

06.08.2018

Appellant absent. Learned counsel for the appellant absent. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

*Muhammad Amin*

(Muhammad Amin Kundi)  
Member

*M. H. Mughal*

(Muhammad Hamid Mughal)  
Member

**ANNOUNCED.**

06.08.2018

1363/2015

11.12.2017

Clerk of counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 13.02.2018 before the D.B.


  
Member

  
Chairman

13.02.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 11.04.2018 before D.B

  
(Ahmad Hassan)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

11.04.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 22.06.2018 before d.B

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

22.06.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for argument on 06.08.2018 before D.B.

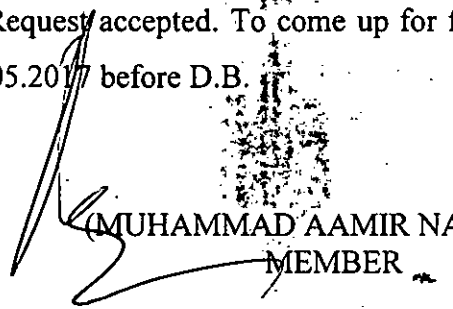
  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

06.01.2017

Counsel for the appellant and Assistant AG for the respondents present. Rejoinder not submitted. Learned counsel for the appellant seeks adjournment to file rejoinder. Request accepted. To come up for filing of rejoinder and arguments on 26.05.2017 before D.B.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER


26.05.2017

Counsel for appellant present. Mr. Muhammad Adeel Butt, Additional AG for respondents also present. Learned counsel for appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 19.09.2017 before D.B.

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

19.09.2017

 Junior to counsel for appellant present. Learned District Attorney for the respondents present. Junior to counsel for appellant seeks adjournment on the ground that senior counsel for appellant was busy before august Supreme Court of Pakistan. Adjourned. To come up for arguments on 11.12.2017 before D.B.

  
Member  
(Executive)

  
Member  
(Judicial)

26.4.2016

Counsel for the appellant, and Aziz Shah, Reader alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 19.5.2016 before S.B.

  
Chairman

19.05.2016

Clerk of counsel for the appellant and Mr. Aziz Shah, Reader alongwith Addl: AG for respondents present. Written reply on behalf of respondents No. 1, 2 and 3 submitted. The appeal may be placed before D.B for rejoinder and final hearing for 5.9.2016. The Chairman may assign the appeal to appropriate D.B.

  
Member

05.09.2016

Agent to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder not submitted and requested for further time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 6-1-17 before D.B.

Member

  
Member

11.12.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of wilful absence and dismissed from service vide impugned order dated 3.8.2015 constraining the appellant to prefer department appeal on 2.9.2015 which was rejected on 12.11.2015 and hence the instant service appeal on 4.12.2015.

That the inquiry was not conducted in the prescribed manners as no opportunity of personal hearing was extended. That neither charge sheet was given nor show cause notice issued and that the impugned order has been given retrospective effect and as such violative of law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 29.2.2016 before S.B.

  
Chairman

29.02.2016

Appellant Deposited  
Security & Process Fee →




Agent of counsel for the appellant present. Security and process fee not deposited. The same be deposited within a week, where-after notices be issued to the respondents for written reply/comments for 26.4.2016 before S.B.

  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1363/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04.12.2015	<p>The appeal of Mr. Muhammad Jameel presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	11-12-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>11-12-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;"></p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1363 /2015

Muhammad Jamil

V/S


Police Deptt:

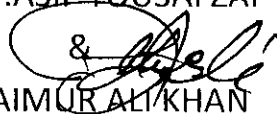
**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-3
2.	Copy of charge sheet	A	4
3.	Copy of statement of allegation	B	5
4.	Copy of inquiry report	C	6
5.	Copy of show cause notice	D	7
6.	Copy of order dated 3.8.2015	E	8
7.	Copy of departmental appeal	F	9
8.	Copy of rejection order	G	10
9.	Vakalat nama	-----	11

APPELLANT

THROUGH:

  
M.ASIF YOUSAFZAI

  
&  
TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 1363/2015

Muhammad Jamil Ex- constable No.1948,

Daud Zai, Police station *Peshawar-*

**A.W.F. Provincial  
Service Tribunal**

Diary No. 1420

Dated 04-12-2015

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Capital City Police, Officer, Peshawar.
3. The Superintendent of Police, Rural, Peshawar.

