

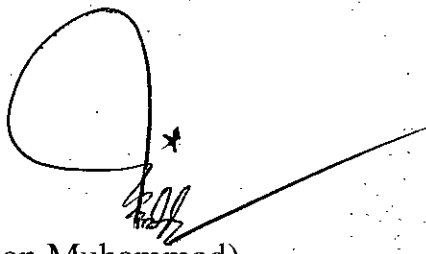
Appeal No. 1521/2019
Tahir Shireen vs Govt

16.07.2020

Appellant with counsel present

Though the case was fixed for preliminary hearing on 13.08.2020 before S.B, yet the learned counsel for the appellant submitted withdrawal application to the effect that the appeal requires adjudication before the proper forum i.e Peshawar High Court, Peshawar. The application is allowed and the instant appeal is hereby dismissed as withdrawn. The appellant may approach proper forum, if so advised. File be consigned to the record room.

Announced:
16.07.2020


(Mian Muhammad)
Member(E)

18.03.2020

Appellant with counsel present.

Perusal of the impugned order shows that the appellant was appointed on contract basis. Learned counsel for the appellant seeks adjournment to further prepare the brief on this issue. Adjourn. To come up for preliminary hearing on 30.03.2020 before S.B.



Member

21/11/21

30.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 19.06.2020 before S.B.

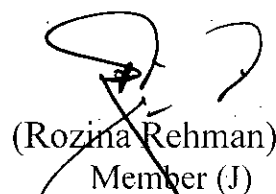


Reader

19.06.2020

Appellant with counsel present.

Perusal of order sheet dated 18.03.2020 shows that learned counsel for the appellant had sought adjournment to further prepare the brief. Today learned counsel argued but the point under discussion as to whether the appellant was appointed on contract basis, needs further clarification. Notice be issued to the learned Additional Advocate General for assistance on the above mentioned point. Adjourned. To come up for preliminary hearing on 13.08.2020 before S.B.




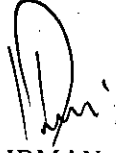

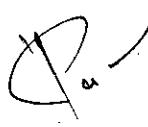
(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1521/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/11/2019	<p>The appeal of Mr. Tahir Shereen presented today by Mr. Mir Wali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p> REGISTRAR 13/11/19</p>
2-	14/11/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/12/19.</u></p> <p> CHAIRMAN</p>
	18.12.2019	<p>Counsel for the appellant present.</p> <p>Learned counsel requests for time to produce the regularization of service order in respect of the appellant.</p> <p>Adjourned to 29.01.2020 before S.B.</p> <p> Chairman</p>
	29.01.2020	<p>Appellant in person present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for preliminary hearing on 18.03.2020 before S.B.</p> <p> Member</p>

P-6
Contra 19

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

S.A. NO: 1521 /2019

SPF TAHIR SHEREEN CONSTABLE NO 17 R/O LACHI,
KOHAT

VERSUS

INSPECTOR GENERAL POLICE KHYBER PAKHTUNKHWA
PESHAWAR AND OTHER

INDEX

P. No	Description of document	Annexure	page no.
1.	Appeal.		1-3
2.	Affidavit		04
3.	Copy of appointment Order No 73 dated 19.01.2015	"A"	05
4.	Copy of the termination order No 738 dated 24.06.2019	"B"	06
5.	Copy of departmental appeal	"C"	07
6.	Wakalatnama.		


Appellant


Through

MIR WALI KHAN
(Advocate High Court Peshawar)

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

S.A. NO: 1521 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1620

Dated 13/11/2019

SPF TAHIR SHEREEN CONSTABLE NO 17 R/O LACHI,
KOHAT

APPELLANT

VERSUS

1. INSPECTOR GENERAL POLICE KHYBER PAKHTUNKHWA
PESHAWAR
2. DEPUTY INSPECTOR GENERAL POLICE KHYBER
PAKHTUNKHWA
3. DISTRICT POLICE OFFICER KOHAT

RESPONDENTS

**APPEAL U/ S 4 OF THE SERVICE TRIBUNAL ACT,
1974 AGAINST OFFICE ORDER NO 738 DATED
24.06.2019 PASSED AGAINST THE APPELLANT AND
NONE REPLYING OF THE DEPARTMENTAL APPEAL
BY RESPONDENTS BE SET ASIDE AND APPELLANT
BE REINSTATED IN SERVICE WITH ALL BACK
BENEFITS INCLUDING SALARIES ETC.**

