



FORM OF ORDER SHEET

Court of

Appeal No. 288/2024

| S No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1- | 20/02/2024 | <p>The appeal of Mr. Nazim Ali resubmitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>21-2-24</u>. Parcha Peshi is given to counsel for the appellant.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p> |
| | 21.02.2024 | <p>Junior of learned counsel for the appellant present and sought adjournment on the ground that learned counsel for the appellant is busy in Peshawar High Court, Bannu Bench. Adjourned. To come up for preliminary hearing on 08.04.2024 before the S.B. Parcha Peshi given to junior of learned counsel for the appellant.</p> <p style="text-align: right;"> (Salah-ud-Din) Member (J)</p> |

SCANNED
KPST
Peshawar

Nazem Amin

The appeal of Mr. Nazim Ali received today i.e. on 15.02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondents no. 1 is un-necessary/improper party, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondents.
- 2- Address of appellant is incomplete be completed according to rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Memorandum of appeal and affidavit is not signed by the appellant.

No. 352 /S.T.

Dt. 16/2 /2024.


16/2/24

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Noor Muhammad Khattak Adv.
High Court Peshawar.

R/Siv,

Re-submitted after removal of
objections.


16/2/24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

APPEAL No. 288 /2024

NAZIM ALI

VS

POLICE DEPTT:

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APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 288 /2024

Mr. Nazim Ali, Ex-Constable No 1615,
District Police, Mardan.

.....**APPELLANT**

VERSUS

1- Regional Police Officer, Mardan
2- District Police Officer, Mardan.

.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 13/07/2017 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND AGAINST THE APPELLATE ORDER DATED 13/12/2017 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AND AGAINST THE INACTION OF THE RESPONDENT BY NOT DECIDING THE REVISION PETITION OF THE APPELLANT WITHIN THE STATUTORY PERIOD

PRAYER:

That on acceptance of this appeal, the impugned original order dated 13/07/2017 and appellate order 13/12/2017 may very kindly be set aside and the appellant may please be reinstated into service with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That the appellant was appointed as Constable, and in pursuance of the above appointment order the appellant submitted his charge report and started his duty quite efficiently.

- 2- That the appellant since his appointment working as Constable in the Police Department and was performing his duties diligently, honestly, efficiently and upto the entire satisfaction of his superiors.
- 3- That it is worth mention here that the during the entire service of appellant, there is no iota of complaint against the appellant form any forum rather the appellant's service was always appreciated by the high-ups of the department.
- 4- That the appellant served the respondent department with zeal and zest and rendered excellent service record.
- 5- That during the month of April, 2016, the appellant was remained posted at Police Line Mardan and on 03/04/2016 when the appellant was crossing the Main Road in front of Police Line Mardan, the appellant was collided/hit with motorcar and become injured in a road accident. The appellant being suffering from severe head pain, the CT Scan of the appellant was conducted and on the same day at evening time, the appellant was referred to Lady Reading Hospital, Peshawar. That the appellant's treatment was conducted the concerned Doctors at Leady Reading Hospital, Peshawar and the appellant was suggested complete bed rest.
- 6- That thereafter the appellant continued his treatment at Shafique Psychiatric Clinic Peshawar till 16/08/2016 and in this period the appellant was also on bad rest as advised by the doctors on 10/10/2016. That the appellant was also suffering from typhoid fever and was under treatment of doctors at Haqqania Primary Health Clinic in Tordher Nowshera. Copies of all the medical prescription are attached as annexure.....**A**
- 7- That the competent authority without realizing the actual facts of the case, dismissed the appellant from service on the ground of absentia vide order dated 13/07/2017, however his absentia was not intentional nor deliberate but due to illness mentioned above. Copy of impugned dismissal order dated 13/07/2017 is attached as annexure.....**B**
- 8- That feeling aggrieved from the impugned dismissal order, the appellant preferred departmental appeal to respondent No 2, but the same was also dismissed vide impugned order dated 13/12/2017 with no good ground. Copies of departmental appeal and appellate order dated 13/12/2017 are attached as annexure.....**C&D**

