

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 139/2016

Date of Institution ... 04.02.2016

Date of Decision ... 11.11.2020

Rahat Ullah S/O Quadrat Ullah
R/o Abdara Bala, Wali Abad, Peshawar,
Ex-Constable No. 4844, PS Regi, Peshawar.

... (Appellant)

VERSUS

Capital City Police Officer, Peshawar and another respondent.

... (Respondents)

MR. ARBAB-SAIF-UL-KAMAL,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

MUHAMMAD JAMAL KHAN
ATIQ-UR-REHMAN WAZIR

--- **MEMBER (Judicial)**
--- **MEMBER (Executive)**

JUDGMENT:

MUHAMMAD JAMAL KHAN, MEMBER:- The present service appeal has been directed against the office order No. 94-100/PA, dated 08.01.2016 passed by Capital City Police Officer, Peshawar, whereby departmental appeal against O.B 2447 dated 09.07.2013 resulting in removal of appellant from service with immediate effect was rejected/filed

2. Appellant was inducted in Police Services on 25.07.2007, it was during the course of performing duty that reportedly he suffered from Chicken Pox disease allowing him ten days medical

leave on the expiry of which he resumed his duty, during continuity of service the disease exacerbated and as there was no adequate arrangements for the disease in the Police and Services Hospital Peshawar he was referred to the Khyber Teaching Hospital, Peshawar, where he was admitted and operated upon for Thyroid gland. He was issued a charge sheet appended with statement of allegations by the Superintendent of Police Cantt, Peshawar. Since the charge sheet was not served upon appellant therefore, it remained un-responded. On 25.11.2012, appellant reported for duty but he was not permitted as inquiry was in progress in which he was neither associated nor any charge sheet was served upon him and likewise no final show-cause notice was delivered to him nor any opportunity of personal hearing was afforded hence, he was not able to tender his explanation/reply thus he was removed from service on 09.07.2013 for the reason of absence from duty, on 05.08.2013 representation was made to respondent No. 1 but no heed was paid and on 07.12.2015 he submitted representation again before the referred to authority but it was rejected on 08.01.2016 hence, the present appeal.

3. Respondents were summoned, they attended the Services Tribunal through their authorized representative prevaricating the appeal on a number of legal and factual grounds such as limitation, mis-joinder of unnecessary party and non-joinder of necessary party case of action, estoppel and jurisdiction.

4. We have heard arguments of the learned counsel for appellant as well as learned Additional Advocate General for the respondents.

5. Learned counsel for the appellant submitted that appellant has been proceeded against in derogation of relevant law and the rules on the subject as neither any charge sheet accompanied with statement of allegations were served upon him nor he was associated in the inquiry proceedings by keeping him at bay from

the entire inquiry proceedings, again without serving him with final show-cause notice his removal order was made by respondents. Actually he was on medical leave initially for treatment of Chicken Pox disease and subsequently for conducting of operation of his Thyroid gland. He further submitted that the documentary proof for his treatment has been produced for perusal and appropriate order. The learned counsel placed reliance on 2007 SCMR 262, 2002 PLC (C.S) 268, PLD 2003 Supreme Court 724 and Service Appeal No. 1066/2015 Captioned Naeem Ullah Ex-Constable No. 3015 District Police Mardan Versus Deputy Inspector General of Police Mardan Region-I, Mardan, and two others decided on 28.03.2017.

6. On the other hand, learned Additional Advocate General submitted that on account of absence of appellant from duty disciplinary proceedings were initiated against him by issuance of charge sheet alongwith statement of allegations and appointment of SDPO Town as inquiry officer who conducted the inquiry proceedings, however, appellant intentionally absented himself despite the fact that he was summoned time and again, therefore, ex-parte proceedings were initiated against him. On the completion of inquiry proceedings and submission of recommendation final show-cause notice was issued by the competent authority which the appellant did receive being elicited in the remarks on the very surface of that very notice, however, he did not turn up, therefore, he was proceeded against resulting into his removal from service. The appellant has remained absent for a period of nine months and nineteen days of a discipline force which tantamount to gross misconduct. Learned Additional Advocate General placed reliance on Civil Appeal No. 1618/2019 titled NAB through its Chairman Versus Muhammad Shafique decided on 06.01.2020, 2015 SCMR 165, 2013 SCMR 911 and 2011 SCMR 676.

7. First of all let the plea of appellant regarding his medical leave be ascertained in order to look into his assertion as to how much truth or credibility it carries, on get examined by the doctors of the Police and Services Hospital Peshawar he was found reportedly to be suffering from a grave disease requiring subtotal thyroidectomy and was referred to LRH/KTH for surgery and at the same time allowing him ten days of sick leave with effect from 30.07.2012 vide OPD Receipt No. 4844 dated 30.07.2012. In pursuance thereof appellant applied for medical leave and his request was acceded to whereby ten days leave was granted by the Superintendent of Police, Peshawar, embodying with the remarks and directing the Reader to confirm hospital record after surgery. According to the hospital record of HMIS of KTH he was admitted in hospital on 08.04.2012 and reportedly he was operated upon on 13.08.2012 and discharged from the hospital on 29.08.2012 whereas the record transpired that he was recorded absence from 10.08.2012 to 18.09.2012 and from 27.10.2012 till date i.e 09.07.2013, in case appellant is considered as confined to the hospital upto 29.08.2012 it was his bounden duty to have moved application to the sanctioning authority on the expiry of already granted medical leave which was to expire on the 9th of August 2012 but he has not done so thus violating the law and rules on the subject, in case the period which he spent in hospital is considered as medical leave he was burdened to have produced a valid proof either oral or documentary justifying his absence with effect from 30.08.2012 to 18.09.2012 and with effect from 27.10.2012 to 09.07.2013. Admittedly, he was a member of a disciplined force and he has been recorded absent for nine months and nineteen days in a short span of service while keeping in view his date of induction in Police Services on 25.07.2007. In the absence of any documentary proof of worth credence his absence from duty without leave of the sanctioning authority, is totally unjustified. Evidence medical or otherwise of a asymmetrical nature and irrebuttable worth entertaining must have been placed

before the Tribunal. While remaining absent for a long interval of period he was oblivious as to his conduct which is not comparable to the norms of a disciplined force, generating the element of indiscipline among his colleagues which of course is detrimental to the functioning of a disciplined force, diametrically against the paramount public interest, therefore, we hold that initiation of disciplinary proceedings against the delinquent official were justified and he was rightly proceeded against under the relevant law and rules. Reliance in this regard is placed on Civil Appeal No. 1618/2019 titled NAB through its Chairman Versus Muhammad Shafique decided on 06.01.2020.