Filed to-day


Registrar

13/11/19

RESPECTFULLY SHEWETH:

1. That the appellant is law abiding citizen of Pakistan.

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- been*
2. That the appellant has *been* appointed by DPO Kohat (Respondents No 3) as Constable vide DPO Kohat office order No 73 dated 19.01.2015 (copy of the Office order No 73 dated 19.01.2015 is annexure "A")
 3. That the appellant had been serving his duties since 2015 with zest, dedication and whole heartedly and never given any complaint about his duties.
 4. That the appellant was removed from service vide DPO office Order No 738 dated 24.06.2019 due to alleged absence from service without any leave or permission from the competent authority from 21.06.2019 as well as on baseless allegations of anonymous complaints by unknown persons. Moreover, the appellant was neither associated with any inquiry proceedings nor any show cause notice was served upon the appellant but in arbitrary manner, the appellant service was shown terminated by passing major penalty which order is void ab-intio as being against all canons of justice and also against the principles of natural justice (Copy of the termination order No 738 dated 24.06.2019 is annexed as "B").
 5. That the appellant belongs to a poor family and has no other source of income except the salary which was stopped due to which the appellant as well as his whole family leading a hand to mouth life. The appellant belongs to remote area where baseless enmity and jealousy prevail, the appellant also prone to this menace and facing footless allegations who malafidely in collusion with some official of the department have prepared bogus complaints to malign the appellant image in the eyes of his high ups.
 6. That the appellant preferred a departmental appeal to the respondent on 10.07.2019 with the prayer to re-instate him in service with all back benefits and salary and set aside the impugned termination order being harsh and void ab-initio. (Copy of departmental appeal is annexed as "C")
 7. That now the statutory period for reply from the respondent has been elapsed, hence appellant being aggrieved person having no

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other adequate remedy prefers this service appeal for setting aside of the impugned original office order No 738 dated 24.06.2019 as well as non-replying of departmental appeal by the respondents and any other office order against the appellant's right on the following grounds amongst others:-

GROUND

1. That respondents are not acting in accordance with law and are taking illegal acts with ulterior motive and malafide intention by terminating appellant without any cogent reason.
2. That appellant was condemned unheard.
3. That impugned order was passed by incompetent authority.
4. That no proper inquiry, show cause notice, formal charge, along with charge sheet was issued to the appellant.
5. That no opportunity of personal hearing to the appellant was given.
6. That the impugned order is based on malafide with ulterior motive.
7. That the respondents malafidely through intervention of other person wrongly removed the appellant hence the impugned order is not sustainable.
8. That others grounds will be raised at the time of arguments

It is therefore requested that on acceptance of instant appeal, the respondent be directed to set aside Office Order No 738 dated 24.06.2019 as well as non-replying of departmental appeal by the respondents with such other relief and appellant be reinstated in service with all back benefits/salaries etc and any other relief which this honorable tribunal deems fit, proper and just in circumstances of the case may also be granted.


Appellant


Through

MIR WALI KHAN

(Advocate High Court Peshawar)

Dated: 11 /11/2019

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

S.A. NO: _____/2019

SPF TAHIR SHEREEN CONSTABLE NO 17 R/O LACHI,
KOHAT

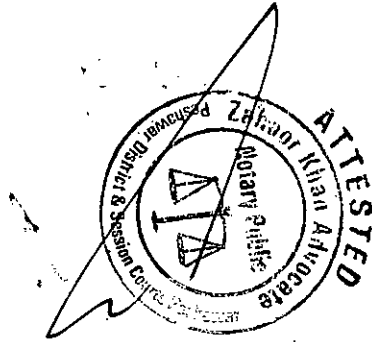
VERSUS

**INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA
PESHAWAR AND OTHERS**

AFFIDAVIT

I, SPF TAHIR SHEREEN CONSTABLE NO 17 R/O LACHI,
KOHAT, do hereby solemnly affirm and declare that the contents of this
appeal are true and correct to the best of my knowledge and belief and
that nothing has been concealed or kept secret from this Hon, able court.


