

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
		<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Appeal No. 641/2016</p> <p style="text-align: right;">Date of Institution ... 10.06.2016 Date of Decision 09.01.2019</p> <p style="text-align: center;">Alam Zeb S/o Farid Gul Resident of Mohalla Afzal Abad Nowshera City, Tehsil & District Nowshera.</p> <p style="text-align: right;">-----Appellant</p> <ol style="list-style-type: none"> 1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa. 2. The Provincial Police Officer, (Inspector General of Police) Khyber Pakhtunkhwa Peshawar. 3. Deputy Inspector General of Police Mardan Region Mardan I Mardan. 4. District Police Officer, Nowshera. <p style="text-align: right;">-----Respondents</p> <p>Mr. Muhammad Hamid Mughal.....Member Mr. Hussain Shah.....Member</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>HUSSAIN SHAH, MEMBER:</u> - Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney on behalf of the respondents present.</p> <p>2. The appellant served in police department as a constable since year 2009. On the charge of absence from duty for two months and 22 days the respondent No. 4 dismissed the appellant from service on 17.03.2015 w.e.f. 26.12.2014. His departmental appeal against the order of dismissal from service was rejected on 05.06.2015. His appeals to respondent No. 2 was also rejected on the ground that the appellant was habitual absente as well as on the</p>

09.01.2019



ground of limitation vide order date 11.05.2016. Being aggrieved the appellant preferred the instant service appeal on 10.06.2016.

3. The learned counsel for the appellant argued that the severe penalty of dismissal from service was imposed upon the appellant against the law without any proper show cause notice and proceeded him ex-part without giving him the opportunity of being heard and without any inquiry. The learned counsel for the appellant referred to the medical record on file for the purpose of establishing the fact that the appellant was seriously ill due to sciatica and he did not report for duty on medical advice for complete bed rest. He further pointed out that the respondent department did not consider the medical record at any stage. The learned counsel for the appellant also argued that the same record cannot be rejected without conducting an inquiry and getting the authentication of the record confirmed or otherwise from the District Head Quarter Hospital Nowshera. He pleaded this tribunal that the appellant belongs to a poor family, is jobless since the imposition of the impugned penalty of dismissal from service. Hence on acceptance of the instance appeal the impugned order dated 11.05.2016 may be set aside the appellant may be re-instated into service with all back benefits.

4. The learned Deputy District Attorney contested the facts, grounds of the appeal and arguments of the learned counsel for the appellant on behalf of the responding department and argued that during his short span of service of five years and five months he earned bad reputation due to well-full and deliberate absence from

5/1/16

his lawful duty on many occasion before his instant continuous absence from duty w.e.f. 26.12.2014 till the order of dismissal from service by respondent No.4. He further argued that the statement of allegation a show cause notice was issued vide No. 210/PA, dated 23.01.2015 which was duly served but the appellant failed to submit his reply. He further stated that the appellant was given full-fledged opportunity of defending himself through orderly room held on 27.05.2015 but he failed to justify his prolonged absence thereafter his departmental appeal was rejected. The learned Deputy District Attorney pleaded that the appellant was guilty of violating the discipline of the police force and he was proceeded for the same as per law and prescribed procedure hence the appeal may be dismissed with costs.

STH

5. Arguments heard. File perused.

6. This tribunal examined the record on file and the arguments of the parties. The alleged absence from duty is an admitted fact but the reason for the said absence needed proper consideration. The appellant and the learned counsel placed on record the medical description and advice for bed rest allegedly issued from the DHQ Hospital Nowshera. In this view of the matter while also taking into account the period of absence, length of service of the appellant and the fact that the appellant is a low paid employee, this tribunal reached to the conclusion that the punishment awarded to the appellant is excessive. Moreover this tribunal had already given relief in numerous cases of similar nature.

7. As a sequel to above a penalty of dismissal from service is modified and converted into stoppage of three (03) annual increments for five (05) years. Resultantly the appellant is reinstated into service. The absence period and intervening period shall be treated as leave without pay. The present service appeal is partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Hamid Mughal)
Member



(Hussain Shah)
Member

ANNOUNCED

09.01.2019

09.01.2019 . Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Vide separate judgment of today of this tribunal placed on file, the penalty of dismissal from service is modified and converted into stoppage of three (03) annual increments for five (05) years. Resultantly the appellant is reinstated into service. The absence period and intervening period shall be treated as leave without pay. The present service appeal is partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Hamid Mughal)
Member



(Hussain Shah)
Member

ANNOUNCED

09.01.2019

31.07.2018


Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 17.09.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

17.09.2018

Appellant in person present. Mr. Kabirullah Khattak learned Additional AG, for the respondents present. Due to General Strike of the Bar, arguments could not be heard. To come up for arguments on 02.11.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Kundi)
Member


02.11.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. Therefore, the case is adjourned. To come up for the same on 03.12.2018.


Reader

03.12.2018

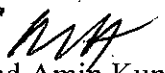
Appellant in person present. Mr. Riaz Ahmad Painsdakhel, Assistant AG alongwith Mr. Muhammad Fayaz, Head Constable for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 09.01.2019 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

29.01.2018

Appellant in person present. Mr. Usman Ghani, Learned District Attorney along with Wisal Ahmad Inspector for the respondents present. Appellant seeks adjournment on the ground of non availability of his counsel. Adjourned. To come up for arguments on 30.03.2018 before D.B.


(Muhammad Amin Kundi)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

30.03.2018

Counsel for the appellant and Addl. AG for respondents present. Learned counsel for the appellant seeks adjournment. Granted. To come up for arguments on 07.06.2018 before the D.B.



Member


Chairman

07.06.2018

Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 31.07.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member


03.04.2017

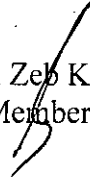
Appellant with counsel and Mr. Adeel Butt, Addl: AG for the respondents present. Rejoinder not submitted and requested for time to file rejoinder. To come up for rejoinder and final hearing on 16.06.2017 before D.B.


Chairman

16.06.2017


Appellant in person present. Mr. Fayaz Khan, HC alongwith Mr. Kabir Ullah Khattak, Assistant AG for the respondents present. Appellant submitted rejoinder which is placed on file. To come up for arguments on 25.09.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member


25.09.2017

Clerk to Counsel for the appellant and Asst: AG alongwith Mr. Zakiullah, S.A for respondents present. Since learned Member (Mr. Ahmad Hassan) is on leave, therefore, arguments could not be heard. To come up for arguments on 04.12.2017 before D.B.


Chairman

04.12.2017

Appellant in person and Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.01.2018 before D.B.


Member
(Executive)

Member
(Judicial)

29.09.2016

Clerk to counsel for the appellant and Mr. Wisal Khan, Inspector alongwith-Addl: AG for respondents present. Written reply not submitted. Requested for adjournment: Last opportunity granted. To come up for written reply/comments on 30.11.2016 before S.B.


Chairman

30.11.2016

Appellant in person and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. Last opportunity granted. To come up for written reply on 17.01.2017 before S.B.


Member

17.01.2017

Counsel for appellant and Mr. Fayaz Khan, H.C alongwith Mr. Kabirullah Khattak, Assistant AG for respondents present. Written reply by respondents submitted and copy whereof handed over to learned counsel for appellant. To come up for rejoinder on 03.04.2017.


