BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT SWAT

Service Appeal No. 1252/2016

Date of Institution...

21.12.2016

Date of decision...

06.12.2017

Attaullah (Police Constable No. 1666), Swat R/O village Kokaray Tehsil Babozai, District Swat. (Appellant)

Versus

District Police Officer, Swat and two others.

(Respondents)

MR. SHAMSUL HADI,

Advocate

For appellant.

MIAN AMIR QADAR,

District Attorney.

For respondents.

MR. NIAZ MUHAMMAD KHAN, MR. MUHAMMAD HAMID MUGHAL, **CHAIRMAN**

MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

The appellant was removed from service on 27.09.2016, against which he filed departmental appeal on 24.10.2016 which was rejected on 22.11.2016 and thereafter the present service appeal on 21.12.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that 110 days absence of the appellant has been treated as leave without pay in the impugned order. That the



absence has been legalized, therefore, no penalty could be imposed on the appellant.

4. On the other hand the learned District Attorney argued that the authority has taken a lenient view by not dismissing the appellant from service. That the appellant was a habitual absentee. That in the year, 2014 he was also granted minor penalty of withholding of two annual increments. That proper enquiry was conducted in the present case.

CONCLUSION

- 5. This Tribunal in so many judgments has held that when absence is converted into leave of any kind, then the absence become legalized. These judgments have been based on a reported judgment of the august Supreme Court of Pakistan reported as 2006-SCMR. 434. The legalization of the absence into leave would result in the impugned order to be of no legal value. The past conduct of the appellant would not help the respondents to defend this illegal order.
- 6. Consequently, this appeal is accepted and the appellant is reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with the law. The issue of back benefits shall be subject to denovo proceedings. Parties are left to bear their own costs. File be consigned to the record room.

az Muhammad Khan)

Chairman
Camp Court, Swat

(Muhammad Hamid Mughal) Member

<u>ANNOUNCED</u> 06.12.2017

07.04.2017

Appellant in person present. Mr. Khawas Khan, S.I (legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents also present. Written reply by respondents submitted. To come up for rejoinder and arguments on 05.09.2017 before D.B at Camp Court Swat.

(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

Camp Court Swat

05.09.2017

Clerk of counsel for the appellant and Mr. Muhammad Zubair, District Attorney alongwith Mr. Khawas Khan, S.I (Legal) for the respondents present. Rejoinder submitted. Counsel for the appellant is not in attendance. Seeks adjournment. Adjourned. To come up for final hearing for 06.10.2017 before D.B at camp court, Swat.

Member

Chairman Camp court, Swat.

06.12.2017

Counsel for the appellant and Mian Amir Qadar, District Attorney alongwith Khawas Khan, S.I (Legal) for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

Member

Chairman
Camp Court, Swat.

ANNOUNCED 06.12.2017

05.1.2017

Learned counsel for the appellant argued that the appellant was serving as constable when removed from service vide impugned order dated 27.09.2016 on the allegations of wilful absence where-against he preferred departmental appeal which was also rejected vide order dated 22.11.2016 and hence the instant service appeal on 21.12.2016.

That no enquiry in the mode and manners prescribed by rules was ever conducted.

Appallar Deposited
Security Process Fee

Points raised need consideration. Admit. Subject to deposit of security and process fee notices be issued to the respondents for written reply/comments for 10:02:2017 before S.B at camp court Swat.

Chairman Camp court, Swat

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10.02.2017

Counsel for the appellant and Mr. Khawas Khan, SI (Legal) alongwith Mian Amir Qadar, GP for the respondents present. Requested for adjournment. To come up for written reply/comments of 07.4.2017 before S.B at camp court, Swat.

