

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 621/2023

Ishrat Ali

Ex-Const: No. 1200, District Kohat

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

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Deponent

01-03-2024

Per

S-B

P-1

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 621/2023

Ishrat Ali

Ex-Const: No. 1200, District Kohat

..... Appellant

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 11504

Dated 01-03-2024

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

REPLY / COMMENTS ON BEHALF OF RESPONDENT NO. 1 TO 4

Respectfully Sheweth:-

Reply to the appeal filed by appellant is submitted as under on behalf of the respondents No. 1 to 4.

Preliminary Objections:-

- i. That the appellant has got no cause of action to file the instant appeal.
- ii. That the appeal is badly time barred, hence it is liable to be dismissed on this score alone.
- iii. That the appellant is estopped to file the instant appeal for his own act.
- iv. That the appeal in its present form is legally defective and it is not entertainable.
- v. That the appeal is liable to be dismissed in limine.

Facts:-

1. Correct, hence no comments.
2. Incorrect, appellant was an ordinary and average Police official.
3. Incorrect, such medical prescription is not acceptable / admissible because for getting medical leave, official / officer is required to be forwarded by the parent department to the government hospital. **(Copy of Medical Supdtt: verification Letter No. 4615/F-5A dated 22.05.2014 is annexure A).**
In case of the appellant, he was not forwarded by the Police department to the hospital, hence medical prescription annexed by the appellant has got no legal value and he cannot take shelter of such inadmissible document.
4. The inquiry officer may have received the medical report but it was not accepted as evidence in favour of the appellant.

5. Correct to the extent, that the appellant was removed from service by the competent authority on 24.09.2014 on account of remaining absent without leave or permission, however, before passing order all legal and codal formalities were fulfilled, hence, the impugned order is not open to be called in question. **(Copy of order dated 24.09.2014 is annexure B).**
6. Correct to the extent that appeal of the appellant was rejected by the Deputy Inspector General of Police, Kohat vide order dated 12.11.2014, however, it is incorrect, unconvincing and unsubstantiated that order of the year 2014 was received in the month of March 2023. This is in fact an effort to cover the period of limitation and to justify filing of appeal even after badly time barred. **(Copy of order dated 12.11.2014 is annexure C).**
7. Incorrect, inquiry conducted against the appellant was a proper departmental inquiry. **(Report of inquiry findings and statement of appellant is annexure D & E).**
8. That appellant has got no cause of action to file the instant appeal, which is badly time barred, hence liable to be dismissed on limitation, besides following grounds.

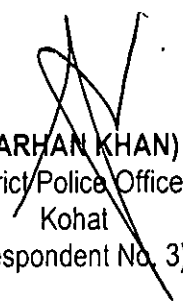
Grounds:-


- A. Incorrect, both the orders dated 24.09.2014 and 12.11.2014 are quite in accordance with law, rules and evidence on record, hence the orders are valid on record, hence the orders are valid and legally applicable on the appellant. **(Copy of both orders as already annexed).**
- B. Incorrect, the findings of the inquiry and impugned order of the competent authority are perused, it will indicate that charge sheet was accordingly served upon the appellant and final show cause notice was also served upon the appellant. Hence this para is false and misleading. **(Copy of charge sheet & summary of allegation, reply of charge sheet, Final show cause notice & reply of final show cause notice is annexure F, F1-F2, G, G-1).**
- C. Incorrect, the appellant during enquiry and before issuance of the impugned order was heard in person.
- D. Incorrect, perusal of the findings and the impugned order would reveal that against the appellant proper departmental inquiry was conducted.
- E. Incorrect, service record of the appellant reveals that the appellant was a habitual absentee. Hence, the present absence is undoubtedly a deliberate and intentional absence. The appellant in order to justify his absence, he has taken the plea of sickness which is not supported by any iota of evidence in the record.
- F. Correct to the extent that the appellant submitted medical prescription but at the same time it is submitted that only submission of prescription is not sufficient. Such documents should have a legal sanctity which the said prescription is lacking.

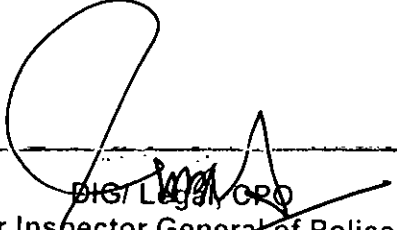
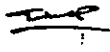
- G. Incorrect, order dated 24.09.2014 issued by the DIG Kohat Region Kohat is also legal and in accordance with rules and evidence on record.
- H. This para is legal, hence no comments.