(ASHFAQUE TAJ)
MEMBER

19.07.2016

Appellant in person present and requested for adjournment as his counsel is indisposed. To come up for preliminary hearing on 27.07.2016.


Member

27.07.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was serving as Constable when dismissed from service vide impugned order dated 17.3.2015 on the allegations of willful absence where-against he preferred departmental appeal on 26.3.2015 which was rejected on 5.6.2015 where-after he preferred mercy petition on 15.5.2015 which was also rejected on 11.05.2016 and hence the present appeal on 10.06.2016.

That the enquiry was not conducted in the mode and manners prescribed by the rules and neither any show cause notice was ever served on the appellant nor opportunity of hearing afforded to him during the enquiry. That absence of the appellant was not willful and that he could not perform his duty due to ailment which fact was never probed by the concerned authority.

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 29.09.2016 before S.B.



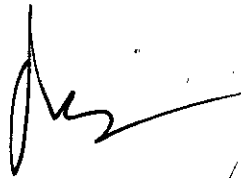
Appellant Deposited
Security & Process Fee


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 641/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/06/2016	<p>The appeal of Mr. Alam Zeb Khan resubmitted today by Mr. Aftab Ahmad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	15-6-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>21-06-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
1	06.2016	<p>Counsel for the appellant present. Requested for adjournment. Request accepted. To come up for preliminary hearing on 19.7.2016.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Alam Zeb Khan son of Farid Khan resident of Mohallah Afzal Abad Nowshera City received to-day i.e. on 10.06.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Address of respondent no.2 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Index of the appeal may be prepared according to the rules.
- 4- Annexures of appeal may be annexed serial wise as mentioned in the memo of appeal.
- 5- Annexure-H of the appeal is missing.
- 6- Copies of departmental appeal and mercy petition are not attached with the appeal which may be placed on it.
- 7- The authority to whom the departmental appeal was preferred/made has not been arrayed a necessary party.
- 8- Annexures of the appeal may be attested.
- 9- Annexures of the appeal may be flagged.
- 10- Copies of order dated 11.5.2016 and 17.3.2015 are illegible which may be replaced by legible/better one.
- 11- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 995 /S.T,


Dt. 10-6 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Aftab Ahmad Khan Adv.
Nowshera.

Respected Sir,

The deficiencies are completed and the appeal is resubmitted.


14/6/16
(AFTAB AHMAD)
Advocate

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. 641 of 2016.
Alamzeb Khan(Appellant)

VERSUS

Govt: of KPK & others.....(Respondents)

APPEAL

INDEX OF DOCUMENTS

S. No	Description of Documents	Annexure	Pages
01	Appeal		1-4
02	Affidavit		5
03	Addresses of parties		6
04	Copy of Cheque	A	7
05	Copies of medical prescriptions	B,C,D	8-10
06	Copy of Fitness certificate	E	11
06	Copies of orders i.e. 11-05-2016	F,G,H	12-14
07	Copies of better copies of orders dated 11-5-16 & 17-3-15	I,J	15,16
09	Affidavit regarding non availability of departmental appeal /mercy petition	K	17
10	Wakalat Nama		18

Appellant

Dated; ___/06/2016. Through Counsel:-

(AFTAB AHMAD KHAN)

Advocate High Court
Dsitt:Courts Nowshera.

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Khyber Pakhtukhwa
Service Tribunal

Diary No. 605

Dated 10-6-2016

Appeal No: 641 of 2016.

Alamzeb Khan S/o Farid Gul

Resident of Mohallah Afzal Abad Nowshera City, Tehsil
& Distt: Nowshera.....(Appellant)

VERSUS

1. Government of Khyber Pukhtunkhwa through Chief Secretary, Khyber Pukhtunkhwa Civil Secretariat Peshawar.
2. The Provincial Police Officer, (Inspector General of Police) Khyber Pukhtunkhwa Peshawar.
3. Deputy Inspector General of Police, Mardan Region I Mardan.
4. District Police Officer, Nowshera..(Respondents)

**APPEAL AGAINST THE ORDER
DATED 11-05-2016 BY VIRTURE OF
WHICH THE DEPARTMENTAL
APPEAL OF APPELLANT WAS
DISMISSED AND THE SERVICES OF
THE APPELLANT AS POLICE
CONSTABLE WAS TERMINATED
ORDER DATED 11-05-2016 IS ILLEGAL,
UNLAWFUL, VOID AND INEFFECTIVE
UPON THE RIGHTS OF THE
APELALNT AND IS LIABLE TO BE
SET-ASIDE.**

Filed to-day

Shaher
Registrar

10/6/16

Re-submitted to -day
and filed.

Shaher
Registrar

14/6/16

PRAYER:- On acceptance of this appeal the impugned order dated 11-05-2016 may graciously be set-aside and the appellant may kindly be re-instated in service with all back benefits.

Respectfully Sheweth:-

1. That the appellant joined the services of the police department as constable in the year 2009.
2. That the appellant during his entire service of 5 years, performed his duties at different stations as and when required by the department and never disappointed his superiors during the performance of his duties.
3. That during his service, the appellant earned good reputations, and also earned cash prizes from his superiors due to his extra ordinary services. *(Copy of Prize Cheque is attached herewith as Anx-A).*
4. That while performing in the said capacity, in the year 2014, due to stress of his duties and physical stress, the appellant suffered from severe back pain, resultantly got Sciatica.
5. That because of his physical conditions, the appellant could not move from his bed to which he telephonically informed the immediate high ups.
6. That during his sickness, the appellant regularly visited the DHQ hospital Nowshera for his check up and the appellant was advised complete bed rest by the doctors. *(Copies of the Medical Prescriptions are attached herewith as Annex, "B, C & D").*
7. That after the complete physical recovery, the appellant reported back to his department, wherein he was told that his services had been terminated due to absente. *(Fitness certificate is attached as Annex-E).*

8. That thereafter the appellant filed the departmental appeals to different high officials but none of them accepted his appeal and finally on 11-05-2016 final departmental appeal was dismissed. (*Copies of the orders are attached herewith as Annex "F" "G" & "H"*).

9. That the impugned order dated 11-05-2016 is illegal, unlawful against the law, hence liable to be set-aside, inter alia on the following grounds;-

GROUND OF SERVICE APPEAL

- A. That the appellant has not been treated in accordance with law, hence his rights scarred and guaranteed under the law are badly violated.
- B. That no proper show cause notice was served on appellant and his hearing of show cause notice was proceeded ex-parte.
- C. That the appellant has not been given a proper opportunity of being heard and no inquiry was conducted to check the appellant's medical record in DHQ Nowshera.
- D. That the competent authority has passed the impugned order in mechanical manner and the same is perfunctory as well as none speaking and also against the basic principle of administration of justice, therefore, the impugned order is not tenable under the law.

- E. That the appellant belongs to a poor family and is jobless since the imposition of illegal penalty of dismissed from services.
- F. That the appellant seeks permission of this Hon'ble Tribunal to rely on additional grounds at the hearing of this appeal.

IT IS THEREFORE, HUMBLY PRAYED THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 11-05-2016 MAY PLEASE BE SE-ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED WITH ALL BACK BENEFITS.