Chairman Comp Court, Swat

Form- A FORM OF ORDER SHEET

Court of		•		
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Case No	• •	1252 /2 0	16	

. ,	Case No	1252/2016
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1		3
1	. 2	3
. 1	21/12/2016	The appeal of Mr. Attaullah presented today by Mr.
	i	Shams-ul-Hadi Advocate may be entered in the Institution
		Register and put up to the Worthy Chairman for proper order
		please.
		REGISTRAR
2-	26-12-2016	This case is entrusted to Touring S. Bench at Swat for
·	;	preliminary hearing to be put up there on $05-01-2017$.
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		CHAIRMAN
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BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. <u>1252</u>/2016.

Attaullah (constable No.1666)Appellant

VERSUS

District Police Officer Swat and others.....Respondents

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Attaullah (Police Constable No. 1666)

Appellant

Through

Dated: 19/12/2016.

Shams ul Hadi

Advocate, Peshawar.

Office: Near Al-Falah Mosque, Hayat

Abad, Mingora.

Cell No. 0347-4773440.

BEFORE THE KHYBER PAKHTOON KHWA SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 1252/2016.

Attaullah (Police Constable No. 1666)

Earlier posted at Police Line Sweat

Chyber Pakhtukhwa
Service Tribunal

Diary No. 1307

Dated 21-12-20/6

R/O Village Kokaray Tehsil Babozay District Swat......Appellant

VERSUS

- 1. District Police Officer, Swat.
- 2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE
ORDERSDATED:27.09.2016 & 22/11/2016.



PRAYER IN APPEAL:

On acceptance of this appeal the impugned Orders dated: 27.09.2016 and 22/11/2016 regarding major penalty i-e removal of service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Respectfully Sheweth:

1. That initially the appellant joined the respondent/department in the year 2009 and as such

performed his duties with zeal and zest and till date no compliant what so ever has been recorded from any quarter.

- 2. That during his service the appellant suffers from some minor kind of Psychiatric issues and as such the appellant due to severe illness, with permission of concerned officer, visited a doctor, where 4 months complete bed rest was advised to him by the doctors so the appellant brought the same in the knowledge of the concerned high ups.
- 3. That during his illness period of the appellant, the concerned officer with ill intention absented the appellant from duty and as such regarding one and same allegation i-e willful absence from duty, so called inquiries in shape of three Finding reports were initiated against the appellant by the Resp No.1, where in two of them, ininor penalties were recommended by the inquiry officer and in only one of finding report, major penalty i-e removal from service was recommended for appellant, and as such finally major penalty in shape of removal from service was imposed upon appellant vide impugned order dated:27.09.2016. (Copies of inquiry reports and impugned office order dated:27.09.2016 are annexure:A)
- 4. That against the impugned order dated:27.09.2016 the appellant filed departmental appeal before the Resp No.3

where the same was rejected vide order dated:22.11.2016 with strange observations that the "application of the appellant was examined by the worthy Regional police officer, Malakand and filed" (Copy of Departmental appeal and order dated:22.11.2016 is annexure-B)

5. That when the appellant contacted the office of Resp No.3 where the appellant was informed that his departmental appeal has been rejected vide office order dated:22.11.2016.

That being aggrieved from the impugned orders, the appellant approached this Hon'ble Tribunal on the following grounds amongst other inter alia:

GROUNDS:

- A. That the impugned office orders are against the facts, law and procedure, hence, untenable being unjust and unfair.
- B. That the appellant was not treated in accordance with law and rules, thus acted in violation of the relevant laws laid down for the purpose.
- C. That the whole departmental proceedings against the appellant was based on personal ill well and with ill intention a harsh and illegal penalty was imposed on the appellant.

- D. That no opportunity in shape of personal hearing was afforded to the appellant during enquiry proceedings and as such no statement of allegation was issued to the appellant nor any show cause notices were communicated to the appellant, So legal formalities were ignored by the respondents and a harsh penalty was imposed upon appellant.
- E. That any other ground may be adduced during the course of argument, with the kind permission of this Hon'ble Court.

