

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 11467/2020.

Tasbih Ullah EX-HCAppellant.

VERSUS

Deputy Inspector General of Police, Mardan Region

& Others.....Respondents.

INDEX

S#	Description of document	Annexure	Page
1	Parawise comments	-	1-5
2	Copy of Service of Show Cause Notice	A	6
3	Copies of Statement of allegations & Charge Sheet	B & C	7-8
4	Copy of Final Show Cause Notice	D	9-11
5	Copy of DIG order	E	12-13
6			
7			
8			
9			
10			

[Signature]
Legal Branch
Saidu

31-1-24
Peshawar

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 11467/2020.

Tasbih Ullah EX-HCAppellant.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10885

Dated 30-1-2024

VERSUS

Deputy Inspector General of Police, Mardan Region

& Others.....Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT'S 2 & 3 THAT RESPONDENTS

SUBMITTED AS UNDER:

Respectfully Sheweth:

Preliminary Objections.

1. That the appellant has got no cause of action and locus standi to file instant appeal.
2. That the appeal is bad due to misjoinder and non-joinder of necessary parties.
3. That the appeal is barred by law and & limitation.
4. That the appellant has not come to this Tribunal with clean hands.
5. That the instant appeal is not maintainable in its presents form.
6. That the appellant concealed the material facts from this Honorable Tribunal.
7. That the appellant has been estopped by his own conduct to file the appeal.

REPLY ON FACTS.

1. This para pertains to person and service carrier of the appellant.
2. Correct. DPO imposed major penalty upon the appellant after fulfilling codal formalities & procedure.
3. Incorrect as the appellant was issued proper Show Cause Notice which was duly served upon him through General Councilor of the locality namely, Nisar Mohammad Worth to mention here that the appellant had intentionally powered off his mobile and did not correspond with department despite several calls/summons. **(Copy of Service of Show Cause Notice as annexure "A" dated 06.09.2019)**
4. Incorrect and baseless. The appellant was issued charge sheet with summary of allegations and proper enquiry was conducted against him after fulfilling of all codal formalities. Worth to notice here that the appellant had preferred his departmental appeal at a very belated stage and was badly time-barred. Moreover, appellant's negligence and lack of interest in service could be established from the fact that he even did not follow his service appeal in the Honorable Tribunal which was dismissed in

default vide Order dated 06.02.2023. Therefore, the reasons forwarded about his absence before respondent No.1 were not plausible and could not establish his innocence before the Appellate Authority, hence, rejected his appeal. **(Copy of charge sheet/summary of allegations as annexure "B & C")**

5. Again incorrect and unfounded. All the codal formalities were fulfilled during the enquiry conducted against the appellant where he deliberately absented himself and did not appear before the enquiry officer.
6. Incorrect as the appellant had not sought proper leave and failed even to inform his seniors regarding his unprovable sickness. If it was so, he may appear before the enquiry officer by producing his medical documents/prescriptions during the enquiry proceedings. In fact, he had badly failed to file timely a departmental appeal where he could better defend himself even at the appellate forum. Moreover, he was also given opportunity of personal hearing by the respondent No 03 which he again intentionally missed. Consequently, he was issued final Show Cause Notice but to no avail. **(Copy of Final Show Cause Notice as annexure "D")**
7. Pertain to Honorable Apex Court of Pakistan, however, each case has its own facts and legal obligations. Besides, Police Rules (E&D) 1975 are applicable to the appellant while the reliance is of Frontier Constabulary governed through quite different rules. In the instant case all the codal formalities were fulfilled, hence, needed no de novo enquiry.
8. Incorrect and unfounded, as the appellant was given every opportunity of self-defense. He was summoned for personal hearing by the competent authority in the Orderly Room which he intentionally missed. He was also summoned and heard on 11.08.2019 by the Respondent No. 01 being Appellate Authority, where he could not defend himself. Hence, rejected his appeal on the grounds well defined in the Departmental Appeal Rejection Order. **(copy of Appeal Rejection Order as annexure "E")**
9. Incorrect, as there no legal or moral grounds upon which the appellant could establish his innocence in this Hon'rabl Tribunal, hence, his appeal is liable to be dismissed. Inter alia on the following grounds:

GROUND:

- A. Incorrect and baseless. There is no violation of any principle of the constitution of Pakistan and there is no mala fide, ill-well or unlawful act of the respondents in awarding the appellant major penalty of dismissal. He was dealt under the relevant rules/law and procedure.

