

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1120/2019

Date of Institution ... 03.09.2019

Date of Decision ... 06.01.2021

Waseem son of Bahadar Sher R/O Matta Mughal Khail, Tehsil Shabqadar,
District Charsadda (Ex-Constable No. 1197/1863, FRP Head Quarters Peshawar.
... (Appellant)

VERSUS

The Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa Peshawar and
one other. ... (Respondents)

Present.

Mr. Riaz Ahmad,
Advocate.

... For appellant

Mr. Muhammad Riaz Khan Paindakhel,
Assistant Advocate General,

... For respondents.

MR. HAMID FAROOQ DURRANI,
MR. ATIQ-UR-REHMAN WAZIR,

... CHAIRMAN
... MEMBER(E)


JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appeal in hand has been preferred against the order dated 20.06.2019 passed by respondent No. 2, whereby, the appellant was removed from service. Appellant has also assailed the order dated 08.08.2019 by respondent No. 1. Through the latter his departmental appeal was rejected.

2. The facts, as laid in the memorandum of appeal, suggest that the appellant was employed as a constable in the Frontier Reserve Police at its Headquarters. He was served with a statement of allegations, wherein, his absence without leave was pressed into service. It is the claim of appellant that clear dates of absence were not noted in the charge sheet.

5. It is a matter of record that while submitting reply to the show cause notice the appellant had admitted his absence from duty, however, domestic issues were cited to be the reason for absence. Similarly, in his departmental appeal, the appellant had taken the same defence while admitting his absence without leave.

6. We have carefully examined the contents of order dated 20.06.2019, wherein, the history of misdeeds on the part of appellant was provided. It was iterated in the order that the appellant, in past, used to remain absent from duty on various occasions, besides, withdrawal of some money by him from Bank as loan, yet to be deposited back. It was, however, conspicuously noted in the order that the appellant was awarded the punishment of stoppage of increments/forfeiture of increments on that count. Similarly, an occurrence regarding short payment of electricity bill by the appellant was also noted in the order. The absence of appellant from 12.04.2019 to 05.05.2019 and from 16.05.2019 till the handing down of impugned order was laid down to be the basis for initiation of impugned proceedings. It is also provided in the order that the recommendations of the enquiry officer and other material available on record, made it clear that the defaulting constable had deliberately absented himself from duty for long period and was still at large. From the past service record, it was found that the delinquent official remained absent on various occasions for a period of 311 days. It is also stated in the order that for his past conduct the appellant was awarded the punishment of forfeiture of approved service and leave without pay etc. While concluding, the impugned penalty was awarded to the appellant for absence without leave while the period of absence was treated as absence from duty without pay.



From the perusal of relevant record, including the impugned orders, it becomes clear that only the past service record/misdeeds of appellant were not made basis for imposing the impugned penalty. It is also worth noting that in the enquiry report dated 11.06.2019, charges of misconduct on the part of appellant as well as the penalties/punishments already awarded to him there-for are provided in detail.

7. We have noticed that in the impugned order dated 20.06.2019, the penalty was awarded to the appellant to operate retrospectively i.e. from 12.04.2019. Although, learned counsel for the appellant did not press the said fact for assailing the impugned order, it is considered appropriate to rectify the error which is curable for all intents and purposes.



Resultantly, the appeal in hand is dismissed but with modification in the impugned order to the effect of applicability of the penalty from the date of the order.

Parties are left to bear their respective costs. File be consigned to the record room.


(ATIQU-UR-REHMAN WAZIR)
MEMBER(E)


(HAMID FAROOQ DURRANI)
CHAIRMAN

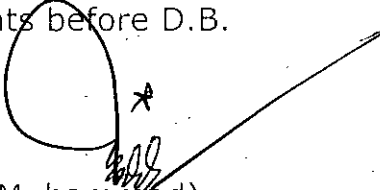
ANNOUNCED
06.01.2021

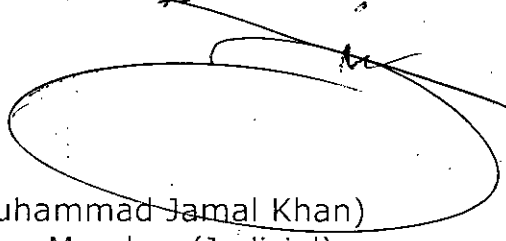
S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	06.01.2021	<p><u>Present.</u></p> <p>Mr. Riaz Ahmad, ... For appellant Advocate</p> <p>Mr. M. Riaz Khan Paindakhel, Asstt. Advocate General ... For respondents. alongwith Ihsanullah, ASI</p> <p>We have heard learned counsel for the appellant as well as learned AAG on behalf of respondents and have also gone through the available record.</p> <p>Vide our detailed judgment, the appeal in hand is dismissed but with modification in the impugned order to the effect of applicability of the penalty from the date of the order.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <p> (ATIQ-UR-REHMAN WAZIR) Member(E)</p> <p> CHAIRMAN</p> <p><u>ANNOUNCED</u> 06.01.2021</p>

23.09.2020

Learned counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Learned counsel for appellant submitted rejoinder, the same is made part of the record. Learned counsel for appellant also requested for adjournment. Adjourned to 13.11.2020 on which to come up for arguments before D.B.

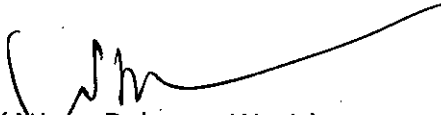

(Mian Muhammad)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

13.11.2020

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 06.01.2021 for hearing before the D.B.

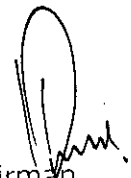

(Atiqur Rahman Wazir)
Member


Chairman

23.01.2020

Appellant in person and Addl. AG alongwith Ihsanullah, ASI for the respondents present.

Representative has furnished written reply on behalf of the respondents. Placed on record. The appeal is assigned to D.B for arguments on 02.04.2020. The appellant may furnish rejoinder, within one month, if so advised.


Chairman

02.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 25.06.2020 before D.B.


Reader

25.06.2020

Due to public holiday on account of COVID-19 the case is adjourned for the same on 23.09.2020 before D.B.


Reader

1120/2019

17.10.2019

Counsel for the appellant present.

Contends that in the undated statement of allegations the appellant was only alleged to have remained absent from duty since 12.04.2019 without any leave/permission of the competent authority. On the other hand, in the impugned order dated 20.06.2019 the grounds mentioned for removal from service was not only absence of appellant but also the allegations regarding receiving money deceitfully from the general public as well as police personnel. Further, the past penalty awarded to the appellant was also prescribed as a reason for impugned penalty. The impugned order was, therefore, unlawful. It is further contended that in order to look into the factual allegations a regular enquiry was necessitated which was not held in accordance with rules relevant for the purpose.

In view of available record and arguments of learned counsel, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for submission of written reply/comments on 16.12.2019 before S.B.


17/10/19
Security & Process Fee


Chairman

16.12.2019

Appellant in person and Addl. AG for the respondents present.

Learned AAG requests for time to contact the respondents and procure the requisite reply/comments. Adjourned to 23.01.2020 on which date reply/comments shall positively be submitted.


Chairman

17.10.2019

Counsel for the appellant present.

Contends that in the undated statement of allegations the appellant was only alleged to have remained absent from duty since 12.04.2019 without any leave/permission of the competent authority. On the other hand, ^uthe impugned order dated 20.06.2019 the grounds mentioned for ~~his~~ removal from service was not only ~~contained~~ absence of appellant but also the allegations regarding receiving money deceitfully from the general public as well as police personnel. Further, the past penalty awarded to the appellant was also prescribed as a reason for impugned penalty. The impugned, order was, therefore, unlawful. It is further contended that in order to look into the factual allegations a regular enquiry was ~~facilitated~~ ^{necessitated} which was not held in accordance with rules relevant for the purpose.

