misconduct and against the discipline of the force"

As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Disciplinary Rules 1975 for absence willfully performing duty away from place of posting.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 7 days of its delivery, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parate action be taken against you.

5. The copy of the finding of the enquiry officer is enclosed.

SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 226 /PA, SP/HQrs: dated Peshawar the 4/11/2013.

Copy to official concerned

DFC 19/6/14

(5)

226  
13

No. 414 /R/CPC.  
Dated 08 /Oct, 2013.

DEPARTMENTAL ENQUIRY

This is departmental enquiry against Constable Shafat Hussain No. 4232 posted at Police Lines, Peshawar on the ground that he was absented from lawful duty with effect from 27.11.2012 till to date without any leave/permission from his seniors.

He was properly charge sheeted with statement of allegations and the undersigned was appointed as Enquiry Officer.

The constable was contacted time and again through his mobile and called to the office of the undersigned for enquiry and recording his statement regarding his absence but he was not received the charge sheet so for nor attended the enquiry proceedings.

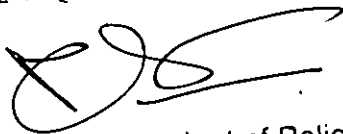
Keeping in view the situation, the undersigned came to the conclusion that the constable deliberately absented himself from lawful duty and not attending the enquiry proceedings, therefore he is recommended for major punishment to be awarded as experte.

Submitted please.



(TAJAMMUL KHAN)  
Dy: Supdt: of Police,  
University Campus Peshawar.

issue final show  
cause notice



Superintendent of Police  
HQrs: CCP Peshawar.