8. As regards ex-parte action the moment disciplinary proceedings were initiated and appointment of inquiry officer was made, he must have associated himself actively, however, he remained absent thus justifying his absence for no valid reasons. What option was available with the inquiry officer when the delinquent official do not turn up, obviously, he had to proceed with the matter till it reached to the logical conclusion, it is the mandate, dictates of the law and rules on the subject, any deviation there from would have exposed the very official to legal action. The record reflect that a charge sheet accompanied with statement of allegations were sent at his home address and it is not believable while keeping in view commonality of conduct he would be deemed to be acquaintant with the documents so dispatched. The record reflect that the appellant did receive the copy of the final show-cause notice dated 06.06.2013 which is bearing his signature as well as his computerized identity card number if that very date is taken into account to be the first instance of the receipt of information he was legally required to have responded that appropriately in writing highlighting all the material facts to the authority but he has not do so and he remained in a deep slumber. Appellant was removed from service on 09.07.2013 and he moved departmental representation on

05.08.2013 which was un-responded and he made representation for the second time on 07.12.2015 after more than two years thus filing the appeal belatedly on 09.02.2016 without eliciting sufficient cause, appellant was under legal obligation to have agitated his claim in the form of service appeal after the expiry of 90 days when he first moved his representation/appeal before the authority or he could have exercised other options available to him under the rules but he remained dormant and submitted second representation after the interval of more than two years i.e 07.12.2015 there is no concept of second representation under the law the total period of limitation to a civil servant is 120 days beyond that period a service appeal cannot be instituted unless and until the delay so caused is reasonably justified which is not the case at the moment. Reliance is placed on 2015 SCMR 165, 2013 SCMR 911 and 2011 SCMR 676.

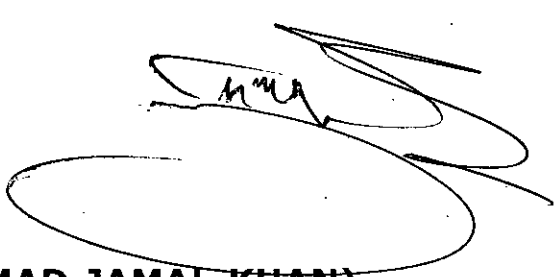
9. As regard the case reported as 2007 SCMR 262 (g) the principle laid down therein is that that no limitation could be reckoned against a void order whereas in the instant case the order passed by the competent authority regarding removal of the appellant is not void and has been followed by observing all the tenets and cannon of law on the subject; therefore, could not be attracted to the facts and circumstances of the instant case. As regard the case reported in 2002 PLC (C.S) 268 (b) the issue involved therein was that as to whether appellant was entitled to graded pay when he passed C.T examination and also attained M.A Degree from the University of Peshawar, in the year 1992 which was allowed by the then NWFP Services Tribunal Peshawar, however, on appeal, the Hon'ble Supreme Court of Pakistan, disallowed the relief by setting aside the judgment of the Services Tribunal, the delay caused for filing of appeal by the then respondents was condoned nevertheless, that very case has got eminent distinguishing features which are not attracted to the facts and circumstances of the instant case. In the case reported

as PLD 2003 Supreme Court 724 the facts and circumstances of the aforesaid judgment could not be compared and consequently applied to the facts and circumstances of the instant case as each and every case has its own peculiar facts. In the case of Service Appeal No. 1066/2015 Captioned Naeem Ullah Versus Deputy Inspector General of Police Mardan Region-I Mardan, decided on 28.03.2017 the total period of absence of that very appellant has not been mentioned, however, his absence from service with effect from the date of dismissal till date was treated as leave of the kind due whereas in the instant case appellant remained absent for nine months and nineteen days, appellant has not furnished reasonable justification for his absence from duty, therefore, in our humble view the principle laid down therein could not be applied to the present appeal in strict sense of the term.

10. Resultantly, the present appeal is devoid of any substance which stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.11.2020


(ATIQ-UR-REHMAN WAZIR)
Member (Executive)

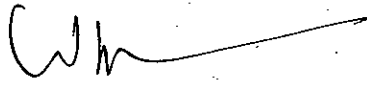

(MUHAMMAD JAMAL KHAN)
Member (Judicial)

Service Appeal No. 139/2016

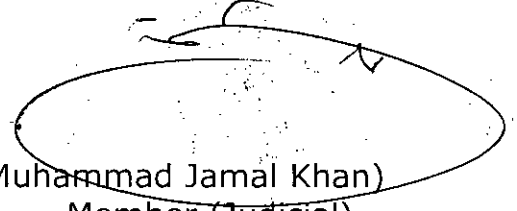
S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	11.11.2020	<p><u>Present.</u></p> <p>Mr. Arbab Saif-ul-Kamal, ... For appellant Advocate</p> <p>Mr. Kabirullah Khattak, ... For respondents Additional Advocate General</p> <p>Vide our detailed judgment of today, the present appeal is devoid of any substance which stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED</u> 11.11.2020</p> <p>(Muhammad Jamal Khan) Member (Judicial)</p> <p>(Atiq-ur-Rehman Wazir) Member (Executive)</p>

29.09.2020

Appellant himself alongwith Mr. Arbab Saif-ul-Kamal, Advocate and Mr. Saadullah Khan Marwat, Advocate are present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Muhammad Raziq, Head Constable are also present. Arguments heard. File to come up for order on 13.10.2020 before D.B.



(Atiq-ur-Rehman Wazir)
Member (Executive)



(Muhammad Jamal Khan)
Member (Judicial)

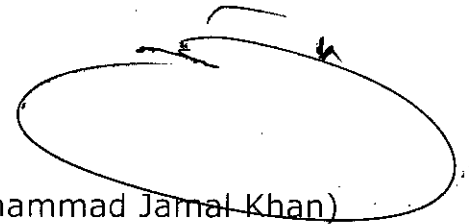
13.10.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Muhammad Raziq, Head Constable, are also present.

We have heard arguments of learned counsel representing appellant as well as Learned Additional Advocate General, we observed that the issue of limitation is involved in the instant appeal hence, both the learned counsel for the appellant as well as learned Additional Advocate General are required to render assistant specifically on the aforesaid point in the light of law, rules and precedent on the subject. Adjourned to 28.10.2020 on which to come up for the needful before D.B.



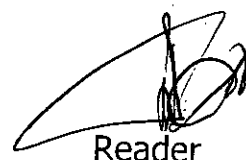
(Atiq-ur-Rehman Wazir)
Member (Executive)



(Muhammad Jamal Khan)
Member (Judicial)

28.10.2020

Proper D.B is on Tour, therefore, the case is adjourned for the same on 11.11.2020 before D.B.



Reader

24.06.2020

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

Yet again a request for adjournment is made on behalf of learned counsel for the appellant. As a last chance, adjourned to 21.08.2020 before D.B.



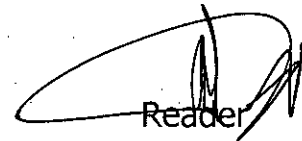
Member



Chairman

24.08.2020

Due to summer vacation case to come up for the same on 23.09.2020 before D.B.

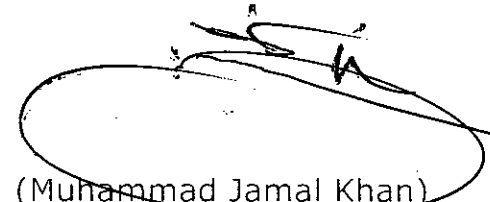


Reader

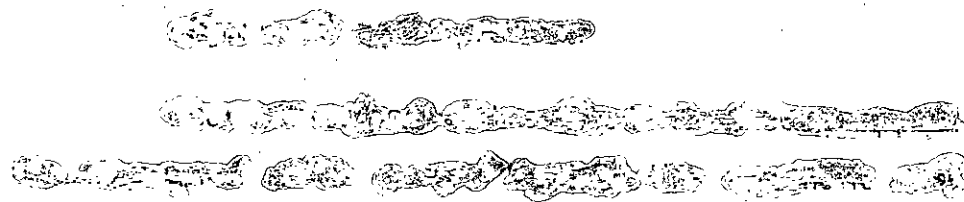
23.09.2020

Mr. Amjid Nawaz, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present. According to the learned counsel that his senior has proceeded to District Bannu in pursuance of certain cases pending there. Requested for adjournment. Adjourned to 29.09.2020 on which to come up for arguments before D.B.