DEPONENT



13 NOV 2019.

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ORDER

Tahir Shereen s/o Khaz Shereen r/o Moh: Abbas Khel, Lachi Payan, Tehsil and District Kohat is hereby appointed as constable in Special Police Force on the existing vacancy with immediate effect and pay fixed at Rs. 15000/-.

OB No: 73 /

Dated: 19.01. /2015.

DISTRICT POLICE OFFICER,
KOHAT.

Attested
[Signature]
M M Wazir
Sd/o. [Signature]

06



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

ORDER

SPF Constable Tahir Shereen No. 17 (Notorious for lodging anonymous complaints/diaries on the police men and is stigma on the good image of Khyber Pakhtunkhwa Police), appointed purely on contract basis was found absent from official duty without any leave or permission from his competent authority, vide daily diary report No. 14 dated 21.06.2019 PP Political Secy, therefore, he is hereby **struck off from the strength** and his absence period from 21.06.2019 is treated as leave without pay with immediate effect. He being contract employee has no right of Appeal.

OB No. 738
Date 24-6-2019

DISTRICT POLICE OFFICER,
KOHAT

No 7686-88 /PA dated Kohat the 24-6-2019.
Reader, SRC, OHC & Pay officer for necessary action.

Attested
[Signature]
Min Wah
Adroah

(67)

THE DEPUTY INSPECTOR GENERAL OF POLICE
KOHAT REGION KOHAT

MERCY PETITION FOR RE-INSTATEMENT IN SERVICE

Respected Sir,

With great respect and veneration, the petitioner may be allowed to submit the following for your kind and sympathetic consideration.

Grounds of the petitioner:

1. That the petitioner was enrolled as constable in the year 2014 on the contract basis.
2. That the petitioner during this period served with dedication and whole heartedly.
3. That the petitioner vide OE No. 738 dated 24-06-2019 on the grounds of lodging anonymous complaints, diaries on the police man and absence from duty was struck off from the police strength.
4. That the petitioner during his services has never lodged anonymous complaints, diaries against the policeman nor remained absent from duty.
5. That the punishment is the result of some mis-understanding.
6. That the petitioner has been condemned unheard.
7. That though petitioner is enrolled on the contract basis, however, still has a right to defend himself. Such right available to the petitioner has been denied, thus the impugned order has become legally defective and not operative on the rights of the petitioner.
8. That an employee, enrolled on contract basis does not mean that he on the basis of flimsy and ambiguous allegations be struck off from the force.
9. That justice demands that if any thing adverse is against the petitioner, is shall be deeply probed, due legal right of defence be provided to him. In this case no such process was followed nor the

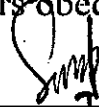
petitioner was provided opportunity to defend. Hence the impugned order is treated to be legally defective.

10. That the petitioner was having no knowledge of initiation of action by worthy DPO Kohat.
11. That the petitioner has been condemned unheard.
12. That the allegation against the petitioner have not been established but even then maximum punishment was awarded to the petitioner which does not hold good in the eyes of law.
13. That the petitioner has not been apprised of the contents of Daily Diary report No. 14 dated 21-06-2019 P.P Political Serai P.S Cannt.
14. That the petitioner is a young person and fit to serve the department.
15. That the petitioner is innocent and allegation against him are unfounded.
16. That the petitioner looks after a large family. If the order remains intact, it is likely that they may be forced to starvation, besides deprivation from education of his children and medical care.
17. That the impugned order does not satisfy the ends of justice, hence it needs to be revisited.

Prayer:

It is therefore, requested that the impugned order being one sided, harsh and not satisfying the ends of justice may kindly be set aside. The petitioner may be re-instated in service with all back benefits. The petitioner shall be highly obliged and thankful to you for your this act of kindness and pray for your long life and prosperity.

