

06.06.2016

Counsel for the appellant and Mr. Muhammad Ghani, S.I. alongwith Addl: AG for respondents present. Learned counsel for the appellant submitted rejoinder, copy whereof handed over to learned Addl: AG. To come up for arguments on 4.11.16 before D.B.


MEMBER


MEMBER

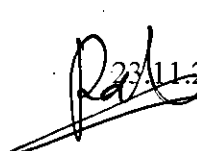
04.11.2016

Counsel for the appellant and Mr. Muhammad Jan, GP alongwith Mr. Muhammad Raziq, H.C for respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 20.02.2017.



(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

 23.11.2016

Appellant alongwith his counsel present and submitted application for requisitioning of appeal alongwith request to withdraw the appeal in hand. Case file requisitioned for today. Since the appellant is no more interested to pursue the appeal and prayed for withdrawal of the same, hence, the application is accepted. The instant appeal in hand is hereby dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED
23.11.2016


(ABDUL LATIF)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

01.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of wilful absence and dismissed from service vide impugned order dated 11.12.2014 regarding he preferred departmental appeal which was rejected on 8.6.2015 and hence the instant service appeal on 8.7.2015.

That the appellant was neither associated with the inquiry nor opportunity of personal hearing was extended to him and, moreover, the absence of the appellant was beyond his control.

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 3.12.2015 before S.B.

Appellant Deposited
Security & Process Fee



11-10-15
Chairman

03.12.2015

Counsel for the appellant and Mr. Aziz Shah, Rider alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 23.2.2016 before S.B.

Chairman

23.02.2016





Counsel for the appellant and Mr. Hayat Muhammad, Reader alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 6.6.2016.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 866 /2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30.07.2015	<p>The appeal of Mr. Rahatullah resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR - II</p>
2	31-7-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>06-8-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	06.08.2015	<p>Counsel for the appellant present. Learned counsel for the appellant requested for adjournment. Adjourned to 17.9.2015 for preliminary hearing.</p> <p style="text-align: right;"> Member</p>
4	17.09.2015	<p>Counsel for the appellant present. Learned counsel for the appellant requested for further adjournment. Adjourned to <u>1-10-15</u> for preliminary hearing.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Rahatullah Ex-Constable No. 702 Khan Razik Police Station Peshawar received today i.e. on 08.07.2015 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- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Appeal may be page marked.
- 4- Annexures of the appeal may be attested.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1058/S.T.

Dt. 10/7 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

1- Removed
2- Removed
3- Removed
4- Removed
5- Removed



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 866 /2015

Rahat Ullah

V/S

Police Deptt:

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APPELLANT

THROUGH:


M.ASIF YOUSAEZAI

&


TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 866 /2015

P.W.P Province
Service Tribunal

Diary No. 814

8-7-2015

Rahat ullah Ex- constable No. 702,

Khan Razik Police station.

VERSUS

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

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ODER DATED 08.06.2015, WHEREBY THE DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 11.12.2014 HAS BEEN REJECTED FOR NO GROUNDS.

PRAYER:

[Handwritten signature]
8/7/15

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 08.06.2015 AND 11.12.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK BENEFITS. AND ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

re-submitted to-day
and filed.

[Handwritten signature]
Registrar
30/7/15

R. SHEWETH:

1. That the appellant joined the police force in the year 1991 and completed all his due training etc and also have good service record throughout.
2. That the appellant's brother met with in an accident in Karachi. Therefore he went to Karachi for his brother's treatment and applied for leave which was accepted. (Copy of the leave approval is attached as Annexure-A)
3. That then one sided inquiry was conducted against the appellant but none of the statement was recorded or record examined in presence of the appellant. (Copy of the inquiry report is attached as Annexure-B)
4. That the appellant was engaged with his brother's treatment when final show cause notice was served to the appellant on his home address, but as he was engaged in his brother's treatment in Karachi, therefore he could not reply to the show cause notice. The brother of the appellant also expired later due to that accident. (Copy of final show cause is attached as Annexure-C)
5. That the appellant was dismissed from the service under Police Rule 1975 vide order dated 11.12.2014 and charge sheet also served to the appellant along with dismissal order. (Copy of order dated 11.12.2014 and charge sheet are attached as Annexure-D&E)
6. That against the order dated 11.12.2014, the appellant filed departmental appeal but the same was also rejected for no good ground on dated 08.06.2015 and the rejection order was received by the appellant on dated 11.6.2015. (Copy of departmental appeal and rejection order are attached as Annexure-F&G).
7. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUND:

- A) That the impugned order dated 08.06.2015 and 11.12.2014 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.

- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That charge sheet was not served to the appellant in time but it was handed over to appellant when his dismissal order was given to him. The non-issuing of charge sheet to the appellant in time before imposing major punishment of dismissal is not permissible in law and rules. Therefore the impugned order is liable to be set aside.
- D) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- E) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- F) That the penalty order has been passed with retrospective effect which an authority cannot do under the law.
- G) That the penalty of dismissed from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- H) That the appellant did not intentionally absent from his duties but his brother was ill due to which he looked after his brother. As the illness is beyond the control of human, therefore the appellant was compelled to remain absent from his duties due to the treatment of his brother.
- I) That the appellant's brother met with accident in Karachi and when went to Karachi for his brother's treatment, who was later on expired due to that accident. Therefore the appellant may be reinstated to his service on humanitarian basis.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT
Rahat Ullah
Rahat Ullah

THROUGH:

M. Asif Yousafzai
(M.ASIF YOUSAFZAI)
& *Taimur Ali Khan*
(TAIMUR ALI KHAN)
ADVOCATES, PESHAWAR

اردنی آئی سی

کریمنل ریڈیو ایف ایف

5 A

کریمنل ریڈیو ایف ایف 702 جنس لائٹ کا ریفرنس

بجو ال اے سی 951 ایک سرپیس (1203) منظر و جوجیک

11-3-13

پروفنڈ لاء ایف ایف

OSI
Capital City Police
Peshawar.

13/3/13

ATTESTED

B (6)

ENQUIRY REPORT

Kindly refer to your office dy no. 2184 dt 18-3-2014.

It is a departmental enquiry against constable Rahat NO.702 posted at P.S.K.R.S Peshawar absented from his lawful duty w.c.f 02-1-2014 To till date without any information or sanctioned leave . His act is highly objectionable and amount to gross misconduct on his part.

The alleged constable was put to disciplinary by worthy SP/city , Peshawar .the undersigned was appointed as enquiry officer to initiate departmental proceeding against the allege constable with reference to the above mentioned allegation .

PROCEDURE

In this regard the alleged constable Rahat 702 was called through official phone but Moharrar P.S K.R.S Peshawar sent reply that the alleged constable is continuously absent vide DD No.09 dt 2-1-2014. (DD attached)

FINDINGS :

From the perusal of record it reveals that the alleged constable is habitual absentee.

RECOMMENDATION:

Therefore being the enquiry officer the undersigned suggested for major punishment. Submitted please.

(Shoukat Ali Khan)
Deputy Superintendent of police
Faqirabad.

20/3/14

W/SP/City Peshawar
NO 74 /ST
Dated 24 /3 /2014.

- serve notice on his residence, and give him time to appear.
- get acknowledgment from the relative or on whom notice was given.

26/3/14

ATTESTED

⑦

FINAL SHOW CAUSE NOTICE

I, Dr. Mustafa Tanweer (PSP), Superintendent of Police, City Peshawar, as competent Authority do hereby serve Show Cause Notice to you, Constable Rahatullah No. 702 while posted at Police Station Khan Razik Shaheed remained absent for fifty eight days.

- i) That consequent upon the completion of enquiry concerned against you by SDPO Fagirabad, Enquiry Officer, found you guilty of misconduct.
- ii) On going through the finding and recommendations of the Enquiry Officer, the material on record and other connected papers, I am satisfied that you have committed the following acts/omission specified in Section-3 of the said Ordinance on the following grounds:-

"You Constable Rahatullah No. 702 while posted at Police Station Khan Razik Shaheed remained absent from your lawful duty with effect from 02.01.2014 till to date without any leave or permission from your superior officers which shows that you do not take interest in your official duty and are liable to be proceeded departmentally vide 1975 Rules.

As a result thereof, the competent Authority have consequently decided to impose upon you the major penalty including dismissal from service under section-3 of the said Ordinance.

3. You are therefore, directed to Show Cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this notice is received within (07) days of its receipt of this notice in the normal course of circumstances, it shall be presumed that you have no defence to put and exparte action shall be taken against you.

(Dr. MUSTAFA TANWEER) PSP
SUPERINTENDENT OF POLICE CITY,
PESHAWAR

No. 4462 /PA/SP/ City:

Dt: 4 /June: 2014.

Constable Rahatullah No. 702 PS Khan Razik Shaheed.