In view of available record and arguments of learned counsel, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for submission of written reply/comments on 16.12.2019 before S.B.

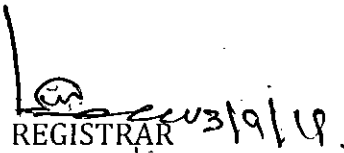

Chairman

31/10/19
Refrained on page 3
after correction
made.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 1120/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/09/2019	<p>The appeal of Mr. Waseem presented today by Mr. Riaz Ahmad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 03/09/19.</p>
2-	04/10/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>17/10/19.</u></p> <p> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTOOKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 11210 /2019

Waseem Appellant

VERSUS

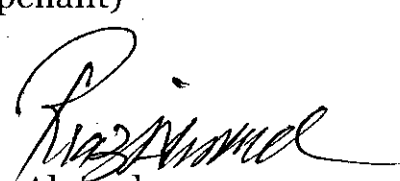
Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa
Peshawar and another Respondents

I N D E X

S.No.	Description of Documents	Annexure	Pages
1.	Appeal		1-4
2.	Affidavit		5
3.	Memo of addresses		6
4.	Copies of charge sheet and reply	"A"	7-8
5.	Copies show cause notice and reply	"B"	9-10
6.	Copy of order of removal	"C"	11
7.	Departmental Appeal <i>and</i>	"D"	12-15
8.	Order of dismissal of appeal		
	Wakalat namah		

(Appellant)

Through:


Riaz Ahmad
(Advocate High Court)

Cell No. 0303 8238839

and 0348 9615837

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BEFORE THE KHYBER PAKHTOOKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtukhwa
Service Tribunal

Service Appeal No. 1120 /2019

Diary No. 1226

Waseem S/O Bahadar Sher R/O Matta Mughal Khail, Tehsil
Shabqadar, District Charsadda (Ex-Constable No. 1197/1863, FRP,
Head Quarters Peshawar) APPELLANT

03-9-2019

VERSUS

1. Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa Peshawar.
2. Deputy Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa Peshawar RESPONDENTS

Appeal under section 4 of the Khyber Pakhtoonkhwa Service Tribunal Act (Act 1 of 1974) from the order bearing No. 6916-17, dated 08/08/2019 by the respondent No. 1 whereby he dismissed the appellant's departmental appeal from the order No. 791-95/PA, dated 20/06/2019 issued by the respondent No. 2 whereby the appellant was removed from services.

Prayer: On acceptance of the instant appeal this Hon'ble Tribunal would be pleased to set aside both the impugned orders and reinstate the appellant in his services with all back benefits, since the penalty imposed upon the appellant is not tenable in view of the rules and facts as in the proceedings against him there are apparent illegalities and infirmities, and the allegations levelled against him are unfounded, miscalculated, and contradictory.

Filed to-day

Registrar
3/9/2019

Respectfully sheweth:

1. That the appellant has rendered ten years service in the Frontier Reserve Police Head Quarters, Khyber Pakhtoonkhwa, Peshawar, as constable No. 1197/ 1863.

(2)

2. That a mere sheet of allegations, containing only one allegation as to absence, was served upon the appellant vide No. Nil, dated Nil to which the appellant replied but his reply was illegally declined/ not received on the ground that it was post stipulation period mentioned in the charge sheet, whereas in the mere sheet of allegations neither there was a mention of stipulated time, nor was it dated. The reply was undated as the appellant wanted to make himself sure of the date of charge and then write the date of the reply accordingly.

(Copies of the allegations sheet and reply are enclosed herewith as Annex-A)

3. That during the course of inquiry conducted against the appellant, other charges were also clubbed with charge of absence and the mere proof, which has been adduced against the appellant, pertains to the outstanding money of the appellant's mother due against the him on separation in the family; and loans obtained from the colleagues for correction of electricity bill and purchase of motorcycle as well as the auxiliary charge of absence from duty from 03/05/2019 to 24/05/2019 (21 days) and 05/05/2019 to 13/05/2019 (8 days). The absence of the appellant was not deliberate as the mother of the appellant had made a complaint to the competent authority against the appellant for the return of the amount due in her favour against the appellant. This had created a very serious domestic circumstance because the appellant was very worried about the same amount, since his high ups had taken the matter very seriously against him, and he was making arrangement for it here and there.


(Copy of the inquiry report could not have been obtained and to be produced by the deptt:)

4. That the appellant was tendered show cause notice vide No. 774/PA, dated 26/06/2019 in consequence of the alleged charge sheet. It was unjust, since the reply of the appellant to the charge sheet had been illegally declined and not entertained. The appellant had submitted reply to the show cause notice within the prescribed time but that was not considered as submitted.


(Copies of the show cause notice and reply are enclosed herewith as Annex-B)

(3)

5. That the appellant was removed from services, mainly on charges that are daily routine dealings among the individuals, vide the impugned order No. 791-95/PA, dated 20/06/2019 of respondent No.2.

(Copy of the order enclosed as Annex-C)

6. That the appellant filed before the respondent No. 1 the departmental appeal which was dismissed vide the impugned order No. 6916-17, dated 08/08/2019.

(Copy enclosed as Annex-D)

7. That the impugned orders are illegal, unjust, not justifiable in the eyes of law and have been issued in an arbitrary manner as the replies of the appellant have been unheeded in either one way or the other, hence this appeal, inter alia on the following

GROUND:

- i. That the impugned orders are against the rules, law, the constitution, and facts.
- ii. That the replies of the appellant to the charge sheet and show cause notice have been overlooked, being illegally declined/not received, and the Inquiry Officer has overstepped the domain.
- iii. That in the show cause notice it has not been mentioned when the reply to the charge sheet was submitted by the appellant and after how much time.
- iv. That the reply of the appellant to the show cause notice has unjustly been treated as not submitted.
- v. That the charges levelled against the appellant are confusing and unfounded.
- vi. That some of the charges have been contradicted in the show cause notice and order of removal of the appellant from services like the purchase of the motor cycle.
- vii. That a matter between a mother and a son has been converted into a charge for disciplinary action.

(4)

- viii. That there are irreconcilable contradictions in the allegations levelled against the appellant.
- ix. That the absence of the appellant could have been converted into leave without pay as it has become an established practice, but the appellant has been discriminated against.
- x. That the charges levelled against the appellant are forgivable in view of the service tenure of the appellant.
- xi. That the appellant had sufficient earned at his credit, and the absence period could have even been converted into leave without pay.
- xii. Any other ground / document may kindly also be allowed to presented at the time of arguments.

It is, therefore, respectfully submitted that in view of the above grounds this Hon'ble Tribunal would be pleased to allow the appeal of the appellant as prayed for in the heading of the appeal, please.

Dated 03/09/2019



Waseem
(Appellant)

Through:



Riaz Ahmad
(Advocate High Court)

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BEFORE THE KHYBER PAKHTOOKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2019

Waseem Appellant

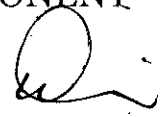
VERSUS

Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa
Peshawar and another Respondents

AFFIDAVIT

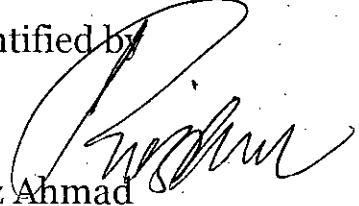
I, Waseem S/O *Bahadur Sher* R/O Matta Mughal Khail, Tehsil Shabqadar, District Charsadda (Ex-Constable No. 1197/1863, FRP, Head Quarters Peshawar) do hereby solemnly declare and affirm on oath that the contents of instant appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

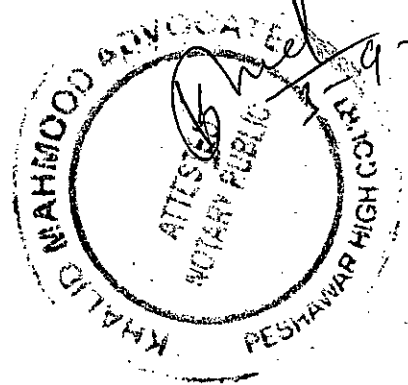
DEPONENT



Waseem

NIC No. 17101-86817795

Identified by 
Riaz Ahmad
(Advocate)



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BEFORE THE KHYBER PAKHTOOKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2019

Waseem Appellant

VERSUS

Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa
Peshawar and another Respondents

MEMO OF ADDRESSES

APPELLANT

Waseem S/O R/O Matta Mughal Khail, Tehsil
Shabqadar, District Charsadda (Ex-Constable No. 1197/1863, FRP,
Head Quarters Peshawar)

RESPONDENT

1. Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa Peshawar.
2. Deputy Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa Peshawar.