(Mian Muhammad)
Member (Executive)



(Muhammad Jamal Khan)
Member (Judicial)



14.01.2020

Appellant in person present. Mr. Usman Ghani learned District Attorney for the respondent present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 26.02.2020 before D.B.


Member


Member

26.02.2020

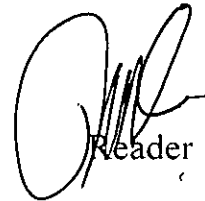
Appellant in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Appellant submitted application for adjournment. Adjourn. To come up for arguments on 01.04.2020 before D.B.


Member


Member


01.04.2020


Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 24.06.2020 before D.B.


Reader

04.07.2019

Appellant in person present. Mr. Zia Ullah Learned Deputy District Attorney for the respondents present. Appellant requested for adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 28.08.2019 before D.B



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

28.08.2019

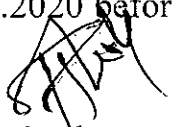
Counsel for the appellant present. Asst: AG for respondents present. Learned counsel for appellant seeks adjournment. Adjourn. Case to come up for arguments on 12.11.2019 before D.B.



Member


Member

12.11.2019


Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondent present. Appellant requested for adjournment that his counsel is not available today. Adjourn. To come up for arguments on 14.01.2020 before D.B.

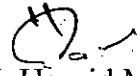

Member


Member

28.01.2019


Counsel for the appellant present. Mr. Kabirullah Khattak,
Addl: AG for respondents present. Learned counsel for the appellant
seeks adjournment. Adjourned. Case to come up for arguments on
18.03.2019 before D.B.



(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

18.03.2019 Miss Uzma Syed, Advocate for appellant and Addl.
AG for the respondents present.

Request for adjournment is made due to engagement
of learned senior counsel for the appellant before the
Honourable High Court today. Adjourned to 10.05.2019
before the D.B.

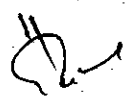

Member


Chairman

10.05.2019

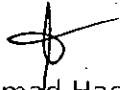
Learned counsel for the appellant and Mr. Kabir Ullah
Khattak learned Additional Advocate General alongwith Wisal
Inspector present. Learned counsel for the appellant seeks
adjournment. Adjourn. To come up for arguments on 04 .07.2019
before D.B.


Member

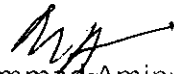

Member

29.08.2018

Counsel for the appellant and Mr. Riaz Ahmad Paindakhel, Assistant AG alongwith Mr. Ihsanullah, ASI for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned: To come up for arguments on 16.10.2018 before D.B.



(Ahmad Hassan)
Member



(Muhammad Amin Khan Kundi)
Member

16.10.2018

Clerk to counsel for appellant and Mr. Riaz Paindakheil learned Assistant Advocate General present. Clerk to counsel for appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 29.11.2018 before D.B



Member



Member

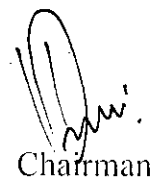
29.11.2018

Junior to counsel for the appellant and Addl. AG for the respondents present.

The former requests for adjournment as learned senior counsel is busy before Hon'ble High Court. Adjourned to 28.01.2019 before the D.B.



Member



Chairman

28.02.2018

Appellant in person present. Mr. Riaz PindaKhel, Assistant AG for the respondent present. Appellant requested for adjournment on the ground that learned senior counsel is not available today. Adjourned. To come up for arguments on 19.04.2018 before D.B.



(Gul Zeb Khan)
Member


(M. Hamid Mughal)
Member

19.04.2018

Counsel for the appellant present. Mr. Riaz Ahmed Pinda Kheil, Assistant AG for the respondents also present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 04.07.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

04.07.2018


Appellant in person present. Mr. Muhammad Jan, DDA alongwith Mr. Ihsanullah, ASI for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.08.2018 before D.B.

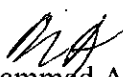

(Ahmad Hassan)
Member


(Muhammad Amin Kundi)
Member

23.06.2017

Appellant alongwith his counsel present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 08.08.2017 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

08.08.2017

Appellant in-person present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments could not be heard as lawyer community is on general strike. Adjourned. To come up for arguments on 06.11.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

06.11.2017


Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 15.01.2018 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

15.01.2018

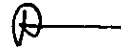
Appellant in person present. Mr. Kabir Ullah Khattak, Addl: AG for the respondents present. Lawyer community on strike on the call of Khyber Pakntunkhwa Bar Council. Adjourned. To come up for arguments on 28.02.2018 before D.B.


(Gul Zeb Khan)
Member


(M. Hamid Mughal)
Member

11.08.2016

Appellant in person and Additional AG for respondents present. Appellant submitted rejoinder, copy whereof handed over to learned Additional AG. To come up for arguments on 11-11-16 before D.B.



Member



Member

11.11.2016

Counsel for the appellant and Mr. Muhammad Raziq, HC alongwith Assistant AG for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 13-3-17.




(MUHAMMAD AMIR NAZIR)
MEMBER



(PIR BAKSHSH SHAI)
MEMBER

13.03.2017

Counsel for appellant and Mr. Muhammad Raziq, H.C alongwith Mr. Ziaullah, Government Pleader for respondents present. Learned counsel for appellant requested for adjournment. Adjournment granted. To come up for arguments on 23.06.2017 before D.B.



(M. Amir Nazir)
MEMBER



(ASHFAQUE TAJ)
MEMBER

16.02.2016

Appellant Deposited
Security & Process Fee

Counsel for the appellant present. Learned counsel for the appellant submitted that the appellant was appointed as Constable in the Khyber Pakhtunkhwa Police in the year 2007. He further submitted that the appellant was removed from service vide impugned order dated 9.7.2013 on the ground of absence from duty but instead the appellant was ill and that on ^{the} ground of such illness leave had also ^{been} sanctioned in favour of the appellant. He further submitted that his departmental appeal was also rejected on 8.1.2016, which is not a speaking order. Learned counsel submitted that impugned orders are void in the eye of law. That the absence period of the appellant has been treated as leave without pay and, therefore, he could not be removed from service. Reliance was placed on 2006-SCMR-434 and 2010-SCMR-165. Learned counsel concluded that the appeal is within time.

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 25.4.2016 before S.B.