ATTESTED
A

76

حناغالی میں ایک عدد نیشنل فوٹو سٹیٹس شوکار
وصلہ کیا

13/11/14

حناغالی میں
راجت نمبر 7 کو ایک عدد نیشنل شوکار کا راجتس حوالہ
کیا گیا۔ مذکورہ نیشنل راجتس اتنا شوکار
کوئی پیدائے سارے میں باہار اطوار
دی۔ مگر مذکورہ دیکرہ ڈالنے طور
پر افسران بالا صاحبان کے کسی نہیں
تھوئیں نرساے رپورٹ عمر ہے

امکے پیدائے راجت
خدمت ہے

DFC-Ps-KRS
13-11-014

ORDER

D 8

This is departmental proceedings against Constable Rahatullah No. 702, while posted to Police Station Khan Razik Shaheed, on the grounds that he was remained absent with effect from 02.01.2014 vide DD No. 09 till to date with any leave/permission.

Disciplinary proceedings were initiated against him and he was issued Charge Sheet with statement of allegations. SDPO/Faqirabad was appointed as enquiry officer for completion the enquiry against the defaulter.

Findings of the enquiry officer alongwith relevant papers were received and perused by the undersigned. As per findings of enquiry officers, he was issued Final Show Cause Notice vide this office No.4462/SP-City dated 04.06.2014 which was served on him personally at his home address through DFC Qasim PS Khan Razik Shaheed on 13.11.2014 duly signed by himself but his reply was not received so far and he has also lost the opportunity of personal hearing before the undersigned.

Keeping in view the recommendation and service record of the defaulter constable, he is a habitual one and several times was punished with stoppage of increments, with out pay etc. There is no hope of his return to his duty and all this reflected badly over the other Jawans of the force, therefore, the undersigned came to the conclusion to take stern action against him as exparte and he is dismissed from service from the date of his absence under the existing rules-1975.

Order announced.

O. B. No.

Date:

(Dr. MUSTAJA TANWEER) PSP
Superintendent of Police City,
Peshawar.

OB: No. 3891

Dated 11 /Dec: 2014.

Copy No. 9681 /SP: City: dated Peshawar, the 11 /Dec: 2014.

Copy for information and necessary action to:-

- 1. The Capital City Police Officer, Peshawar.
- 2. The Senior Superintendent of Police, Operations Peshawar.
- 4. The Superintendent of Police, Headquarters, Peshawar.
- 5. SDPOs Faqirabad, City-I
- 6. CRC.
- 7. OASI Branch,
- 8. Fauji Missal Branch with enquiry report for record.

Jaw 3
3
2014

ATTESTED

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CHARGE SHEET

E (9)

1. Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary and expedient.
2. And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) of the said Rules, Faisal Mukhtar (PSP), Superintendent of Police, City Division, Peshawar hereby charge you constable Rahat Shah No. 702 PS Khan Razik Shaheed Peshawar on the basis of following allegations:-

"You Constable Rahat Shah No. 702 of PS Khan Razik Shaheed absented yourself from duty w.e. from 02.01.2014 till to date with out any leave/permission from your seniors proper departmental enquiry is being initiated against you under the Rule 1975.

3. By doing this you have committed gross misconduct.
4. And I hereby direct you further under Rules 6 (I) of the said Rules to put in a written defence with in 7 days of the receipt of this Charge Sheet as to why the proposed action should not be taken against you and also stating at the same time whether you desire to be heard in person.
5. And in case your reply is not received within the specific period it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

(FAISAL MUKHTAR) PSP
Superintendent of Police City,
Peshawar

No. 2184 /PA

Dt: 18 ³ Feb, 2014.

ATTESTED

A

Before the Honorable C.C.P. Police Peshawar: - F(10)

"DEPARTMENTAL APPEAL"

Dy: No. 47 PA-CCP
Dt: 3.3.15
Encl: 2

Rahatullah Go Shazullah no 702

Constable who is dismissed from his duty for non-appearance for a period of one year. Although the detail of such non-appearance of duty would be

provide and reason below would be described."

No 27-LB
4/3/2015

Eq. 2

DS/L
For Commr.

Force No 3311

Respectfully

Shereen

① -> That Constable Rahatullah no 702 who is dismissed from his duty due to non-appearance during period

F.M.C.R.E

Period Record for

perform his duty for last 23 years

Dy. Supdt. of Police
Legal, CCP Peshawar

during his capacity which is duly

ignored by the police department and oblige his performance.

ATTESTED

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25/3/15
P. W. S. P.