- 9- That the appellant filed a Writ Petition No 2756-P/2023 before the Peshawar High Court, Peshawar against the impugned order, which was dismissed on 12/10/2023. Copy of the Writ Petition and order dated 12/10/2023 are attached as annexure.....E
- 10- That thereafter the appellant filed a Revision Petition before the respondent No 1, which was not decided within statutory period. Copy of Revision is attached as annexure.....F
- 11- That appellant, having no other remedy, prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the action & inaction of the respondents by issuing the impugned original order dated 13/07/2017 and appellate order dated 13/12/2017 are against the law, facts, norms of natural justice and materials on the record, hence not tenable in the eye of law therefore are liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner while issuing the impugned original order dated 13/07/2017 and appellate order dated 13/12/2017.
- D- That the absence of appellant was neither willful nor deliberate, but due to the illness caused to the appellant and he is unable to perform his duty quite efficiently, therefore, he was remained absent.
- E- That no charge sheet, statement of allegation and show cause notice has been served on appellant before issuing of impugned order.
- F- That no regular inquiry has been conducted in the instant case which is mandatory under the rules before imposing major penalty of dismissal from service.
- G- That the impugned orders are against the law, norms and facts of the case, therefore, liable to be set aside and the appellant may kindly be re-instated into service with all back benefits.

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

Dated:

THROUGH:

APPELLANT

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

MEHMOOD JAN

UMAR FAROOQ MOHMAND
&

WALEED ADNAN
ADVOCATES HIGH COURT

CERTIFICATE:

No such like appeal is pending or filed between the parties on the subject matter before this Honorable Tribunal.

Advocate

AFFIDAVIT

I, Mr. Nazim Ali, Ex-Constable No 1615, do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.

DEPONENT

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

APPEAL No. _____/2024

MR. NAZIM ALI

VS

POLICE DEPTT:

**APPLICATION FOR CONDONATION OF DELAY IN FILING THE
ABOVE NOTED APPEAL.**

R/SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so far.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal on the following grounds inter alia:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in this case hence the appeal deserves to be decided on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather than technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.
- C- That the facts and grounds of accompanied service appeal may kindly be considered as integral part and parcel of instant application.
- D- That the delay on the part of the appellant was not deliberately but due to the illness caused to the appellant and he is unable to perform his duty quite efficiently, therefore, he was remained absent.
- E- That the delay in filing of above noted appeal is not willfully nor deliberate, but due to reasons mentioned above and the application is well within time.
- F- That on the face of it, the applicant/ petitioner has got strong arguable case and is sanguine about its success.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.


APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I, , Mr. Nazim Ali, Ex-Constable No 1615, do hereby solemnly affirm on oath that the contents of the above application are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.


DEPONENT

Dr. Syed Ashfaq Ali

ہوالشانی



ڈاکٹر سید اشفاق علی

M.B.B.S.
D.P.M. (Gold Medalist)
Ph.D. (Psychiatry)

Not Valid For Court

ایم بی بی ایس ڈی سائیک (گولڈ میڈلسٹ)
پی ایچ ڈی (سائیکارٹری)

Incharge & Consultant Psychiatrist:

Department of Psychiatry
D.H.Q. Hospital, Mardan.
Ph: # (Clinic) 0937-875617

-7-

ماہر دماغی و جنسی امراض

انچارج و کونسلنٹ سائیکارٹرسٹ

شعبہ دماغی امراض ڈسٹرکٹ ہیڈ کوارٹر ہسپتال، مردان

Name

MR Nazim Ali Date 20/4/16

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دوبارہ چھٹی بروز اتوار

کلینک: فیض مارکیٹ شمس روڈ بالقابل ڈی ایچ کیو ہسپتال، مردان

Dr. Syed Ashfaq Ali

M.B.B.S.
D.P.M. (Gold Medalist)
Ph.D. (Psychiatry)

ہوالشانی



ڈاکٹر سید اشفاق علی

ایم بی بی ایس ڈی سائیک (گولڈ میڈلسٹ)
پی ایچ ڈی (سائیکارٹری)

Not Valid For Court

Incharge & Consultant Psychiatrist:

Department of Psychiatry
D.H.Q. Hospital, Mardan.
Ph: # (Clinic) 0937-875617

- 8 -

ماہر دماغی و جنسی امراض

انچارج و کنسلٹنٹ سائیکارٹرسٹ

شعبہ دماغی امراض ڈسٹرکٹ ہیڈ کوارٹرز ہسپتال، مردان

Name Mr Nazim Ali Date 4/10/16 I.D. _____

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چھٹی بروز اتوار

کلینک: فیض مارکیٹ، شمسی روڈ، بالمقابل ڈی ایچ کیو ہسپتال، مردان

Dr. Syed Ashfaq Ali

ہواشانی



ڈاکٹر سید اشفاق علی

M.B.B.S.
D.P.M. (Gold Medalist)
Ph.D. (Psychiatry)