Yours obediently



Tahir Shereen
Ex. SPE Constable No. 17
R/o Lachi, Kohat
Mobile 0334-9666465

Dated: 10-07-2019

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Shereen
Shereen
Shereen

قیمت
50 روپے

32746



ایڈویکٹ: **صہری خان اہدولک**
بار کونسل/ایسوسی ایشن نمبر: 15-6/50
رابطہ نمبر: 03339208190

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: **صدر کونون خواہ سروس ٹریڈنگ کمپنی**

منجانب: مسٹر/اسد علی	دعویٰ:
طاہر حسین	علت نمبر:
بنام	مورخہ:
آئی جی کوئٹہ	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کاروائی متعلقہ
آن مقام **صہری خان رائٹرو کلب** کو دی گئی مقررہ
قرارداد کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برخلاف دئے جواب دعویٰ اقبال دعویٰ اوزد درخواست از ہر قسم کی تصدیق
ذرائع پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
وائر کرنے یا اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر ذاختہ منظور و قبول ہوگا
دوران مقدمہ میں جو چیز چہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے
المرقوم: **1.2**

مقام **کوئٹہ** کے لیے منظور ہے۔

Accepted
نوٹ: اس وکالت نامہ کی فونو گانی ناقابل قبول ہوگی۔

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 8th OCTOBER, 2019.

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 8th October, 2019.

No. PA/Khyber Pakhtunkhwa/Bills-75/2019/8849.— The Khyber Pakhtunkhwa Special Police Officers (Regularization of Services) Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 30th September, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 4th October, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA SPECIAL POLICE OFFICERS (REGULARIZATION OF SERVICES) ACT, 2019.
(KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2019)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 8th October, 2019).

AN
ACT

to provide for the regularization of the services of Special Police Officers appointed on contract basis or fixed pay basis.

WHEREAS it is expedient to provide for the regularization of the services of Special Police Officers, appointed on contract basis or fixed pay basis, from time to time, in the public interest, for the purposes hereinafter appearing:

It is hereby enacted as follows:

- I. **Short title, extent and commencement.**—(1) This Act may be called the Khyber Pakhtunkhwa Special Police Officers (Regularization of Services) Act, 2019.
- (2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into the force at once.

2. Definitions.--- In this Act unless the context otherwise provides, the following expressions shall have the same meanings as are assigned to them, that is to say-

- (a) "contract appointment" means appointment of Special Police Officers, made otherwise than in accordance with the prescribed method of recruitment;
- (b) "Government" means the Government of the Khyber Pakhtunkhwa;
- (c) "law or rule" means the law or rule, for the time being in force, governing the selection and appointment of Police Force in Khyber Pakhtunkhwa Province;
- (d) "Police Department" means the Police Department of the Khyber Pakhtunkhwa Province;
- (e) "post" means a post under Government or in connection with the affairs of Government to be filled in through prescribed method; and
- (f) "Special Police Officer" means an employee, appointed in Police Department, from time to time, on contract basis or fixed pay basis, under the nomenclature of Special Police Officers or Special Police Force, performing Police or security duties.

3. Regularization of services of Special Police Officers.---All the Special Police Officers, appointed on contract basis or fixed pay basis who are holding the post on 1st August 2019, shall be regularized with immediate effect, subject to the condition of section 5 of this Act.

4. Determination of seniority.---(1) The Special Police Officers, whose services are regularized under this Act, shall rank junior to all other members of the Police Force who are in service on regular basis on the commencement of this Act.

(2) The inter se seniority of the Special Police Officers, whose services are regularized under this Act, within the same rank, shall be determined on the basis of their continuous officiating service in the rank:

Provided that the date of continuous officiating service in the case of two or more employees is the same, however, the employee older in age shall rank senior to the younger one.

5. Scrutiny Committee.---(1) A Scrutiny Committee, headed by the District Police Officer and having one member each from the District Administration and District Account Officer of the District concerned, shall prepare lists of all members of the Special Police

Officers, after personal appearance and verification of CNIC's and scrutiny of record of the Special Police Officers for the submission to Provincial Police Officer.

(2) The lists, submitted to the Provincial Police Officer, under sub-rule (1), after proper sifting, shall be forwarded to Home and Tribal Affairs Department of the Government with the recommendations for regularization of members of the Special Police Officers in the Police Department.

(3) The Home and Tribal Affairs Department of Government, after receiving the lists of all members of Special Police Officers shall issue notification of regularization of Special Police Officers into Police after approval of the Cabinet.

6. **Overriding effect.**---Notwithstanding anything to the contrary contained in any other law or rule, for the time being in force, the provisions of this Act shall have an overriding effect and the provision of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

7. **Removal of difficulties.**---If any difficulty arises in giving effect to any of the provisions of this Act, Government may issue such order as may appear to it to be necessary for the purpose of removing such difficulty; provided that no such powers shall be exercised after the expiry of one year from the coming into force of this Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa