

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	18.05.2015	<p data-bbox="630 486 1398 561" style="text-align: center;"><b>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></b></p> <p data-bbox="800 607 1230 645" style="text-align: center;">Service Appeal No.1556/2013,</p> <p data-bbox="630 687 1511 763">Muhammad Asif, Driver Constable No. 116, Versus Deputy Inspector General of Police Headquarter, CPO, Peshawar etc.</p> <p data-bbox="776 803 963 841" style="text-align: center;"><u>JUDGMENT</u></p> <p data-bbox="776 884 1511 922" style="text-align: center;"><u>ABDUL LATIF, MEMBER.-</u> Appellant with</p> <p data-bbox="630 965 1511 1078">counsel (Mr. Sajid Amin, Advocate) and Mr. Ziaullah, GP with Suleman, H.C for the respondents present.</p> <p data-bbox="630 1204 1511 1557">2. The instant appeal has been filed by Mr. Muhammad Asif Driver Constable under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 12.11.2013 whereby his departmental appeal against the order dated 03.10.2013 was dismissed.</p> <p data-bbox="630 1683 1511 2036">3. The facts of the case are that the appellant was appointed as Constable Driver on 16.6.2008 and vide order dated 03.10.2013 he was dismissed from service. He filed departmental appeal against order of his dismissal which was rejected, hence the instant appeal in the Service Tribunal.</p> <p data-bbox="630 2162 1511 2351">4. The learned counsel for the appellant argued that the impugned order was against the law and void ab-initio because it was passed in disregard to the mandatory provision of the</p>

Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and it was passed from retrospective effect. That the appellant was not treated according to law which is his inalienable right under Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. That the appellant was removed from service without holding any enquiry, without issuing of any show cause notice without giving any opportunity of personal hearing and personal defence, hence not maintainable under the law. It was further submitted that impugned order was a non-speaking order and no reasons were given for passing the same order which is against Section 24-A of the General Clauses Act. He prayed that the appeal may be accepted and the appellant may be reinstated with all back benefits.

5. The learned Government Pleader argued that the appellant deliberately absented himself from duty for 91 days and also went abroad without permission of the competent authority. That proper charge sheet and statement of allegations were served upon the appellant to which he submitted replies. Proper enquiry was conducted into the case which proved the charge of absence. Final show cause notice was issued to the appellant who failed to respond to the same. The appellant admitted the allegations of absence and visit abroad without N.O.C, hence procedure laid down in Police Rules, 1975 was followed before awarding the punishment. He prayed that the appeal is devoid of any merits may be dismissed.

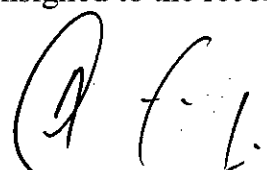
6. Arguments of the learned counsel for the parties heard and record perused with their assistance.

7. From perusal of the record it revealed that the appellant was found guilty of the charge of absence. He was however, awarded major penalty of dismissal from service which seems harsher compared to the guilt. Moreover, the impugned order was passed with retrospective effect which is not permissible under the law.

8. The Tribunal is therefore, of the considered view to set aside the impugned orders, reinstate the appellant for the purpose of denovo enquiry and remand the case to the respondent department for proceedings afresh against the appellant strictly in accordance with law and the rules. The issue of back benefits will be decided subject to outcome of the denovo enquiry. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
18.5.2015.

  
(PIR BAKHSH SHAH)  
MEMBER

  
(ABDUL LATIF)  
MEMBER

26.11.2014

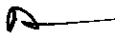
Counsel for the petitioner and Mr. Muhammad Jan, for the respondents present. The Tribunal is incomplete. To come up for the same on 13.01.2015.



READER

13.1.2015

Appellant in person and Mr. Ziaullah, GP with Falak Nawaz, DSP (Legal) for the respondents present. Rejoinder received, copy whereof is handed over to the learned GP. To come up for arguments on 18.5.2015.



MEMBER

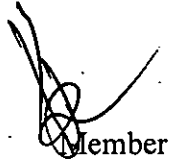


MEMBER

Appeal No. 1556/2013  
Mr. Muhammad Asif

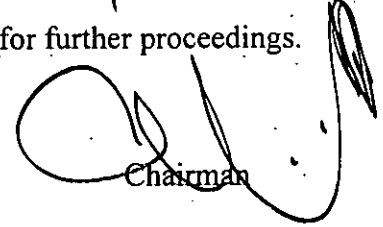
31-01-2014

Appellant with counsel present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the order dated 03.10.2013, the appellant filed departmental appeal which has been rejected on 12.11.2013, hence the present appeal on 27.11.2013. He further contended that the impugned order is not a speaking order, no reason has been given as required under Section 24-A of the General Clauses Act, 1897. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 25.04.2014.

  
Member

31-01-2014

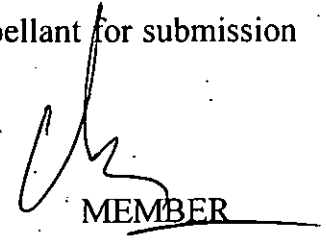
This case be put before the Final Bench II for further proceedings.

  
Chairman

25-4-2014

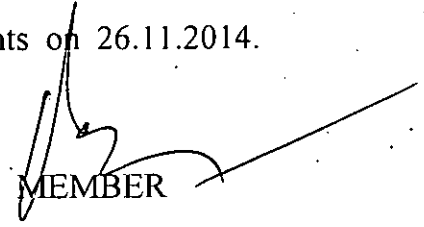
Appellant in person and Mr. Muhammad Jan, GP with Falak Nawaz, DSP (Legal) for the respondents present and reply filed. Copy handed over to appellant for submission of rejoinder on 25.6.2014.

MEMBER  


  
MEMBER

25-6-2014.



Mr. Sajid Amin Advocate/counsel for the appellant present and submitted wakalanama, which is placed on file. AAG with Falak Nawaz, DSP (Legal) for the respondents present. The newly engaged counsel requested for time to file rejoinder. To come up for arguments on 26.11.2014. Rejoinder, if any, in the meantime.

  
MEMBER

Appellant (Mr. Muhammad Asif) present for security of Rs. 1000/- with counsel attached with file

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Case No. 1556/2013

S.No.	Date of Order Proceedings	Order or other proceedings with signature of judge or Magistrate
1		3
1	02/11/2013	<p>The appeal of Mr. Muhammad Asif resubmitted today by Mr. Zar Muhammad Afridi Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>31-1-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

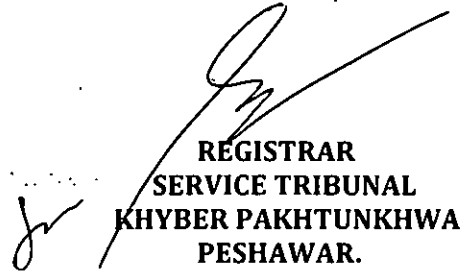
The appeal of Mr. Muhammad Asif Ex-Driver Constable No.116 Police Department received today i.e. on 27.11.2013 is incomplete on the following scores which is returned to the counsel for the appellent for completion and resubmission within 15 days.

- 1- Heading of the appeal is incomplete which may be completed.

No. 1693 /S.T.

Dt. 28/11 /2013

Mr. Zar Muhammad Afridi Adv. Pesh.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

P.T.O

Sir,

Resubmitted after doing the  
needful.

Dated: 02/12/13

3  
Counsel

81331  
1188

379



**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIUBNAL,**  
**PESHAWAR**

Service Appeal No. 1556 /2013

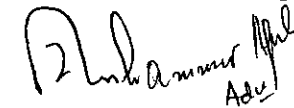
Muhammad Asif .....Versus.....Deputy Inspector General etc

**INDEX**

S. #	Description of documents.	Annexure	Pages
1.	Service Appeal		1-3
2.	Copy of Order dated 16.06.2008	A	4
3.	Copy of order dated 03.10.2013	B	5
4.	Copy of departmental appeal	C	6-7
5.	Copy of Letter dated 12.11.2013	D	8
6.	Wakalatnama		9

  
Appellant

Through

  
Zar Muhammad Afridi  
Advocate, Peshawar

Dated: 23.11.2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 1556 /2013

**EVIS**  
No. 1591  
27-11-13

Muhammad Asif,  
Ex-Driver Constable, No 116,  
R/o Malogo (Jhagra), P.O Tarnab Farm,  
Tehsil and District, Peshawar

.....Appellant

Versus

1. Deputy Inspector General, Headquarters, Provincial Police Officer, KPK, Peshawar.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional Inspector General Police, Headquarters, Khyber Pakhtunkhwa, Peshawar.
4. Deputy Superintendent of Police (Admin), City Police Officer, Peshawar.

.....Respondents

*27/11/13*  
Service Appeal Under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Order Dated 12-11-13 whereby the Departmental Appeal against order Date 03-10-13 is dismissed.

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the Appellant was appointed as Constable Driver on 16-06-2008 and ever since his appointment he has performed his duties to the entire satisfaction of his superiors.

2. That vide Office Order No 24952-55/E-II, Dated 03-10-2013 the appellant was dismissed from service.

3. That it is important to mention here that the impugned order whereby the Petitioner is removed from service is passed without holding any inquiry, without issuing any show cause notice, without giving any chance of hearing, without giving any final show cause notice, without making any

re-submitted to  
and filed:

*27/12/13*

2  
1

publication regarding alleged absence in any leading news paper and is against the Section 24-A of General Clauses Act, 1897.

4. That against the aforesaid order, the Appellant filed a Departmental Appeal which was dismissed vide Order No 28063/E-II, Dated 12-11-2013, hence this Service Appeal on the following amongst other grounds:

**Grounds:**

- a. That the impugned order is against the law, illegal, unlawful, without lawful authority and void ab initio, hence untenable and liable to be set aside.
- b. That the impugned Order whereby the Appellant is dismissed from service is passed in utter disregard of the mandatory provisions of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.
- c. That the treatment met to the Petitioner is against law, rules and policy on the subject matter, which is his inalienable right under the Article 4 of the Constitution of Islamic Republic of Pakistan, 1973.
- d. That the impugned order whereby the Petitioner is removed from service is passed without holding any inquiry, without issuing any show cause notice, without giving any chance of hearing, without giving any final show cause notice and without making any publication regarding alleged absence in any leading news paper.
- e. That the impugned Order whereby the Petitioner is removed from service is the result of colorful exercise of powers and based on malafide for extraneous consideration.
- f. That the impugned order has been passed in utter disregard of the procedure laid down in Rule 9 of the Khyber Pakhtunkhwa Servants (Efficiency and Discipline) Rules, 2011 and on this score alone the impugned order is liable to be set aside.
- g. That the impugned Order is a non speaking order and no reasons are giving for passing the impugned order which is against the Section 24-A of the General Clauses Act, 1897.
- h. That the impugned is *coram non judice* and based on malafide for ulterior motives and extraneous considerations.
- i. That the impugned order is against the principles of natural justice because before passing the impugned order no chance of hearing was given to him.
- j. That the impugned order is against the fundamental rights enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.

k. That the Petitioner craves permission of this Honorable Court to rely on other grounds at the time of arguments and produce any additional document if required in support of his Petition.

It is, therefore, prayed that on acceptance of this Service Appeal the impugned Order whereby the Appellant is dismissed from service may kindly be set aside and allow him to perform his duties along with all other back benefits.

Any other relief which has not been specifically prayed for and deemed fit and appropriate by this Honorable Tribunal in the circumstances of the case may graciously be granted.

*Asif Omar*  
Appellant,

Through

*Zar Muhammad Afridi*  
Adv.  
**Zar Muhammad Afridi**  
Advocate, Peshawar

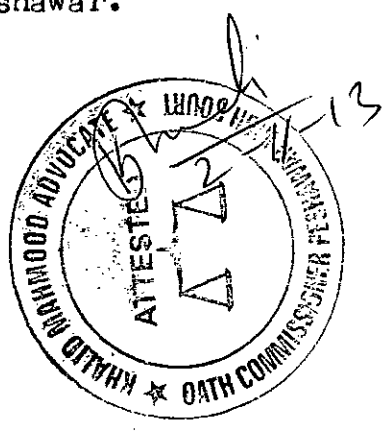
AFFIDAVIT.

I, Muhammad Asif ex-Driver Constable No.116, R/O Malogo (Jhagra), P.O Tamab Farm, Teh: & Distt: Peshawar do hereby solemnly affirm and declare that the Contents of this Service Appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'able Court.

*Asif Omar*  
Deponent

( MUHAMMAD ASIF )

Identified by :  
*Zar Muhammad Afridi*  
(Zar Muhammad Afridi)  
Advocate, Peshawar.



ORDER

The following candidates of the residence noted against each name are hereby appointed as Driver Constables BPS-05 (2780-135-6830) purely on temporarily basis subject to medical fitness, verification of Character and Matric Certificate.

S/NO	NAME	RESIDENCE OF
1.	Muhammad Asif s/o Amir Nawaz	Malogo (Jhagra) P.O Tranab farm Tehsil & District Peshawar.
2.	Adnan s/o Abdul Jalil	Sultan Abad Utmanzai District Charsadda.
3.	Ijaz Ahmad s/o Musafar Khan	Alo Tehsil Takht Bai District Mardan.
4.	Tahir Hussain s/o Ghulam Yousaf	Darmeyana Palo Jamal Gari District Mardan.
5.	Malang Khan s/o Qutab Din	Kisraw Shahab Khail P.O Badkber District Peshawar.
6.	Mumtaz Khan s/o Yousaf Khan	Gandi Khan Khel Tehsil & District Lakki Marwat.
7.	Zafeer Muhammad s/o Faqir Muhammad	Mohallah Palangzai Matta Muhghal Khel District & Tehsil Charsadda.
8.	Nasir Khan s/o Madad Khan	Ghari Atta Muhammad Tehsil & District Peshawar.
9.	Mustafa Kamal s/o Shah Rehman	Mohallah Shikhan Muhammad Zai P.O Galozai District Peshawar.
10.	Nadcem Sher s/o Muhammad Bashir	Merza Dher Tehsil Tangi District Charsadda.
11.	Manzoorullah s/o Ihsanullah	Mohallah Shikhan daha Bahadar Tehsil & District Peshawar.
12.	Ikramullah s/o Abdul Jamil	Village Panam Dehri Bala P.O Mathra Tehsil & District Peshawar.
13.	Irfan Ali s/o Fazle Rabbi	Mohallah Zafar Khel Muhammad Zai P.O Galozai District Peshawar.
14.	Amjad Ali s/o Liaqat Ali	Kot kandaray P.O Kot Tehsil & District Charsadda
15.	Khan Zeb s/o Farid Khan	Gul shan Abad Kula Dhere. Baz Mian Kali Tehsil & District Peshawar.
16.	Khadim Ali s/o Nihad Ali	Hafiz Abad Kochyan P.O Gulbila Tehsil & District Peshawar.
17.	Abid Ali s/o Noor Hayat	Mohallah Zanki Khel P.O Khas Dagi District Swabi.
18.	Zahid Hussain s/o Muhammad Hussain	Village Balo Khel Payan Badaber P.O Khas Tehsil & District Peshawar.
19.	Abdul Awwal s/o Abdur Rauf	Village Gumbat P.O Tehsil & District Mardan.
20.	Asad Zia s/o Abdul Ahad	Mohallah Nobat Abad Swabi Road P.O Par Hoti District Mardan.

(FIAZ AHMAD KHAN TORU)

Add: IGP/HQRs,  
For Provincial Police Officer,  
NWFP, Peshawar.

No. 16585-92 /E-II dated Peshawar the

16 16 /2008.

Copy of above is forwarded for information and necessary action to the:

1. Addl: IGP/Headquarters NWFP Peshawar.
2. Deputy Inspector General of Police Headquarters NWFP, Peshawar.
3. AIG/Establishment CPO
4. Budget Officer CPO
5. Registrar CPO
6. Accountant CPO
7. RI/CPO.
8. Official concerned.

*Attested  
Abbott*

B 5

**ORDER**

Driver Constable Muhammad Asif No. 116 of CPO willfully absented himself from official duty w.e from 29.01.2013. It was learnt that he had gone abroad without prior approval of the competent authority.

Driver Constable Muhammad Asif No. 116 of CPO was charge sheeted and summary of allegations was issued to him. Mr. Tariq Iqbal, DSP CPO, Peshawar was appointed as enquiry officer.

Mr. Tariq Iqbal, DSP, CPO (enquiry officer) conducted proper Departmental Enquiry and submitted enquiry report. According to the contents of enquiry report/finding, it has been proved that Driver Constable Muhammad Asif No. 116 of CPO went abroad with out permission of competent authority and remained absent from official duty for a period of 91-days. The allegations leveled against Driver Constable Muhammad Asif No. 116 has been proved without shadow of doubt. The enquiry officer recommended major punishment for the defaulter driver Constable.

Keeping in view the above explained position, I award major punishment to Driver Constable Muhammad Asif No. 116 of CPO, and he is dismissed from service from the date of absence.



(TARIQ JAVED) PSP  
DIG/Headquarters  
For Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar

No. 24952-SS /E-II, dated Peshawar the 03/10 /2013

Copy of above is forwarded for information and necessary action to the:-

1. Addl: IGP/HQrs Khyber Pakhtunkhwa Peshawar.
2. DSP/Admn CPO Peshawar.
3. Accountant CPO Peshawar.
4. Ex-Driver Constable Muhammad Asif No. 116 Malogo (Jhagra) P.O Tarnab Farm Tehsil & District Peshwar.



Ali's head  
Peshawar

To

**The DIG Head Quarters,  
Provincial Police Officer,  
K.P.K, Peshawar.**

Subject:-

DEPARTMENTAL APPEAL AGAINST  
THE ORDER DATED 03/10/2013.

Sir,


*The applicant submits as follows:-*

1. *That I was appointed as Constable Driver on 19/06/2008, ever since my appointment I have performed my duties to the entire satisfaction of my superiors.*
2. *That on 03/10/2013 vide order No 24952-55/E-II, I have been dismissed from service, which is against the law, illegal, unlawful and without lawful authority.*
3. *That order dated 03/10/2013, whereby I have been dismissed from service is passed in utter disregard of Govt: Servants (efficiency & discipline) Rules, 1973.*
4. *That before passing order dated 03/10/2013, no chance of hearing was given to me, no show cause notice, no final show cause notice was given to me, which is against the settled principles of law.*

7  
5) That the impugned order whereby I have been dismissed from service is against the principles of natural justice.

It is, therefore, requested that on acceptance of this appeal, order dated 03/10/2013, whereby I have dismissed from service may kindly be set aside and I may kindly be re-instated in service with all back benefits.

Dated:-

  
Applicant  
M. Asif  
No 116  
Driver Constable



From: The Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.


To: The Ex-Driver Constable,  
Muhammad Asif No. 116,  
Village Malogo (Jhagra),  
Post office Tarnab Farm,  
Tehsil District Peshawar.

No. 28063/E-II, dated Peshawar the 12/11/2013

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER  
DATED: 03.09.2013.

Memo:

Your Departmental appeals for Re-instatement in Service,  
dated 24.10.2013 and dated: 28.10.2013 have been examined and filed by  
the competent authority.

  
(JAVED IQBAL)


Registrar  
For Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar

No. \_\_\_\_\_/E-II, dated Peshawar the \_\_\_\_/\_\_\_\_/2013.

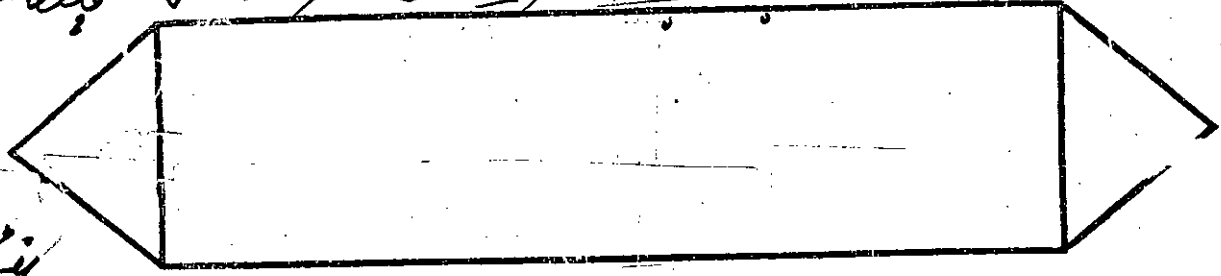
Copy of above is forwarded to Accountant CPO for making  
necessary entry in his service roll.

(JAVED IQBAL)

Registrar  
For Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar

  
Registrar  
Peshawar

# بعدالت جنرل سروس ٹریبونل لہور



2019ء جناب ایڈووکیٹ  
بنام جنرل سروس  
جنرل آف  
پولیس

محمد رفیق

مورخہ 25/11/19  
مقدمہ SERVICE  
دعویٰ SERVICE  
جرم

## باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام سروس ٹریبونل کیلئے زیر محمد آفریدی اور دیگر وکلیں لکھنا  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوفہ کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دور پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا اوکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 25 ماہ نومبر 2019ء

کے لئے منظور ہے۔  
12/11/2019  
A5 Vo CME

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.

Service Appeal No. 1556/2013

Muhammad Asif.....(Appellant)

Versus

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and  
others.....(Respondents)

Subject:- COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth!

- a) The appeal has not been based on facts.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for non-joining necessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

- 1) Correct to the extent that appellant was appointment as driver constable in the year 2008, however, he deliberately absented himself from duty for long period of 91 days and he also visited abroad without permission. Therefore, he was dismissed from service vide impugned order.
- 2) Correct to the extent of issuance of impugned order. Appellant willfully remained absent from duty for long period. The impugned order was passed after observing all the legal, codal and procedural formalities.

- 3) Incorrect, proper charge sheet and statement of allegations were issued to appellant. He received the copies on 03.05.2013. Copies of charge sheet and statement of allegations bearing token of receipt of appellant are enclosed as Annexure-A & B. Appellant submitted reply in response to the charge sheet and copy of reply is enclosed Annexure- C. Proper enquiry was conducted wherein the allegation leveled against appellant in the charge sheet were reported proved. Copy of finding report is enclosed as Annexure-D. Final Show Cause Notice was issued to appellant and he failed to submit reply in response to the final Show Cause Notice. Copy of Final Show Cause Notice bearing token of receipt is enclosed as Annexure-E. Therefore appellant has wrongly contended that opportunity of defense was not provided to him.
- 4) Incorrect, there was no force in the appeal of appellant therefore the same was filed.

GROUND:-

- a) Incorrect, the impugned order is just, legal and has been passed in accordance with law & rules. The order was passed after competition of all legal, codal and procedural formalities.
- b) Incorrect, the impugned order was passed after conducting proper departmental proceedings and providing opportunity of defense to the

appellant. Charge Sheet, statement of allegations and final Show Cause Notice were issued to appellant but he failed to rebut the charges, rather appellant admitted the charge in the clear terms in the reply submitted in response to the Charge Sheet. Copy of reply has already been enclosed.

