

FORM OF ORDER SHEET

Court of _____

Appeal No. 361/2024

Date of order proceedings _____ Order or other proceedings with signature of judge _____

3

11/03/2024

The appeal of Mr. Aftab Alam presented today by Mr. Abdur Rashid Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on 18.03.2024. Pareha Peshi is given to counsel for the appellant.

By the order of Chairman



REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In Service Appeal No. 361 /2024

Aftab Alam
VERSUS

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Dated: ___/03/2024

Your humble appellant

Aftab Alam



Through counsel


Abdur Rasheed Khan

Advocate Supreme Court

03467990065

Abdur Rasheed A.S.C. @ g. mail. Com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

In Service Appeal No: 361 /2024

Aftab Alam Son of Muhammad Jan R/o Makeen SWTD
presently Qutab Colony Tank, Ex-Constable#337 District
Police South Waziristan Tribal District.
Cell#

.....Appellant

VERSUS

1. District Police Officer South Waziristan Tribal District.
2. Deputy Inspector General of Police, D.I.Khan Region Dera
Ismail Khan.

.....Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL ACT 1974 AGAINST,
FIRSTLY THE IMPUGNED ORDER OB NO.1258
DATED 02/11/2023 ISSUED BY THE
RESPONDENT#1, WHEREBY THE APPELLANT
WAS AWARDED MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICES AND FINALLY,
AGAINST THE ORDER NO.1307/ES DATED
23.02.2024 ISSUED BY THE RESPONDENT NO.2
VIDE WHICH APPEAL OF APPELLANT WAS
REJECTED.

Respectfully Sheweth,

Note: Addresses given above shall suffice the object of
service. All necessary and proper parties have been
arrayed in the panel of respondents.

Respectfully Sheweth;

1. That the appellant joined the Police Department SWTD and has demonstrably served with dedication and commitment throughout his service. His performance has consistently received positive evaluations from his superiors.
2. That the appellant was transferred from SWTD to District Dera Ismail Khan vide order dated 23/02/2023 and arrived at Line Police D.I.Khan vide Mad#42 dated 02/03/2023. Meanwhile, the appellant was called for appearance physically before the scrutiny committee in SWTD. As the appellant was performing his job in Dera Ismail Khan, hence, considered that he might appear before the said committee in Dera Ismail Khan and remained absent to appear before scrutiny committee in SWTD.
3. That the appellant was served a charge sheet dated 02/10/2023 containing the allegations that the appellant has not appeared physically before the biometric scrutiny committee. The appellant replied the charge sheet accordingly. Copies of charge sheet and its reply are annexed as **Annexure-A & B.**
4. That without being given a fair chance to defend him, an inquiry was conducted against appellant. The inquiry officer submitted the final inquiry report dated 16/10/2023 vide which it was recommended that there is no fault on the part of appellant. Copy of final report is annexed as **Annexure-C.**
5. That the final inquiry report clearly depicts that there is no fault on the part of appellant even then appellant was awarded major penalty of dismissal from service vide impugned order 1258 dated 02/11/2023 issued by the respondent#3 without any concrete evidence or proof against

ASD
D.I.Khan

the allegations made. Copy of the impugned order dated 02/11/2023 is annexed as **Annexure-D**.

6. That appellant preferred a departmental appeal to the respondent#2 being appellate authority and disclosed all the true facts and acknowledging the real happenings with the appellant but the appellate authority rejected the appeal vide impugned order 1307/ES Dated 23/02/2024. Copy of departmental appeal and order dated 23/02/2024 is annexed as **Annexure-E & F**.
7. That impugned order 1258 dated 02/11/2023 and subsequent order of departmental appeal are based on mala fide and against the law, thus, the appellant left with no other remedy, the appellant approaches this honourable tribunal seeking reinstatement in service with all back benefits in consequence of setting aside impugned order on gracious acceptance of the instant petition on grounds hereinafter preferred.