Alam

Appellant

Dated; ___/06/2016. Through Counsel:-

(AFTAB AHMAD KHAN)

Advocate High Court
Dsitt: Courts Nowshera.

CERTIFICATE:-

It is certified that there is no other appeal pending before Hon'ble Tribunal except this one nor decided. The contents of this appeal is true and correct to the best of my knowledge and belief.

Advocate High Court.

Alam

(Alam Zeb appellant)

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. _____ of 2016.
Alamzeb Khan(Appellant)

VERSUS

Govt: of KPK & others.....(Respondents)

WRIT PETITION

AFFIDAVIT

I, Mr. Alamzeb Khan S/o Farid Gul, R/o: Afzal Abad Nowshera City, Tehsil & Distt: Nowshera (Appellant) do hereby solemnly affirms and declare on oath that the contents of the accompanying **APPEAL** are true and correct to the best of my knowledge and belief and nothing has been concealed from this August court.

DEPONENT

(ALAMZEB KHAN)
CNIC #- 17201-9438218-1

Alamzeb Khan



**BEFORE THE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. _____ of 2016.

Alamzeb Khan(Appellant)

VERSUS

Govt: of KPK & others.....(Respondents)

APPEAL

ADDRESSES OF PARTIES

APPELLANT:-

Alamzeb Khan S/o Farid Gul

Resident of Mohallah Afzal Abad Nowshera City, Tehsil
& Distt: Nowshera.

VERSUS

RESPONDENTS:-

1. Government of Khyber Pukhtunkhwa through Chief Secretary, Khyber Pukhtunkhwa Civil Secretariat Peshawar.
2. The Provincial Police Officer, (Inspector General of Police) Khyber Pukhtunkhwa Peshawar.
3. Deputy Inspector General of Police, Mardan Region I Mardan.
4. District Police Officer, Nowshera.

Appellant

Dated; 14 /06/2016.

Through Counsel:-

(AFTAB AHMAD KHAN)

***Advocate High Court
Dsitt:Courts Nowshera.***



CURRENT A/C NO.

CHEQUE NO.

06365007

0975771

Date 11-04-2013

PAY Alam Zeb. CNIC17201-9438218-1

OR BEARER

RUPEES Fifteen Hundred Only

Rs. =1500/-

The Bank of Khyber
Islamic Banking

DO NOT WRITE BELOW THIS LINE

HANGU BR.0107

Police

Annexure 'A'

Attested
by

Attab Ahmed Khan
Advocate High Court MA-LLB
District Courts Nowshera

DHIS - 02 (F)

Send To: _____

OUT DOOR PATIENT TICKET

District _____ CRP No: 2735

Facility Name _____

Name _____ Age: _____ Sex: _____

Father's/Husband's Name _____

Monthly OPD Serial No: _____

Provisional Diagnosis: _____

Date	Clinical Findings / Investigations / Treatment / Referred / Test Findings
13	<i>[Handwritten signature]</i>
	<i>[Handwritten signature]</i>
	<i>[Handwritten signature]</i>
	<i>[Handwritten signature]</i>
	<i>[Handwritten signature]</i>

Annexure B

Attested

[Handwritten signature]

Attab Ahmad Khan
Advocate High Court M.A.—L.L.B
District Courts Nowshera

Sent To: OUT DOOR PATIENT TICKET

District CRP No: 9011
Facility Name
Name Age: Sex:
Father's/Husband's Name

Annexure (C)

Monthly OPD Serial No.
Provisional Diagnosis:

Date	Clinical Findings / Investigation / Treatment / Referred / Test Findings
<p>94/2/15 N.F.C Known Sciatica Back pain Orthopedic Surgeon D.H.S. Hospital Nowshera</p>	<p>✓ Dye 1/m GABL Voltcap 400mg M! Metaxolone 400mg Spl. Hip joint 2+2+ Cap. Diclo 400mg Adv: Complete Home Bed rest for one month.</p>

Assesed
m

Affirmed

Aftab Ahmad Khan
Advocate High Court MA-LLB
District Courts Nowshera

Sent To: _____

OUT DOOR PATIENT TICKET

CRP No: 7809

District _____

Facility Name _____

Name _____

Age: _____

Sex: _____

Father's/Husband's Name _____

Monthly OPD Serial No. _____

Provisional Diagnosis: _____

Amnawase

Date	Clinical Findings / Investigation / Treatment / Referred / Test Findings
26/3/15	N.E.C. Cells Newborn 1.01 2001
K. M. Khan Siat	Capt Celkep 1.01 2004
Aftab Orthopedic Surgeon D.H.Q. Hospital Nowshera.	Cells Metamorph blo (1) cell Cells BGNCA 2.13.15 (1)
	Adv: Complete Home Bed rest for 15 days

Attested

Aftab Ahmed Khan

Aftab Ahmed Khan
Advocate High Court M.A.—LL.B
District Courts Nowshera

Sent To: _____

OUT DOOR PATIENT TICKET

Page 11

District _____

CRP No: _____

4613.

Facility Name _____

Name _____

Age: _____

Sex: _____

Father's/Husband's Name _____

Monthly OPD Serial No. _____

Provisional Diagnosis: _____

Annexure E

Date

Clinical Findings / Investigations / Treatment / Referred / Test Findings

10/4/15

N.F.C.

This is to certify

that Mr Adnan Sabir

is now fit for

his duty.

[Signature]
Orthopedic Surgeon
D.H.Q. Hospital
Nowshera.

[Signature]

[Signature]

Aftab Ahmad Khan
Advocate High Court M.A.-LL.B
District Courts Nowshera



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. SI 3829 /16, dated Peshawar the 11 /05/2016.

ORDER

*Amendment
'F'*

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Alam Zeb No. 1295. The appellant was awarded punishment of dismissal from service by DPO, Nowshera vide OB No. 417, dated 05.05.2015, on charges of absence for a period of 02 months and 22 days.

He preferred appeal before the RPO, Mardan which was examined and filed / rejected vide Order Indst: No. 3356/ES, dated 05.06.2015.

Meeting of Appeal Board was held on 03.03.2016, wherein the appellant was heard in person. The enquiry papers were also examined. On examination of record, it revealed that the appellant absented himself for a period of 02 months and 22 days. His service length is 05 years and 04 month. He has earned 26 bad entries during his service in short span of service. The appellant is a habitual absentee and is burden on the department. Therefore, the petition of the appellant is barred by law and limitation and worth rejection.

This order is issued with approval by the Competent Authority.

Najeeb

(NAJEEB-UR-RAHMAN)
AIG / Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

3829 - 37 /16.

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

- 1. Regional Police Officer, Mardan Region, Mardan.
- 2. District Police Officer, Nowshera.
- 3. O to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
- 4. O to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
- 5. SA to Adtl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
- 6. SA to DIO/HQs: Khyber Pakhtunkhwa, Peshawar.
- 7. O to Supt: E-IV, CPO, Peshawar.
- 8. Central Registry Cell, (CRC), CPO.

*Attestation
[Signature]*

POLICE DEPARTMENT

DISMISSAL ORDER

Constable Alamzeb No. 1295, while posted at Police Lines, Nowshera (now under transfer to Police Station, Risalpur) remained absent from duty without any leave/permission of the competent authority vide daily diary No. 28 dated 26.12.2014 Police Lines till-date.