Member

25.4.2016



Counsel for the appellant and Mr.Hayatullah, Reader alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 11.8.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 139/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.02.2016	<p>The appeal of Mr. Rahat Ullah resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>16-2-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2		

The appeal of Mr. Rahatullah son of Qudrat Ullah Ex-Constable No.4844 PS Regi Peshawar received to-day i.e. on 04.02.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Copy of removal order is illegible which may be replaced by legible/better one.
- 3- Annexures of the appeal may be attested.
- 4- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 169 /S.T,

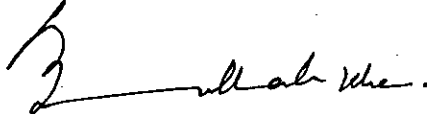
Dt. 4-2 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr.Saadullah Khan Marwat Adv. Pesh.

Sir

Re-submitted after
Completion


Saadullah Khan

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 139 /2016

Rahat Ullah

Versus


CCPO & others

I N D E X

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	Medical Description,	"A"	5-21
3.	Charge Sheet/allegation, 08.01.2012	"B"	22-23
4.	Final Show cause Notice, 06.06.2013	"C"	24
5.	Impugned order, 09.07.2013	"D"	25
6.	Representation, 05.08.2013	"E"	26
7.	Subsequent Representation, 07.12.15	"F"	27-28
8.	Rejection Order, 08.01.2016	"G"	29

Dated: 04.02.2016

Through

Appellant

Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazar, Peshawar.
Ph: 0300-5872676
0311-9266609

1

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 139 /2016

Rahat Ullah S/o Qudrat Ullah,
R/o Abdara Bala, Wali Abad, Peshawar,
Ex-Constable No. 4844, PS Regi, Peshawar. Appellant

Versus

1. Capital City Police Officer, Peshawar.
2. Senior Superintendent of Police Hqrs,
Peshawar. Respondents

A.W.F. Provincial
Service Tribunal
Diary No. 84
Dated 04-2-2016

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT,
1974 AGAINST OFFICE ORDER NO. 94-100/PA,
DATED 08.01.2016 OF R. NO. 1 WHEREBY
DEPARTMENTAL APPEAL AGAINST OB NO. 2447
DATED 09.07.2013 REMOVING APPELLANT
FROM SERVICE WITH IMMEDIATE EFFECT AND
PERIOD OF ABSENCE FROM 09 MONTHS AND 19
DAYS WAS TREATED WITHOUT PAY, REJECTED
FOR NO LEGAL REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That appellant was appointed as Constable on 25.07.2007 along with more than 900 constables in prescribed manner on the recommendation of Departmental Selection Committee.
2. That since then appellant was performing his duties to the best of his ability. When he was allowed 10 days Medical Leave regarding disease of Chicken Pox. Thereafter he

Handwritten signature and date
9/2/2016

re-submitted to-day
and filed.

Handwritten signature and date
9/2/16

resumed his duty and on his application after producing Medical Certificate to the respondents allowed him salaries.

3. That during service, the diseases further cropped up and he was allowed for further treatment in Govt. Police Hospital Peshawar, but there were no proper arrangements in Police Hospital Peshawar, so he was then referred to KTH, ENT ward where he was not only admitted but his operation of thyroid was also carried out. (Copy as annex "A")

4. That charge sheet and statement of allegations was issued by Superintendent of Police, Cantt Peshawar to serve the same upon appellant but as is evident from its number, the same is given 10/E/PA, dated 08.01.2012, diaried as office town circle Peshawar No. 2/E dated 17.01.2013, instead of 10-11/E/PA because the same contains only one official instead of two. (Copy as annex "B")

✓ The said charge sheet could not be replied as the same was not served upon appellant.

5. That on 25.11.2012, appellant reported for duty but he was not allowed to resume duty as by then enquiry into the matter was initiated by the department, appellant was neither served with any charge sheet nor he was associated with the same what to speak service of final show cause notice or personal hearing.

✓ 6. That on 06.06.2013, final show cause notice was shown to be issued by Superintendent of Police, Headquarters, Peshawar but the same was also not replied due to none service upon appellant. (Copy as annex "C")

7. That on 09.07.2013, appellant was removed from service on the said score of absence from duty by R. No. 2. (Copy as annex "D")

✓ 8. That on 05.08.2013, appellant submitted representation before R. No. 1 but no heed was paid to the same, similarly on 07.012.2015 subsequent representation was preferred

before the said authority which was rejected on 08.01.2016.
(Copies as annex "E", "F" & "G")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That the absence was neither willful nor intentional as is evident from the record, the same was due to serious illness of the appellant.
- b. That the whole record was submitted to the respondents regarding the illness as well as operation of the thyroid/throat in the ENT Department/Ward B of KTH.
- c. That the Tribunal can examine, the physical verification of throat of the appellant to show that he has undergone operation.
- d. That neither charge sheet and statement of allegation was served upon appellant nor the final show cause notice, so the same were not replied by him.
- ✓ e. That the matter was not dealt with by the respondents as per the mandate of law, because appellant was neither served with any charge sheet, statement of allegations nor he was associated with enquiry proceedings nor was served with final show cause notice what to speak of personal hearing and self defence.
- ✓ f. That neither any statement was recorded in presence of appellant nor he was afforded opportunity of cross examination, being mandatory.
- ✓ g. That appellant preferred first departmental appeal on 05.08.2013 and subsequent representation in 07.12.2015 which was rejected on 08.01.2016.
- ✓ h. That in order dated 09.07.2013, appellant was removed from service with immediate effect and the period of absence for nine months and nineteen days was treated

without pay, meaning thereby that such period was when regularized than nothing was left and the impugned orders became ab-an-itisio void and of no legal effect as per judgment of the apex court.

i. That appellant was removed from service, he than preferred appeal to the authority on 05.08.2013 which was not responded. Subsequent appeal was preferred to the authority on 07.12.2015 which was rejected on 08.1.2016 and such rejection order never became time barred on the eyes of law and as per the judgment of the apex Court.



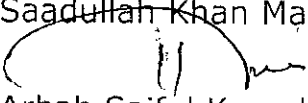
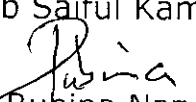
j. That absence, if not willful, does not constitute misconduct.

k. That when appellant was not absent from duty willfully no charge sheet or statement of allegation, associated with enquiry proceeding, no final show cause notice was served upon and no personal hearing was afforded, then in such like affairs of the state the impugned orders became ab-an-itisio vide without lawful authority of no legal effect and regarding false within the ambit of malafide.

It is, therefore, most humbly prayed that on acceptance of appeal, impugned order dated 05.01.2016 or 09.07.2013 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Dated. 04.02.2016

Through


Appellant

Saadullah Khan Marwat

Arbab Saiful Kamal
&

Miss Rubina Naz,
Advocates.

A

5

No. 4844 Rs. 5-

OUT-PATIENTS DEPARTMENT

NAME... W. S. D. /
YEARLY NO... 42138
DATE... 30.7.2012
DISEASE.....