GROUND S:

- a. That the order passed by the departmental authorities, impugned hereby are arbitrary, discriminatory, legally and factually incorrect, ultra virus, void ab initio and militate against principle of natural justice, thus, are liable to be set aside and malafide.
- b. That the appellant is innocent and has been subjected to the penalty for no fault on his part. The inquiry officer narrated in the final inquiry that there is no fault or negligence on the part of appellant. Hence, the impugned dismissal order is liable to be set aside on this score too.

thus, causing grave miscarriage of justice as well as prejudice to the appellant in making his defence.

- c. That it is a matter of record that appellant has been vexed in clear defiance of law and principle laid by the superior courts as well as the tribunals as could be gathered from the facts and circumstances of the case.
- d. That the dismissal was carried out without any substantial proof or evidence against appellant, thereby violating his fundamental rights of fair trial and justice.
- e. That appellant is the sole breadwinner of his family. Appellant's sudden and unjust dismissal has put the future and well-being of his family in jeopardy. Appellant's family is now facing severe financial hardships due to this abrupt decision.
- f. That the respondents while adjudicating in the matter of departmental proceedings and the appeal/representation of the appellant were disposed of the entire matter in a slip shot manner through the orders impugned hereby, thus, the award of impugned punishment is patently unwarranted, illegal, ultra virus, nullity in law and apparently motivated for extraneous reasons and is not maintainable in law. *Beside this petition tried his level best to get attested copies of the above record but in vain. Copy of Appellate is annexed.*
- g. That the petition of appeal is duly supported by law and rules formulated there under, besides the affirmation/affidavit annexed hereto.
- h. That this honourable Tribunal is competent and has ample powers to adjudge the matter under reference/appeal.
- i. That counsel for the appellant may graciously be allowed to raise additional grounds at the time of arguments.

R. David

In wake of submission made above applicant humbly requested that the impugned order no. 1258 Dated 02/11/2023 issued by the respondent#3 and subsequent impugned order of departmental appeal by the authorities may please be set aside and the applicant may graciously be reinstated in service with all back benefits.

Any other relief deemed appropriate in circumstances of the case may also be allowed in favour of appellant in the large interest of justice.

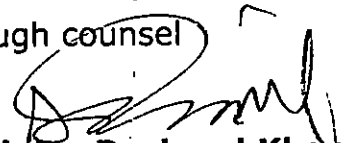
Dated: ___/03/2024

Your humble appellant



Aftab Alam

Through counsel



Abdur Rasheed Khan
Advocate Supreme Court
Cell# _____

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Service Appeal No- _____/2024

Aftab Alam

Versus

District Police Officer South Waziristan Tribal District & etc

Certificate

Certified that appellant have not filed an appeal regarding the subject controversy, earlier in this august Tribunal.

Dated _____/03/2024

APPELLANT

NOTE:

Appeal with annexure along-with require sets thereof are being presented in separate file covers.

Dated _____/03/2024

Appellant's Counsel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In service Appeal No. _____/2024

Aftab Alam

VERSUS


Provincial Police Officer KPK etc

AFFIDAVIT


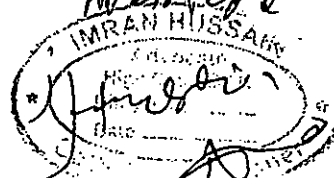
I, **Aftab Alam**, appellant herein, do hereby solemnly affirm on oath:-

1. That the accompanying appeal has been drafted by counsel following our instructions;
2. That all para-wise contents of the appeal are true and correct to the best of my knowledge, belief and information;
3. That nothing has been deliberately concealed from this Honourable Court, nor anything contained therein, based on exaggeration or distortion of facts.

Dated ___/03/2024


Identified By Counsel


DEPONENT


IMRAN HISSANI




CHARGE SHEET

MALIK HABIB District Police Officer, South Waziristan Upper District as
the Authorities, hereby charged you Aflab Alam 337 of SWA Police as

- i. As per report you have been failed to appear physically before the scrutiny committee and have been identified as ghost employees
- ii. Being a part of uniformed force your this act shows gross misconduct on your part.