In this connection, he was served with a Show Cause Notice under Police Rules-1975 on 06.03.2015, issued vide this office No. 210/PA dated 23.01.2015 and in compliance, he was bound to submit his reply within the stipulated time of seven days i.e 13.03.2015 as per para 07 of Show Cause Notice, but neither, he submitted his reply nor joined duty till date, indicating negligence, disinterest in service and disobedience towards Senior Officers on his part.

Amendment

6

Previous Record

From perusal of his service record, he was enlisted on 31.10.2011 and during his short service, he has earned 27 bad entries with no good entries also indicated that he is a burden on the department.

Therefore, in the light of his such misconduct, I am of considered opinion that Constable Alamzeb No. 1295 of Police Lines, Nowshera is not interested in Police Service hence dismissed from Police Force with effect from 26.12.2014, in exercise of the powers vested to me under Police Rules, 1975

OB 417

Dated 12.3.2015

(*Muhammad Nawaz Khan*)
District Police Officer
Nowshera.

No. 1062-67 /PA, dated Nowshera, the 17/3/2015
Copy for information and necessary action to the:

1. DSP Hqrs: Nowshera.
2. SHO Risalpur
3. Pay Officer.
4. E.C.
5. OHC.
6. FMC with relevant papers (07 sheets)

Muhammad Nawaz Khan
Ghosh

Muhammad Nawaz Khan
16/3/15

ORDER.

Page 14

This order will dispose-off the appeal preferred by Ex- Constable Alam Zeb No. 1295 of Nowshera District Police against the order of District Police Officer, Nowshera, wherein he was dismissed from service vide District Police Officer, Nowshera OB No. 417 dated 17.03.2015.

Amir H

Brief facts of the case are that, he while posted at Police Lines, Nowshera transferred to Police Station, Risalpur absented himself from duty without any leave/permission of the competent authority vide daily diary No. 28 dated 26.12.2014 and remain till the date of dismissal. In this connection he was served with a Show Cause Notice and in compliance, he was bound to submit his reply within the stipulated time of seven days ie 13.03.2015, but neither he submitted his reply nor bothered to join duty, indicating negligence, disinterest in service and disobedience towards senior Officers on his part. From perusal of his service record he was enlisted on 31.10.2009 and during his short span of service he has earned 27 bad entries having no good entry which indicated that he is burden on the department, therefore he was dismissed from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 27.05.2015, but he failed to justify his absence and could not produce any cogent reason about his absence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed forthwith.

ORDER ANNOUNCED.

(Signature)
(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 3356 /ES, Dated Mardan the 05/6 /2015.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 2027/LB dated 12.05.2015. His service record is returned herewith for record in your office.

(*****)

Attested
(Signature)

Aftab Ahmad Khan
Advocate High Court M.A.—LL.B
District Courts Nowshera

(15)

BETTER COPY

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PUKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

NO. S/3829/16, DATED PESHAWAR THE 11-05-2016

Annexure I

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pukhtunkhwa Police Rule-1975 submitted by Ex-Constable Alam Zeb No. 1295. The appellant was awarded punishment of dismissal from service by DPO, Nowshera vide OB No. 417, dated 17-03-2015 on charges of absence for a period of 2 months and 22 days.

He preferred appeal before the RPO, Mardan which was examined and filed/rejected vide Order Endst: No. 3356/ES, dated 05-06-2015.

Meeting of Appeal Board was held on 03-03-2016, wherein the appellant was heard in person. The enquiry papers were also examined. On examination of record, it revealed that the petitioner absented himself for a period of 2 months and 22 days. His service length is 05 years and 4 months. He has earned 26 bad entries during his service in short span of service. The appellant is a habitual absentee and is burden on department. Therefore, the petition of the petitioner is barred by law and limitation and worth rejection. This order is issued with approval by the Competent Authority.

Sd-x-x-x-x-x
(NAJEEB UR REHMAN)
AIG/Establishment
For Inspector General of Police
Khyber Pukhtunkhwa Peshawar

No. S/3830-37/16

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

1. Regional Police Officer, Mardan Region, Mardan.
2. District Polie Officer, Nowshera.
3. PSO to IGP/Khyber Pukhtunkhwa CPO Peshawar.
4. PRO to IGP/Khyber Pukhtunkhwa CPO Peshawar.
5. RA to Addl: IGP HQrs Khyber Pukhtunkhwa, Peshawar.
6. PA to DIG/HQrs Khyber Pukhtunkhwa, Peshawar.
7. Officer Supdt: E-IV CPO Peshawar.
8. I/C Central Registry Cell (CRC) CPO.

Attested
by
[Signature]

Attab Ahmad Khan
Advocate High Court G.A-LLB
District Courts Nowshera

BETTER COPY

POLICE DEPARTMENT

NOWSHERA DISTRICT

DISMISSAL ORDER

Annexure 'J'

Constable Alamzeb No. 1295, while posted at Police Line, Nowshera (Now under transfer to police station Risalpur) remained absent from duty without any leave permission of the competent authority vide daily diary No. 28, dated 26-12-2014 Police Lines till date.

In this connection, he was served with a Show Cause notice under Police Rules 1975 on 06-03-2015, issued vide this office No. 210/PA dated 23-01-2015 and in compliance, he was bound to submit his reply within the stipulated time of seven days i.e 13-03-2015 as per Para 07 of Show Cause Notice, but neither, he submitted his reply nor joined duty till date, indicating negligence, disinterest in service and disobedience towards Senior Officers on his part.

Previous Record:

From perusal of his service record, he was enlisted on 31-10-2015 and during his short service, he has earned 27 bad entries with no good entry also indicated that he is a burden on the department.

Therefore, in the light of his such misconduct, I am of the considered opinion that Constable Alamzeb No. 1295 of Police Lines, Nowshera is not interested in Police Service hence dismissed from Police Force with effect from 26-12-2014, in exercise of the powers vested to me under Police Rules 1975.

OB 417

Dated: 17-03-2015

Sd-x-x-x-x-x-x
(RAB NAWAZ KHAN)
District Police Officer
Nowshera

No. 1062-67/PA dated Nowshera, the 17-03-2015.
Copy for information and necessary action to the:

1. DSP Hqrs: Nowshera.
2. SHO Risalpur.
3. Pay Officer.
4. E.C.
5. OHC
6. FMC with relevant papers (07 sheets)

Arrested

[Signature]

Aftab Ahmad Khan
Advocate Genl. BA-L
District Courts Nowsh

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Annexure 'K'

Appeal No. 641 of 2016.
Alamzeb Khan(Appellant)

VERSUS

Govt: of KPK & others.....(Respondents)



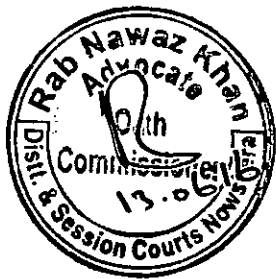
AFFIDAVIT

I, Mr. Alamzeb Khan (Appellant) do hereby affirm and declare on oath that I approached the concerned office at Nowshera Police Lines for providing me the copies of departmental appeals/mercy petitions but they for one reason and another delayed the matter and so far I have not received the copies of departmental appeals / mercy petition from the concerned office, the moment I receive them, I will submit the same before the Tribunal whatever is stated above is true and correct and nothing has been concealed.