Prayer:-

It is therefore, prayed that orders dated 24.09.2014 and the appellate order dated 26.09.2014 being legal and in accordance with rules and evidence on record may graciously be upheld while appeal filed by the appellant may be dismissed with costs being unsubstantiated.


(FARHAN KHAN)
District Police Officer,
Kohat
(Respondent No. 3)


(SHER AKBER), PSP, S.ST
DIG / Regional Police Officer,
Kohat Region.
(Respondent No. 2, 4)


DIG/LEGAL, GPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 1
(DR. MUHAMMAD AKHTAR ABBAS)
Incumbent


BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 621/2023
Ishrat Ali
Ex-Const: No. 1200, District Kohat

..... **Appellant**

VERSUS

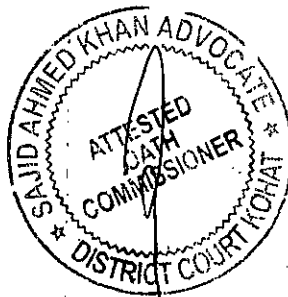
Inspector General of Police,
Khyber Pakhtunkhwa & others

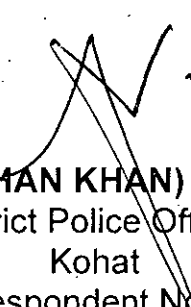
..... **Respondents**

AFFIDAVIT

I, Farhan Khan, District Police Officer, Kohat (Respondent No. 3) do hereby solemnly affirm and declare on oath that the contents of reply to the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.

It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense is struck off.




(FARHAN KHAN) PSP
District Police Officer,
Kohat
(Respondent No. 3)

OFFICE OF THE
MEDICAL SUPERINTENDENT
DHQ TEACHING HOSPITAL KOHAT

P-5
Annex-A

No. 4615 /F-5A

Dated 22 /05 /2014

To,

The Sub Divisional Police Officer
City Kohat.

Subject:- VERIFICATION

Memo:

Reference your letter No.150/City dated 21/05/2014 on the subject cited above and to state that CMO / MO is authorized to advise only three days medical leave.

Hence the undersigned cannot verify 21 days (three weeks) Medical Leave in respect of Constable Adnan Khan No.451 of your department.

Encl: as above.

*WKE/Deputy
Per verification*

[Signature]
DS
27/5

*Attested
Adnan*

[Signature]
Medical Superintendent
DHQ Teaching Hospital Kohat

[Signature]
27/5/14

ORDER

This order is passed on the departmental enquiry against Constable Ishrat.Ali No. 1200 of this District Police under Police Rules, 1975.

Brief facts are that he while posted at P.S Jarma had absented himself from official duty vide DD No. 18 dated 20.07.2014 and reported arrival vide DD No.23 dated 25.08.2014 (**Total absence period 35 days**) without any leave or permission from the competent authority which shows his in-efficiency, negligence, irresponsibility and gross misconduct on his part.

Thus he was served with Charge Sheet/Summary of Allegations and Mr. Lal Farid Khan DSP, City, Kohat was appointed as Enquiry Officer to proceed against him departmentally who submitted his findings and found him guilty of the charges leveled against him.

Besides above absentee, his service record has been perused and it revealed that the constable remained absent from duty time and again during his short service on different dates/as a result 09 bad entries were recorded in his service record. Moreover, for such attitude he was dismissed from service by this office vide OB No. 509 dated 26.06.2012. However he appealed to the Regional Police Chief for re-instatement in service. The Regional Police Chief re-instated him in service and period of absence was counted as leave without pay with last warning to improve his attitude towards service vide DIG/P Kohat ordered Ends: No. 9168/EC dated 31.10.2012.

In the light of findings of enquiry officer, he was issued Final Show Cause Notice, called in O.R on 24.09.2014 and heard in person. His reply is perused and found un-satisfactory. His present absence from duty without leave or permission and previous service record confirmed that his attitudes cannot be changed. Since he is habitual absentee and has got no interest in the discharge of his official duty and he is an extra burden on government exchequer, therefore, the undersigned took a departmental action against him and awarded a major punishment i.e Removal from service and his absence period i.e 35 days is treated as leave without pay.

OB No. 1222
Date 24-09-2014

~~DISTRICT POLICE OFFICER,
KOHAT~~

Handwritten signature
25-9-14

*Alleged
Absence
[Handwritten notes and signatures]*

IDM (191)

ORDER

This order will dispose of an appeal moved by ex-Constable Ishrat Ali No. 1200 of Kohat district police against the punishment order of DPO Kohat vide O.B. No. 1222, dated 24.09.2014, wherein he was awarded major punishment of removal from service. The defaulter Constable seeks to set aside the punishment order and reinstatement in service.

Facts are that the defaulter official while posted at Police Station Jarra, absented himself from lawful duty w.e.f. 20.07.2014 to 25.08.2014, total 35-days absence without any prior permission or leave from his immediate superior officers, which speaks of negligence, disinterest in duty and amounts gross misconduct. Besides this, he is a habitual absentee and has remained absent on 09 different occasions for which he had also been dismissed from service by DPO Kohat vide O.B No. 509, dated 26.06.2010. Later on, he was reinstated in service by the then DIG/Kohat vide order Endst: No. 9163/EC, dated 31.10.2012 with last / final warning.

Now, again he absented himself for about 35-days and to this effect he was dealt with departmentally. Charge sheet & statement of allegations was also issued to him under Police Rules 1975 and DSP City was appointed as enquiry officer. On completion of enquiry proceedings, he was recommended for major punishment under the rules. Resultantly, he was dismissed from service by DPO Kohat vide O.B No. 1222, dated 24.09.2014.

Feeling aggrieved from the said punishment order, he preferred the instant appeal for reinstatement in service. Record requisitioned and the matter was perused, which revealed that he is a habitual absentee and has several times been reprimanded. There is no hope of his reforming, correcting his attitude towards his lawful duty.

He was heard in person in Orderly Room held in this office on 12.11.2014, but failed to submit any plausible explanation in his defense and could not satisfy the undersigned.

Therefore, going through the available record and oral explanation of the defaulter, the undersigned came to the conclusion that order passed by DPO Kohat is justified and needs no interference. Hence, appeal devoid from merits, is hereby rejected.

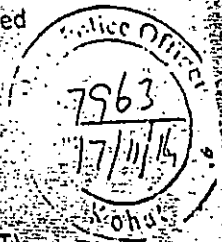
ANNOUNCED
12.11.2014

(DR. ISHTIAQ AHMAD MARWAT)
Dy. Inspector General of Police
Kohat Region, Kohat

✓ Copy to the District Police Officer, Kohat for information w/r to his office memo: No. 15997/LB, dated 15.10.2014. His service record is enclosed herewith.

Appellant Ex-Const. Ishrat Ali No. 1200 of Kohat.

(DR. ISHTIAQ AHMAD MARWAT)
Dy. Inspector General of Police
Kohat Region, Kohat



*Attested
Nadeem*

*Attested
D. 8/11/14
I.P.O. KOHAT*

*2. SRC/alt
... his service
... he is...*

Better Copy

(D) (14)

ORDER

This order will dispose of an Appeal moved by Ex-Constable Ishrat Ali No. 1200 of Kohat District Police against the punishment order of DPO Kohat vide O.B No. 1222, dated 24.09.2014, wherein he was awarded major punishment of removal from service. The defaulter Constable seeks to set aside the punishment order and reinstatement in service.

Facts are that the defaulter official while posted at Police Station Jarma absented himself from lawful duty w.e.f 20.07.2014 to 25.08.2014, total 35-days absence without any prior permission or leave from his immediate superior officer, which speaks of negligence in duty and amounts gross misconduct. Besides this, he is a habitual absentee and has remained absent on 09 different occasions for which he had also been dismissed from service by DPO Kohat vide O.B No. 509, dated 26.06.2019. Later on he was reinstated in service by the then DIG/Kohat vide order Endst No. 9168/EC, dated 31/10/2022 with last/final warning.

Now again he absented himself for about 35-days and to this effect he was dealt with Departmentally Charge Sheet & statement of allegations was also issued to him under Police Rules 1975 and DSP city was appointed as enquiry officer. On omission of enquiry proceedings, he was recommended for major punishment under the rules. Resultantly, he was dismissed from service by DPO Kohat vide O.B No. 1222, dated 24.09.2014.

Feeling aggrieved from the said punishment order he preferred the instant appeal for reinstatement in service. Record requisitioned and the matter was perused, which revealed that he is habitual absentee and has several time been reprimanded. There is no hope of his performing, correcting his attitude towards his lawful duty.