Not Valid For Court

ایم بی بی ایس ڈی سائیک (گولڈ میڈلسٹ)
پی ایچ ڈی (سائیکازری)

Incharge & Consultant Psychiatrist:

Department of Psychiatry
D.H.Q. Hospital, Mardan.
Ph: # (Clinic) 0937-875617

ماہر دماغی و جنسی امراض

انچارج و کنسلٹنٹ سائیکازرسٹ

شعبہ دماغی امراض ڈسٹرکٹ ہیڈ کوارٹرز ہسپتال، مردان

Name

Mr Nazim Ali

Date 4/10/16 I.D

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چھٹی بروز اتوار

کلینک: فیض مارکیٹ شمس روڈ بالمقابل ڈی ایچ کیو ہسپتال، مردان



Shafique Psychiatric Clinic
Psychotherapy Clinic

Shafique Psychiatric Clinic

Jamrud Road, Tehkal Bala
Peshawar 25140
Pakistan.

Fees (750)

Founders

PROF. DR. M SHAFIQUE
M.B.B.S (Pb): D.P.M.(Eng)
F.R.C.Psych (UK)

NAME: _____

DATE: _____

DR. JAMAL ARA
M.B.B.S (Pb)

Consultant Psychiatrists

DR. MUHAMMAD TARIQ
M.B.B.S (KMC Pesh)
M.C.P.S. (Psych)

TO WHOM IT MAY CONCERN

Qad

فونڈرز Nazim Ali % Syed Afzal from

پروفیسر ڈاکٹر محمد شفیق
ڈی۔ پی۔ ایم۔ (لندن)
ایف۔ آر۔ سی۔ سائیک (انگلینڈ)

Mardan has been our patient at

ڈاکٹر جمال آرا
ایم۔ پی۔ ایس۔ (پنجاب)

Shafique Psychiatric clinic since 10/2/16.

کنسلٹنٹ سائیکیاٹرسٹ

I certify that all the photocopies of

ڈاکٹر محمد طارق
ایم۔ پی۔ ایس۔ (پشاور)
ایم۔ سی۔ پی۔ ایس۔ (سائیک)

his prescriptions are true copies and

**MEDICAL SPECIALIST
& PSYCHIATRIST**

were written by me and other doctors

DR. SADIA SHAFIQUE
M.B.B.S.(KMC-Pesh)
M.R.C.P. (UK)
M.C.P.S. (Psych)

in SPC

ڈاکٹر سعید شفیق
ایم۔ پی۔ ایس۔ (پشاور)
ایم۔ آر۔ سی۔ پی۔ ایس۔ (انگلینڈ)
ایم۔ سی۔ پی۔ ایس۔ (سائیک)

1st pres - 10/2/16

2nd " 21/6/2016

3rd " 16/8/2016

DR. SADIA SHAFIQUE
MCPS (Psych) MRCP (UK)
Consultant Shafique Psychiatric
Clinic Peshawar

Tel: (091) 5840423
(091) 5703115

He was ECT record from 22 June to 4th July/2016

and were given in our clinic.

0333-9139266
0316-9910185

Shafique Psychiatric Clinic
SPC 1978 Peshwar

I will be happy to answer any
query regarding our client

Web: www.spc.net.pk

Not valid For Court
or Legal Purpose

Thanks.

Dr. Sadia Shafique

چھٹی: بروز ہفتہ اور اتوار۔
دوبارہ معائنہ
آنے سے پہلے ٹیلی فون کریں دوا کسی بھی صورت
میں ڈاکٹر کی ہدایت کے بغیر نہ چھوڑیں۔



(7)



"B"

OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN



-11-

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

No. 1828-38/PA

Dated 14/7/2017

ORDER ON ENQUIRY OF RECRUIT CONSTABLE NAZIM No.1615

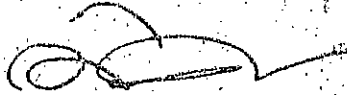
This order will dispose-off a departmental enquiry under Police Rules 1975, initiated against the subject Police Official, under the allegations that while posted at Police Lines Mardan, proceeded against departmentally through ASP UT Mardan on account of absence from duty without any leave/permission of the competent authority vide DC report 42 dated 24.02.2017 till date, received vide DSP/HQrs Mardan letter No.381/HQrs dated 02.05.2017, who after fulfilling necessary process, submitted his Finding Report to this office vide SDPO Takht Bhai office letter No. 1357/ST dated 06.06.2017, highlighting that the alleged Constable is habitual absentee as evident that in the recent past, he had been dismissed from service on account of absence from PTS Manshra who was later-on, re-instated in service by the Worthy DiG Mardan and recommended that being an unwilling worker, he may immediately be dismissed from service.

Final Order

Recruit Constable Nazim was heard in O.R at Police Lines on 04.07.2017, who failed to satisfy the undersigned, therefore, awarded him major punishment of dismissal from Service with effect from 24.02.2017 with immediate effect, in exercise of the power vested in me under Police Rules 1975.

O.B No. 1623

Dated 13/07/2017


District Police Officer,
Mardan.

Copy forwarded for information & necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-I, Mardan, please.
2. The SP Operation Mardan.
3. The DSP HQrs Mardan.
4. The P.O & I.C. (Police Office) Mardan.
5. The OSI (Police Office) Mardan with () Sheets.

9/2017

Better copy

OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

- 12 -

Tel 0917-9230109
Fax 09179230111
Email dpo_mardan@yahoo.com
Twitter @dpomardan
Facebook District Police Mardan

No 6929-35 PA

Dated 14/07/2017

ORDER OF ENQUIRY OF RECRUIT CONSTABLE NAZIM ALI NO.1615

The order of dispose-olf a departmentally enquiry under police rules 1975, initiated against the subject Police Official under the allegation that while posted at police Lines mardan. proceeded against departmentally through ASP UT mardan on account of absence from duty without any leave permission of the competent authority vide DD report 42 dated 24/02/2017 till date received vide DSP/HQrs Mardan letter No.381/HQrs dated 02/05/2017.who after fulfilling necessary process . submitted his Finding Report to this office vide SDPO Takht Bhai office letter No.131357/ST dated 16/06/2017 highlighting that the alleged Constable is habitual absentee is evident that in the recent past. He had been dismissed from service on account of absence from PTS Mansehra who was later-on. Re-instated in service by the Worthy DIG Mardan & recommended that being an unwilling worker. He may immediately be dismissed from service.

Final Order

Recruit Constable Nazim was heard in O.R at Police Lines on 04/07/2017.who failed to satisfy the undersign. Therefore awarded him major punishment of dismissal from Service with effect from 24/02/2017 with immediate effect. In exercise of the power vested in me under Police Rules 1975.

OB No 1623
Dated 13/07/2017

District Police Officer,
Mardan

Copy forwarded for information & necessary action to :-

- 1 The Deputy Inspector General of Police Mardan Region-I, Mardan please.
- 2 The SP Operation Mardan.
- 3 The DSP HQrs Mardan.
- 4 The P O & F C (Police Office) Mardan.
- 5 The OSI (Police Office) Mardan with () Sheets.

Qad

(10) 11C (10) -13-

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION -1
MARDAN

Subject: APPEAL AGAINST THE ORDER O.B NO. 1623 DATED 13-7-2017 OF DISTRICT POLICE OFFICER MARDAN, WHERE BY THE APPELLANT WAS AWARDED THE PUNISHMENT "DISMISSEL FROM SERVICE".

R/Sir,

It is submitted that :

The DPO Mardan had issued charge sheets No.1902/R Dated 10-06-2016, No. 225/R Dated 22-08-2016, No.254/R Dated 22-08-2016 and No.334/R Dated 07-10-2016 against the Appellant with the following allegations:-

"That you recruit constable Nazim Ali No.1615, while posted at Police lines Mardan, deliberately absented himself from the lawful duty with the following details:

A) PERIOD OF ABSENCE:

DD No. 05 dated 19-04-2016 to till date

DD No. 41 dated 30-06-2016 to DD No.13 dated 10-07-2016

DD No.12 dated 11-07-2016 to DD No.23 dated 18-07-2016

DD No.7 dated 22-06-2016 to DD No.30 dated 30-06-2016

DD No.31 dated 19-08-2016 to DD No.40 dated 05-09-2016

B) REFUSED TO PERFORM TRAINING AT RTW MONSERA:

1. That the appellant was enlisted as constable in police department on 23-12-2015. During the month of April, 2016, the appellant remained posted at police lines Mardan. On 03-04-2016, on main road in front of police lines Mardan, the appellant was collided by a passerby motor car and became injured in the road accident. The police officials present in police lines came out and put the appellant in the ambulance for on ward transportation to DHQ Hospital Mardan. CDI Saieh Muhammad and Niab CDI Hanif Khan from police lines accompanied the appellant. The appellant was initially treated at BHQ Mardan and after then referred to Madan Medical Complex Mardan. Being suffering from severe head pain, the CT scan of the appellant was conducted. The same day at evening late, the appellant was referred to lady reading hospital Mardan.
2. That at LRH Peshawar, the appellant was given treatment and advised medical bed rest by the doctor. The appellant informed line officer police lines Mardan regarding his position and bed rest through his brother namely Abid Ali.
3. That the appellant continued his treatment at shafique Psychiatric Clinic Peshawar till 16-08-2016 and in this period, the appellant was also on bed rest as advised by the Doctor. On 10-10-2016, the appellant was badly suffered by typhoid fever and was under the treatment of Doctor Luqman at Haqqania Primary Health Clinic in Tordher Nowshera. (Copy of relevant medical documents are attached)
4. That as for as the allegation of refusal to perform training at RTW Monsehra is concerned, is totally false and baseless. The appellant can not think to refuse from the order of his superiors.

Abid

That being new comer / un aware about the rules and regulations of the department, the appellant did not made any entries in the daily diary regarding departure to the hospital, bed rest advised by the doctor and lastly report of arrival for duty in the police lines for , though the appellant used to visit the office of Moharar of police lines and informed him regarding his illness. The appellant was marked absent and also blamed for refusal to perform training and was dismissed from service. The alleged absence was not deliberately but was due to un fortunate road accident faced to the appellant. (Copy of Dismissal Order is attached.)

6. That it would not be out of place to mentioned here that during the course of inquiry, the appellant produced medical documents before the E.O and also explained his position regarding the alleged refusal from training but his virgin was not considered .
7. That the appellant is a young man and his future is going to be ruined by the said dismissal order. He is the only male member of the entire family including their old parents to earn his livelihood for them in the shape of police service.

Keeping in view of the facts and circumstances mentioned above, it is humbly requested that the dismissal order of the appellant may kindly be set aside on humanitarian / medical bases and the appellant may kindly be re instated in service from the date of dismissal please.

Yours Obediently,

N. Zaiti 10-11-2017

EX.CONSTABLE NAZIM ALI No.1615
District Police Mardan
(Now Dismissed from service)

Head

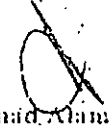
V.D.
-15-
ORDER

This order will dispose off the appeal preferred by Ex-Recruit Constable Nazim Ali No. 1615 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded Major Punishment of dismissal from Service vide OB No. 1623 dated 13.02.2017.

Brief facts of the case are that the appellant while posted at Police Lines, Mardan proceeded against departmentally through the then ASP/UT Mardan on account of absence from duty without any leave/permission of the competent authority with effect from 24.02.2017 till the date of his dismissal. After fulfilling necessary process submitted his findings and highlighting that the alleged Constable is habitual absentee as evident that in the recent past, and was dismissed from service on account of absence from Police Training School, Manselra. He was called in Orderly Room by the District Police Officer, Mardan on 04.07.017 and failed to satisfy the District Police Officer, Mardan, therefore awarded him Major Punishment of dismissal from service.

He was called in orderly room held in this office on 06.12.2017 and heard him in person, but he did not produce any substantial evidence about his absence. Therefore, I find no ground to interfere the order passed by the District Police Officer, Mardan. Appeal is rejected.

DEPT. SECRETARY


/c (Muhammad Amin Shinwari) PSP
Regional Police Officer
Mardan

No. 8968 P.S. Dated Mardan the 13-12-2017.

Copy to District Police Officer, Mardan for information and necessary action per to his office vide No. 6534 D dated 24.11.2017. The Service Record is returned herewith.