Alamzeb Khan

DEPONENT

(ALAMZEB KHAN)
CNIC #-17201-9438218-1

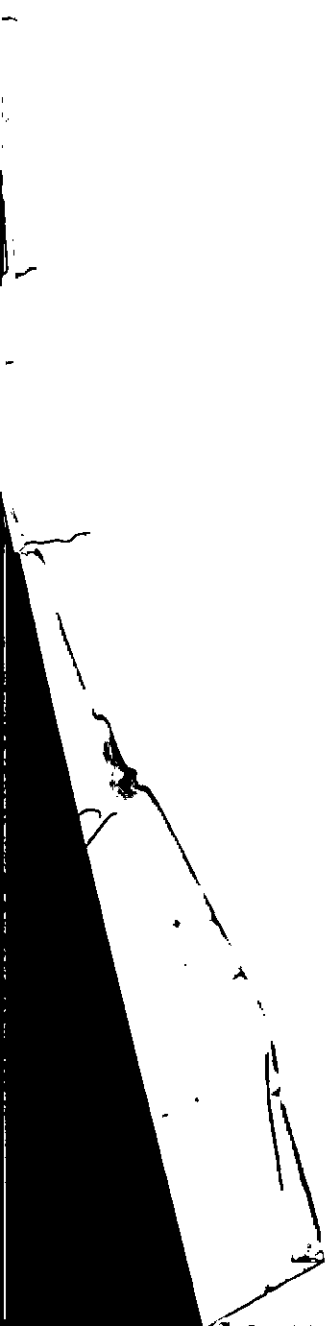


ATTESTED

Attested

Aftab Ahmad Khan

Aftab Ahmad Khan
Advocate High Court I.A.—LL.B
District Courts Nowshera



BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 641/2016

Ex-Constable Alamzeb Khan No. 1295 s/o Farid Gul,
R/O Mohallah Afzal Abad Nowshera City,
Tehsil & District Nowshera.

.....Appellant

V E R S U S

1. Govt: of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Provincial Police Officer, (IGP), Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Mardan Region-I, Mardan.
4. District Police Officer, Nowshera.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No. 1,2,3&4

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly time-barred.
3. That the appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.

ON FACTS

1. Para pertains to record needs no comments.
2. Incorrect. That the stance of the appellant is not plausible because every Police Officer/Official is duty bound to perform his duties at places/stations as and when required by the department. Moreover, every Police officer/Official is under obligation to perform his duties upto the entire satisfaction of his superior.
3. Incorrect. That plea taken by the appellant is not appealable to a prudent mind because earning good reputation and cash prizes do not exonerate a person from his future wrong deeds. Moreover, the appellant has 05 years and 05 months service at his credit and during his short span of service his service record is tainted with bad/red entries (record attached).


4. Incorrect. The appellant being member of disciplined force was duty bound to take proper leave/permission from his high-ups but he failed to do so because he had no proof in support of his stance therefore, plea taken by the appellant is cooked one.
5. Incorrect. The appellant willfully and deliberately absented himself from his lawful duty with effect from 26-12-2014 till the punishment order. Hence, to save his skin the appellant took this plea to cover his prolong absence.
6. Para already explained hence, no comments.
7. Incorrect. The appellant while posted at Police Lines, Nowshera willfully and deliberately absented himself from his lawful duty with effect from 26-12-2014 vide daily diary No. 28 dated 26-12-2014. Resultantly, he was issued statement of allegation and Show Cause Notice vide No. 210/PA, dated 23-01-2015 which were duly served but he did not bother to submit his reply rather remained absent from his duty. (Copies of statement of allegation and Show Cause Notice are attached). Moreover, neither he joined the enquiry proceedings nor joined his duties till the order of his dismissal i.e 17-03-2015, his this attitude clearly indicates his negligence, disinterest and lethargic attitude towards his official duties hence, after fulfillment of codal formalities he was awarded appropriate punishment which does commensurate with the gravity of misconduct of appellant.
8. Incorrect. The appellant filed departmental appeal before the appellate authority, he was provided full-fledged opportunity of defending himself through Orderly Room held on 27-05-2015, but he failed to justify his prolong absence hence, the same was rejected. Likewise, his another time barred appeal filed before the Central Police office, Peshawar was also rejected after hearing the appellant in person, on the ground that appellant is an habitual absentee vide order dated 11-05-2016 (Copies of orders attached).
9. Incorrect. The order passed by the competent authority is inconsonance with law hence, liable to be maintained on the following grounds amongst the others.

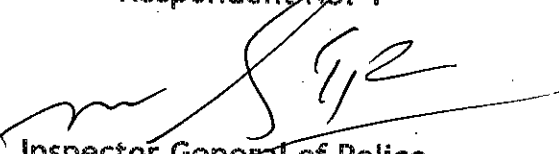
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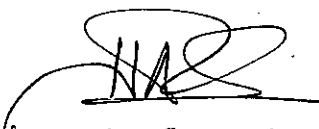
GROUNDS

- A. Incorrect. The respondent department has no grudges against the appellant hence, plea taken by the appellant is not plausible rather a cooked one.
- B. Incorrect. As discussed above the Show Cause Notice has duly been served but the appellant did not bother to submit his reply not even joined his duty which depicted his negligence and disinterest towards his official duties.
- C. Incorrect. The appellant was provided full-fledged opportunity of defending himself by the both the appellate forums through personal hearing but he failed to justify his prolong absence hence, plea taken by the appellant is not plausible rather taken to save his skin.
- D. Incorrect. The orders passed by the competent as well as appellate authorities are speaking one but the appellant took this plea to cover his unjustified & prolong absence.
- E. Subject to proof.
- F. That respondents also seek permission of this Honourable Tribunal to rely on additional grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost through out.


Chief Secretary,
Khyber Pakhtunkhwa
Respondent No. 1


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 2


Deputy Inspector General of Police,
Mardan Region-I, Mardan
Respondent No. 3


District Police Officer,
Nowshera.
Respondent No. 4

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

Service Appeal No. 641/2016

Ex-Constable Alamzeb Khan No. 1295 s/o Farid Gul,
R/O Mohallah Afzal Abad Nowshera City,
Tehsil & District Nowshera.

.....Appellant

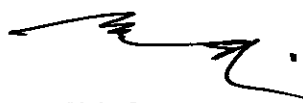
V E R S U S

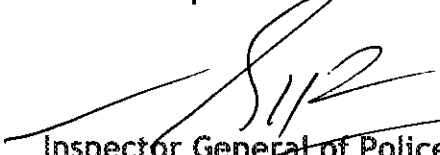
1. Govt: of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat; Peshawar.
2. The Provincial Police Officer, (IGP), Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Mardan Region-I, Mardan.
4. District Police Officer, Nowshera.

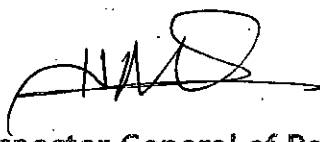
.....Respondents

AFFIDAVIT

We the respondents No. 1,2,3&4 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.