(RESPONDENTS)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.11.2015, WHEREBY THE DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 03.08.2015 HAS BEEN REJECTED FOR NO GROUNDS.**

**PRAYER:**

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 12.11.2015 AND 03.08.2015 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK BENEFITS. AND ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

*Filed to day  
7/12/15*

**R. SHEWETH:**

1. That the appellant joined the police force in the year 2008 and completed all his due training etc and also have good service record throughout.



2. That the appellant' mother was ill. As the appellant look after his mother, therefore he could not performed his duty and remained absent from the duty.
3. That the appellant was engaged with his mother's treatment when show charge sheet and statements of allegations was served to him but as he was engaged in his mother treatment therefore he could not reply to the charge sheet. (Copy of charge sheet and statement of allegation are attached as Annexure-A&B)
4. That then one sided inquiry was conducted against the appellant but none of the statement was recorded or record examine in presence of the appellant. Even then the inquiry officer recommended major punishment. (copy of inquiry report is attached as Annexure-C)
5. That final show cause notice was served to appellant but as he was engaged in his mother treatment therefore he could not reply to the show cause. (Copy of show cause is attached as Annexure-D)
6. That the appellant was dismissed from the service from the date of his deliberate absence from his duty under Police Rule 1975 vide order dated 3.8.2015 without chance of defence. (Copy of order dated 3.8.2015 is attached as Annexure-E)
7. That against the order dated 3.8.2015, the appellant filed departmental appeal on dated 2.9.2015 but the same was also rejected for no good ground on dated 12.11.2015. (Copies of departmental appeal and rejection order are attached as Annexure-F&G).
8. That now the appellant come to this august tribunal on the following grounds amongst others.

**GROUND:**

- A) That the impugned order dated 12.11.2015 and 3.8.2015 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.

- C) That the appellant was punished from the date of his absence and the authority has no power to pass the order with retrospective effect.
- D) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- E) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- F) That the penalty of dismissal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- G) That the appellant did not intentionally absent from his duties but his mother was ill due to which he look after her mother. As the illness is beyond the control of human, therefore the appellant was compel to remain absent from his duties due to the treatment of his mother.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT   
Muhammad jamil

THROUGH:

  
M. ASIF YOUSAFZAI

  
TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

A      (4)

**CHARGE SHEET**

I, Superintendent of Police, Rural, Capital City Police Peshawar, as a competent authority, hereby, charge that **FC Jamil No. 1498** of Capital City Police Peshawar with the following irregularities.

1498

"That you **FC Jamil No. 1498** while posted at **PS Daudzai** were absented from your lawful duty w.e.f. **07.05.14 till to date** without taking permission or leave. This amounts to gross misconduct on your part and is against the discipline of the force."

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

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

  
SUPERINTENDENT OF POLICE,  
RURAL, PESHAWAR

No 111 /SP Rural.  
Dt 20 / 11 /2014

**ATTESTED**  


B (5)

**DISCIPLINARY ACTION**

I, Superintendent of Police, Rural, Capital City Police Peshawar as a competent authority, am of the opinion that **FC Jamil No. 1498** has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

**STATEMENT OF ALLEGATION**

"That **FC Jamil No. 1498** while posted at **PS/Daudzai** absented himself from duty w.e.f. **07.05.14 till to date** without permission which amounts to gross misconduct on his part and against the discipline of the force."


For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and SPPO/ Saddam is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record its finding and submit within stipulated period of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.
3. The defaulter official and well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry Office.

  
SUPERINTENDENT OF POLICE,  
RURAL, PESHAWAR

No. 111 /PA, dated Peshawar the 20 / 11 /2014

Copy to E.O to submit finings within stipulated period under period under Police Rules 1975.

**ATTESTED**  


The Superintendent of Police,

Rural: Peshawar.

SUBJECT: DEPARTEMENTAL ENQUIRY AGAINST CONSTABLE JAMIL NO. 1948 OF POLICE STATION DAUDZAI.

Memo:

Please refer to your office end: No. 111/PA dated 20.11.2014 on the subject cited above.

ALLEGATIONS:


There were allegations against Constable Jamil No. 1948 that he while posted at Police Station Daudzai, Peshawar absented himself from his lawful duty with effect from 24.01.2014 to 01.05.2014 total (03 Months and 07 days) without leave or permission.

FINDINGS:

The defaulter Constable Jamil No. 1948 of Police Station Daudzai Peshawar was summoned to written parwana as well as through his Cell No. 0314.9149132 but the Cell No. has already been found switch off.