Head

✓
ORDER

-16-

Better copy



This order will dispose of the appeal preferred by Ex-Recruit Constable Nazim Ali No 1615 of Mardan District Police against the order of District Police Officer Mardan, whereby he was awarded major punishment of dismissal from service vide OB No 1623 dated 13/07/2017.

Brief facts of the case are that, the appellant while posted at police Lines mardan. Proceeded against departmentally through ASP UT mardan on account of absence from duty without any leave permission of the competent authority with effect from 24/02/2017 till the date of his dismissal. After fulfilling necessary process finding, & highlighting that the alleged Constable is habitual absentee as evident that in the recent past & was dismissal from service on account of absence from Police Training School Mansehra. He was called in orderly room by the District Police Officer Mardan on 04/07/2017 & failed to satisfy the District Police Officer Mardan. Therefore awarded him Major Punishment of dismissal from service.

He was called in orderly room held in this office on 06/12/2017 heard him in person. But he did not produce any substantial evidence about his absence. Therefore i find no ground to intervene the order passed by the District Police Officer Mardan. Appeal is rejected.

(Muhammad Alam Shinwari) PSP
Regional Police Officer
Mardan

No 8968/FS Dated Mardan the 13/12/2017

Hand

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-17-

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

2756P
W.P No. /2023

Nazim Ali s/o Said Afzal R/o Khary Kally, Hoti Tehsil and District Mardan

Petitioner.

Versus

1. Deputy Inspector General of Police Mardan
2. District Police Officer Mardan

Respondents

Writ petition under article 199 of the constitution of Islamic Republic of Pakistan against the impugned dismissal order of the DIG Mardan which is passed on dated 13-07-2017 is against the law and facts

The impugned order may kindly be set aside and pass the order for reinstatement of the petition on his past along with back benefits

RE-FILED TODAY

Deputy Registrar

27 JUN 2023

ATTESTED
EXAMINED
Peshawar High Court
Peshawar

(2)

-18-

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 2261/2023

Ex-Constable Nazim Ali No1615 Rashaka District Mardan(Petitioner)

VERSUS

1. Deputy Inspector General Of Police Mardan
2. District Police Office Mardan..... (Respondents)

PRAYER IN PETITION

On the acceptance of this Petition the impugned order dated 13/07/2017.

May graciously be set aside & the respondents may kindly be directed to reinstate the petitioner on his job with all back benefits.

FILED TODAY

Deputy Registrar

14 JUN 2023

ATTESTED
EXAMINER
Peshawar High Court
Peshawar

Respectfully sheweth,

Brief Fact giving raise to the instant Writ Petition are as under :

1. That, the petitioner was working as a Constable in District Police Mardan and always service the department, diligently, honestly, efficiently and up to the entire satisfaction of his superiors. There is no iota of complaint from all four corners against the petitioner at any forum rather the services rendered by the petitioner were always appreciated by the high-ups of the department.
2. That, the petitioner served with zeal devotion and excellent tracks record; moreover, petitioner belonged to a respectable family.
3. That petitioner was dismissed from service on the ground of absentia; however absentia was not intentionally by the petitioner due to illness (Annexure A dismissal order).
4. That during the month of April 2016 the Petitioner remained posted at police line mardan, and on 03/04/2016 petitioner was crossing the main road in front of police line mardan the petitioner was collided with motorcar & become injured in the road accident. Being suffering from serve head pain, the CT scan of the petitioner was conducted. The same day at evening late the petitioner was referred to lady reading hospital mardan.
5. That at LRH Peshawar the petitioner was given treatment & advised medical bed rest by the doctor.
6. That the petitioner continued his treatment at shafique psychiatric clinic Peshawar till 16/08/2016 & in this period the petitioner was also on bed rest as advised by the doctor on 10/10/2016 the petitioner was badly suffered by typhoid fever & was under the treatment of doctor at haqqania primary health clinic in tordher nowshera (Annex B Medical Documents)
7. That, the competent authority without realizing the actual facts of the Case and without hearing the appellant, has imposed major punishment dismiss from service, without unveiling the real facts of the case.
8. That feeling aggrieved from supra mentioned episode i.e. the order of District Police Mardan, petitioner approached for departmentally Petition to DIG Mardan but the same was rejected. (Annex C Departmental Petition)(Annex D Rejection Order)
9. That, the petitioner has been deprived from his bread and butter to himself and his family, which is against the provisions of Constitution of Islamic republic of Pakistan 1973.
10. That the petitioner is left with no other adequate remedy therefore filed this Petition on the following amongst other grounds.