Chief Secretary,
Khyber Pakhtunkhwa
Respondent No. 1-


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No.2


Deputy Inspector General of Police,
- Mardan Region-I, Mardan
Respondent No. 3


District Police Officer,
Nowshera.
Respondent No. 4

74

تعداد 12 روز باقی 14/4/12

علاء حسینی
L

حاضر خان نام وقت 11:55 بجے مورچہ 14/4/12 درج ہے
کہ کنٹریبل عالمزید 74 کی عطالی ڈیپوٹی ڈیپوٹی کھان میں تھی
مگر کنٹریبل کو بائرن کھانوں و حدود کھان میں نہ لیا گیا
مگر ہم موجودہ ایگیا کے خلاف رپورٹ غیر حاضری درج
روز باقی ہو کر تعداد علیحدہ مرتب کر کے لبریں خاصے کارڈ کی
افسران بال کو ارسال کی جائیگی۔

مدد رپورٹ
غیر حاضری

صبا عالی

نقل عطالی اہل

A

MM. PS R. P. W.

17-4-12

No-275/0He
09-05-2012

Peny stopped.

~~Peny~~
District Police Officer
Nowshera

105/8 570/11
P. S. 02

Issue S.C.N.

~~Peny~~
District Police Officer
Nowshera

1154
12.9.12

7 Days period of
absence treated as leave
without pay. Pay be
released. Any

ND, NUR

لوہیس لائن 07 روزنامہ 29-08-11 صلوات شہید

درج ذیل رپورٹ وقت 10:22:22 سے 12:29:08 اس وقت تک کی ملازمت کی گئی خارجہ از ڈیوٹی ملازمت میں سے کٹیل ملازمت 74 ختم ہو کر

پایا گیا جس کے خلاف رپورٹ سپر فائزر کی مدد سے روزنامہ کے ذریعے

دو کاپیاں مناسبت فاروقی ارسال کی گئی ہیں۔ OBN-1250

حنا عالی

5 days absence is treated as leave without pay.

تعلیم و ترقی اہل ہے

District Police Officer Nowshera

25 روزنامہ 09-08-11 (3) mm DAR-P

مدد کی خاطر وقت 17:35 سے 09-08-11 کٹیل ملازمت 74

سپر فائزر کے حوالہ سے 07 روزنامہ 29-08-11 سے منظر آیا اور

بیان کیا کہ وہ دن پتلی اختران کے حوالہ سے منظر آیا اور

کٹیل کی خاطر مدد سے روزنامہ کے ذریعے دو کاپیاں مناسبت فاروقی ارسال کی گئی ہیں۔

5 days absence is treated as leave without pay.

تعلیم و ترقی اہل ہے

مذکورہ کٹیل موقع 17:29:08 سے 09-08-11 تک منظر

رہا ہے۔ تاہم سپر فائزر کی مدد سے منظر آیا اور

بیان کیا کہ وہ دن پتلی اختران کے حوالہ سے منظر آیا اور

549/10/11

No 1392-12-DSP/11
619/10/11

R. P. N/SR

No-771/GASI
7-09-2

منہ کو تھامو

نظام امداد اور امداد

0/1/11

21/09/11 رپورٹ منیر عارفی عثمان کھر وقت 19:00 بجے جون 14/09/11 در 2 ہے

74 رشتہ جو الہ آباد 12 روز ناہی 13/9/11

یو ایس لائی سے روانہ کیے گئے تھے جو کہ کمال عثمان صاحب

لیں آئے۔ اس مذکورہ سٹیٹ کے خلاف رپورٹ منیر عارفی

درجہ روز ناہی کے لئے تفریق کا یہ ایجنسز ان بلائی

خدمت میں ارسال کی جائے گی

صدا کی

Sir نقل جلا لیا آپ کے

Forwarded

No-837/OTSI
23-09-2011

ms-B-AP
14-9-11

FO

days comment
Page stopped.

منیر عارفی (03)

No-342-R DSPR
Date 15-9-2011

District Police Officer
Nowshera

1334
17-9-11

1361
20-9-11

پولیس لائن

تقریباً 23 روزہ افزائی 3/8/11

23 روزہ غیر طبعی اسد مہل MHC وقت 7:30 بجے 3/8/11 اس وقت گنتی ملزمان کی گنتی فارغ از ڈیوٹی ملزمان میں سے گنتی عالمزین 74 عدم وجود پایا گیا۔ جسے ظفر زین غیر طبعی دس روزہ گزرے تقریباً فرض مناسب کاروائی افسران بالائی صورت

No 708-01
10-8-11

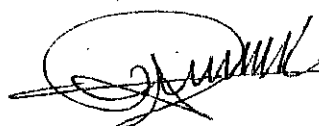
میں ارسال کی جا سکی

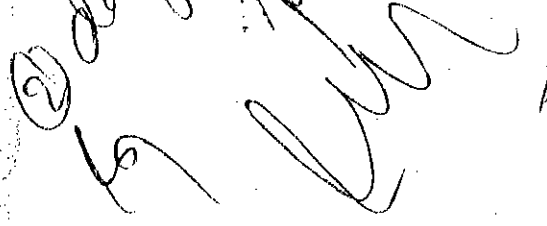
ضابطہ عالی

تعمیراتی امور

3/8/11
mmPLNSR

Sir,
Forwarded Pls.


Rt. PL NSR
8-8-11

2 days leave permit for
by released


کل غیر طبعی 2 روز

کو ایلا 1102 کو ایلا بند
5-8-11

1103NB 1127-11
9-8-11

فلا

کتابت آبرو، راجہ محمد خاں اذہن علیہ السلام 74

تاریخ 26/11/2011

26/11/2011 کو ایک دن کی اجازت کے لیے درخواست کی ہے۔

میں نے 26/11/2011 کو ایک دن کی اجازت لی ہے۔

میں نے 26/11/2011 کو ایک دن کی اجازت لی ہے۔

میں نے 26/11/2011 کو ایک دن کی اجازت لی ہے۔

میں نے

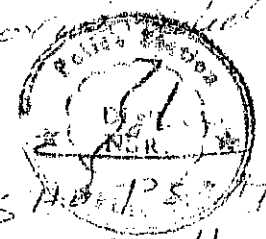
میں نے

میں نے

میں نے

Sir

For



20-11-11

One day absence is treated as leave without pay.

No. 1676

22-11-11

District Police Officer
Nowshera

No-951/5791
21-11-2011

OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA
SHOW CAUSE NOTICE

(Under Rule 5 (3) KPK Police Rules, 1975)

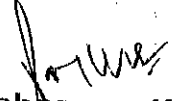
1. That you FC Alamzeb No. 1295 while posted at Police Lines, Nowshera have rendered yourself liable to be proceeded under Rule 5 (3) of Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:-

Willfully & deliberately absented yourself from lawful duty w
from 26.12.2014 & is still absent without any leave or prior permission
the competent authority.

2. That by reason of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline the Police force;
4. That your retention in the Police force will amount to encourage in efficiency and unbecoming of good Police officers;
5. That by taking cognizance of the matter under enquiry, the undersigned competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

Received by _____

Dated: ___/___/2014


(Rabhawaz Khan)
District Police Officer,
Nowshera.