By reason of the above, you appear to be guilty of misconduct under Police
disciplinary Rules, 1975 with amendments 2011 and have rendered yourself liable to all or any
punishments specified in the Rules.

You are, therefore required to submit your written defense within 7 days of the receipt of
this Charge Sheet to the Enquiry Officer as the case may be.

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

4. You are also at liberty, if you wish to be heard in person.

5. Statement of allegation is enclosed.

امان علی صاحب
ڈیپارٹمنٹ آف پولیس
21703-08571640-9
03430964400

Pris
District Police Officer,
South Waziristan Upper District
SM

Q. fad

13-X-22

Atalvir
Q. fad

مردود ٹیل انڈیا کا حکم دیا گیا ہے۔
 خرابی کی وجہ سے 71-72 کے لیے 71-72 کا یہ حساب دیکھنا پڑا ہے۔
 وزیرستان ٹیل پراجیکٹ کے تحت اس کے بائیو میٹرک سکول کی تعمیرات کے لیے
 کیا گیا جس پر جاری شدہ ہو کر آٹو اسٹریٹریجی کے تحت اس کے لیے منظور کر کے
 ان کے لیے سہولتوں کے تحت SRP سے راجا جاری شدہ ہے۔
 حوض 13¹⁰/₂₃ کو جو اب جاری شدہ ہے اس کے تحت اس کے لیے منظور کیا گیا
 بیمار تھا۔ بندس میں سائڈ کا ایئر لائن کیا گیا تھا۔ اجازت دے دیا گیا اور ہسپتال گیا
 جہاں پر داخل کیا گیا۔ بدیں 1000 روپے کے ساتھ شامل شدہ۔

ٹیل پراجیکٹ کیا گیا کہ تعمیراتی کہاں ہے جس نے اجازت کیا تعمیراتی حوض
 سے ناخالص ڈیڑھ اسیل خان میں ہے۔
 ٹیل بندوں کے بندوں کے ساتھ ٹا ایئر لائن کرانہ تعمیراتی کے لیے ہے کہیں کہیں
 اس وقت سادہ گو وزیرستان میں تھا۔ اس کے بعد وہ ڈیڑھ اسیل خان
 میں ہوا ہے۔ جو اب جاری شدہ ہے۔ تعمیراتی کے لیے اس ڈیڑھ اور ڈیڑھ
 ٹیل اور ٹانڈرات ہسپتال ایئر لائن میں کردہ۔ آٹو اسٹریجی کے لیے
 حالانکہ حالات واقعات اور لگے بیانات سے پایا گیا کہ ٹیل
 مذکورہ کا تبادلہ حوض 13²/₂₃ کو سادہ گو وزیرستان سے ڈیڑھ اسیل خان ہوا
 ہے۔ یا سادہ گو لیس میں ڈیڑھ اسیل خان میں جو اب ڈیڑھ حوض 13³/₂₃ کو
 حاضری کی ہے۔ جس وقت بائیو میٹرک ہو رہا تھا۔ اس وقت ٹیل ڈیڑھ
 اسیل خان میں تھا۔ اور اس نے پہنچا کہ اس کے بائیو میٹرک ڈیڑھ اسیل خان
 میں ہوئی۔ بدیں 1000 اس سے بائیو میٹرک رہ چکی ہے جس میں
 ٹیل مذکورہ کی خدمت یا بریانی نہیں چائی جائے۔ نوٹ دیا گیا ہے۔

Handwritten signature and notes on the right margin.

حکم امرانی بالا افضل پٹو

Annexure 'D'
Page 11

ORDER

My this order will dispose of departmental proceedings initiated against the FC Allah Alam No. 337 on the score of allegations that as per report he have been failed to appear physically before the scrutiny Committee and have been declared as ghost employee.

He was proper charge sheeted and DSP/HQRS was nominated as enquiry officer to conduct the proper enquiry.