He was heard in person in orderly Room held in this office on 12.11.2014, but failed to submit any plausible in his defense and could not satisfy the undersigned. Therefore, going through the available record and oral explanation of the defaulter, the undersigned came to the conclusion that order passed by DPO Kohat is justified and needs no interference. Hence, appeal devoid from merits, is hereby rejected.

ANNOUNCED
12.11.2014

(Dr. ISHTIAQ AHMAD MARWAT)
Dy Inspector General of Police
Kohat Region Kohat

No. 10541-42/EC dated Kohat the 13/11/2014

Copy to the District Police Officer Kohat for information w/r to his office Memo N. 15997/L.B. dated 15.10.2014 his service record is enclosed herewith.
2. Appellant Ex-Constable Ishrat Ali No. 1200 of Kohat.

ISHTIAQ AHMAD MARWAT

F/E

P-8
Annex - D

FINDING
IN DEPARTMENTAL ENQUIRY AGAINST
CONSTABLE ISHRAAT ALI NO.1200.

The above named defaulter Constable was posted at Police Station Jarma Kohat has absented himself from official duty intentionally with out any leave/prior permission from the competent authority vide Daily Diary report No.18 dated 20.07,2014 and reported his arrival vide DD No.23 dated 25.8. (total absence period 35 days).

He was charge sheeted and the undersigned was appointed as enquiry to conduct departmental enquiry against him.

Defaulter Constable above named was summoned, heard in person and recorded his statement. He stated that he was and also produced medical certificate advised rest for 23 days granted by medical Officer DHQ Hospital KDA Kohat. But the days of absence he did not produced medical rest to competent authority for sanctioning his rest 23 days. Moreover according to Medical Supdt:DHQ Hospital KDA Kohat report vide his office memo:No.4615/E-5-A dated 22.5.2014 that the medical officer authorized to advise only three days medical leave.(photo copy is enclosed herewith for perusal please.

Keeping in view the above circumstances I came to the conclusion that Constable Ishrat Ali No.1200 has intentionally absented from official duty with out any leave/prior permission w.e.from 20.07.2014 to 25.8.2014. It is therefore recommended that he may be guilty of the charges.

Submitted please.

*Attested
Arbeem*

Q
Sub Divisional Police Officer
City Kohat.

No. 254/4149
dt: 12-09-2014

بیان اذیتیں پیش کرنے پر علی 12000 کا رقم

P-4
Annex - E

بیان لکھا ہے کہ جو جواب میں نے جان سکتا ہے
دیا ہے وہ میں سے بیان ہے

Ashrat Ali

میں کیا رقم ہے کہ وہ ڈیوٹی سے غیر حاضر ہوئے؟

2. یہاں بتا جسکی رقم سے غیر حاضر ہوئے Ashrat Ali

میں وہ رقم کتنی ہے اور کیا ہے؟

Ashrat Ali

کل اتنے دن غیر حاضر کیے

Ashrat Ali

35 دن غیر حاضر ہوئے

کونسی رقم ہے اس پر؟

Ashrat Ali

26 7/2007 کا رقم ہے

Attested
Ali

Attested.

a
B.O.

P-10
Annex - F

CHARGE SHEET

1. I MUHAMMAD SALEEM, DISTRICT POLICE OFFICER, KOHAT, as competent authority, hereby charge you Constable Ishrat Hussain No. 1200 Under Disciplinary Police Rules, 1975 as you have committed the following illegal act.

You while posted at P.S Jarma had absented yourself from official duty vide DD No. 18 dated 20.07.2014 and reported arrival vide DD No.23 dated 25.08.2014 (**Total absence period 35 days**) without any leave or permission from the competent authority. Which shows your inefficiency, negligence, irresponsibility and gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct as defined in Rule 2 (iii) of Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties explained in rule 04 of the said rules.

3. You are, therefore, required to submit your written statement within 07days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.