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 Deputy Registrar
 14 JUN 2023

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 EXAMINED
 Peshawar High Court
 Peshawar

GROUND:

- A. That the petitioner has not been treated in accordance with law hence rights Secured & guaranteed under the law badly violated.
- B. That that the competent authority has passed the impugned order in mechanical manner & the same is perfunctory as well as non-speaking & also against the basic principle of administration of justice, therefore, the impugned order is not tenable under the law.
- C. That the impugned order is suffering from legal infirmities & as such the same is bad in law.
- D. That the petitioner is jobless since the imposition of illegal penalty of removal from service.
- E. That the petitioner seeks the permission of this Hon'ble Peshawar High Court to rely on additional grounds at the hearing of this Petition.

It is, therefore humbly prayed that on acceptance of this Petition the impugned order date 20/10/2021 may be set aside & the petitioner may kindly be reinstated into service with all back benefits

Petitioner

N. Z. Khan

Through

[Signature]

Malik Noor Muhammad Khan
Advocate, Peshawar.

Dated: 14/06/2023

FILED TODAY

Deputy Registrar

14 JUN 2023

**ATTESTED
EXAMINED**
Peshawar High Court
Peshawar

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

WP No. 2756/2023

Nazim AliPetitioner
VERSUS
DIG Mardan & others.....Respondents

AFFIDAVIT

I, Nazim Ali S/o Said Afzal R/o Khari kalay,, Hoti, Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Nazim Ali

DEPONENT

CNIC # 16101-6838846-1

Cell # 0341-6040192

Identified By:

Malik Noor Muhammad

MALIK NOOR MUHAMMAD
Advocate, High Court
Peshawar

47726

Certified that the above was verified on solemnly affirmation before me in office on 17 day of June 2023 at Mardan s/o Said Afzal Mardan who was present with me near 2023
Who is personally known to me:

[Signature]
Oath Commissioner
Peshawar

FILED TODAY
Deputy Registrar
14 JUN 2023

CERTIFIED TO BE TRUE
[Signature]
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Qanoon-e-Shahadat Act 1984
30 JAN 2024

Judgment Sheet
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT.

W.P.No.2756-P/2023

Nazim Ali
Versus

Deputy Inspector General of Mardan and another

Date of hearing 12.10.2023

Petitioner by: Malik Noor Muhammad Khan, advocate.

JUDGEMENT

IJAZ ANWAR. J:- The instant writ petition has been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following prayer:

“It is, therefore, humbly prayed that on acceptance of this petition the impugned order dated 20.10.2021 may be set aside and the petitioner may kindly be reinstated into service with all back benefits.”

2. In essence, petitioner who was serving in the respondent Department as Constable is



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EXAMINER
Peshawar High Court
Peshawar

aggrieved of the order of the respondents dated 13.7.2017 whereby he was dismissed from service.

3. Argument heard. Record perused.

4. Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 specifically bars the jurisdiction of this Court in matters relating to the terms and conditions of service of civil servants. Besides, the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 can only be invoked in extraordinary circumstances where there is no alternate adequate remedy available while in the matter in hand, petitioners has got alternate remedy available to him before the Service Tribunal established under the Service Tribunal Act, 1974.

5. For what has been discussed above, this writ petition is dismissed for want of jurisdiction. Needless to observe that petitioner may

ATTESTED
EXAMINER
Peshawar High Co.
Peshawar

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seek his remedy from the Service Tribunal, if he is
so advised.

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JUDGE

JUDGE

Announced on;
Dated. 12.10.2023

D.B. Hon'ble Mr. Justice (Jaz Anwar and Hon'ble Mr. Justice Shakeel Ahmad

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EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 37 of
the Qanun-e-Shahadat Act 1984
30 JAN 2024

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30-01-2024
No of Pages 8 - P
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Date of Delivery of Copy 30-01-2024
Amount Rs 16/-