(Appellant)

Through:



Riaz Ahmad

(Advocate High Court)

17

Amruse - A

SUMMARY/STATEMENT OF ALLEGATIONS U/S 6(1) (A) POLICE RULE 1975

You Constable Constable Wasim No. 1863 while posted at FRP HQrs: Peshawar absented himself from duty w.e from 12.04.2019 (till date) without taking any leave/permission of the competent authority.

The act falls within the purview of misconduct as contained u/s 2 (iii) of Police Rule 1975."


Deputy Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar



23/5/2019

خدمتِ صاحبِ اقدس کو اکثری اختیار حاصل ہے
۱۸۶۳

عنوان: چچا کا بیان

عبدالطالی

آپ کا ذکر فرماتا ہوں کہ

وہ کہ سائنس کا علم حاصل کیا اور فریڈرک

سائنس کا علم حاصل کیا اور فریڈرک

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۱۸۶۳

9 -
SHOW CAUSE NOTICE UNDER POLICE RULES 1975. *Amir B*

I Malik Muhammad Tariq Deputy Commandant FRP Khyber Pakhtunkhwa Peshawar as competent authority under Police Rules 1975, do hereby serve Show Cause Notice upon you constable Waseem No. 1865 of FRP HQrs: Peshawar on the following grounds:

That your mother Mst. Rabia Bibi has preferred a complaint before the worthy Inspector General of Police KP, Peshawar against you wherein she stated that you are addict of narcotics, beaten mother and due his disobedient manner your father was died. She further narrated in complaint that you are usually absent from duty but there are somebody at FRP Police Lines, who support you due to which you have obtained your salary regularly. She further stated in complaint that you withdraw money amounting to Rs. 300,000/- (three lac) from Bank as Loan, but the said amount has not been deposited yet and now the concerned Bank issued notices to you. The Complaint was marked to DSP FRP HQrs: Peshawar for enquiry and report. Now after thoroughly enquiry he submitted his report, wherein he stated that since 2018 you remained absent from duty on various times, to which you was awarded the punishment of stoppage of increment/forfeiture of increments.

During the course of enquiry the Enquiry Officer narrated that prior to it, Constable Sohail Adnan No. 2420 of FRP Peshawar was preferred complaint to high ups that constable Waseem No. 197/1863 has taken Rs. 37550/- on the pretext to correct his electricity bill. Similarly one Mar. Amjid Ali S/o Mursaleen R/o Shabqadar was preferred complaint to worthy Inspector General of Police KP, Peshawar, wherein he stated that Rs. 10,000/- is still payable/debit on the part of constable Waseem No. 1197/1863 of FRP as buy a motorcycle from you. However Later on the documents were found fake, but you are reluctant to return the amount in question. At the end the Enquiry Officer stated that you remained absent from duty from 03.05.2019 (21 days), 05.05.2019 to 13.05.2019 (08 days) and again from 16.05.2019 till date without any leave/permission of the competent authority. Keeping in view the above you does not take interest in your official duty and remained absent from duty and usually doing with deception means, therefore recommended for Major punishment.

Besides, you absented yourself from duty with effect from 12.04.2019 till date without any leave/permission of the competent authority. You were issued Charge sheet/statement of allegation and DSP was appointed as Enquiry Officer to conduct enquiry and report. Now after enquiry, the Inquiry Officer submitted his findings wherein he stated that Charge Sheet/statement of allegation were served upon him, but you failed to reply within stipulated period and at the end the Enquiry Officer has recommended the said constable for Ex-parte action. Upon the finding of Enquiry Officer, he was issued Final Show Cause Notice, but this time he again failed to reply. He was called time and again to appear in Orderly Room, but he failed to do so.

2. Therefore, I Deputy Commandant FRP KP, Peshawar as competent authority has tentatively decided to impose upon you Major/Minor penalty including dismissal from service under the said rules.

3. You are therefore require to Show Cause as to why not the aforesaid penalty should not b imposed upon you.

4. if no reply to this show cause notice is received within 07 days of it delivery in the normal course of circumstances it shall be presumed that you have no defence to put in and consequently ex-parte action shall be tame against you.

Amir B
Deputy Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

Amir B
Amir B
Amir B
No. 774/PA
Date 26-06-19

Amir B
Amir B
Amir B

O.R.D.E.R.

(11)

Amir C

This order will dispose of the Departmental Enquiry against Constable Waseem No. 1197/1863 of FRP/HQrs: Peshawar.

Brief facts of the case are that Mst. Rabia Bibi mother of Constable Waseem No. 1197/1863 of FRP HQrs: Peshawar has preferred a complaint to worthy Inspector General of Police KP, Peshawar against his son, wherein she stated that his son is the addict of narcotics, beaten his mother and due his disobedient manner his father was died. She further narrated in complaint that her son is usually absent from duty but there are somebody at FRP Police Lines, who are support him due to which he has obtained his salary regularly. She further stated in complaint that his son withdraw approximately Rs. 300,000/- from Bank as Loan, but the said has not been deposited and now the concerned Bank issue notices to him. The Complaint was marked to DSP FRP HQrs: Peshawar for enquiry and report. Now after thoroughly enquiry he submitted his report, wherein he stated that since 2018 the said constable remained absent from duty on various different times, to which he was awarded the punishment of stoppage of increment/forfeiture of increments.

During the course of enquiry the Enquiry Officer narrated that prior to it, Constable Sohail Adnan No. 2420 of FRP Peshawar was preferred complaint to high ups that constable Waseem No. 197/1863 has taken Rs. 37550/- on the pretext to correct his electricity bill. Similarly one Mr. Amjid Ali S/o Mursaleen R/o Shabqadar was preferred complaint to worthy Inspector General of Police KP, Peshawar, wherein he stated that Rs. 10,000/- is still payable/debit on the part of constable Waseem No. 1197/1863 of FRP as he was taken a motorcycle from him. However Later on the documents were found fake, but the said constable is reluctant to return the amount in question. At the end the Enquiry Officer stated that constable Waseem No. 197/1863 remained absent from to 12.04.2019 to 05.05.2019 and again from 16.05.2019 till date without any leave/permission of the competent authority. Keeping in view the above the official concerned does not takes interest in his official duty and remained absent from duty and usually doing with deception means, therefore recommended for Major punishment.

Besides, constable Waseem No. 197/1863 of FRP HQrs: absented himself from duty with effect from 12.04.2019 to 05.05.2019 and again from 16.05.2019 till date without any leave/permission of the competent authority. He was issued Charge sheet/statement of allegation and DSP FRP HQrs: was appointed as Enquiry Officer to conduct enquiry and report. After enquiry, the Inquiry Officer submitted his findings wherein he stated that Charge Sheet/statement of allegation were duly served upon him, but the delinquent constable failed to reply within stipulated period and at the end the Enquiry Officer has recommended the said constable for Ex-parte action. Upon the finding of Enquiry Officer, he was issued Final Show Cause Notice, but his reply was found not satisfactory. He was called time and again to appear in Orderly Room, but he failed to do so.