JK
2
20/11

OFFICE OF THE DISTRICT POLICE OFFICER,
NOWSHERA

GROUND OF ACTION

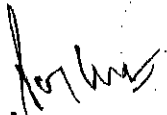
That you FC Alamzeb No. 1295 while posted at Police Lines, Nowshera committed following misconducts:-

Willfully & deliberately absented yourself from lawful c
w.e. from 26.12.2014 & is still absent without any leave or prior permis:
of the competent authority.

By reasons of above you have rendered yourself liable to be
proceeded under Khyber Pakhtunkhwa Police Rules, 1975, hence
these grounds of action.

No. 210 /PA,

Dated 23/01/2015


(Rabnawaz Khan)
District Police Officer,
Nowshera.

985
EX

1

ORDER

This order will dispose of the appeal preferred by Ex- Const. Alam Zeb No. 1295 of Nowshera District Police against the order of District Police Officer, Nowshera, wherein he was dismissed from service vide District Police Officer, Nowshera OB No. 47 dated 17.03.2015.

Brief facts of the case are that he while posted at Police Line Nowshera transferred to Police Station Risalpur absented himself from duty without any leave/permission of the competent authority vide daily diary No. 28 dated 26.12.2014 and remain till the date of dismissal. In this connection he was served with Show Cause Notice and in compliance he was bound to submit his reply within stipulated time of seven days i.e. 18.03.2015, but neither he submitted his reply nor bothered to join duty, indicating negligence, disinterest in service and disobedience towards senior Officers on his part. From perusal of his service record he was enlisted on 31.10.2009 and during his short span of service he has earned 27 bad entries having no good entry which indicated that he is burden on the department, therefore he was dismissed from service.

I have perused the record and also heard the appellant in Order Room held in this office on 27.05.2015, but he failed to justify his absence and could not produce any cogent reason about his absence. Therefore I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan, exercise of the power conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed forthwith.

YOUR OBLIGED

[Handwritten Signature]

(MUHAMMAD SAEED) DSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 3356

/ES, Dated Mardan the 05/6/2015

Copy to District Police Officer, Nowshera for information and necessary action w/c to his office Memo. No. 2027/LB dated 12.05.2015. His service record is returned here with for record in your office.

776
5/5/2015

- 1. Regional Police Officer, Mardan Region, Mardan.
- 2. District Police Officer, Nowshera.
- 3. PSO to IG/Khyber Pakhtunkhwa, CPO Peshawar.
- 4. PRO to IG/Khyber Pakhtunkhwa, CPO Peshawar.
- 5. PA to Addl. IG/IG: Khyber Pakhtunkhwa, Peshawar.
- 6. PA to DIO/IG: Khyber Pakhtunkhwa, Peshawar.
- 7. Office Suptd. E-IV, CPO, Peshawar.
- 8. Central Registry, CGL (C.R.C.), CPO.

Copy of above is forwarded for information and necessary action to them.

(NAJFER-UR-RAHMAN)
 AIG / Establishment
 For Inspector General of Police,
 Khyber Pakhtunkhwa, Peshawar.

Najfer

18.03.2016
10095
EX

This order is issued with approval by the Competent Authority.

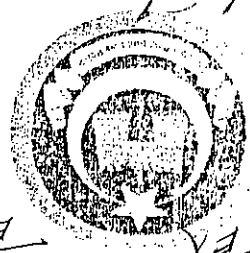
The appellant is barred by law and limitation and worth rejection. The appellant is a habitual absentee and is burden on the department. Therefore, the petition of the appellant is a habitual absentee and he has earned 26 had entries during his service in short span of service. The appellant absented himself for a period of 02 months and 22 days. His service length is 05 years and 04 months. The enquiry papers were also examined. On examination of record, it revealed that the appellant absented himself for a period of 02 months and 22 days. On examination of record, it revealed that the appellant was heard in the meeting of Appeal Board was held on 03.03.2016, wherein the appellant was heard in the meeting of Appeal Board No. 3356/ES, dated 05.06.2015.

The appellant preferred appeal before the RPO, Mardan which was examined and filed / rejected. The appellant was awarded punishment of dismissal from service by DPO, Nowshera vide OB No. 417, dated 17.07.2015, on charges of absence for a period of 02 months and 22 days.

The order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Alam Zeb No. 1295. The appellant was awarded punishment of dismissal from service by DPO, Nowshera vide OB No. 417, dated 17.07.2015, on charges of absence for a period of 02 months and 22 days.

ORDER

OFFICE OF THE
 INSPECTOR GENERAL OF POLICE
 KHYBER PAKHTUNKHWA
 CENTRAL POLICE OFFICE,
 PESHAWAR.
 No. SI/3829 /16, dated Peshawar the 11/05/2016.



1605
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1195
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EX

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PUKHTUNKHWA PESHAWAR.

Alam Zeb Khan.....(Appellant)

V E R S U S

Govt: of KPK and others.....(Respondents)

REPLICATION / REJOINDER ON BEHALF OF THE
PETITIONER.

Respectfully Sheweth:-

It is submitted as under:-

PRELIMINARY OBJECTION:-

- 1- That Para No 1 of the reply is incorrect. The appellatant has got cause of action against the respondents.
- 2- That Para No 2 of the reply is incorrect. The appeal of the appellatant is well within time.
- 3- That Para No 3 of the reply is incorrect.
- 4- That Para No 4 of the reply is incorrect. The appeal of the appellatant is well maintainable.
- 5- That Para No 5 of the reply is incorrect. The appellatant has come to the court with clean hands, however the respondents are hiding some material facts from this Hon'ble court / tribunal.

ON FACTS:-

- 1- That Para No 1 of the reply needs no comments.
- 2- That Para No 2 of the reply is incorrect. The appellatant after joining his services in the police, performed his duties upto the entire satisfaction of his superior at different police stations.
- 3- That Para No 3 of the reply is incorrect and baseless as the show cause notice issued against the appellatant (which was not served upon the appellatant) was regarding the absence from duties to which the appellatant submitted well explained medical record.

- 4- That Para No 4 of the reply is incorrect. The appellant submitted his medical record of DHQ Hospital Nowshera. However, the respondents had not conducted any inquiry as per legal requirement to see whether sickness of the appellant was genuine or not.
- 5- That Para No 5 of the reply is incorrect. The appellant's absence was due to severe medical conditions and the appellant was advised by the Doctor for complete bed rest. But the respondent without making any inquiry terminated the services of the appellant without giving him the proper opportunity of being heard and without any service of show cause notice.
- 6- That Para No 6 of the reply is in correct.
- 7- That Para No 7 of the reply is incorrect. No show cause notice was served upon the appellant and no inquiry proceedings was conducted and no proper opportunity of being heard was given to appellant. The appellant after his physical recovery from his sickness, reported back to his department but he was informed about his illegal and unlawful termination from services.
- 8- That Para No 8 of the reply is incorrect. No inquiry was ever conducted by the respondents and all the departmental appeals were dismissed without being look into the matter of medical prescriptions and medical record of DHQ Nowshera.
- 9- That Para No 9 of the reply is incorrect.