It is, therefore, most humbly prayed that On acceptance of this appeal, impugned Orders dated: 27.09.2016 and 22.11.2016 regarding major penalty i-e removal of service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Attaullah (Police constable No. 1666)

Appellant

Through

Shams ul Hadi Advocate, Peshawar.

Dated: 19/12/2016

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service	Appeal	No.		/2016.
	- -		·	•

Attaullah (constable No.1666)Appellant

VERSUS

District Police Officer Swat and others.....Respondents

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information convoyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



ADVOCATE

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No/2016.
Attaullah (constable No.1666)Appellant
VERSUS
District Police Officer Swat and othersRespondents

ADDRESSES OF THE PARTIES

APPELLANT:

Attaullah (Police Constable No. 1666)

Earlier posted at Police Line Sweat

R/O Village Kokaray Tehsil Babozay District Swat

Cell No.0345-9526282.

Dated: 19/12/2016

RESPONDENTS:

1. District Police Officer, Swat.

2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

3. Deputy Inspector General of Police, Malakand Region, Saidu Sharif Swat

Appellant

Through

Shams ul Hadi

Advocate, Peshawar.

ضلع سوا. خلاصه الزام: كنستيبل عطاء الله نمبر 1666مور نه 01.04.2016 بحواله مد 14 لا ئن كبل ہے غير حاضر ہو كر نقلمد بغر ض محكمانه كاروائي آفسران بالا كے خدمت میں آرسال كی گئی DPO صاحب نے تستیبل بذکورہ کے خلاف چارج شیٹ نمبر 89/E محررہ 4.04.2016 کرے من SDP0 کوانکوائیر کی آفسر مقرر کیا گیا۔ تفصیل شختین: دوران ا^{نک}وائیری کلیم جان **۱۸۸۱** پولیس لائن کمبل کا بیان لیاجا کر بیانی میک كنسفيبل مذكوره بحواله مد 44 روزنامجيد 1.04.2016 سے بدستور غير حاضر ہے۔ بندش تنخواه / محكمانه كاروائي شروع كرنے كيليے درخواست ہائے آفسران بالا كو بھيجوائے گئے ہے۔ كنسٹيبل مذكورہ عادى غیر حاضر باش ہے۔ جہاں بھی تبدیل ہو تا ہے۔ پولیس لائن کو واپس کیا جاتا ہے۔ نا قابل اعتاد پولیس آفسر ملزم کنسٹیبل عطاء اللہ **1666** بیانی ہیکہ مجھے ذہنی بیاری ہے۔ میں نے مختلف ڈاکٹر زصاحبان سے علاج معالجہ کروایا ہے۔ جسکے چند نقولات بطور ثبوت بیش کرتا ہوں۔ میں نے غیر حاضری یہ آمر مجبوری کی ہے۔ آئیندہ كيليَّة مختلط مو زُوَّا۔ اس بار معانی دیجائے۔ نوكري کا خواہات مول۔ تنسٹیل غیر حاضری کا عادی ہے۔مزم تنسٹیل جس نے بیاری خود (زہنی امراض مجبیان کرے چند کاغذات ڈاکٹری پیش کر کے ملاحظہ کرنے پر مذکورہ کواگر چہ ڈہنی بیاری کاشکایت تھا۔ لیکن ملزم کنسٹیبل نے با قاعدہ طور روائلی / واپسی نہیں کی ہے۔ اور نہ ہی مصدقہ میڈیکل سرمیفیکٹ پیش کی ہے۔ ملزم كنستيل كل (03) ماه (19) دن (16) كفيّ اور (20) منت غير حاضر ره كريعني كل (110) آيام . غییر حاضررہ چکا ہے۔ ملزم کنٹ یا کے متنقبل اور غربت کو مد نظر رکھتے ہوئے آیام غیر حاضری بلا تنخواہ کرنے اور بطور سزا OBNO167 🖜 یوم کوارٹر گارڈ کی سزاد ینے کی سفارش کیجاتی 🚁 --2-2-9-16. Day In air muin af Bufut valuesed & More period be freuted as without my and py Dun II ma- 00° 1/6