Keeping in view the recommendations of the Enquiry Officer and other material available on record it has come crystal clear that the defaulter constable has deliberately absented himself from duty for a long period and still at large. From perusal of his service record, it has found that during his past service the delinquent official remained absent on various occasion for a period of 311 days to which he was awarded the punishment of forfeiture of approved service and leave without pay etc. Being a member of the disciplined Force remained absent from official duty without prior permission of the competent authority, deliberately failed to submit his reply in response to the charge sheet. He does not take interest to serve in Police Department. Beside it he receiving money deceitfully from the General Public as well Police Personnel on one pretext or other and have defamed the Force in the eyes of General public. He is a stigma on the Police Force, Therefore, Constable Waseem No. 1197/1863 FRP HQrs: Peshawar is hereby Removed from Service under Police Rules 1975 amended 2014 from the date of his absence i.e. 12.04.2019 and the period of absence is treated as absence from duty without Pay.

Amir C
Amir C
Amir C

**Deputy Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar**

No. 791-95 /PA dated Peshawar, the 21 of 06 /2019.

Copy to the:-

1. Worthy Commandant FRP Khyber Pakhtunkhwa for information please.
2. Accountant /FRP/HQrs: Peshawar.
3. SRC/OASI/FRP HQrs: Peshawar/FMC/ FRP/HQrs: Peshawar with original Enquiry file.

19
Commandant
Ashawat

19

صدا عالی
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جناب عالی

گزارش یہ ہے کہ میں Rabia جو وسیم کی والدہ
 ہے جو کہ آپ کے دفتر میں ہوتا ہے اس کے خلاف میں نے ایک کمپین
 چلائی ہے جو کہ 300000 روپے کی تھا تو میرے بٹے وسیم

نے مجھے واپس کر دی ہے جسے لیے میں آپ کی شکر گزار ہوں، اور
 میں اپنی کمپین واپس لینا چاہتی ہوں، بغیر کسی کارروائی

کے کیونکہ میرا مسئلہ حل ہو گیا ہے اور یہ میرا بیٹا ہے
 تو آپ لوگوں سے گزارش ہے کہ اسے خلاف جو انٹرویو ہے
 سے ختم کر کے ڈیوٹ پر بحال کر دے، اللہ تعالیٰ آپ کو ایس کا
 رجز دے گا، شکر ہے

RABIA BIBI M/O^{FC} Waseem No. 1863 FRP/HQ

Date 28-06-19

Mumtaz
 Raza
 Waseem

ORDER

(14) ~~XXXXXXXXXX~~

This order will dispose of the departmental appeal preferred by ex-constable Waseem No. 1197/1863 of FRP HQrs; against the order of Deputy Commandant FRP, KP, Peshawar issued vide Order Endst; No. 791-95/PA, dated 28.06.2019, wherein he was awarded major punishment of removal from service. The applicant was proceeded against on the allegations that his mother namely Mst; Rabia Bibi has preferred a complaint before the Worthy Inspector General of Police Khyber Pakhtunkhwa, Peshawar against his son, (ex-constable Waseem) wherein she stated that his son is the addict of narcotics, always beaten her and due to his disobedient manner his father was died. She further narrated in complaint that her son is usually absent from duty but there are somebody at FRP Police Lines. Who are support him due to which he has obtained his salary regularly. She further stated in complaint that his son withdrew approximately Rs. 300,000/- from Bank as Loan, but the said has not been deposited and now the concerned Bank issue notices to him.

The complaint was marked to DSP FRP HQrs; Peshawar for enquiry and report. He was issued Charge Sheet and Summary of Allegation to which served upon him, but the delinquent constable failed to reply within stipulated period. After fulfillment of all due codal formalities the enquiry officer submitted his report, wherein he stated that since 2018 the said constable remained absent from duty on various dates, to which he was awarded the punishment of stoppage of increments. The Enquiry Officer further narrated that prior to it constable Sohail Adnan No. 2420 of FRP Peshawar was preferred a complaint to high ups that constable Waseem No. 1197/1863 has taken Rs. 37550/- on the pretext to correct his electricity bill. Similarly one Mr. Amjid Ali S/o Mursaleen R/o Shabqadar was preferred complaint to Worthy Inspector General of Police Khyber Pakhtunkhwa, Peshawar wherein he stated that Rs. 10,000/- is still payable/debit on the part of constable Waseem No. 1197/1863 as he was taken a motorcycle from him. However later on the documents of said motorcycle were found fake, but the said constable is reluctant to return the amount in question. At the end the Enquiry Officer stated that he remained absent from duty with effect from 12.04.2019 to 05.05.2019 and again from 16.05.2019 till the date of removal from service i.e 28.06.2019 for a total period of 02 months and 05 days without any leave/permission of the competent authority.

Keeping in view the above facts, it has been found that the delinquent official does not takes interest in his official duty and remained absent from duty and usually doing with deception means, therefore, the Enquiry Officer recommended him for major punishment.

In the light of recommendation of Enquiry Officer he was issued Final Show Cause Notice, but his reply was found unsatisfactory. He was called time and again to appear in Orderly Room to defend himself, but he failed to do so.

[Handwritten signatures]

From perusal of his service record it has been found that previously the delinquent constable was removed from service vide Order Endst; No. 793-97/PA, dated 14.12.2010, on account of absence, which later on re-instated in service vide Order Endst; No. 156-58/EC, dated 07.01.2011 and thus he remained absent on various occasion for a period of 311 days to which he was awarded the punishment of forfeiture of approved service, annual increment and leave without pay etc.

In the light of the above narrated facts it has been come crystal clear that being a member of the disciplined force he remained absent from duty for a long period and still at large without prior permission from his seniors. Besides he receiving money deceitfully from the General Public as well Police personnel on one pretext or other and have defamed the image of Police Force in the eyes of General Public. He is a stigma on the police force and the delinquent constable no more interest to serve in Police Department. Therefore, he was removed from service vide Order Endst; No. 791-95/PA, dated 28.06.2019.

Feeling aggrieved against the impugned order of Deputy Commandant FRP KP, Peshawar, the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 03.07.2019.

During the course of personal hearing, the applicant failed to present any justification regarding to his prolong absence. It is settled proposition of law that the law helps the diligent and not indolent. Thus the applicant has been found to be an irresponsible person in utter disregard the discipline of the force, as he is a habitual absentee and also busy in illegal activities, which he taken money deceitfully form the General Public as well police personnel on one pretext or other, there is no prospects of his being reformed. Besides, he cannot become a good Police Officer and his retention in force on account of reinstatement in service will stand wrong message in force affecting moral of other constables. Thus there doesn't seem any infirmity in the order passed by the competent authority, therefore no ground exist to interfere in same.

Based on the findings narrated above, I, **Sajid Ali PSP** Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected/dismissed being meritless.

Order Announced.

M. Nadeem
Commandant
FRP

[Signature]
Commandant

Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

No 6916-17/EC, dated Peshawar the 08/08/2019.

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

1. Deputy Commandant FRP, KP, Peshawar. His service record alongwith D-file sent herewith.
2. Ex-constable Waseem No. 1197/1863 S/O Bahadar Sher, Police Station Khwajawas, Village Shahbaz Khel, Matta Mughal Khel, District Charsadda.