Now, therefore, in light of the findings/recommendations of the Enquiry Officer and available record on file against the delinquent officer, T Malik Habib, District Police Officer, South Waziristan Upper being Competent Authority do not agree with the findings of the enquiry Officer, therefore under the Police Rules 1975 with amendment 2014, hereby awarded the "Major punishment of dismissal from the Service" with immediate effect.

Handwritten signature
Asst

OB No. 1258

Dated: 02/11/2023

No. 566-570 /SWFD

Copy of above is submitted to:-

- 11. The Regional Police Officer, DI Khan Region for favour of information.
- 12. Acctt. Rnder, Pay Officer, SRC and OIC for information and further necessary action.

Handwritten signature
District Police Officer
South Waziristan Upper
Dated: 2/11/2023

Handwritten signature
District Police Officer
South Waziristan Upper

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Annexure (B)
Page (19)

To

The Worthy Regional Police Officer,
D.I.Khan Range D.I.Khan.

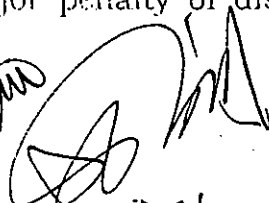
Subject: DEPARTMENTAL APPEAL AGAINST THE OFFICE ORDER OB NO. 1258 DATED 02.11.2023 OF DISTRICT POLICE OFFICER SOUTH WAZIRISTAN UPPER VIDE WHICH THE APPELLANT HAS BEEN DISMISSED FROM SERVICE.

Respected Sir,

The Appellant respectfully submits the following few lines for your sympathetic considerations:

- (1) That the Applicant is a citizen of Islamic Republic of Pakistan and being a citizen of the Country has the rights and obligations under the constitution;
- (2) That the Appellant was serving as a Constable in the Police Department under the control of DPO, South Waziristan Upper;
- (3) That the Appellant was served with a charge-sheet dated 02.10.2023 containing the allegations that the appellant has not appeared physically before the biometric Scrutiny Committee due to which the appellant has been declared as ghost employee. Copy of charge-sheet is enclosed as **Annexure - A.**
- (4) That the appellant submitted reply to the charge-sheet containing the explanation and reply of his non-appearance because of his surgery. Copy of the reply is enclosed as **Annexure - B.**
- (5) That after submission of reply of charge-sheet by the appellant, the inquiry officer conducted the enquiry and submitted final report dated 16.10.2023 vide which it was recommended that there was no fault and mala fide at the part of appellant but even then the appellant has been awarded the major penalty of dismissal from service by the

Df

Attested

 18/11/23

2 (13)

DPO, South Waziristan Upper/Competent Authority as is evident from the impugned order OB NO. 1258, dated 02.11.2023. Copies of Final report and Impugned orders are enclosed as **Annexure C&D** respectively.

- (6) That feeling aggrieved from the impugned order of dismissal from service, the Appellant seeks the indulgence of the worthy Appellate Authority under its appellate jurisdiction inter alia on the following grounds:

GROUND:

- A. That the impugned order of dismissal from service of the Appellant without following the prescribed legal formalities and without providing any opportunity of personal hearing to the appellant before imposition of major penalty of dismissal from service is arbitrary, mala fide, void ab-initio, without lawful authority, without jurisdiction and of no legal effects qua the rights of Appellant.
- B. That the impugned order dismissal of service of the appellant is against the provisions of fundamental rights guaranteed under the constitution of Islamic Republic of Pakistan and is thus against the principles of natural Justice as well as the provisions of General Clauses Act.
- C. That the impugned order of dismissal from service of Appellant which is not sustainable under the law and rules holding the field but the Appellant being a citizen of the Pakistan, has fundamental rights under the Constitution of Islamic Republic of Pakistan to be treated and be provided justice in accordance with law but here the Appellant has met out discriminatory treatment.
- D. That it is an admitted fact proved from record that neither any final show cause Notice has ever been served upon the appellant nor any opportunity of personal hearing before imposition of major penalty of dismissal from service has been afforded but the appellant has been knocked out from service

A. J.

Atm
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in spite of the fact that there was/is no adverse finding by the Inquiry Officer in his Inquiry Report against the appellant.