FACE VALUE RUPEES 5

MNC
Graves Disease

Needs Subtotal
Thyroidectomy

Refer to LRH/KRH for
Surgery
Sick leave for ten days
wef 30/7/12

Payal
Solely Hospital

Attested
[Signature]

6

(50)

Dr. Muhammad Tariq Mehr

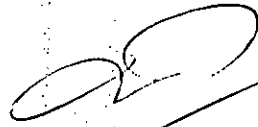
MBBS (Pesh), FCPS (Pak), MRCP II (London)
Consultant Medical Specialist with Interest in
Gastroenterology
Police & Services Hospital, Peshawar

RAHATULLAH

MNG with cold
Nodule on
uptake scan
Clinically euthyroid
NO Pressure symptoms
locally

Plan

Referred to ENT / KTH, LRH
for FNAC thyroid followed
by Thyroidectomy



03/01/12

میتا بھالی

کہ اور اس کے ساتھ ساتھ کئی اور بھی
 کی اور سے کئی سے۔ یہاں سے اور
 کی اور سے کئی اور سے اور اور
 کی اور سے کئی اور سے اور اور
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 کی اور سے کئی اور سے اور اور

30-7-12

Approved 10 days.

Superintendent of Police
 Ferozpur District

30-7-2012

leader —
 pls confirm hospital
 records after surgery.

O.B No: 2855
 Date: 30-7-2012

ASI 1041
 3-8-012

29/7/2012
 29/7/2012

8
1

Khyber Teaching Hospital, Peshawar
Patient Registration Receipt

CHARGED **DUPLICATE SLIP**
Patient Copy ADM/OT 300

Hospital No **1639390812**

Patient Name RAHAT ULLAH

Guardian Name

Contact #:

CNIC:

Gender MALE Age 29 YEARS

District PESHAWAR

Patient Type CHARGED

OPD No. 9-105100812

Came From OPD NOA 1

OT Type ADM/OT Status ADMITTED

OT Rate 200 Adm. Rat 100 Total 300

Department ENT B

Adm Date 04-AUG-12 - 11:45:38 ✓

Total Adm 9515

ABDUL SALAM



9

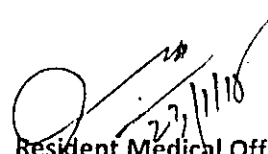
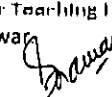


Khyber Teaching Hospital, Peshawar

Verification Report

It is certified that the patient with the following information has been registered in HMIS of Khyber Teaching Hospital, Peshawar.

Patient ID : 9485100812
Patient Name : RAHAT ULLAH
Gender : Male
Age : 29 Years
Source : OPD (ENT)
Date & Time : 04-Aug 2012 10:42:03 ✓
Address : Peshawar


Resident Medical Officer
Khyber Teaching Hospital,
Peshawar


	1639190212		4/8/02					
9/200	1248/6-	3	oil	15g	m	✓	2/8/02	✓
	1639390212		oil					
	1246/7	4	oil	25g	m			
	1654230212		oil					
9/1	1242/8	10	oil	4g	m			
	1664930212		oil					
	1248/9	1	oil	11g	m			
	1655150212		oil					
	1248/16	2	oil	13g	m			
	1655120212		oil					
	1250/11	4	oil	22g	m			

RESEARCH SOCIETY

Stephens 7/8/02

QIA mix

base ready 9/20/02

base ready 10/2/02

base ready 29/2/02

DISCHARGE CARD

DEPARTMENT OF E.N.T. "B"
HEAD & NECK SURGERY

KHYBER TEACHING HOSPITAL PAKISTAN
+92-91-92156340-8, EXT: 2034

Prof: Dr. Noor Sahib Khan
MBBS, MCPS, DLO, FRCS

Asst. Prof: Dr. Inayat Ullah Khan
MBBS, MCPS, FCPS

Associate Prof: Dr. Arif Raza Khan
MBBS, FCPS

S.R: Dr. Muhammad Hafeez
MBBS, FCPS

Dr. Farman Ali
MBBS, FCPS

J.R: Dr. Ghulam Muhammad
MBBS, FCPS

P/Name R. Saadullah Age/Sex 24y, M

Address Peshawar

Admission No 1639390812 B/No 04

✓ DIA 4/8/2012 D/O 13/8/2012 D/D 29/8/2012 ✓

Diagnosis Thyroid nodule

Operation Completion Thyroidectomy.

CALAMOX
(Co-amoxiclav)
375mg, 625mg, 10 Tablets

CALAMOX
(Co-amoxiclav)
0.6G, 1.2G I.V. Injection

discharge



12

INVESTIGATION

HB GM % 12 % BT 3.2 Sec CT 4.3 Sec X-RAY

TLC		1.
DLC		2.
Urine Exam	BLOOD UREA	3.
Albumin	Hbs Ag - <i>ive</i>	4.
Sugar	Hcv Ab - <i>ive</i>	
Blood Sugar	Miscellaneous	

TREATMENT AT HOSPITAL

Inj Augmentin 1 gm BD
Inj Vovera SOS
Tab Galstan-D 1x DP
Syr metilcom 2 TDS
Tab Damaner-D 7 DS

13

OPERATION NOTES

Surgeon: Dr. Aimal Khan

Assistant: Dr. Kamran

Anesthesia LA/GA: _____

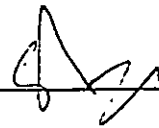
GA

Finding: Thyroid nodule Excisional
Completion Thyroidectomy.

Procedure:

Under GA and Aseptic measures
completion Thyroidectomy done, Hemostasis
Secured. Skin closed in reverse order.
ASD done.

Signature: _____



(Treatment at Home) گھر کے لئے علاج

Tabs Augmentin 1 gm 1+1
 (6) ن

Tabs Biotin 400 mcg 1+1+1
 (6) ن

Tabs Dexam DS 1+1+1
 (10) ن

Tabs Syp metilicon 2+2+2
 (5) ن

Follow Up

ٹائٹل ایمریٹس کے (8) دن بعد تہا 2

(20) دن مکمل آرام فرمائیے

آرٹھروٹائٹس اور جوائنٹس کے لئے

JUNIOR REGISTRAR
 ENT B WARI
 KTH, PESHAWAR

آئندہ مہل اہفتہ وار کے دن صبح 9 بجے ENT اپنی ڈی میں تشریف لائیں۔

Bosch

Handwritten scribbles on the left side of the page.

Ad# 163939 0812

BER TEACHING HOSPITAL, PESHAWAR

Ad# 12.46/7

UNIT EAST B WARD

①

TREATMENT CHART

Pt: Name Rakat Hash

Bed No. 4

Date	Medicine	Dose	Stop Date	REMARKS
13/8/12	Post OP orders:			Hb. 12-14
17/8/12	Amoxicillin	T 900 BD	11/2/12	BT 3.2nd
	M. Vora Soap			BT 6.30
	Dal Qalsan D	OD		BT 6.30
	Dal Bone-one	OD		BT 6.30
17/8/12	Dal Augmentin	TDS		Atbs HVC
	Dal Vora Soap	TDS		X. My Chem
25/8/12	SYD Multiv	2 TDS	92	B. CP
28/8/12	Dal Dimzu	DS TDS		S. Colm
	Breath sup			
	nasal			
	Cep. Vate		29/8/12	
	Dal Qalsan D			
	Dal Bone-one			
	Dal Dimzu			
	Dal Vora Soap			
	Dal Vora Soap			