تہمت
50 روپے

20019



ایڈوکیٹ: Razzaq

بار کونسل ایسوسی ایشن نمبر: 11-1440

رابطہ نمبر: 0303 8238839

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

Honble 1st Service Tribunal Peshawar بعدالت جناب

منجانب: <u>Appellant</u>	دعویٰ: <u>Service Appeal</u>
<u>Witness</u>	علت نمبر: _____
بنام	مورخہ: _____
<u>Commandant</u>	جرم: _____
<u>FPD Peshawar</u>	تھانہ: _____

باعت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام Peshawar کیلئے Razzaq کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 27/09/2019

مقام _____ واہ شد _____ کے لیے منظور ہے۔

M. Akmal
Razzaq
Chaudhary
Wazir

17101-8681779-5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1120/2019.

Waseem S/o Bahadar Sher R/o Matta Mughal Kahil, Tehsil Shabqadar, District Charsadda (Ex-constable No. 1197/1863 FRP HQrs; Peshawar.....Appellant.

VERSUS

1. **Commandant FRP,**
Khyber Pakhtunkhwa, Peshawar.
2. **Deputy Commandant FRP,**
Khyber Pakhtunkhwa, Peshawar.....**Respondents.**

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is not maintainable in the present form.
3. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
4. That the appellant has no cause of action to file the instant appeal.
5. That the appellant has not come to this Honorable Tribunal with clean hands.
6. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
7. That the appellant is trying to conceal material facts from this Honorable Tribunal.

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

RESPECTED SHEWETH.

FACTS:-

1. Pertain to the appellant's record, needs no comments.
2. Incorrect and denied. The appellant was remained absent from lawful duties with effect from 12.04.2019 to 05.05.2019 and again from 16.05.2019 till the dated of his removal from service i.e 03.07.2019 for a long period of 66 days without any proper leave or prior permission of the competent authority. In this regard he was issued Charge Sheet alongwith Summary of Allegations and Enquiry Officer was nominated to conduct proper enquiry against him, the appellant submitted reply to Charge Sheet, which was found unsatisfactory by the Enquiry Officer. (Copy of enquiry report is attached herewith as annexure "A")
3. Incorrect and denied. The mother of the appellant submitted application/ complaint before the respondents against his son (appellant) stated therein that his son namely Waseem No. 1197/1863 has developed links with immoral and bad character peoples and also a disobedient person. She further stated that his son (appellant) has always beaten her and due to his disobedient act her husband (the father of appellant) was also passed away. In this regard a separate enquiry was initiated against him through DSP FRP HQrs; Peshawar. After completion of Enquiry, the Enquiry Officer submitted his findings, wherein he reported that before this complaint an another complaint was submitted by constable Sohail Adnan No. 2420 of FRP Peshawar Range against the appellant alleged therein that the appellant has fraudulently taken/received amounting Rs 37500/- on the pretext to correct his electricity bill. Similarly Mr.

Amjid Ali S/o Mursalen R/o Shabqadar had preferred complaint to Worthy Inspector General of Police Khyber Pakhtunkhwa, Peshawar, wherein he stated that Rs. 10,000/- is still payable/debit on the part of appellant as he was taken a motorcycle from him. However later on the documents of the said motorcycle were found fake/bogus, but the appellant is reluctant to return the amount in question. (Copy of separate enquiry report conducted by DSP/ HQ attached herewith as annexure "B"). The acts of appellant have established his fraudulent character/behavior in past as well. Such black sheep in police department will ultimately damage the image of Police in general public.

4. Incorrect and denied. After receiving the findings of Enquiry Officer the appellant was issued Show Cause Notice, to which he replied, but his reply was found unsatisfactory by the competent authority. Moreover, reply of Charge Sheet submitted by the appellant was also thoroughly considered and found unsatisfactory.
5. Incorrect and denied. After fulfilling all codal formalities as per law/rules, the appellant was removed from service by the competent authority.
6. Para No. 6 is admitted to the extent that departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.
7. Incorrect and denied. The order passed by the respondents are legally justified and in accordance to law/rules. The appellant has no cause of action to file the instant appeal and the same may kindly be dismissed on the following grounds.

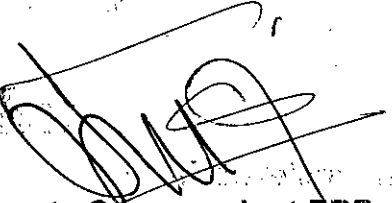
GROUND:-

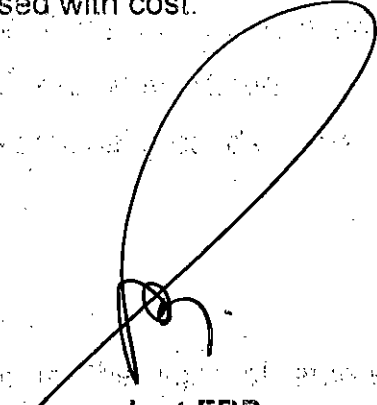
- I. Incorrect and denied. The impugned order passed by the respondents duly adopting all codal formalities under the relevant law.
- II. Incorrect and denied. The replies of Charge Sheet and Final Show Cause Notice submitted by the appellant have been thoroughly examined by the Enquiry Officer/competent authority and found unsatisfactory, as the appellant failed to present any justification regarding his innocence.
- III. Incorrect and denied. As according to the relevant law there is no need to express in the Show Cause Notice regarding to the submission of reply of Charge Sheet.
- IV. Incorrect and denied. The reply of Show Cause Notice submitted by the appellant was sincerely considered by the competent authority and found unsatisfactory.
- V. Incorrect and denied. All allegations leveled against the appellant have been fully established by the Enquiry Officer during the course of enquiry.
- VI. Incorrect and denied. During the course of enquiry, all the allegations leveled against the appellant have been fully established by the Enquiry Officer, without any shadow of doubt.
- VII. Incorrect and denied. The complaint submitted by the mother of appellant before the respondent with the request that to initiated an enquiry against his son (appellant). (Copy of application/complaint attached herewith as annexure "C").

- VIII. Incorrect and denied. The appellant was remained absent form lawful duty without prior permission of his seniors to which he was dealt with proper enquiry and the appellant was found guilty of the charges leveled against him without any shadow of doubt.
- IX. Incorrect and denied. That the appellant was always found a habitual absentee and also found involved in illegal activities. Moreover, he cannot become a good police officer, in future and there is no prospects/hope that appellant will mend his ways. His retention in force on account of reinstatement in service will convey wrong message and affected the moral of other constables. Thus his present absence is not warranted by law and against the spirit of disciplined force.
- X. Incorrect and denied. From perusal of his service record, it has been found that during his past service, the appellant was remained absent from duties on various occasion for a long period of 311 days, to which he awarded different punishment previously, which established that the appellant is a habitual leave hunter.
- XI. Incorrect and denied. During the course of Enquiry the appellant failed to present any justification regarding to his prolong absence. He being a member of disciplined force, was found a habitual absentee, therefore, any leniency or compliancy will definitely set a bad message/examples to other officers.
- XII. The respondents may also be permitted to create additional grounds at the time of arguments.

PRAYERS:-

It is therefore, most humbly prayed that in the light of aforesaid facts/submission, the service appeal may kindly be dismissed with cost.


Deputy Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 2)


Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

ENQUIRY REPORT.

It was alleged that constable Wasim No. 1863 of FRP/HQrs: Peshawar while posted at CCP Peshawar, from where he absented himself w. e. from 12.04.2019, he made his departure to FRP HQrs: Peshawar on 05.05.2019 after remaining absent (23) days, and again absented himself from FRP HQrs; Peshawar w.e.f 16.05.2019 till to date, without any leave/permission of the competent authority. He was issued charge sheet and summary of allegation by the Worthy Deputy Commandant of FRP Khyber Pakhtunkhwa, which was duly served upon him on 23.05.2019 by DHC Shakir Ullah and the undersigned was nominated as enquiry officer.

FINDINGS.