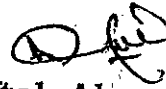
- E. That Appellant became victim of use of colourable exercise of powers which amounts exploitation and is against the fundamental rights guaranteed under the constitution of the country.

In view of the submissions made above, it is, therefore, humbly prayed that on acceptance of this Appeal, the impugned order of dismissal from service of the appellant bearing OB No. 1258 dated 02.11.2023 may please be set aside/ recalled and the Appellant may please be reinstated into service with all back benefits as the appellant is jobless since order of his dismissal from service.

The Appellant may also be provided an opportunity of personal hearing, please.

Dated: 10/11/2023

Your Humble Appellant,

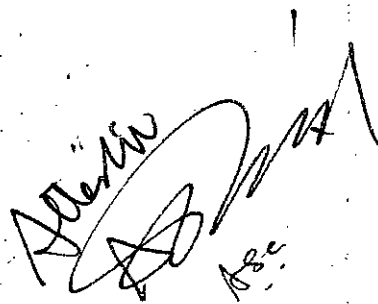


**Aftab Alam Son of Muhammad
Jan,**

CNIC# 21703-0857640-9

Once Ex-FC (No. 337)

Office of the District Police Officer
South Waziristan Upper District





OFFICE OF THE
REGIONAL POLICE OFFICER
DERA ISMAIL KHAN
REGION

☎ 0966-9280291 Fax # 9280290

No. 1306 /ES

dated D.I.Khan the

Amman (F)
Page 8 (16)
23/102/2024

ORDER

1. This order disposes off departmental appeal filed by Ex-Constable Aftab Alam No. 337 of District Police SW Upper, against the order of Major Punishment of (Dismissal from Service), passed by the DPO SW Upper, vide his office OB No. 1258 dated 02.11.2023 on the following allegations:

2. "As per report he have been failed to appear physically before the scrutiny committee and have been identified as ghost employee."

3. "Being a part of uniform force this act on misconduct on your part".

ii. DPO SW Upper served the appellant with the charge sheet. Enquiry into the matter was got conducted into through DSP HOrs who in his finding, report in which he stated that he was present in Police Line D.I.Khan during the bio-matric verification vide DD No. 42 dated 02.03.2023. He further stated that he was not found guilty of charges levelled against him and recommended for further orders.

4. DPO SW Upper has awarded him Major Punishment of "Dismissal from Service" vide his office OB No. 1258 dated 02.11.2023.

5. Heard in person on 23.02.2024, in orderly room by undersigned and his service record & finding of the inquiry officer is also perused. He was given ample opportunity of due process and natural justice against the charges under which DPO South Upper has awarded him Major Punishment "Dismissal from service". His written as well as verbal response is found to be unsatisfactory.

6. Keeping in view the above, I, NASIR MEHMOOD SATTI, PSP, Regional Police Officer, Dera Ismail Khan, in exercise of the powers conferred upon me under Rule-11, clause-4 (a), of the Police Rules 1975, Amended 2014, do not intend to take a lenient view, therefore **REJECT** his appeal being meritless and uphold the order of Major Punishment of (Dismissal from Service), passed by District Police Officer SW Upper vide his OB No. 1258 dated 02.11.2023, with immediate effect.

7. Order Announced.

Nasir Mehmood Satti
(NASIR MEHMOOD SATTI)PSP
Regional Police Officer
Dera Ismail Khan
23/2

No. 1307 /ES,

Copy of above is sent to the DPO SW Upper with reference to his office letter No. 829/ES dated 04.12.2023, (Encl: Service Roll & Fauji Missal).

Nasir Mehmood Satti
(NASIR MEHMOOD SATTI)PSP
Regional Police Officer
Dera Ismail Khan
23/2

Aftab Alam
Asst. Comm.

بسم الله الرحمن الرحيم
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