RECOMMENDATION:-

Keeping in view, the enquiry conducted so far, reveals that the Constable Jamil No. 1948 is habitual absentee therefore, he may be recommended for Major Punishment. Submitted please.

  
(MUHAMMAD YASEEN KHAN)  
DEPUTY SUPERINTENDENT OF POLICE  
SADDAR CIRCLE, PESHAWAR

W.SP/Rural: Peshawar, please.

No. 1092/PA.

Dated: 12 / 06 /2015.

Encl: (7) Sheets).

Final S.C.M

**ATTESTED**  


D (7)

**FINAL SHOW CAUSE NOTICE**

I Superintendent of Police, Rural, Capital City Police, Peshawar as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve you **FC Jamil No.1948** of Capital City Police, Peshawar as follows.

1 (i) That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.

(ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.

I am satisfied that you have committed the following acts/omissions specified in Police Disciplinary Rules 1975 of the said Ordinance.

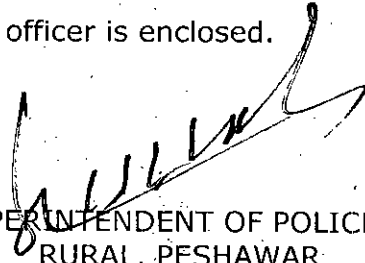
**"That you FC Jamil No.1948 while posted at P.S Daudzai remained absent from duty w.e.f 25.04.2014 to 23.06.2014 without taking permission or leave. This act amounts to gross misconduct on your part and against the discipline of the force"**

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Disciplinary Rules 1975 for absence.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

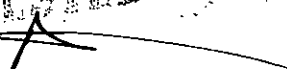
4. If no reply to this notice is received within 7 days of its delivery, in normal course of circumstances, it shall, be presumed that you have no defense to put in and in that case as ex-parte action be taken against you.

5. The copy of the finding of the enquiry officer is enclosed.

  
SUPERINTENDENT OF POLICE,  
RURAL, PESHAWAR

No. 3478 /PA, SP Rural: dated Peshawar the 30/7 /2015.

Copy to official concerned

**ATTESTED**  


E (8)

ORDER

This is office order for disposal of departmental proceedings against **Constable Jamil No. 1948** on the grounds that he while posted at P.S Daudzai absented himself from his lawful duty with effect from: **25.04.2014 to 23.06.2014** and again absented from duty w.c.f: **28.02.2015 till to-date** without leave or permission.

Departmental proceedings were initiated against him and SDPO Saddar Circle was appointed as enquiry officer who vide his findings submitted that the alleged constable was summoned time and again but in vain. Thus found him guilty and recommended him for major punishment.

He was issued final show cause notice and summoned to join the enquiry proceedings but he neither appear before the undersigned or E.O nor reported back at his place of posting as well as remained absent till to-date without leave or permission.

His service record was checked. As per attached CRC record, he was enlisted in service on 23.02.2008 and dismissed from service vide O.B No. 134, dated 10.01.2011 on the charge of absence. Subsequently, he was reinstated in service on 21.11.2011 vide OB No. 4264 but nevertheless he does not take interest in his official duty as he is still absent from his lawful duty with effect from: 28.2.2015 to-date. Besides, he has also one minor punishment and two bad entries in his service record.

Keeping in view the above and other material on record, the undersigned came to conclusion that the alleged **Constable Jamil No. 1948** is guilty of the charges and no doubt that he is a habitual absentee. Therefore, the undersigned being a competent authority, award him the major punishment of "**Dismissal from Service**" under Police Rules 1975 from the date of his deliberate absence from duty.

Order announced.

  
(SHAKIR BANGASH)  
SUPERINTENDENT OF POLICE  
RURAL, PESHAWAR.

OB No. 2930

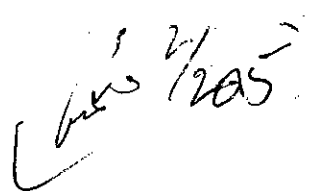
Dated: 3-8-15

No. 60 /SP-R, dated Peshawar the 3/8 /2015.