2

11

That the reason which is described by the Police department for his dismissal mentioned long absence from his duty, almost One year. It is very much clear that department and Govt provide 4 months with Referral NO 957, already granted to the Constable Rahat. 11.3.13 So it is evident from the record that Rahat ~~was~~ was dismissed due to non-appearance for One year which is very much clear from the dismissed Order 03503891 Dated 11-12-2014. And in this regard 4 months already granted holidays to the petitioner so whatever of the sort of 120 days (4 months) from One year holidays, so the no. of working days would be come less and not equal to One year, so ambiguity arising there.

3

That the Petitioner would not ever be considered by the department under any other The same.

ATTESTED
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4) That the petitioner brother was severly injured due to Accident, and he was entirely lying on bed, and in this regard he needs much care and look after for his treatment, So Bahadur Khan brother of injured Nafaz Khan was available to look after him all the day & night.

5) That the petitioner is the only survivor of his family and bears all the Accumulation charges and hospital charges and children's etc.

6) That the Govt should be ignored that the petitioner is a honest, brave and experience police constable b/c he performed 23 years duty.

So, it is kindly requested before the Honorable

C. C. P. to accept the departmental report of Police

ATTESTED

(4)

(13)

Constable Ralut Ali
no 702 and recruited
in

Dated => 03.03.2015

Affidavite

As per instruction of Ralut Ali no 702, do
solemnly Affirm and declare on oath
that the contents of this departmental
appeal is true, correct and genuine

To
Omen from your Honorable C.C.P.



Department

3.3.2015

ATTESTED

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ORDER

G (14)

This order will dispose off departmental appeal preferred by ex-constable **Rahat Ullah No. 702** who was awarded the major punishment of **Dismissal** from service under PR-1975 vide OB No: 3891 dated 11.12.2014 by SP-City, Peshawar.

The allegations levelled against him were that he while posted at Police Lines & PSs Paharipura and K.R.S absented himself from lawful duty w.e.f 14.10.2012 to 12.1.2013; 13.5.2013 to 21.7.2013 & 2.1.2014 to 11.12.2014 **(total 16-months & 15-days)**.

Three separate departmental proceedings were initiated against him and DSP-Chamkani, DSP-Saddar and DSP-F/Abad were appointed as the E.Os. The Enquiry Officer during the course of enquiry summoned the appellant time and again but he failed to appear and defend himself. He was issued FSCN which was delivered at his home address, which was received by the appellant personally but failed to appear or submit his written reply within stipulated period. As such the Competent Authority awarded him the above major punishment.

The relevant record was perused along with his explanation. He was also heard in person in OR on 5/6/2015. He could not defend himself. The allegations levelled against him stand proved. Since he has been dismissed once before and he is habitually and willfully absented. The undersigned sees no plausible reason to interfere with the order of the SP-City. Consequently the order passed by SP-City is upheld and the appeal is rejected/filed.

**CAPITAL CITY POLICE OFFICER,
PESHAWAR.**

No. 2929-35/PA dated Peshawar the 3/11/15

Copies for inf and n/a to the:-

- 1/ SsP/City & HQRs: Peshawar
- 2/ PO/OASI
- 4/ CRC along with S.Roll for making necessary entry in his S.Roll.
- 5/ FMC encls: FM
- 6/ Official concerned.

ATTESTED

2 منجانب ایم اے آر ایف
بنام

موزخہ

مقدمہ

دعویٰ اپیل

جرم

باعث تحریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لمیٹڈ اور کیلئے محمد اصف بوسٹونری اور آرمو ملی فلن انٹرنیشنل
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور 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 بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پرداخت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Accepted &
Accepting my

20

ماہ

المرقوم

الع
د گ
الع

کے لئے منظور ہے۔

مقام

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.866/2015.

Rahat Ullah Ex- Constable No.702 Police Line Peshawar.....Appellant.

VERSUS.

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

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

Respectfully shewth:.

PRELIMINARY OBJECTIONS.