3

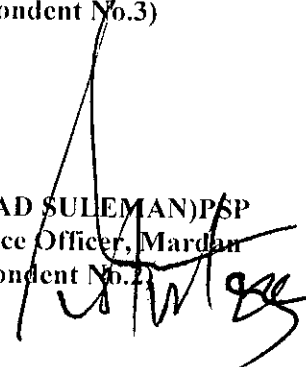
- B. Incorrect as the appellant was afforded every opportunity of self-defense and even heard in person by the Respondent No. 01, being Appellate Authority. Hence the impugned orders are tenable in the eyes of law.
- C. Correct to the extent of rejection of departmental appeal but on valid and reasonable grounds. In fact, the appellant was given opportunity of personal hearing but he could not defend himself, hence, appellate authority sustained the impugned penalty of dismissal by rejecting his appeal.
- D. Incorrect and baseless, despite several opportunities provided under the rules/law, the appellant could not defend himself, hence, awarded penalty he deserved.
- E. No comments. Pertains to Honorable Apex Court of Pakistan, however, the reliance do not substantiate the case of appellant being purely a disciplinary proceedings under the law and procedure. The reliance of appellant has nothing to do with the procedure of disciplined force governed under the law.
- F. The respondents may also be allowed to present grounds, if any, at the time of arguments.

PRAYERS:

It is, therefore, requested that the instant appeal being devoid of merits may be dismissed with costs.



(HAROON RASHID KHAN)PSP
District Police Officer, Swabi.
(Respondent No.3)



(MUHAMMAD SULEMAN)PSP
Regional Police Officer, Mardan
(Respondent No.2)

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 11467/2020.

Tasbih Ullah EX-HCAppellant.

VERSUS

Deputy Inspector General of Police, Mardan Region

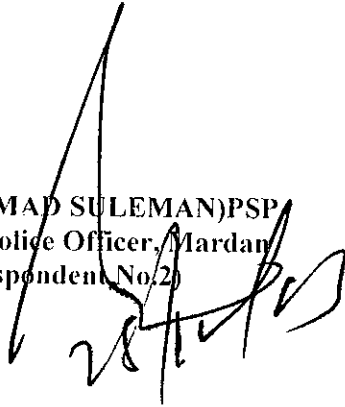
& Others.....Respondents.

POWER OF ATTORNEY.

We, the respondent No. 1 to do hereby appoint Mr. Shafeeq Muhammad DSP Legal/Topi Swabi as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.



(HAROON RASHID KHAN)PSP
District Police Officer, Swabi.
(Respondent No.3)



(MUHAMMAD SULEMAN)PSP
Regional Police Officer, Mardan
(Respondent No.2)

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 11467/2020.

Tasbih Ullah EX-HCAppellant.

VERSUS

Deputy Inspector General of Police, Mardan Region

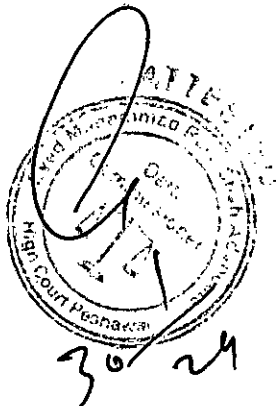
& OthersRespondents.

AFFIDAVIT:-

I the respondent No. 3 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of my knowledge/ belief and nothing has been concealed from the honorable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/ cost.



(HAROON RASHID KHAN)PSP
District Police Officer, Swabi.
(Respondent No.3)



کمانہ انجمن پورہ

۶ "A" نمبر 26 روزنامہ پورہ ۰۶-۹-۱۹

تاریخ

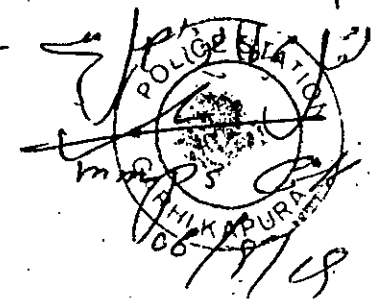
26 واپس لفافہ حال Psi وقت 16:20 سے 17:00 سے موسم ایمان ہفتہ بحوالہ مردمان اعلیٰ فریکٹ سے

واپس آیا مردمان مہا نکل گت شوکار نوشی گری 1856 ہوائی PP Brand 1635
مارک شدہ بنام سنڈلش لقیع اللہ 615 کے نمونہ دو نمونہ ہم باکر منوہ سے لکیش نام موجود
تھا۔ جبہ انکا معانی ستمی محمد لفظان ولد الوارثہ سان کوش اسماعیل کی موجود تھا انٹو شوکار نوشی
حوالہ کرتے ہوئے گت دستخط گت کی رپورٹ احتیاط درج روزنامہ پورہ اب میں موسم ایمان
واپس نوٹہ علاقہ گت سہون

اپوست
روانش

خواب والی

Handwritten signature



7

B

SUMMARY OF ALLEGATION.

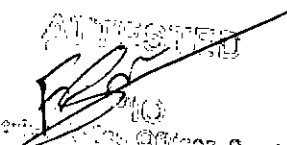
It is alleged that HC Tasbih Ullah No.615, while posted to Police Post Azam Abad, absented himself from duty with effect from 08.04.2019 till date. he was issued with show cause notice and directed to receive but the directions fell on deaf ears and he did not bother to receive. His this act highly is against the discipline and amounts to gross mis-conduct, hence summary of allegation.

Mr. **Khalid Khan, DSP, Swabi**, is appointed to conduct proper departmental enquiry against him.


District Police Officer,
Swabi.

No. 32 /CC/PA

Dated: 20/05/2019


District Police Officer, Swabi.

⑧ C

CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I **Syed Khalid Hamdani, PSP,QPM**, District Police Officer, Swabi charge you **HC Tasbih Ullah No.615**, on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and exparte action will be taken against you.

ATTESTED
[Signature]
District Police Officer, Swabi.

[Signature]
District Police Officer,
Swabi.

9 D

FINAL SHOW CAUSE NOTICE

Whereas you **HC Tasbih Ullah No.615**, while posted to Police Post Azam Abad, absented yourself from duty with effect from 08.04.2019 till date, without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and **Mr. Luqman Khan, DSP, Swabi**, was appointed to conduct proper departmental enquiry. The enquiry officer held enquiry and submitted his findings, wherein, he found you **HC Tasbih Ullah No.615**, guilty for the mis-conduct and recommended for Major punishment.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

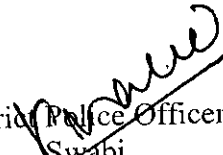
Hence, I, **Syed Khalid Hamdani, PSP,QPM**, District Police Officer, Swabi in exercise of powers vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you **HC Tasbih Ullah No.615**, to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

You are also at liberty to appear for personal hearing before the undersigned.

ATTESTED

District Police Officer, Swabi.


District Police Officer,
Swabi.

S/Secy

✓

25/10

MISCO

10

DN

Confidential

Government of Khyber Pukhtunkhawa.

Office of the District Police Officer, Swabi
Phone No. 0938-221399, Fax No. 0938-222434

From: The District Police Officer, Swabi.
To: The District Police Officer, Mardan.
No. 1856 /PA, dated Swabi, the 26/08/2019.
Subject: SERVICE OF FINAL SHOW CAUSE NOTICE.
Memo:

Enclosed kindly find herewith, Show Cause Notice (in duplicate) in r/o HC Tasbih Ullah No.615 S/O Anwar Sher, resident of Ghari Kapora. District Mardan for service upon him. Duplicate copy. thereof, duly signed by him may be returned to this office for further necessary action, please.