Copy to:-

- 1) The S.P HQrs: Peshawar.
- 2) SDPO Saddar Circle (E.O)
- 3) SDPO Rural.
- 4) DSP Legal
- 5) SHO Daudzai.
- 6) Pay Officer.
- 7) FMC, Computer Cell, CRC, I.O-Pay & OSI.
- 8) FMC (along-with enclosure)

**ATTESTED**

  
3/8/15

حضرت قیام  $\frac{F}{P}$  e.e.p. غیر مختصراً لکے۔

Dy: No. 1481 PA-CCPO  
Dt: 31-8-15  
Encl: ①

محکمہ تحصیل وکیل سید نذیر حسین لکے

درخواست برائے تقرری دوبارہ

No 89-48

قیدگیل گزار شہ صاحب ذیل عرض ہے 2-9-2015

یہ سائل کوکھروکھ سے 3-8-15  
کو برطرف کیا گیا ہے

یہ سائل کا غیر قانونی قبضہ آدر نہ لکھ  
بلکہ والدہ ثبت سنت بیمار لکھ

یہ سائل دینی والدہ کے علاج میں معروف تھا۔  
بغیر سائل واحد ایسی بیٹا ہے۔

یہ والدین پونہ میں - ادارہ کوئی کیا اور نہیں  
یہ سائل معافی کا خواہگار ہے۔ اس لئے

ملازمت ثبت مشورہ سے لے گا

یہ سائل بہتر قیمت دینے کو تیار ہے  
Pot of Recd.

مکملہ اشتہار ہے۔ یہ سائل کو مجال لکے

Dy: Supdt: of Pol  
Legal, CCP/Peshaw  
21/9/2016

ملازمت کی فریڈ مرفورڈ (10)

DSP-L

For Comments Plz.

ATTESTED

Ex-Constable  
محمد جمیل

1948

دالہ محمد حسن  
0333-5010580

for cepto





GT 10

**OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR**

Phone No. 091-9210989

Fax No. 091-9212597

**ORDER**

This order will dispose off departmental appeal preferred by ex- constable **Muhammad Jamil No. 1948** who was awarded the major punishment of **Dismissal** from service under Police Rules-1975 vide OB No. 2930 by SP/Rural Peshawar on the charge mentioned below:-

- 1- He while posted at PS Daudzai absented himself from his lawful duty w.e.from 25.4.2014 to 23.6.2014 & again from 28.2.2015 to 3.8.2015, ( 8 months and 3 days) without taking permission or leave. This amount to gross misconduct on his part and is against the discipline of the force.
- 2- Proper departmental proceedings were initiated against him and Mr. Muhammad Yaseen Khan DSP-Saddar Circle was appointed as the E.O. The E.O summoned the delinquent official repeatedly but he failed to attend the departmental proceedings. As such the E.O concluded the enquiry and found him guilty on the charge of absence.
- 3- On receipt of the findings of the E.O, the delinquent constable Muhammad Jamil was issued Final show Cause Notice by SP-Rural but he failed to submit reply within stipulated period. Hence awarded the above major punishment.
- 4- He was called in O.R. on 6.11.2015, and heard in person. Enquiry file was thoroughly examined. He was provided full opportunity to defend himself but he failed to do so. The allegations leveled against him stand proved. Therefore, the order passed by SP-Rural is upheld and his appeal for re-instatement in service is rejected/filed.

  
**CAPITAL CITY POLICE OFFICER,  
PESHAWAR.**

No. 5317-23/PA dated Peshawar the 12/11/2015.

Copies for Information and n/a to the:-

2. SP/HQRs: Peshawar.
3. PO/OASI/ Complain Cell, CCP Peshawar.
4. CRC along with S.Roll for making necessary entry in his S.Roll.
5. FMC along with FM
6. Official concerned.

**ATTESTED**

*Feb appointed  
2008*

# VAKALAT NAMA

NO. \_\_\_\_\_/2015

IN THE COURT OF Service Tribunal, Peshawar.

Muhammad Jamil (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Dept. (Respondent)  
(Defendant)

I/We Muhammad Jamil (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

M. Jamil  
(CLIENT)

ACCEPTED

M. Asif Yousafzai  
M. ASIF YOUSAFZAI  
Advocate

Taimur Ali Khan  
&amp.  
TAIMUR ALI KHAN  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

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

**Service Appeal No.1363/2015.**

Muhammad Jamil Ex-Constable No.1948 CCP Peshawar.....Appellant.

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, Rural, Peshawar. ....Respondents.

**Reply on behalf of Respondents No. 1, 2, &3.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That this Hon'ble tribunal has no jurisdiction to entertain the appeal.