KHYBER TEACHING HOSPITAL, PESHAWAR

PATIENT'S CASE SHEET

③

Book	Name <u>Rahat Allah</u> Age <u>25y</u> Sex <u>M</u> Address with the Identity Card No.....	
	Unit <u>ENT B</u>	
Date	Condition on admission and progress on case. Includes complaints present history, past history, family history, personal history, clinical examination, investigation and their result and the treatment prescribed, progress regular reports will be written daily.	
	C/C Swelling in front of nose → 2yrs → Respiratory difficulty - → pain/fever on/off → 2yrs	
	H/OPI: - According to the pt. He has having swelling in front of nose for last 2yrs associated to respiratory difficulty and pain as well as fever on/off pattern. Gradual in onset associated to weight loss Tumor and having no diarrhea or any associated symptoms.	
	→ System Review: Normal.	
	→ Past HX. → Past medical not significant Past physical →	
	→ Not significant	
	Family HX:	
	Not significant	
	ENT Exam.	
	→ Ear — Clear	
	→ Nose — Clear	
	→ Throat — Clear	
	Diffuse Swelling of Thyroid	

(4)

ای۔ این۔ ٹی۔ پی۔ وارڈ
 نیبر چچنگ ہسپتال پشاور
 مریض کی طرف سے آپریشن اور بے ہوشی کا
 اجازت نامہ
 (INFORMED CONSENT)

میں ارشدہ دارمریض داعیہ اللہ ولدانہ قدرت اللہ
 اجازت دیتا دیتی ہوں کہ میرا میرے رشتہ دار کا آپریشن ہونا ہے۔

آپریشن کا نام Completion Thyroidectomy جس کے متعلق اور اس کے
 مابعد اثرات کے متعلق مجھے ڈاکٹر ڈاکٹر نسیم سہیل صاحب نے سمجھا دیا ہے۔

میں اس بات کی بھی اجازت دیتا دیتی ہوں کہ آپریشن (Procure) کی ضرورت پڑے اور جو نہ بھی بتایا گیا ہو۔ وہ بھی کر دیا جائے اس کے علاوہ پورا نشہ
 یا مقامی نشہ دونوں میں جس کی بھی ضرورت پڑے، دینے کی اجازت دیتا ہوں اور دیتی ہوں۔

میں اس آپریشن نشہ کے خطرات اور پیچیدگی کو قبول کرتا کرتی ہوں۔ مجھے ایسی کوئی یقین دہانی نہیں کرائی گئی ہے کہ آپریشن خاص سرانجام دیں گے بوقت
 ضرورت سانس کی نالی میں سوراخ (Tracheostomy) کرنے کی اجازت دیتا دیتی ہوں۔

دستخط مریض داعیہ اللہ تاریخ 4/8/12

رشتہ دار کی صورت میں مریض سے رشتہ والد
 میں تصدیق کرتا کرتی ہوں کہ میں نے مریض ارشدہ دار کو آپریشن اور نشہ کے متعلق اور اس کے اثرات سے آگاہ کر دیا ہے۔

دستخط ڈاکٹر

19

11/20/2021

OPERATION THEATER NOTES ENT "B"
WARD, KTH.

5

Date: 13/2/22

OPERATION: Completion Thyroidectomy

SURGEON: Dr. Amjal

ASSISTANT: Dr. Kamran

ANAESTHESIA: Local General

ANAESTHETIST:

FINDINGS:

Thyroid nodules enlarged

Completion Thyroidectomy

PROCEDURE:

Under G/A and aseptic prep

Completion Thyroidectomy done
Hemostasis secured. Skin closed
in Reverse routine. ASD

XED
(Tranexamic Acid)
Inj. 250mg & 500mg Cap. 250mg & 500mg

DYCLIO
Diclofenac Sodium
Inj. 75mg/3ml & Tab 50mg, Tab SR

VERICEF
Cephadrine
Inj. 250mg 500mg & 1gm
Cap. 250mg 500mg
Susp. 125mg 250mg



KHYBER TEACHING HOSPITAL, PESHAWAR

UNIT ENT B

(7)

INTAKE & OUTPUT CHART

Date	Time	I/V	I/M	Orally	Date of Aspiration	Vomit	Urine	Stools
13/8/12	8 AM	W			Aspirate of Rugosa vom			2
13/8/12	8 PM	W			of Aspirate of Rugosa vom			2
14/8/12	8 AM	W			of Aspirate of Rugosa vom			2
14/8/12			10M		of Aspirate of Rugosa vom			2
15/8/12	8 AM	W			of Aspirate of Rugosa vom			2
16/8/12	8 AM	W			of Aspirate of Rugosa vom			2
17/8/12	8 AM	W			of Aspirate of Rugosa vom			2
17/8/12	8 AM	W			of Aspirate of Rugosa vom			2
17/8/12	8 AM	W			of Aspirate of Rugosa vom			2

Aspirate of Rugosa vom

B

22

8-1-12

CHARGE SHEET

(34)

I, Superintendent of Police, Cantt, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Rahatullah No. 4844 of Capital City Police Peshawar with the following irregularities.

"That you Constable Rahatullah No. 4844 of PS Regi remained absent from lawful duty w.e.f 10.08.2012 to 18.09.2012 (38 days). This amounts to gross misconduct on your part and against the discipline of the force."

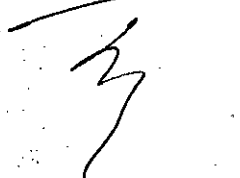
You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
CANTT, PESHAWAR

Muhammad


23

Diary No. 02-F
Date: 17-1-013

33

DISCIPLINARY ACTION

I, Superintendent of Police, Cantt., Capital City Police Peshawar as a competent authority, am of the opinion that Constable Rahat Ullah No. 4844 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975


STATEMENT OF ALLEGATION

"That Constable Rahat Ullah No. 4844 while posted at PS Regi remained absent from lawful duty w.e.f 10.08.2012 to 18.09.2012 (total 38 days). This amounts to gross misconduct on his part and against the discipline of the force."

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

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

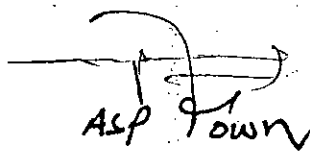
3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.


**SUPERINTENDENT OF POLICE,
CANTT, PESHAWAR**

No. 10 /E/PA, dated Peshawar the 08/01/2012

1. _____ is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

Call The Constable


ASP TOWN
9-1-013

C 24 6-6-13

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve you Constable Rahat Ullah No.4844 of Capital City Police, Peshawar as follows.

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

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

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

"That you Constable Rahat Ullah No.4844 while posted at PS Regi, Peshawar were absent from duty w.e.f 10.08.2012 to 18.09.2012 (38-days) and from 10.09.2012 till date without taking permission or leave. This act amounts to gross misconduct on your part and against the discipline of the force"

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

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

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

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


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 10 /PA, SP/HQrs: dated. Peshawar the 6-6 /2013.

Copy to official concerned



D

25

9-7-13

ORDER.

This office order relates to the disposal of formal departmental enquiry against constable Rahat No. 4844 of Capital City Police Peshawar on the allegations that i.e. while posted at DAR Peshawar was absent from duty on the following different period without taking permission or leave.

S #	From	To	Total absentee
01	10.08.2012	18.09.2012	38-days
02	27.10.2012	Till date	08 - months & 07 days
Total:			09 - months & 19 days

In this regard, he was issued charge sheet and summary of allegations. Enquiries in different period were initiated, conducted by SDPO Town.