Being an enquiry officer it has come to light that the said constable of FRP/HQrs: Peshawar while posted at CCP Peshawar, from where he absented himself w.e.f 12.04.2019, he made his departure to FRP HQrs Peshawar on 05.05.2019, after remaining absent (23) days and again absented himself from FRP HQrs; Peshawar w.e.f 16.05.2019 till the submission of this report.

During the enquiry M.ASI FRP/HQrs produced a report wherein he stated that Constable Wasim No. 1863 absented himself w. e. from 16.05.2018 till to date.

The said Constable failed to submit his written reply during stipulated period.

Keeping in view the above facts his absence period w. e. from 12.04.2019 to 05.05.2019 for the total period of (23) days and again absented himself from FRP HQrs; Peshawar w.e.f 16.05.2019 till to date is recommended for ex-parte action.

Submitted Please.

issue in ASCW

DSP/HQrs:
FRP HQrs: Peshawar

NO. 185 /R, Peshawar Dated 10.06.2019. Enclosed (5 sheets)

انکوائری رپورٹ

جناب عالی!

بحوالہ CPO کسپلیٹ سیل نمبری 3768 مورخہ 14.05.2019 اور بحوالہ ریماسنڈر نمبری PA/127 مورخہ 24.05.2019 مجاریہ جناب کمانڈنٹ صاحب ایف آر پی ڈائری نمبری 1197/1863 مورخہ 14.05.2019 اور بحوالہ ریماسنڈر نمبری PA/127 مورخہ 24.05.2019 مجاریہ جناب کمانڈنٹ صاحب ایف آر پی خیر پختوخواہ معروض خدمت ہوں کہ مسماۃ ربیعہ بی بی زوجہ بہادر شیر سنگھ مٹھ مغل خیل نے ایک تحریری درخواست برخلاف کنسٹیبل وسیم جو کہ اُسکا بیٹا ہے کے خلاف کسپلیٹ افسران بالا صاحبان کو پیش کی جس میں تحریر یہ ہے:-

“سائلہ ضعیف العمر ہے اور سائل کا ایک بیٹا جو کہ محکمہ پولیس میں کنسٹیبل بھرتی شدہ ہے۔ جس کا نام وسیم نمبر 1197/1863 ایف آر پی تعینات ہے۔ وسیم نمبر 1197 عرصہ دراز سے ڈیوٹی کے لئے نہیں جاتا۔ نشئی لوگوں کو اکٹھا کر کے برے کام کرتا ہے۔ والدہ کو مار تا پینٹا تھا اور نافرمان اولاد ہے۔ والد صاحب کو مار تا تھا جو کہ حفاکان کی وجہ سے فوت ہو چکا ہے۔ وسیم ایف آر پی لائن میں کسی سے ملا ہوا ہے اور ڈیوٹی پر نہیں جاتا اور مذکورہ کی حاضری لگ جاتی ہے اور تنخواہ لیتا ہے۔ مقامی تھانہ میں وسیم کے خلاف درخواستیں دی ہے لیکن اُس پر کارروائی نہیں ہوئی ہے۔ مذکورہ نے بینک سے مبلغ 03 لاکھ روپے قرض لیا ہے اور مذکورہ کو بینک کی طرف سے نوٹس جاری ہیں۔

درخواست دہندہ جو کہ وسیم کی ماں نے کنسٹیبل مذکورہ کے خلاف سخت کارروائی اور سزا کے بارے میں افسران بالا صاحبان کو التجاء کی ہے۔ آمدہ کسپلیٹ کو جناب کمانڈنٹ صاحب ایف آر پی KPK پشاور نے بغرض انکوائری من DSP ہیڈ کوارٹر کومارک کر کے حوالہ کی۔

اس سلسلے کنسٹیبل وسیم نمبر 1863/1863 کو بذریعہ کنٹرول روم ایف آر پی پشاور اور موبائل نمبر 9073414-0314 پر دفتر لڈاپیش میں ہونے کے لئے بار بار اطلاع دی گئی لیکن انکوائری ہذا میں مذکورہ کنسٹیبل حاضر نہ ہوا۔

دوران انکوائری محرر ایف آر پی ہیڈ کوارٹر پشاور سے کنسٹیبل مذکورہ کا سابقہ 02 سال کا مکمل ٹرانسفر پوسٹنگ ریکارڈ اور موجودہ چیک پڑتال رپورٹ طلب کی۔ بہ مطابق MASI رپورٹ مذکورہ کا سابقہ 02 سال پوسٹنگ ریکارڈ درج ذیل ہے:-

- مورخہ 31.10.2016 تا مورخہ 24.02.2017 تک (04) ماہ رخصت کلاں گزاری ہے۔
- 28.02.2017 کو لائن ایف آر پی ہیڈ کوارٹر، مورخہ 01.03.2017 کو گاردھائی کورٹ، مورخہ 05.03.2017 کو سیکورٹی یونٹ، مورخہ 08.11.2017 کو لائن ایف آر پی ہیڈ کوارٹر، مورخہ 08.11.2017 کو بوجہ 02 یوم غیر حاضری فٹن فرنٹ کورس سے انکوائری فائینڈ ہو چکا ہے۔
- اسی طرح مورخہ 22.11.2017 کو CCP پشاور، مورخہ 07.11.2018 کو لائن، مورخہ 12.11.2018 سے مورخہ 24.11.2018 تک 12 یوم رخصت اتھاقیہ پر، مورخہ 24.11.2018 کو لائن ایف آر پی ہیڈ کوارٹر، مورخہ 14.12.2019 کو CCP پشاور اور مورخہ 03.05.2019 پر لائن ایف آر پی ہیڈ کوارٹر میں تعینات رہ چکا ہے۔

مزید محرر ایف آر پی ہیڈ کوارٹر پشاور نے اپنے رپورٹ میں تحریر کیا ہے کہ کنسٹیبل وسیم نمبر 1863/1863 بعد از اختتام سیشن ڈیوٹی CCP لائن سے مورخہ 03.05.2019 کو فارغ ہو کر بعد از گزارنے 02 یوم شب باشی بحوالہ مد 17 روزنامہ 05.05.2019 سے غیر حاضر ہو کر بحوالہ مد 15 روزنامہ 13.05.2019 پر لائن ایف آر پی ہیڈ کوارٹر حاضر آکر حاضری درج روزنامہ کی گئی جبکہ بحوالہ مد 40 روزنامہ 16.05.2019 سے غیر حاضر ہو کر تاحال بدستور غیر حاضر ہے۔

مذکورہ کنٹینٹیل کا انچارج فوجی مثل سے سابقہ فیصلہ شدہ انکوآری آفس کا پیاں حاصل کی جو کہ ہمراہ لف ہے جس کی تفصیل

ذیل ہے۔

نمبر شمار	غیر حاضری / ٹوٹل پیریڈ	سزا / آرڈر نمبر
1.	مورخہ 30.11.2018 تا 14.02.2019 تک (3) ماہ اور (15) یوم	بحوالہ آرڈر نمبر PA/72-269 مورخہ 25.02.2019 پر بل تنخواہ کرنے، 102 ایکریمنٹ سٹاف، ملامت اور آئندہ کے لئے محتاط رہنے کی وارننگ
2.	مورخہ 16.12.2017 تا مورخہ 24.01.2018 تک ٹوٹل (39) یوم	بحوالہ آرڈر بک نمبر 655 مورخہ 13.02.2018 پر بلا تنخواہ اور (05) یوم ایکسٹرا ڈول
3.	مورخہ 12.10.2018 تا مورخہ 07.11.2018 تک ٹوٹل (26) یوم	بحوالہ آرڈر بک نمبر 133 مورخہ 14.12.2018 پر بلا تنخواہ اور (04) یوم ایکسٹرا ڈول
4.	مورخہ 18.08.2018 تا 10.10.2018 تک ٹوٹل (53) یوم	بحوالہ آرڈر بک نمبر 1057 مورخہ 01.11.2018 پر بلا تنخواہ اور Forfeiture of one Year Approved Service
5.	مورخہ 12.02.2018 تا مورخہ 10.07.2018 تک ٹوٹل (04) ماہ اور (28) یوم	بحوالہ آرڈر بک نمبر 702 مورخہ 23.07.2018 پر بلا تنخواہ اور سخت وارننگ

مذکورہ نے افسران بالا صاحبان کو درخواست کی جس میں مذکورہ نے اپنے گھریلو مسائل تحریر کیا تھا جس کے پیش نظر مذکورہ نے

BANK سے مبلغ (03) لاکھ روپے بطور قرضہ (LOAN) لئے ہے۔

جناب عالی!