Deleck

كنسليبل عطاءالله نمبر 1666 مور فيه 104.2016 بحواليه مد 44 يوليس لائن كبل سے غیر حاضر ہوکر نظمد بغرض محکمانہ کاروائی آفسران بالا کے خدمت میں آرسال کی گئی ۔جناب DPO صاحب نے کنسٹیبل ندکورہ کے خلاف جارج شیٹ نمبر E محررہ 24.04.2016 جاری کر کے من SDPO کوانکوائیری آفسر مقرر کیا گیا۔

دوران انکوائیری کلیم حان MASI پولیس لائن کبل کا بیان لیاجاکر بیانی سیکه شیبل مذکورہ بحوالیہ مد 44روزنامچہ 01.04.2016سے بدستور غیر حاضر ہے۔ بندش تنخواہ / محکمانہ کاروائی شروع کرنے کیلئے درخواست ہائے آفسران بالا کو بھیجوائے گئے ہے۔ کنسٹیبل مذکورہ عادی غیر حاضر ۔ 'اپٹن ہے۔ جہاں بھی تبدیل ہو تاہے۔ یولیس لائن کو داپس کیا جا تاہے۔ نا قابل اعتاد یولیس آفسر ہے۔

کلیم جان MASI پولیس لائن کبل کے بیان اور دیگر تحقیقات سے معلوم ہواہے کہ _____ شیبل غیر حاضری کاعادی ہے۔ مذکورہ کنسٹیبل کونصیحت صدابہ صحر اکے برابر ہے۔

کنسٹیبل ند کورہ کو سنگین سزا دینے کی سفارش کیجاتی ہے۔ تاکہ دوسرے پولیس جوانان غیر حاضری جیسی موذی بہاری سے نجات اور مذکورہ کے سزاسے سبق حاصل کر مسکے۔

Issue Final Show Case Notice

attested

فائينيز نگ رپورٹ

قلاصد الزام: كنسٹيبل عطاء الله نمبر 1666 متعينه گام درال خور کنخاف انسکٹر صاحب نويد اقبال خان انبارج درال خور نے بذريور وائير لس اطلاع ديكر كه كنسٹيبل مذكورہ انتہائى غير ذمه دار اور غير وسپلن المكار ہے۔ مذكورہ كنسٹيبل ہے كى بھى پوائن پر سكور ئى ك وائير لس اطلاع ديكر كه كنسٹيبل مذكورہ انتہائى غير ذمه دار اور غير وسپلن المكار ہے۔ مذكورہ كنسٹيبل مذكورہ دنام 22/03/2016 تعانه بحرين درج ہوكر آفسران بالا كے خدمت ميں جيجوايا جاكر جناب PP صاحب نے كنسٹيبل مذكورہ كو چارج شيث نمبرى 90/E محررہ 26/04/2016 جارى كركے اكوائيرى كے خاطر من SDP كو جيجوايا گيا۔

تفصیل تحقیق: دوران انگوائیری نیاز محمد محرر، امتیاز علی خان ۱۳۵۵ تمانه بحرین اور کلیم جان محرر ۱۱۵ پولیس لائن و فتر ہذا طلب کر کے جن کے بیان گئے ہیں۔ جبکہ ملزم کنسٹیبل بھی و فتر ہذا آکر کابیان لیا گیا۔