ON GROUNDS:-

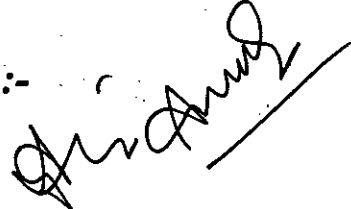
That grounds taken in reply from Para No A to F are incorrect, unlawful, illegal and without justifications. The termination from services of the appellant is totally void and illegal in the eyes of law. No show cause notice was duly served upon appellant and no inquiry was ever conducted by the respondents and a severe major penalty of termination from service was awarded without even given an opportunity of being heard. The appellant seeks leave of this Hon'able court to take additional grounds at the time of arguments.

**IT IS THEREFORE REQUESTED THAT KEEPING IN VIEW
THE ABOVE MENTIONED GROUNDS AND
CIRCUMSTANCES, THIS HON'ABLE TRIBUNAL MAY
KINDLY BE PLEASED TO ACCEPT THE APEAL BY SETTING
ASIDE THE TERMINATION ORDER DATED 11-05-2016 AND
THE APPELLANT MAY KINDLY BE REINSTATED WITH ALL
BACK BENEFITS.**

APPELLANT


Dated:- 16/06 2017.

Through:-


(AFTAB AHMAD KHAN)
Advocate High Court
Distt: Courts Nowshera

VERIFICATION:-

Verified that the contents of this replication / rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed.

Appellant:- 

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 287 /ST

Dated 19-2- / 2019

To


The District Police Officer,
Government of Khyber Pakhtunkhwa,
Nowshetra.

Subject: -

JUDGMENT IN APPEAL NO. 641/2016, MR. ALAM ZEB.

I am directed to forward herewith a certified copy of Judgement dated 09.01.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 33 /ST

Dated 8-1- /2020


To,

The Registrar,
Supreme Court of Pakistan,
Islamabad.

Subject:- **CIVIL APPEAL NO.1549 OF 2019**

Dear Sir,

I am directed to acknowledge the receipt of your letter No. C.A. 1549/2019-SCJ dated 31/12/2019 alongwith its enclosure.


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

Ph: 9220581
Fax: 9220406

REGISTERED
No. C.A.1549/2019 - SCJ
SUPREME COURT OF PAKISTAN.

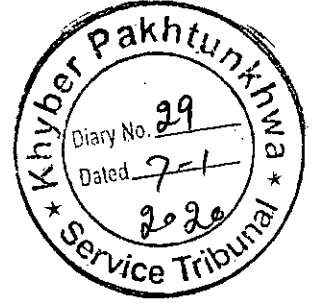
Islamabad, dated 31/12, 2019.

From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

The Registrar,
KPK Service Tribunal,
Peshawar.



Subject: CIVIL APPEAL NO. 1549 OF 2019.

Government of KPK through Chief Secretary,
Civil Secretariat, Peshawar & others.

Versus

Alamzeb Khan.

On appeal from the Judgment/Order of the KPK Service
Tribunal, Peshawar dated 09.01.2019, in A. No. 641 of 2016.

Dear Sir,

In continuation of this Court's letter of even number dated 23.09.2019 and in accordance with the provisions contained in Order X, rule 9, Supreme Court Rules, 1980, a certified copy of the Order of this Court dated 18.12.2019 allowing the above cited civil appeal, in the terms stated therein, is enclosed for further necessary action.

I am further directed to return herewith the original record of the Service Tribunal received vide your letter No. 1654 : dated 30-9-2019

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order:

a/w of Record

Yours faithfully

(MUHAMMAD MUJAHID-MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

112/18

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed
Mr. Justice Maqbool Baqar

2 **C.A.No.1549 of 2019**

[Against the judgment dated 09.01.2019, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeal No.641 of 2016]

**Govt. of KP through Chief Secretary,
Peshawar & others.**

...Appellant (s)

Versus

Alamzeb Khan.

...Respondent(s)

For the Appellant (s) : Mr. Zahid Yousaf Qureshi,
Addl.A.G. KP

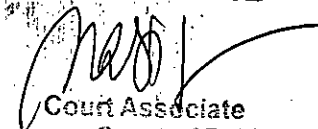
Respondent : In person.

Date of Hearing : 18.12.2019

ORDER

Gulzar Ahmed, J:- The respondent, who was employed as a police constable, remained absent from duty for two months and 22 days, on account of which, he was dismissed from service on 17.03.2015. The respondent filed a departmental appeal on 26.03.2015 against the order of his dismissal, which was dismissed on 05.06.2015. After the dismissal of his departmental appeal, the respondent did not take any further step in the case, rather in 2016 again filed a mercy petition with the department, which was rejected on 11.05.2016. The respondent filed service appeal before the Khyber Pakhtunkhwa Service Tribunal, Peshawar (**the Tribunal**) on 10.06.2016. He did not file with his appeal, application for condonation of delay in filing of the appeal.

ATTESTED

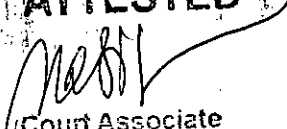

Court Associate
Supreme Court of Pakistan
Islamabad

2. Learned Addl.A.G, KP contends that the very question of limitation and the appeal being time barred, was raised before the Tribunal but it altogether omitted to discuss such issue in its impugned judgment and proceeded to decide the case on merits and that also on the wrong premises and thus, interfered with the matter of awarding of penalty by reducing it to stoppage of three annual increments for five years. Learned AAG contends that the Tribunal has also found the respondent to have absented himself from duty.

3. We have heard the respondent, who has appeared in person, who states that he made a mercy petition to the department after order of his dismissal from service and having not received the relief from the department, filed the service appeal before the Tribunal.

4. The perusal of the record shows that the objection of limitation was taken by the respondent and the same is also mentioned in para-2 of the impugned judgment but the Tribunal failed to consider the question of appeal being within the limitation period or not, but rather proceeded to decide the same on merits. On our own perusal of the record, we find that the respondent was dismissed from service on 17.03.2015 and the departmental representation made against it by him on 26.03.2015, also came to be dismissed on 05.06.2015. The limitation for filing of service appeal by the respondent commenced from the date of such order but the same has not been filed within a period of 30 days. Admittedly, the service appeal filed by the respondent was time barred and same is the situation appearing before us and on this

ATTESTED

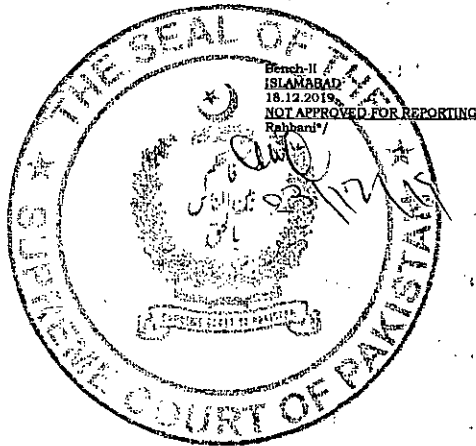

Court Associate
Supreme Court of Pakistan
Islamabad

score, the impugned judgment dated 09.01.2019, could not be sustained in law.

4. Consequently, the impugned judgment is set aside and the appeal, in such terms, is allowed with no order as to costs.

J. Gulzar Ahmad, J.

J. Maqbool Bazar, J.



Certified to be True Copy

[Signature] 28/12/2019
Court Associate
Supreme Court of Pakistan
Islamabad