دوران انکوآری معلوم ہوا کہ مذکورہ کنٹینٹیل کے خلاف اس سے پہلے کنٹینٹیل سہیل عدنان نمبر 2420 ایف آر پی پشاور نے افسران بالا صاحبان کو درخواست دی ہے کہ مذکورہ کنٹینٹیل و سیم نے اس سے مبلغ 37500 روپے بجلی کے بل کو درست کرنے کے لئے لئے تھے۔ اسی طرح مسی احمد علی ولد مرسلین سکنتہ شہد نے جناب IGP صاحب خیر پختوخواہ کو مذکورہ کنٹینٹیل و سیم نمبر 1863 کے خلاف درخواست دی ہے کہ کنٹینٹیل و سیم نمبر 1863 نے اس کو 02 نمبر موٹر سائیکل دیا ہے جس کو بعد میں واپس کر کے اب بھی مذکورہ کنٹینٹیل کے ذمے 10 ہزار روپے واجب الادا ہے لیکن مذکورہ اس رقم کی ادائیگی میں نال مثل سے کام لے رہا ہے۔ مذکورہ تحریری درخواستوں پر خلاف کنٹینٹیل و سیم نمبر 1863 پر باقاعدہ انکوآری مکمل ہو کر افسران بالا صاحبان کو ارسال ہوئی ہے۔

اسی طرح کنٹینٹیل مذکورہ کا دفتر ہذا میں انکوآری بابت غیر حاضری Under Process ہے جس میں مذکورہ کنٹینٹیل بحوالہ مدد 15 روز نامچے 12.04.2019 روز نامچے CCP پشاور سے غیر حاضر ہے کنٹینٹیل و سیم نمبر 1863 کی مذکورہ غیر حاضری میں حاضری کے بابت CCP محرر سے بذریعہ تحریری پروانہ رپورٹ طلب کی جس کا کوئی تسلی بخش تحریری جواب نہ دیا گیا۔ لیکن مدد محرر ایف آر پی بلال متعینہ روز نامچے CCP پشاور نے زبانی فون پر بتلایا کہ مذکورہ مورخہ 03.05.2019 کو CCP پشاور سے ایف آر پی ہیڈ کوارٹر پشاور فارغ کیا گیا ہے۔

اس سلسلے میں محرر ایف آر پی ہیڈ کوارٹر پشاور سے بذریعہ تحریری پروانہ رپورٹ طلب کی گئی جس کے مطابق مذکورہ کو بعد از

پیش ڈیوٹی مورخہ 03.05.2019 کو ایف آر پی ہیڈ کوارٹر پشاور فارغ ہو کر بعد از گزارنے 02 یوم شب باشی دی گئی اور بحوالہ مدد 15 روز نامچے

2019.05.05 سے غیر حاضر ہو کر مورخہ 2019.05.13 کو ایف آر پی لائن پشاور میں حاضری کی گئی۔ جبکہ دوبارہ مذکورہ بحوالہ مد 40 روز نامہ
16.05.219 سے تاحال بدستور غیر حاضر ہے۔

فائنڈنگ:-

جناب عالی!

دوران انکوائری بحیثیت انکوائری افسر اس نتیجہ پر ہوں کہ کنسٹیبل و سیم نمبر 1863/1863 سال 2009 کا بھرتی شدہ ہے
مذکورہ عادی غیر حاضر باش ہے اور موجودہ بھی مورخہ 12.04.2019 تا مورخہ 03.05.2019 تک (21) یوم غیر حاضر، مورخہ
05.05.2019 تا مورخہ 13.05.2019 تک (08) یوم غیر حاضر اور مورخہ 16.05.2019 سے تاحال بدستور غیر حاضر ہے جس میں انکوائری
رپورٹ مرتب ہو کر بحوالہ لیٹر نمبر 185 مورخہ 10.06.2019 کو دفتر PA ٹو جناب ڈپٹی کمانڈنٹ صاحب کو ارسال کی ہے۔ کنسٹیبل اپنے
گھریلو زندگی میں بھی غیر مستقل مزاج، فراڈ اور دھوکہ دہی سے کام لے رہا ہے اور اپنے والدہ صاحبہ کو بھی ذہنی اذیت دے رہا ہے جس وجہ سے
مذکورہ کی والدہ مجبور ہو کر اُس نے افسران بالا صاحبان کو درخواست کیپلینٹ پیش کی۔ کنسٹیبل و سیم نمبر 1863/1863 نے پچھلے دو سالوں میں
تو کری سے زیادہ غیر حاضری کی ہے جو کہ بلا تنخواہ اور مختلف قسم کی سزا دی گئی ہے۔

درج بالا حالات اور ریکارڈ سے واضح ہوا کہ کنسٹیبل و سیم نمبر 1863/1863 ایف آر پی ہیڈ کوارٹر پشاور کار سہ کار میں دلچسپی
نہیں لیتا ہے اور اکثر اوقات غیر حاضر رہتا ہے۔ اور اکثر دھوکہ دہی سے کام لیتا ہے۔ لہذا مقامی تھانہ مذکورہ کنسٹیبل کی Observation کیا جائے کہ
آیا نشہ کرنے افراد سے مل کر مذکورہ کنسٹیبل برے / غلط کاموں میں ملوث یا نہیں۔ اور مذکورہ کنسٹیبل کے اپنی ڈیوٹی سے بار بار غیر حاضر رہنے پر
سخت سے سخت سزا دینے کی سفارش کی جاتی ہے۔

رپورٹ گزارش ہے۔

DSP ہیڈ کوارٹر

ایف آر پی پولیس لائن پشاور

ڈسٹریکشن نمبر:- 188 مورخہ 11/06/19

22

جناب عالی!

Court: FRP

خود یا نہ گنواں ہے کہ مسائل ذیعیف الفہر ہے اور

مسئلہ کا ایک پیٹ جو کہ محکمہ پولیس میں بطور کیمپل پولیس لائن پشاور میں جمعیت ہے۔ مسئلہ کا پٹا بنام و سیم (1197) FRP میں جمعیت ہے جو کہ عرصہ دراز سے نہ دیوٹی کے لیے جاتا ہے اور اپنے گادیاں مٹھ فضل جیل میں رہائش رکھتا ہے جو کہ گھر خود میں جو اور نسیں لوگوں کو اکٹھا کر کے سادے بڑے کام کرتا ہے۔ مسئلہ کا پٹا جو کہ ایک نافرمان اوداد میں ہے اور مسائل کو ملاتا پٹاتا ہے جس کی وجہ سے مسائل کا شوہر بہادر پٹا کو ملاتا پٹاتا تھا جو کہ حقان کی وجہ سے فوت ہو گیا ہے۔ مسئلہ کا پٹا پولیس لائن FRP میں کسی کے ساتھ ملا ہوا ہے جو کہ دیوٹی میں جاتا اور