نیاز تحد محرر بیانی ہیکہ وہ تھانہ بحرین میں بحیثیت محرر تعینات ہے۔ کنسٹیبل عطاءاللہ 1666مور ند 23/02/2016 کو تھانہ بحرین آکر اپنے جائے تعیناتی درال خوڑ روانہ کیا گیا تھا۔ اور درال خوڑ میں ڈبوٹی پر مامور تھا۔ انچارج گارد درال خوڑ انسپٹر نوید اقبال خان کی اطلاع پر گئیر مامور تھا۔ انچارج گارد درال خوڑ انسپٹر نوید اقبال خان کی اطلاع پر گئروں کسٹیبل کے خلاف بحوالہ مد 25روز نامچہ کو 201/03/2017ر پورٹ درج روز نامچہ کر کے انسپٹر صاحب نے نہ کورہ کے نسبت جناب کا کا کا دروانہ کیا گیا ہے۔

ا متیاز علی خان SHO بحرین بیانی ہیکہ گنسٹیبل عطاء اللہ 1666 گارد درال خوڑ میں تعبینات تھا۔ جس کے ڈیوٹی سے انچارج گارد درال خوڑ میں مطبین نہیں تھا۔ انچارج گارد درال خوڑ توید اقبال انسپئٹر صاحب نے ند کورہ کے خلاف بحوالہ مد 25روز نامچہ گارد درال خوڑ نوید اقبال انسپئٹر صاحب نے ند کورہ کے خلاف بحوالہ مد 25روز نامچہ کرواکر جناب SDPO صاحب سرکل مدین کے نوٹس میں لاکر مذکورہ کو 188 پولیس لائن روانہ کیا گیاہے۔

کلیم جان محرر **818 پولیس لائن بیانی ہیکہ کنسٹیبل عطاء الله 666 آبخوالہ ید 44روزنامچہ 01/04/2016** سے بدستور غیر حاضر ہے۔ بند ثن تنخواہ اور محکمانہ کاروائی شروع کرنے کیلئے درخواست ہائے آفسران بالا کو بھیجوائے گئے ہے۔ کنھٹیبل نہ کورہ عادی غیر حاضر باش ہے۔ جہاں بھی تبدیل ہو تاہے۔ پولیس لائن کوواپس کیاجا تاہے۔ نا قابل اعماد پولیس آفسرہے۔

ملزم مستمبل عطاء الله نمبر 1666 بیانی ہیکہ میں درال خوڑ میں تعینات تھا۔ مجھے ذہنی بیماری ہے۔ میں بغیر حصولی اجازت گھر خود جاکر انچارج نے میرے خلاف رپورٹ درج روزنامچہ کی جسمیں میرے انگوائیری شروع ہے۔ میں ذہنی بیاری کے باعث غیر حاضر بھی رہ چکا ہوں۔ اب قدر صحت باب ہو چکا ہوں۔ نوکری کانواہان ہوں۔ معانی دی جائے۔

نتیجہ همتین: بنیجہ همتین: بنسلیل نے ذہنی بیاری بیان کرکے جان خلاص کر ائی ہے۔ تا ہم ملزم کنسٹیبل کو انکوائیری ہذا میں رگائے گئے الزامات کا قصور وارپایا جاکر ابطور سزاایک ہفتہ کوارٹر گارڈو یے کی سفارش کیجاتی ہے۔

SDPO.RABAL

ATTESTED

OR INC 167

27.90.16

(10)

<u>ORDER</u>

This order will dispose off the departmental enquiries against Constable Attaullah No.1666, he is liable for the following charges:-

- He while posted to JIS Police Lines has absented himself from lawfu duty without prior permission or leave vide DD No.44 w.e.f. 01-04-2016 for 110 days.
- He while deputed for security duty at Hydro Power Project, Daral Khwar, Bahrain was found undisciplined and reportedly not taking interest in the performance of his lawful duty as per report of SHO Police Station ahrain dated 25/03/2016.

All these based on mollified intention and negligence on his part

He was issued Charge Sheets alongwith statements of Allegations and SDPO/Kabal was deputed as Enquiry Officer in both departmental enquiries. The Enquiry Officer conducted proper departmental enquiries against the delinquent official and recorded the statements of all concerned officers. The Enquiry Officer provided ample opportunity to the delinquent official to defense the charges rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he intimated that the allegations leveled against him are proved during enquiry. He was heard in person in Orderly Room on 27-09-2016, but he did not present any plausible defense for the charges rendered by him.

Therefore, in exercise of the powers vested to the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Muhammad Saleem Marwat, PSP, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Removal from Service with immediate effect. Period of absence of 110 days is treated as leave without pay.

Order announced.

District Police Officer, Swat

0.B. No. 167 Dated 97/8/2016

Copy to Pay Officer for necessary action.

ATTESTED

سر المراب المرا

كنستيبل عطاءالله نمبر1666 متعين جاويدا قبال شهيد پوليس لائن سوات حال برخاست شده ساكن كوكار كى تخصيل با بوز كى ضلع سوات _

.....ينام

(۱) جناب ڈسٹرکٹ پولیس آفیسرصاحب شلع سوات۔

(۲) جنابS.D.P.O صاحب كبل سركل ضلع سوات _ _____ ديسيا وثنش

عنوان: محکمانہ اپیل پر خلاف عم معترضہ جناب ریبانڈنٹ نمبر 1 مصدرہ آرڈر بک نمبر 167 مورنہ 2016-29-20 فائینڈ نگ رپورٹس ریبانڈنٹ نمبر 2 بلاتاریخ جس کی روسے جناب ریبانڈنٹ نمبر 1 نے من ایبلانٹ کونوکری سے برخاست کرنے اور 110 آیام کو بلا جناب ریبانڈنٹ نمبر 1 نے من ایبلانٹ کونوکری سے برخاست کرنے اور 110 آیام کو بلا تخواہ شمار کرنے کا حکم صادر فر مایا ہے (نقولات عمم معتر ضرمور ندہ 2016-29-09 فائینڈ نگ رپورٹس شامل اپیل ھذاہیں)۔

استدعائے ایل:

بمنظوری محکمانہ اپیل هذا تھم معترضہ جناب ریسپانڈنٹ نمبر 1 مصدرہ آرڈر بک نمبر 167مورخہ 27-09-20 کوکالعدم اورمنسوخ قرار دیا جا کرمن اپیلانٹ کی نوکری پر بحال کرنے اور 110 یوم غیر حاضری کومیڈیکل لیومیں تارکرنے کا تھم صادر فرمایا جائے۔

جناب عالی! اپیلانٹ ذی*ل عرض رساں ہے*۔

ا۔ یہ کہ اپیلانٹ مورخہ 2009-11-21 کو بحثیت کنٹ طیبل محکمہ پولیس سوات میں ریگولر بنیاد پر مجمعی میں میں میں میں مجرتی ہوا تھا۔

۲۔ یہ کہ محکمہ پولیس میں جمرتی ہونے کے بعدا پیلانٹ نے اپنے فرائض منصبی نہایت خوش اسلوبی اور

€012€

احسن طریقے سے سرانجام دیئے ہیں اور آفسران بالا کو کسی قتم کی شکایت کا موقع فراہم نہیں کیا ہے اور آئندہ کیلئے بھی اپیلانٹ اپنی ڈیوٹی جانفشانی اور احسن طریقے سے سرانجام دیگا۔

۔ سیکہ پورے سروس کیرئیر میں من اپیلانٹ نے غیر حاضری مذکورہ قطعاً وقصداً عرائیس کیا ہے بلکہ اپیلانٹ دوران ڈیوٹی اچا تک نفسیاتی و دماغی اور اعصابی بیاری میں مُبتلا ہوکر برائے ضروری علاج معالجہ بار بار متعلقہ سپیشلسٹ ڈاکٹر ز کے ہاں برائے ضروری معائنہ جا کر مختلف نفسیاتی ڈاکٹر صاحبان نے علاج تجویز کیا ہے نیز چسٹ سپیشلسٹ نے بھی معائنہ کر کے علاج تجویز کیا ہے نیز چسٹ سپیشلسٹ نے بھی معائنہ کر کے علاج تجویز کیا ہے (نقولات ڈاکٹری نسخہ جات لف اپیل ھذاہیں)۔