- c) Incorrect, appellant was treated in accordance with law. He has admitted that he remained absent from duty for 91 days and visited abroad without any intimation to the department and without managing NOC in this regard.
- d) Incorrect, proper enquiry was conducted. Copy of Charge Sheet, final Show Cause Notice, finding of enquiry officer, reply of appellant submitted in response to the charge sheet has already been enclosed.
- e) Incorrect, appellant being Police constable remained absent for long period and visited abroad without permission. Appellant also admitted the charge in the reply submitted in response to the Charge Sheet. Therefore respondents have exercised powers judicially and within the ambit of their jurisdiction.
- f) Incorrect, respondents have followed the procedure laid down in Police disciplinary Rules 1975.
- g) Incorrect, the impugned order is speaking and is based on sound reasons and grounds.

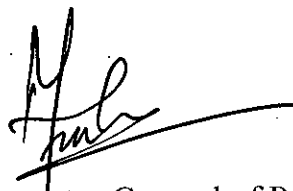
- h) Incorrect, appellants have failed to bring anything on record, which may prove mala-fide on the part of respondents.
- i) Incorrect, full opportunity of defense was provided to appellants. Furthermore, appellants have admitted the charge in his reply submitted in response to charge sheet.
- j) Incorrect, no fundamental right of appellants has been infringed.
- k) That the respondents may also be allowed to raise other points during argument.

It is therefore, prayed that the appeal may be dismissed with costs.



Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

(Respondent No. 2 & 3)



Deputy Inspector General of Police,  
Headquarters, Khyber Pakhtunkhwa,  
Peshawar.

(Respondent No. 1)



Deputy Superintendent of Police,  
Admin, CPO Peshawar.

(Respondent No. 4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PEASHAWAR.

Service Appeal No. 1556/2013

Muhammad Asif.....(Appellant)

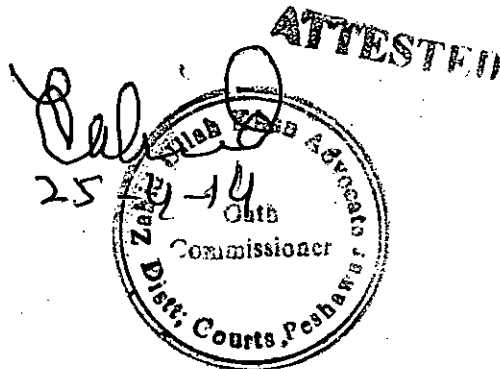
Versus

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and  
others.....(Respondents)

AFFIDAVIT.

I, Falak Nawaz, DSP Legal CPO Peshawar, do hereby  
solemnly affirm and declare on oath that the contents of reply on behalf of  
Respondents in response to the appeal are true and correct to the best of my  
knowledge and belief and nothing has been concealed from this Honorable  
Tribunal.

  
Falak Nawaz  
Department Representative,



Annexure A

CHARGE SHEET

I, Muhammad Iqbal AIG/Estt: CPO Khyber Pakhtunkhwa Peshawar, as competent authority, hereby charge You Constable/Driver Muhammad Asif No: 116 at CPO as follow:-

1. DSP/Admn: CPG intimated that you while posted as Driver/Constable at CPO Peshawar have willfully absented yourself from Official duty from 29.01.2013 till date. It is learnt that you have gone abroad without prior approval regarding grant of Ex-Pakistan leave from the competent Authority as required under the revised leave rules.

2. By reasons of the above, you appear to be guilty of misconduct under KPK Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the rules ibid.

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

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

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

6. A statement of allegations is enclosed.

  
(MUHAMMAD IQBAL)

AIG/ESTT:

For Provincial Police Officer  
Khyber Pakhtunkhwa  
Peshawar.

محمد اسف 116 نو  
دریور/کنستبل  
کے طور پر  
پشاور کے  
سی۔ پی۔ او۔

3.5.13  
محمد اسف  
116 نو



Annexure B

**DISCIPLINARY ACTION**


I, Muhammad Iqbal AIG/Estt: CPO Khyber Pakhtunkhwa Peshawar as competent authority, is of the opinion that you Constable/Driver Muhammad Asif No: 116 at CPO have rendered yourself liable to be proceeded against departmentally as you have committed the following acts/omission within the meaning of Khyber Pakhtunkhwa Police disciplinary Rules, 1975.

**STATEMENT OF ALLEGATION**

DSP/Admn: CPO Intimated that you while posted as Driver/Constable at CPO Peshawar have willfully absented yourself from Official duty from 29.01.2013 till date. It is learnt that you have gone abroad without prior approval regarding grant of Ex-Pakistan leave from the competent Authority as required under the revised leave rules.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Tariq Iqbal DSP CPO is appointed as Enquiry Officer.