In the 1st absence period, SDPO Town conducted the enquiry and submitted his report that alleged official did not attend the enquiry proceedings. The E.O further recommended for taking ex-parte decision against defaulter official vides Enquiry Report No. 02-E/S dated 03.04.2012.

In 2nd absence period, an enquiry was also conducted by SDPO Town & submitted his report/finding that defaulter official did not attend the enquiry proceeding. He recommended him for taking ex-parte action vide Enquiry Report No. 45-E/S dated 21.05.2013.

Upon the enclose of E.O, he was issued final show cause notice and delivered to him on home address through local Police PS Pishtakhara to which he received by himself but he failed to submit his explanation within stipulated period of 07-dyas or appeared before this office as yet.

In light of the findings of E.O and other material available on record, the undersigned came to conclusion that the alleged official has no interest in official duties and found guilty. Therefore, in exercise of the power vested to me under Police & Disciplinary Rules, 1975, he is hereby removed from service with immediate effect. Hence, the period he remained absent for 09-months & 19-days is treated without pay.

SD/-

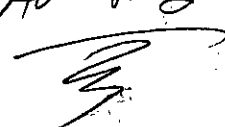
SR: SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. No. 2447 dated 09/07/2013

No. 2480-86/PA/SP/dated Peshawar the 09/07/2013 ✓

Copy of above is forwarded for information & n/action to:

1. Capital City Police Officer, Peshawar.
2. DSP/HQrs, Peshawar.
3. Pay Office, OASI, CRC & FMC along-with complete departmental file.
4. Official concerned.

Altered


5-8-13
26
E
خدمت جناب سیدی سیدی بی بی اور صاحب لہنڈا اور
درخواست پٹنراد کا اعدام فرار دینے کے حکم
مورخہ 09-07-2013

جناب عالی!

ذیل شرحیں ہیں

- (1) یہ کہ سائل سال 2007ء کو محکمہ پولیس میں بھرتی ہوا۔
 - (2) یہ کہ سائل کھانہ رنگی میں منتقل کیا گیا لیکن بیمار ہو کر 10 دن کی چھٹی کی
علاج معالجے کے بعد سائل نے دوبارہ ڈپوٹی جانشینی اور غیر حاضری کے
وقفے کی تنخواحات ادا کئے گئے۔
 - (3) یہ کہ بیماری نے دوبارہ سہراٹھا یا اور پولیس سہیل سے علاج شروع
کیا لیکن مناسب بندوبست نہ ہونے پر سائل کو خیبر ٹیچنگ ہسپتال
رہنہ کرنے کے حکم کا آپریشن کر ڈالا۔
 - (4) یہ کہ سائل دوبارہ ڈپوٹی دینے کے لیے حاضر ہوا لیکن اس وجہ پر واپس
کیا کہ سائل کے خلاف غیر حاضری کی کارروائی شروع ہو چکی ہے جو
مورخہ بالا کو سر و سر سے ہر طرف کیا۔
 - (5) یہ کہ غیر حاضری عہدہ وقفہ نہ تھی بلکہ مذکورہ بالا وجوہات کی بنا پر تھی۔
 - (6) یہ کہ سائل کو ہر طرف کرنے سے ملے والی تقاضے پورے نہیں کئے گئے۔
- جناب سے التماس ہے کہ حکم مورخہ 09-07-13 کو کالعدم فرار دیکر
سائل کو سالفہ عہدہ مراعات کے ساتھ بحال کرنے کا حکم صادر
فرمایا جائے۔

المقدمہ 13-08-08

العارضین

راحت اللہ ولد قدرت اللہ

سابقہ کنسٹیبل پلٹ نمبر 48471

سکنہ آبدردہ بالا ولی آباد ڈاک خانہ پٹنراد پولیس سٹیشن پٹنراد

Amir

3

خدمت فٹ سی سی پی او ^ص لیسٹ اور

درواست نیراد بحالی مدرنت
بحثت کٹیشن

عالی ^خ سائل دل عرض رساں ہے -

- ① یہ کہ سائل فیکر پولس میں سال 2007 کو کھرتی ہوئی
- ② یہ کہ سائل ایک جوان العمر اور لیلیا فٹ ہے
- ③ یہ کہ سائل باقاعدہ تربیت یافتہ ہے
- ④ یہ کہ سائل تربیت کے لیے کھائی گئی سب لیلیا فٹ اور لیلیا فٹ
- ⑤ یہ کہ سائل باقاعدہ تربیت یافتہ ہے
- ⑥ یہ کہ گورنر صاحب پولیس سپرٹال نے سائل کو خیر بھنگا سپرٹال بھجوا دیا اور
- ⑦ یہ کہ KTH میں گلے کا پیرسٹن Thyroid یعنی مکمل ایئر لیس ہوئی
- ⑧ یہ کہ KTH سے فراغت کے لیے گھر میں ویر عہدج ہے
- ⑨ یہ کہ نا سمجھی کی بنا پر غیر حاضر یا بیوہ کی ہے جو باکا الہ نہیں تھی
- ⑩ یہ کہ گھوس کوئی ال شخص عرنہ نہیں تھا۔ جو کہ سائل کی بیماری کے
- ⑪ متعلق ٹھکانہ ہے اور ان کو اطہر بیوقت دے دیا
- ⑫ یہ کہ جیلہ غیر حاضر یا اتفاقی معاملہ ہے نہ کہ جیل بوجھ
- ⑬ غیر حاضر یا بیوہ کی ہے
- ⑭ یہ کہ سائل مدرنت سے علیحدگی کی بنا پر

Handwritten signature and initials.

جے اورنگ آباد کی ہے

⑬ یہ کہ سال کے اس دروازے پر پھلوانے

عزیزانہ طور پر جان کر کلکتہ میں دوبارہ خدمت

کرنے کا موقع ملے گا۔

بہت سے فرائض ہوگی

سب سے پہلے اللہ تعالیٰ سے 4849 واپس آئے

کے آدرہ مالاً وہی آبار کی آگاہی لے کر پورے طور پر

آدرہ

At

At

At



G 29 8-1-16

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

Phone No. 091-9210989
Fax No. 091-9212597

ORDER

This order will dispose off departmental appeal preferred by ex- constable **Rahat Ullah No.4844** who was awarded the major punishment of **Dismissal** from service under Police Rules-1975 vide OB No. 2447 by SP/HQrs: Peshawar on the charge mentioned below:-

- He while posted at PS Regi, absented him self w.e.f. 10.8.2012 to 18.9.2012 (38 Days) and again from Police Lines Peshawar, w.e.f. 27.10.2012 to 9.7.2013 (8 Months, & 7 Days) (Grand 9 Months & 19 days).

2- Proper departmental proceedings were initiated against him and Mr. Rana Umer Farooq ASP-Town, was appointed as the E.O. The E.O summoned the delinquent official repeatedly but he failed to attend the departmental proceedings. As such the E.O concluded the enquiry and found him guilty on the charge of absence and recommended ex-parte action.

3- On receipt of the findings of the E.O, the delinquent constable Rahat Ullah was issued Final Show Cause Notice by SP/HQrs but he failed to submit his reply within stipulated period, hence awarded the above major punishment.