ATTESTED
[Signature]
PIO
District Police Officer, Swabi.

[Signature]
District Police Officer,
Swabi.

admitted

S.Ho G.K
In compliance.

سی جی ایچ
[Signature]
S.Ho PS G.K
3-9-19

[Signature]
DP O/MON
02/9/19
1635/19
3/8/19

(11) D/2

میں جس کے احوال نگار انوشدر سنگھ کوٹ اور اس کے دوستوں سے
روا کر کے پتہ چلا ہے کہ ان کے پاس سے ایک قلم منتر کا نمونہ
موجود ہے جس سے انہیں کئی دفعہ اللہ کے حور اور روح

الہ
مگر تھان اولہ انوشدر سنگھ کوٹ اور اس کے دوستوں سے

0314-4571976

16101-1030180-3

District Police Officer, Swabi.

خواتین کا نام

پتہ منتر کا نمونہ انوشدر سنگھ کوٹ اور اس کے دوستوں سے
میں کئی دفعہ اللہ کے حور اور روح
موجود ہے جس سے انہیں کئی دفعہ اللہ کے حور اور روح

الہ

District Police Officer, Swabi.

ADU

ATTESTED
PIO
District Police Officer, Swabi.

(Kulab)
Asst. Ps. G. K.
5/9/19

3/4/19
6/9/19

5

(12)

E

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Head Constable Tashih Ullah No. 615 of Swabi District Police against the order of District Police Officer, Swabi, whereby he was awarded major punishment of dismissal from service vide OB No. 772 dated 24.09.2019. The appellant was proceeded against departmentally on the allegations that he while posted at Police Post Azam Abad absented himself from his lawful duty with effect from 08.04.2019 till date of his dismissal without any leave or permission of the competent authority.

He was issued Show Cause Notice and directed time and again to receive the same but to no avail. Hence, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer (SDPO) Swabi was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he recommended the appellant for awarding major punishment.

He was issued Final Show Cause Notice on 06.09.2019 with the directions to submit his reply within seven days of the receipt of the notice. But he did not bother to submit his reply. Besides, he was also provided right of self defense by summoning him in Orderly Room; but this time too he failed to appear before the competent authority. Therefore, ex-parte action was taken against him and he was awarded major punishment of dismissal from service from the date of absence i.e 08.04.019 by the District Police Officer, Swabi vide OB: No. 772 dated 24.09.2019.

Feeling aggrieved from the order of District Police Officer, Swabi the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 11.08.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that the appellant during the course of enquiry did not bother to join enquiry proceedings. Moreover, he also failed to appear before the competent authority in Orderly Room which clearly depicted that he had nothing to justify his absence. It is pertinent to mention here that prior to this, the appellant had also been dismissed on the same allegations who was later on re-instated into service vide this office order endorsement No. 9276/ES dated 22.12.2017. But he failed to mend his ways. It is worthwhile

ATTESTED

[Signature]
District Police Officer, Swabi.

[Signature]

13 E/1

that the appellant approached this forum at a belated stage without advancing any cogent reason regarding the delay. Hence, order passed by the competent authority does not warrant any interference.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being time barred.

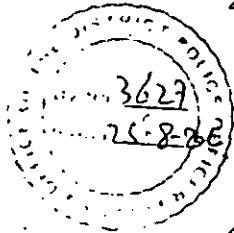
Order Announced.

(Signature)
Regional Police Officer,
Mardan.

No. 5126 /ES, Dated Mardan the 24-8- /2020.

Copy forwarded to District Police Officer, Swabi for information and necessary action w/r to his office Memo: No 98/Insp: Legal dated 28.07.2020. His Service Record is returned herewith.

(*****)



OB/EC/PA/Insp: Legal

Formula

DPO Swabi
25-8-2020

ATTESTED

(Signature)
District Police Officer, Swabi.

(Large handwritten signature)
25-8-2020
(Signature)