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

FACTS:-


- (1) Para No.1 pertains to record, hence needs no comments.
- (2) Para No.2 is incorrect. The appellant absented himself willfully without taking permission or leave from his seniors.
- (3) Para No.3 is incorrect. Proper departmental enquiry was conducted against him, on allegations of willful absence from duty w.e.f 14.10.2012 to 12.01.2013, 13.05.2013 to 21.07.2013 and 02.01.2014 to 11.12.2014 (total 16 months and 15 days). He was issued charge sheet and summary of allegations and was given full opportunity to defend himself but he failed to appear before the E.O. The E.O recommended him for major punishment and was awarded major punishment of dismissal from service vide OB No.3891 dated 11.12.2014 by SP City, Peshawar.
- (4) Para No.4 is correct to the extent that FSCN was issued and was delivered upon him on his home address, which was received by the appellant personally but he failed to appear or submit his reply within stipulated period.
- (5) Para No.5 is incorrect. In fact the appellant was issued a charge sheet along with summary of allegations and was served upon him properly to attend the enquiry proceedings and defend the charges leveled against him but he did not appear hence was awarded major punishment of dismissal from service vide OB No.3891 dated 11.12.2014 by SP City, Peshawar.
- (6) Para No.6 is correct to the extent that the appellant preferred a departmental appeal but after due consideration was reject/filed vide No.2929-35/PA dated 08.06.2015.
- (7) That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.


GROUND:-


- (A) Incorrect. The punishment orders are in accordance with law/rules.
- (B) Incorrect. The appellant was given full opportunity to defend himself but he failed to appear before the E.O.
- (C) Incorrect. The charge sheet and summary of allegations along with FSCN was properly served upon appellant.
- (D) Incorrect. The appellant was properly associated with the enquiry proceedings. He was given full opportunity to defend himself.
- (E) Incorrect. The appellant was treated as per the law and rules.
- (F) Incorrect. The punishment order is lawful hence liable to be upheld.
- (G) Incorrect. The punishment order is per the law/rules.
- (H) Incorrect. The appellant is a habitual absentee from his lawful duty. He willfully absented himself from his lawful duty.
- (I) Incorrect. The appellant did not adopted proper procedure for taking leave/permission. Hence he does not deserve any leniency.
- (J) Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER.

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


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


**Capital City Police Officer
Peshawar.**


**Superintendent of Police,
City, Peshawar.**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.866/2015.

Rahat Ullah Ex- Constable No.702 Police Line Peshawar.....Appellant.


VERSUS.

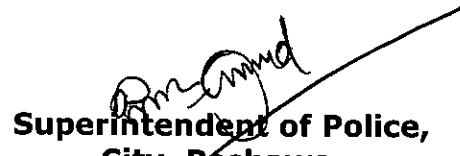
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, City, Peshawar.....Respondents.

AFFIDAVIT

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


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


**Capital City Police Officer
Peshawar.**


**Superintendent of Police,
City, Peshawar**

**BEFORE THE KPK, SERVICE TRIBUNAL,
PESHAWAR.**

Service Appeal No. 866/2015

Rahat Ullah

VS

Police Deptt:

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

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

FACTS:

- 1 Para-1 is admitted correct by the respondent's department as the appellant record is already in custody of respondent's department.
- 2 Incorrect. While Para-2 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant did not remain absent willfully but due to his brother treatment he was compel to remain absent from his duty. Moreover the appellant also applied for leave which was accepted.
- 3 Incorrect. While para 3 of the appeal is correct.
- 4 Incorrect. Hence denied.
- 5 Incorrect. The appellant received the only charge sheet and statement of allegations along the dismissal order.
- 6 Incorrect. First portion of para 6 of the appeal is admitted correct hence no comments while the rest of the para 6 is

incorrect as the departmental appeal was rejected for no good ground.

- 7 Incorrect. The appellant has good cause of action and his appeal is liable to be accepted on the following grounds.

GROUND:

- A) Incorrect. The punishment orders are not in accordance with law and rules and liable to be set aside.
- B) Incorrect. The appellant has not given opportunity to defend himself and has been condemned unheard which is a violation of law and rules.
- C) Incorrect. While para C of the appeal is correct.
- D) Incorrect. The appellant was neither associated with the inquiry proceeding nor provided chance of defense to him.
- E) Incorrect. While para E of the appeal is correct.
- F) Incorrect. The penalty order has been passed with retrospective effect which is not allowed under the law.
- G) Incorrect. The punishment order is very harsh as the appellant was not intentionally absent from his duty but he was compelled to remain absent due to the engagement of his brother's treatment.
- H) Incorrect. While para H of the appeal is correct.
- I) Incorrect. While para I of the appeal is correct.
- J) Legal.

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

APPELLANT

Through:



(M. ASIF YOUSAFZAI)

&



**TAIMUR ALI KHAN
ADVOCATE, PESHAWAR.**

AFFIDAVIT

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



DEPONENT

ATTESTED