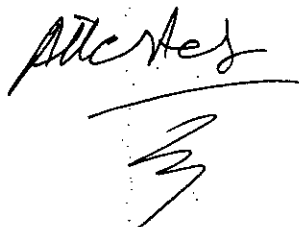
4- He was called in O.R. on 8.1.2016, and heard in person. Enquiry file was thoroughly examined. He was provided full opportunity to defend himself but he failed to defend himself. The allegations leveled against him stand proved. Appeal is also time barred for 02(two) years and 05(five) months, therefore, the order passed by SP-HQrs: is upheld and his appeal for re-instatement in service is rejected/filed.


**CAPITAL CITY POLICE OFFICER,
PESHAWAR. 11.1.16**

No. 94-100/PA dated Peshawar the 8/1/2016.

Copies for Information and n/a to the:-

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



بعد الت جناب سرس ٹریبونل صوبہ سرحد پشاور

مجناب ایڈوائسنگ

رافت الکر بنام محکمہ لوہی و طہرا

دعوی اپیل

باعث شکریہ اینکہ

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیسٹیم سگنڈ اگاس خان سووندے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقرر ثالثہ و فیصلہ بحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست ہر قسم کی تقدیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برگدگی اور سوسنجی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مشاور قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا و دوران مقدمہ میں جو شرحہ و پر جانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و فرجیہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

المرقوم 3 2 16

العبد العبد العبد

ارباب ایڈووکیٹ

سعد اللہ خان مروت ایڈووکیٹ

[Signature]

Pubina من رویتہ تار ایڈووکیٹ

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.139/2016.

Rahat Ullah Ex- Constable No.4844 Police Line Peshawar.....Appellant.

VERSUS.

1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, HQrs, Peshawar.....Respondents.

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

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. In fact the appellant absented himself from his lawful duty without taking leave / permission from his seniors.
- (3) Para No.3 is for the appellant to prove.
- (4) Para No.4 is correct to the extent that the appellant while posted at PS Regi,Peshawar absented himself from his lawful duty w.e.f 10.08.2012 to 19.09.2012(38 days) and again from Police Lines Peshawar w.e.f.27.10.2012 to 09.07.2013(08 months and 07 days)(total 09 months and 19 days). In this regard he was proceeded departmentally and was issued Charge Sheet and Summary of Allegations. ASP Town was appointed as enquiry officer. He summoned the appellant time and again but he did not turn up, hence the enquiry officer recommended him for ex-parte action. Upon the findings of enquiry officer, he was issued final show cause notice, which he received by himself but he failed to submit his reply. As the charges of deliberate absence were stood proved against him, hence he was awarded major punishment of removal from service vide OB No.2447 dated 09.07.2013 by SP HQrs Peshawar.
- (5) Para No.5 is totally incorrect and denied. In fact the appellant was issued a charge sheet and summary of allegations. He was given full opportunity to defend himself but he failed to appear before the enquiry officer.
- (6) Para No.6 is correct to the extent that the appellant was issued a final show cause notice which he received by himself but he failed to submit his reply within the stipulated time.

- (7) Para No.7 is correct to the extent that after fulfilling all codal formalities, he was awarded major punishment of removal from service vide OB NO.2447 dated 09.07.2013 by SP HQrs Peshawar.
- (8) Para No.8 is totally incorrect and denied. In fact the appellant filed an appeal before the appellate authority after a lapse of about 02 years and 05 months. ✓
Which after due consideration was reject/filed.

GROUNDS:-

- (A) Incorrect. The appellant wilfully absented himself from duty without taking permission/leave.
- (B) Incorrect. The appellant did not adopted proper procedure for taking leave/permission.
- (C) Incorrect. As above.
- (D) Incorrect. The appellant was issued charge sheet and summary of allegations. He was also issued final show cause notice and was personally served upon him but he failed to submit his reply.
- (E) Incorrect. The appellant was treated as per law and rules. All codal formalities were fulfilled.
- (F) Incorrect. The appellant was given full opportunity to defend himself.
- (G) Incorrect. The appellant preferred a departmental appeal after lapse of about 02 years and 05 months. As the charges leveled against him were stood proved and his appeal being time barred was rejected/filed.
- (H) Incorrect. The punishment order was passed as per law and rules.
- (I) Incorrect. The appeal of appellant was badly time barred for about 02 years and 05 months.
- (J) Incorrect. The appellant willfully absented himself from his lawful duty.
- (K) Incorrect. All codal formalities were fulfilled.

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.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQrs, Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.139/2016.

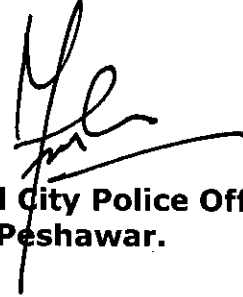
Rahat Ullah Ex- Constable No.4844 Police Line Peshawar.....Appellant.

VERSUS.

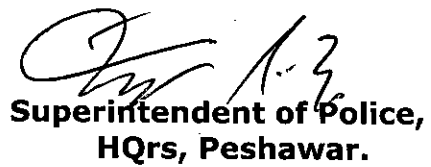
1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, HQrs, Peshawar.....Respondents.

AFFIDAVIT

We respondents No. 1 , & 2 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.



**Capital City Police Officer,
Peshawar.**



**Superintendent of Police,
HQrs, Peshawar.**

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 139/2016

Rahat Ullah

Versus

CCPO Peshawar & Another

REJOINDER

Respectfully Sheweth,

PRELIMINARY OBJECTION

All the 07 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is time barred, the same is bad for mis and non-joinder of parties, unclean hands, no cause of action, estoppel, concealment of facts and without jurisdiction.

ON FACTS

1. Needs no comments.
2. Not correct. Infact, appellant was allowed leave by SP, Shabeeh Hussain but after operation of throat, appellant reported for duty and on seeing the condition, the said SP told that as and when you became legible for duty, then resume the same. (
3. Para is covered with support of medical prescriptions.
4. Admitted correct by the respondents. As for as absent is concerned, the same has been explained in the preceding para.
5. Not correct. The para of the appeal is correct, regarding conduct of inquiry, final show cause notice and personal hearing.
6. Admitted correct by the respondents.
7. As above regarding removal from service.
8. Not correct. As and when appeal was rejected on merit, then no question of lapse was aroused.

G R O U N D S:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are again adopted.

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

Appellant

Through



Saadullah Khan Marwat
Advocate,

Dated: 11.08.2016

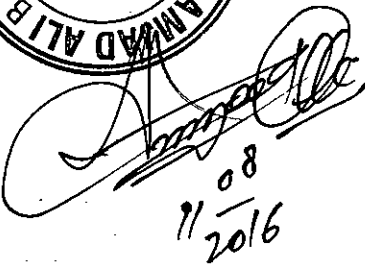
A F F I D A V I T

I, Rahat Ullah appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.


DEPONENT

ATTESTED



Handwritten signature and date: 11/08/2016

Before The KP Service Tribunal, Peshawar

Service Appeal ——— |

Rahat ulah vs Police

Application for adjournment


Sir,

Respectfully submitted that,

- that the above noted case is fixed before this honorable tribunal for argument on today.

- that the counsel of appelland busy in some family issue and ^{not} present today.

it is therefore most humbly requested that the case of appelland may be adjourned.


Rahat ulah

26-2-2020