3. The Enquiry Officer shall, in accordance with the provisions of the Rules, provide reasonable opportunity of hearing to the accused, record its findings and make within 20 days of the receipt of this order, recommendations as to punishment or the appropriate action against the accused.

  
(MUHAMMAD IQBAL)  
AIG/ESTT:  
For Provincial Police Officer  
Khyber Pakhtunkhwa  
Peshawar

حکومتِ عراق شہادتِ عمر رضی اللہ عنہم سے کہ میرے دل میں یہ دیرینہ خواہش تھی کہ  
روضہ رسولؐ پر حاضری دوں۔

اس سلسلے میں میں نے اپنے ایک رشتہ دار جو کہ سعودی عرب میں

قیام پر ہیں سے کئی بار درخواست کی میرے حوالے لٹرا کر م کیا

کہ اس نے مجھے روضہ رسولؐ کی زیارت کیلئے سعودی عرب بلا لیا

مجھے اجازت عمرہ کے سلسلے میں سعودی عرب جانا پڑا۔ میرا خیال تھا کہ

میں بیعتہ رسولؐ میں بہ سعادت حاصل کر کے واپس آ جاؤں گا  
جان سے قبل میں نے اس درخواست میں کئی دیکھ دی اور اپنے چھوٹے بھائی

کو بہ تاکید کی کہ یہ درخواست میرے دفتر پہنچا دیں۔ مگر اس نے غفلت

کا مظاہرہ کرتے ہوئے یہ درخواست دفتر کو ارسال نہ کی

صاف والا یہ کہ مجھے علم نہیں تھا کہ پاکستان سے باہر جانے کیلئے کوئی کارروائی کرنی

پڑتی ہے سعودی عرب جا کر فزیریہ فزیرا ادا کرنا چاہی وہاں سے مجھے یہ پتہ چھری

کرنی پڑی۔ مہربانی فرما کر میری اس غلطی کو معاف کیا جائے۔ آئندہ احتیاط رہوں گا

المخوم 3-5-13

العراق

دوسرا نسخہ

معاونتِ بغداد ڈاکٹر عبدالرشید شمس الدین ۱۱۶ صوفیہ سی بی او بی ۱۰

Handwritten signature and stamp in the bottom right corner.

Annexure D

**Departmental Inquiry against Driver/Constable**  
**Muhammad Asif No.116 of CPO**

**Brief.**

Driver/Constable Muhammad Asif No.116 who was posted in CPO Peshawar absented himself from his lawful duty w.e from 29-01-2013 without leave or prior permission from the competent authority. Lines Officer CPO submitted a written report to DSP Admin CPO regarding his absence. He further stated that the driver/constable reportedly has preceded abroad i.e Saudi Arabia. DSP Admin also forwarded his absence report to the high ups for taking necessary action as per rules. On his report AIG/Establishment CPO stopped his pay and ordered for departmental enquiry. Driver/Constable was served with Charge Sheet and Statement of allegations and the undersigned was appointed as inquiry Officer.

The inquiry Officer initiated departmental proceedings. Lines Officer CPO and DSP Admin was asked to submitted their written statements who subsequently submitted their written statements stating therein that the defaulter driver/ Constable Muhammad Asif No.116 absented himself w.e from 29-01-2013 to 30-04-2013 for a total period of 91 days. They also categorically stated that the defaulter driver/ constable have gone abroad Saudi Arabi without any permission of the competent authority.(copy attached)

Statement of Driver Constable Asif No.116 was also got recorded. In his statement he submitted that he was performing his duty in CPO, received information through a relative settled in Saudi Arabia regarding Visa. He accepted his invitation and went to Saudi Arabia to perform "Umra". He was not aware of any legal process. He after performing "Umra" and expiry of visa returned back for duty. He was cross examined that being a member of the Police force he should knew the rules and regulation for going abroad. He told that he was not aware of any rules and regulations.

11/30/2013  
24/5

Page (1 of 2)

charge

5/3 100

100

Accountant CPO

Subordinate No. 100

76

During the course of inquiry it reveals that there was clear contradiction in their statements recorded during inquiry and earlier submitted in response to the charge sheet and statement of allegations. In reply to the charge sheet he submitted that his relative was seriously ill in Saudi Arabia and he went to see him. His passport was also obtained from him and visa was found not for "Umra" but for job. (copy attached).

**Finding**

After perusal of the statement of defaulter constable Driver/Constable Muhammad Asif, DSP Admin CPO and Lines Officer CPO coupled with other material on record, visa on his passport, it revealed that defaulter driver constable is found guilty of misconduct by not informing senior's officers and without any permission of the competent authority he went abroad. The allegations leveled against him in the charge Sheet stands proved. Hence the defaulter driver/constable Muhammad Asif is liable for major punishment under the law.