Steno
S. G. Mohammed

Attested
Saleem
25/8/14
2/9



**DISTRICT POLICE OFFICER,
KOHAT**

DS/C
19.08.14

P-11
Annex - F1

DISCIPLINARY ACTION

1. I, **MUHAMMAD SALEEM, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Constable Ishrat Hussain No. 1200** have rendered yourself liable to be proceeded against departmentally under Police Disciplinary Rule 1975 as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

You while posted at P.S Jarma had absented yourself from official duty vide DD No. 18 dated 20.07.2014 and reported arrival vide DD No.23 dated 25.08.2014 (**Total absence period 35 days**) without any leave or permission from the competent authority. Which shows your inefficiency, negligence, irresponsibility and gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **Mr. Lal Farid Khan DSP City Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Disciplinary Rule-1975, provide reasonable opportunity of hearing to the accused official, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

*Attested
Saleem*

**DISTRICT POLICE OFFICER,
KOHAT**

No. 5268-70/PA, dated 02-9/2014.

Copy of above is forwarded to:

1. **Mr. Lal Farid Khan DSP City Kohat**:- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.

2. **Constable Ishrat Hussain No. 1200**:- The concerned official/officer's with the directions to appear before the Enquiry officer, on the date, time and place fixed by the enquiry officer, for the purpose of enquiry proceedings.

5/9/2014

ذبحہ عالی

بحوالہ چارج شیڈول نمبر 5269-70
02-9-14

مصرحاً یوں کہ مسائل بجا رہا۔ اور ایسی
علامت معالجہ کرنے کیلئے ڈاکٹر ہاشمیان سے کروا
اور عین وقت پر ایسے ایسے ڈیوٹی لینے والے
کا۔ مشکل صورت میں صاف ہے۔

انڈیا ہارٹ ڈیپارٹمنٹ سے رابطہ کیا گیا۔ کہ مسائل
یوں بجا رہی ہیں۔ ہاشمیان سے مسائل کو
بار بار جانچا گیا اور فرما دیا۔ مسائل انڈیا
کا ایسی ہی شکایت واقعہ صاف ہے۔ مسائل کو
صاف ہمارے مسائل کے لئے دیا گیا ہے۔

Attested,
Am
K.O.

اللہ

10/9/14

ذبحہ عالی

Attested
Makam

Ashraf Ali 10/9/14

D-13
Annex-6

FINAL SHOW CAUSE NOTICE

1. I, **Muhammad Saleem, District Police Officer, Kohat** as competent authority under the Police Rule 1975 serve you **Constable Ishrat Hussain No. 1200** as follow:-

The consequent upon the completion of enquiries conducted against you by the Enquiry Officer, **Mr. Lal Farid Khan DSP City, Kohat**

2. On going through the findings and recommendations of the Enquiry Officer, the materials on the record and other connected papers, I am satisfied that the charge against you is proved and you have committed the following acts/omission specified in Police Rule 1975.

You while posted at P.S Jarma had absented yourself from official duty vide DD No. 18 dated 20.07.2014 and reported arrival vide DD No.23 dated 25.08.2014 **(Total absence period 35 days)** without any leave or permission from the competent authority. Which shows your in-efficiency, negligence, irresponsibility and gross misconduct on your part.

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule 1975.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within seven (7) days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

Copy of finding of the enquiry officer is enclosed.

*Attested
Saleem*
No. 5484 /PA

Dated 12-9-2014

[Signature]
DISTRICT POLICE OFFICER,
KOHAT

صاف ۱۵۱

مکمل طور پر مشورہ کاروبار میں مصروف ہو گئے ہیں۔
مگر اس سے پہلے عینہہ چارج ٹیسٹ میں جو بیان
دیا گیا وہی بیان یہ جو حقیقت ہے وہی ہے

کاٹھیل ٹیسٹ میں ۱۲۵۰ عینہہ کا نام دیا

Ahmad Ali

Attested
Ahsan

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 621/2023
Ishrat Ali
Ex-Const: No. 1200, District Kohat

..... Appellant


VERSUS


Inspector General of Police,
Khyber Pakhtunkhwa & others

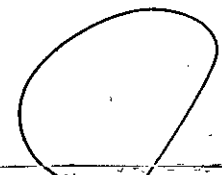
..... Respondents

AUTHORITY LETTER

Mr. Arif Saleem steno (Focal Person) of this office is hereby authorized to file the parawise comments and any other registered documents in the Honorable Tribunal on behalf of respondents / defendand and pursue the appeal as well.


(FARHAN KHAN)
District Police Officer,
Kohat
(Respondent No. 3)


(SHER AKBER) PSP, S.ST
DIG / Regional Police Officer,
Kohat Region
(Respondent No. 2, 4)


DIG/ Legal, GPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 1
(DR. MUHAMMAD AKHTAR ABBAS)
Incumbent