**FACTS:-**

- 1) First part of para No.1 pertains to record while rest of para is incorrect. The appellant is a habitual absentee.
- 2) Para No. 2 is totally incorrect and concocted. In fact the appellant deliberately absented himself from his lawful duty without adopting proper procedure for taking leave/permission.
- 3) Para No.3 is correct to the extent that the appellant was proceeded departmentally on allegations of wilfull absence from duty. He was issued charge sheet and summary of allegations and was properly served upon him. But he failed to submit his reply.
- 4) Para No.4 is totally incorrect and denied. In fact proper enquiry was conducted against him. He was given full opportunity of defense. All codal formalities were fulfilled. But he did not turn up. As the allegations of deliberate absence were stand proved against him. Hence he was recommended for major punishment.
- 5) Para No.5 is correct to the extent that FSCN was issued and was properly served upon him but he failed to submit his reply to FSCN within stipulated period and remained absent for a long time.
- 6) Para No.6 is correct to the extent of deliberate absence from duty. However, all codal formalities were fulfilled.

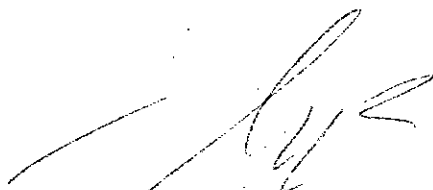
- 7) Para No.7 is correct to the extent of filing departmental appeal which after due consideration was rejected/filed because the charges leveled against him were stand proved.
- 8) That appeal of appellant being devoid of merits may kindly be dismissed with cost.


**GROUND:**

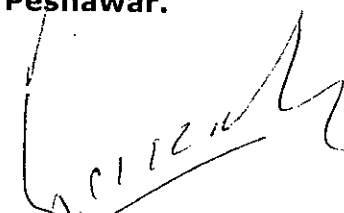
- A) Incorrect. The punishment orders are in accordance with law and rules. Hence liable to be upheld.
- B) Incorrect. The appellant was treated as per law and rules. He was called and heard in person in OR on 06.11.2015.
- C) Incorrect. The charges leveled against him were stand proved. Hence the punishment order is in accordance with law/rules.
- D) Incorrect. All codal formalities were fulfilled. He was given full opportunity of defense.
- E) Incorrect. Being a member of a disciplined force, the appellant was rightly proceeded under PR1975.
- F) Incorrect. The punishment order is in accordance with law and liable to be upheld.
- G) Incorrect. This is false and concocted story of the appellant having no legal effect.
- H) Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

**PRAYER.**

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police Officer  
Peshawar.**

  
**Superintendent of Police  
Rural, Peshawar.**

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

**Service Appeal No.1363/2015.**


Muhammad Jamil Ex-Constable No.1948 CCP Peshawar.....Appellant.


**VERSUS.**


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, Rural, Peshawar. ....Respondents.

**AFFIDAVIT.**

We respondents No. 1, 2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police,  
Rural , Peshawar.**

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

Service Appeal No. 1363/2015

Muhammad Jamil

VS

Police Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 First part of Para-1 of the appeal is admitted correct by the respondents department while rest of the reply of the respondent department is incorrect while para-1 of the appeal is correct as mentioned in the main appeal of the appellant.
- 2 Incorrect and misconceived. While para-3 of the appeal is admitted correct by the respondent department as mentioned in the main appeal of the appellant. There was no opportunity was provided to appellant to prove his truthfulness.
- 3 Incorrect. While para-3 of the appeal is admitted correct by the respondent department as mentioned in the main appeal of the appellant.
- 4 Incorrect. While para-4 of the appeal is admitted correct by the respondent department as mentioned in the main appeal of the appellant. There was no opportunity was provided to appellant to defend himself and awarded major penalty to appellant in arbitrary manner.
- 5 The contention of the respondent department is incorrect. While para-5 of the appeal is admitted correct by the respondent department as mentioned in the main appeal of the appellant.
- 6 Incorrect. While para-6 of the appeal is admitted correct by the respondent department as mentioned in the main appeal of the appellant.
- 7 The contention of the respondent department is incorrect. While para-6 of the appeal is admitted correct by the

respondent department as mentioned in the main appeal of the appellant.

- 8 Incorrect. The appellant has good cause of action and the appeal of the appellant is liable to be accepted.


**GROUND:**

- A) Incorrect. While para-A of the appeal is correct as mentioned in the main appeal of the appellant..
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.
- C) Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant.
- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Legal.

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

**APPELLANT**

Through:

  
(M. ASIF YOUSAFZAI)  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

  
**DEPONENT**

**ATTESTED**  
Oath Commissioner  
Zahoor Khan Advocate  
Distt: Court Peshawar

19 SEP 2017