*Tariq Iqbal*  
24/3  
(TARIQ IQBAL)  
DSP/LOGISTICS CPO  
ENQUIRY OFFICE..

FINAL SHOW CAUSE NOTICE.

1. WHEREAS, you Driver Constable Muhammad Asif No. 116 posted at CPO Peshawar committed gross misconduct as defined in Section 3 of Police Disciplinary Rules 1975. You were served Charge Sheet and Statement of Allegations and Mr. Tariq Iqbal DSP/Logistics CPO was appointed as enquiry Officer.

2. The Enquiry Officer after completion of departmental proceedings giving you full opportunities of defence i.e personal hearing as well as cross examination, submitted his finding. The enquiry officer held you responsible of the charges levelled against you in the statement of allegations.

3. AND WHEREAS, on going through the finding and recommendation of the enquiry officer, statements of DSP/Admin, Lines Officer, other connected papers and your defence before the enquiry officer, I am satisfied that you have committed misconduct and found you guilty of the charges leveled against you as per statement of allegations conveyed to you which stands proved and rendered you liable to be awarded major punishment under the said rules.

4. NOW THEREOFRE, I Awal Khan, DIG/HQrs Khyber Pakhtunkhwa Peshawar as competent authority have tentatively decided to impose upon you any one or more penalties including major penalty under section 3 of the aforesaid rules.

You are therefore, required to show cause within seven (07) days after the receipt of this Notice, as to why the aforesaid penalty should not be imposed upon you, failing which it shall be presumed that you have no defence to offer and an exparte action shall be taken against you. Meanwhile also intimate whether you desire to be heard in person or otherwise.

(Copy of finding of enquiry officer is enclosed)

*Awal Khan*

(AWAL KHAN)PSP  
DIG/Headquarters:  
For Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar.

*7-6-15*

POWER OF ATTORNEY

In the Court of H.P.K. Service Tribunal Peshawar,  
Muhammad Asif

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

D.I.G etc

} Defendant  
} Respondent  
} Accused  
}

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN**

and Saifed Amin Akhij my true and lawful attorney, for me in my same and on my behalf to appear at Regur 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. Compromises 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 Asif Akhij  
Accepted subject to the terms regarding fee \_\_\_\_\_

**Ijaz Anwar**

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-3 &4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt  
Ph.091-5272154 Mobile-0333-9107225

Saifed Amin  
Advocate  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

In the matter of  
Appeal No. 94/2014

Muhammad Arif.....(*Appellant*)

**VERSUS**

Provincial Police Officer, Peshawar & others.  
.....(*Respondents*)

**REJOINDER ON BEHALF OF THE APPELLANT**

Respectfully submitted:

**ON PRELIMINARY OBJECTIONS:**

- a. Contents incorrect and misleading the appeal is based on facts.
- b. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rules and procedure hence maintainable in its present form.
- c. Contents incorrect and misleading all necessary parties are arrayed in the instant appeal.
- d. Contents in correct and misleading no rule of esstople is applicable in the instant case.
- e. Contents incorrect and misleading, the instant appeal has been filed well within the prescribed period of limitation.
- f. Contents incorrect and misleading the appellant has come to the court with clean hands.

**ON FACTS**

- 1. Contents to the extent of appointment being admission, hence need no reply, however rest of the reply submitted to Para-1 of the appeal is incorrect and misleading moreover, contents of Para-1 of the appeal are true and correct.

2. Contents of Para-2 of the appeal are correct, the reply submitted to the Para- is incorrect and misleading.
3. Contents of Para-3 of the appeal are correct, the reply submitted to the Para- is incorrect and misleading.
4. Contents of Para-4 of the appeal are correct, the reply submitted to the Para- is incorrect and misleading.

**GROUND**

The Grounds (A to ~~k~~) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

*It is therefore humbly prayed that the appeal of the appellant may please be accepted as prayed for.*

*Asif Durrani*  
Appellant

Through

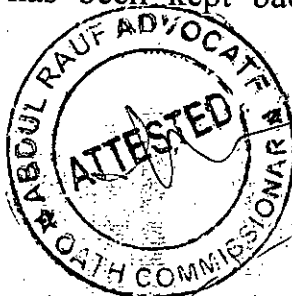
*Ijaz Anwar*  
IJAZ ANWAR  
Advocate, Peshawar.

&

*Sajid Amin*  
SAJID AMIN  
Advocate, Peshawar.

**AFFIDAVIT**

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.



*Asif Durrani*  
Deponent



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 806 /ST

Dated 27 / 05 / 2015


To

The P.P.O,  
Peshawar.

Subject: - APPEALS NO. 1556/2013 Muhammad Asif VS P.P.O PESHAWAR AND OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 18.05.2015 passed by this Tribunal on subject appeal for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.