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-25-

**BEFORE THE INSPECTOR OF POLICE KHYBER PAKHTUNKHWA
PESHAWAR.**

Subject:- **REVISION PETITION UNDER SECTION 11-A OF THE POLICE ACT,
AGAINST THE ORDER NO 8968/ DATED 13/12/2017 ISSUED BY THE
DISTRICT POLICE OFFICER MARDAN WHEREBY APPEAL OF THE
APPELLANT/PETITIONER WAS REJECTED AND AGAINST THE ORDER
NO O.B NO 2661 DATED 01-11-2016 ISSUED BY THE DPO MARDAN
WHEREBY THE APPELLANT WAS AWARDED THE MAJOR PENALTY OF
DISMISSAL FROM SERVICE.**

Respected sir,

Kindly refer to my previous appeal addressed to DPO Mardan which was abruptly and unilaterally rejected by the officer concerned without any plausible justification. Copy enclosed for ready reference.

In this context may I brought the following facts for your kind information and sympathetic consideration:-

1. Vide charge sheet served upon the petitioner by the DPO Mardan it was conveyed to the petitioner has deliberately absented himself from the lawful duty with a given detail.
2. Refused to perform training at RTW Manshara.

Brief facts are as under:-

- a. The petitioner was enlisted as constable in police department on 23/12/2015. During the month of April 2016 the appellant remained posted In lines Mardan. On 03-04-2016 on main road in front of police lines Mardan the petitioner was collided by a passerby motor car and became injured I the road accident. The police official present in police lines came and put the petitioner in the ambulance for onward transportation to DHQ Hospital Mardan. CDI Saleh Muhammad and Naib SDI Hanif Khan from police lines accompanied the petitioner/appellant. The appellant/petitioner was initially treated at BHQ Mardan and after then referred to Mardan Medical Complex Mardan. Being suffering from severe head pain the CT Scan of the petitioner was conducted. The same day at evening late, the petitioner was referred to LRH.
- b. That the LRH Peshawar, the petitioner was given treatment and advised medical bed rest by the doctor. The petitioner informed line officer police Lines Mardan regarding his position and bed rest through his brother namely Abid Ali.
- c. That the appellant continued his treatment at Shafiq Psychiatric Clinic Peshawar till 16-08-2016 and in this period the petitioner was also on bed rest.

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- On 10/10/2016, the appellant was badly suffered by typhoid fever and was under treatment of Doctor Luqman at Haqania Health Care Clinic in Tor Dher Nowshera Document enclosed.
- d. That as for as the allegations of refusal to perform training at RTW Monsehra is concerned, is totally false and baseless. The appellant cannot think to refuse from the order of superior.
 - e. That being new comer/unaware about the rules and regulations of the department the petitioner did not made any entries in the daily diary regarding departure in the hospital, bed rest advised by doctor ad lastly repost of arrival for duty in the police line though the appellant visit to the office of the Mohrar of Police Line and informed him regarding his illness. The petitioner was marked absent and also blamed for refusal to perform training and was dismissed from service. The alleged absence was not deliberately and was due to unfortunate road accident.
 - f. That would not be out of place to mention here that during the course of during inquiry the petitioner produced medical officer i.e. EO and also explained position regarding alleged refusal from training but his virgin was not consider.
 - g. That the appellant is young man and his future is going to be ruined by the said Dismissal order. He is the only male member of the entire family including their old person to earn livelihood in the shape of police service.

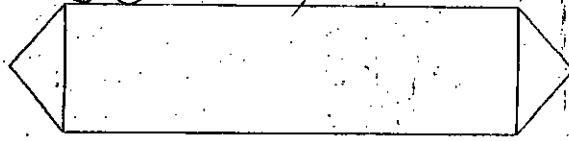
Foregoing in view it is humbly requested that the rejection order of DPO Mardan along with Dismissal Order of the appellant may be set-aside on compensationate / humanitarian ground and the appellant may graciously be reinstated in services right from the date of dismissal with all back and consequential benefits.

Your's obediently


Nazim Ali

24/10/23
Ex-Constable No.1615

District Police Mardan



2 پنجاب
ناظم علی بنام اہلسن اسلام آباد

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لندن اور کیلے نور محمد منگ + محمد جان + محمد فاروق + ولید کورمان
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقررات و فیصلہ پر حلف دیے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم بیروی یا ڈگری یا طرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیروی کرنے کا مختار 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 باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داخست منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد۔ بہ باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ بیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

N 13/11

Accepted
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Accepted in receipt
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الرقوم

العبد گوا العبد

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کے لئے منظور ہے۔

مقام