اس کی حاضری گٹر اس کو باقاعدہ تنخواہ ملتا ہے۔ مسئلہ نے اس کے خلاف چند بار حقانی تھا کہ میں درخواستیں دی ہیں مگر محکمہ پولیس میں بیٹھتی ہی ہو گئی ہے کہ اس کا محکمہ پولیس کو نہیں لگا ڈ سکتی۔ مسئلہ کا پٹا نے لینڈ سے دھوکہ دہی سے 3 لاکھ روپے نکال کر اب بالا بینک دے ان کو فوشس اسٹور دے پس۔ مسئلہ ایک غریب گھرانے سے تعلق رکھتی ہے۔

Office of the Provincial Police Officer, Hyber Pakhtunkhwa, Peshawar. Complaint Cell No. 1999 Dated 10.5.19

بزرگوار درخواست اسٹور ہے کہ مسئلہ کا پٹا و سیم پٹ سے سخت سزا دیا جائے۔ مسئلہ ناصیبات دعاگوں رہینگے۔ (1197) فیصلہ FRP کے خلاف محکمہ کارروائی عمل میں لایا جائے۔ اور اس کو سخت

0311-9073414 / 0333-9088958

Complaint Against Constable Waseem 1197

دریغہ جی بی ذوب بہادر پشاور سٹیٹ عدتہ فضل خیل علاقہ حقانہ سیدقادر - جوہانل 0342-0965702

BEFORE THE KHYBER PAKHTOOKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1120/2019

Waseem S/O Bahadar Sher APPELLANT

VERSUS

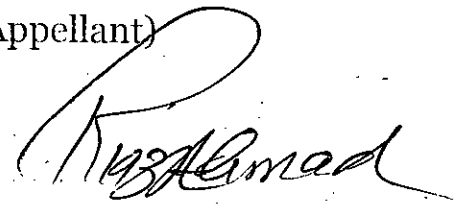
Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa Peshawar
and others RESPONDENTS

I N D E X

S.No.	Description of Documents	Annexure	Pages
1.	Rejoinder		1- 3
2.	Affidavit		4

(Appellant)

Through:



Riaz Ahmad

(Advocate High Court)

Cell No. 0303 8238839

and 0348 9615837

BEFORE THE KHYBER PAKHTOOKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1120/2019

Waseem S/O Bahadar Sher APPELLANT

VERSUS

Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa Peshawar
and others RESPONDENTS

Appellant's rejoinder to the respondents' reply.
.....

Respectfully sheweth:

Reply to preliminary objections:

1. That the appeal is within time.
2. That the appeal is maintainable.
3. That there is no misjoinder or nonjoinder,
4. That the appellant has cause of action.
5. That the appellant has come to the court with clean hands.
6. That the appellant has legal right to reinstatement and join his service.
7. That the appellant has not concealed any material facts.

On Facts.

1. That the record of the case is available on file.
2. Incorrect. That the appellant has ten years tenure of service and the penalty imposed upon him is on other irrelevant grounds and his replies have not been considered for justifying his absence. The penalty is illegal and unjustified. The inquiry officer has skipped his mandate as he has not restricted himself to the allegations in the charge sheet and has illegally included other grounds in the domain of the inquiry only to collect some material in support of the baseless allegations.

3. Incorrect. That the appellant has no immoral activities and the complaint of the appellant's mother has incorrectly been alleged only to create an untenable ground for the impugned penalty. In the charge sheet there is no such allegation against the appellant. The complaint of Sohail Adnan is an illegal ground as I was deputed to the SDO E office of his area and he had received a huge electricity bill and to get his electricity bill illegally reduced he used to give to the SDO E as bribe an amount of Rs. 5000/- Per month through me and an amount of Rs. 375000/- accumulated. The SDO E did not reduce his bill being in facts, Sohail Adnan blamed me for not giving that amount to the SDO E. It was a matter of five years past, and had been settled, but it also has been illegally made a ground of the charge sheet. As far the complaint of Amjad Ali it is a simple matter of sale and purchase. He had purchased a bike from the appellant, which the appellant had purchased on installments and had paid Rs. 30000/- as installments. Amjad Ali gave that amount and was supposed to pay the rest of installments which fell short against him and the company declined to give him documents. After six months he returned the bike to the appellant with six months short of installments and the appellant suffered loss. The matter was settled with him as per promise/routine, and it could not be included in the charges as there was no mention of the same in the charge sheet. There are illegal grounds in the inquiry. The reply is not clear regarding the sale / purchase matter. There is no fraud in the matter, since the documents of the motor cycle were fake / bogus and the same was returned but to whom the fraud has been alleged is vague.
The same has been decided.
4. Incorrect. There is glaring contradiction between the impugned orders and the reply, as it is mentioned in the order that no reply had been submitted by the appellant but in the instant reply of the respondents it is mentioned that the appellant had submitted replies to the charge sheet and show cause but were found unsatisfactory. The grounds of penalty are therefore illegal and unfounded, since non submission of replies to the charge sheet and show cause have been set as grounds.
5. Incorrect. No codal formalities have been fulfilled and there are numerous illegalities, and clear contradictions.
been submitted.
6. Incorrect. The departmental appeal of the appellant has not been considered in light of rules and facts.
The same has been decided.
The same has been decided.
The same has been decided.
7. Incorrect. The departmental appeal of the appellant has not been considered in light of rules and facts.
The same has been decided.
The same has been decided.
The same has been decided.


7. Incorrect. The orders are illegal as these have been passed on grounds which had not been alleged in the charge sheet and are only assumed ones.

GROUNDS

- i. Incorrect. The impugned orders are illegal.
- ii. Incorrect. In the orders it is mentioned that no replies had been submitted by the appellant.
- iii. Incorrect. Contradicts the orders.
- iv. Incorrect. In the orders the replies of the appellant have been denied.
- v. Incorrect. There is contradiction in the orders and the reply.
- vi. Incorrect. No allegation has been established and the penalty is on other grounds than on what is mentioned in the charge sheet.
- vii. Incorrect. The complaint of the appellant's mother is only a pretext.
- viii. Incorrect. The ground has no material connection with the orders.
- ix. Incorrect. The allegations could be as much baseless as in the present case.
- x. Incorrect. The impugned orders have been passed on other grounds unalleged in the show cause.
- xi. Incorrect. In the orders / inquiry hid replies have been denied and so how could justification be found.
- xii. Incorrect. The respondents have even alleged what is not the subject of the inquiry or show cause.

It is, therefore, respectfully submitted that in view of the above grounds in this rejoinder this Hon'ble Tribunal would be pleased to allow the appeal of the appellant as prayed for therein, please.

Dated _____/06/2020


Waseem
(Appellant)

Through:


Riaz Ahmad
(Advocate High Court)

BEFORE THE KHYBER PAKHTOOKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1120/2019

Waseem S/O Bahadar Sher APPELLANT

VERSUS

Commandant, Frontier Reserve Police, Khyber Pakhtoonkhwa Peshawar
and others RESPONDENTS

Before the Hon'ble Tribunal

Waseem S/O Bahadar Sher AFFIDAVIT

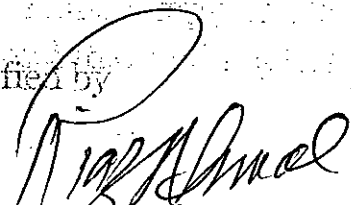
I, Waseem S/O Sher Bahadar, R/O Matta Mughal Khail; Tehsil Shabqadar, District Charsadda (Ex-Constable No. 1197/1863, FRP, Head Quarters Peshawar) do hereby solemnly declare and affirm on oath that the contents of the instant reply are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

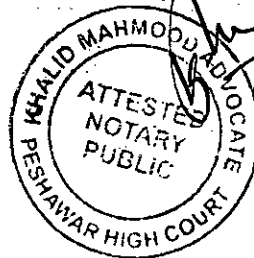
DEPONENT


Waseem

NIC No.

Identified by


Riaz Ahmad
(Advocate)



Identified by

Identified by