سے کہ حلفاً اقر ارکرتا ہوں کہ من اپیلانے نے قصداً عداً غیر حاضری کا ارتکاب نہیں کیا ہے بلکہ نفسیاتی اور اعصابی بھاری کی وجہ سے قتی طور پر ڈیوٹی سرانجام دینے سے قاصر رہا اور بہ امر مجبوری متعلقہ ڈاکٹر صاحبان سے معائنہ کروا کر مذکورہ ننخہ جات میں ایسے دوائیاں تجویز کی گئ تھی کہ جس کیلئے ہمہ وقت آرام کرنا ضروری تھا بدیں وجہ بوجہ بھاری آ فسران بالاکو بروقت اطلاع نہ دے سکا اور جو نہی بھاری سے فاقہ ہوا تو من ابیلانٹ اپنی ڈیوٹی پر حاضر ہوا اور پولیس لائن میں بحوالہ مدنمبر 29روزنامچہ 2016 - 20 - 21 کو با قاعدہ طور پر جاضری کی (نقلمد ممبر 29روزنامچہ 2016 - 20 - 20 کو با قاعدہ طور پر جاضری کی (نقلمد ممبر 29روزنامچہ 2016 - 20 - 20 کو با قاعدہ طور پر جاضری کی (نقلمد ممبر 29روزنامچہ 2016 - 20 کی با قاعدہ طور پر جاخری کی (نقلمد ممبر 29روزنامچہ 2016 - 20 کی با قاعدہ طور پر جاخری کی دونام کے دونام کے دونام کے دونام کی دونام کے دونام کے دونام کے دونام کے دونام کے دونام کی دونام کے دونام کے دونام کو دونام کے دونام کی دونام کے دونام کی دونام کی دونام کے دونام کے دونام کے دونام کی دونام کے دونام کی دونام کی دونام کی دونام کے دونام کی دونام کے دونام کی دونام کی دونام کے دونام کے دونام کے دونام کی دونام کے دونام کی دونام کی دونام کے دونام کے دونام کی دونام کی دونام کی دونام کے دونام کی دونام کی دونام کی دونام کو دونام کی دونام کے دونام کی دونام ک

۔ یہ کمن اپیلانٹ کا والد محتر محکمہ پولیس میں بحثیت سب انسپکٹر رینک پرڈیوٹی سرانجام دے رہا ہے اور ایک پولیس آ فسر کا بیٹا ہونے کے ناسطے اور اُس کے بہتر تربیت کے بیش نظر من اپیلانٹ قصداً عمداً فرائض منصی سے غیر حاضری تو گجا بلکہ من اپیلانٹ اس کا سوچ بھی نہیں کر سکتا لیکن موجودہ غیر حاضری نہایت مجبوری اور بیاری کے پیش نظر ہوچکی ہے لیکن ریسپانڈنٹس نے دور ان انکوائری اور حکم معترضہ مور خہ 2016-29-29 صادر کرتے وقت اس حقیقت کو سامے ٹہیں رکھا اور من اپیلانٹ کو بہ جمیش قلم بغیر تھوں وجو ہات کے نوکری سے برخاست کرنے کا حکم صادر فرمایا جو کہ قربین انساف نہیں ہے بدیں وجہ حکم معترضہ قابل منسوخی ہے۔ فرمایا جو کہ قربین انساف نہیں ہے بدیں وجہ حکم معترضہ قابل منسوخی ہے۔

۲- بیکه کن اپیلانٹ کا والد محترم جو کہ سب انسپکٹر رینک پر فی الوقت محکمہ پولیس میں ڈیوٹی سرانجام دے دے رہاہے متعقبل قریب میں یعن 9 ماہ بعد نوکری سے ریٹائر ڈیونے والا ہے اور والد محترم کے ATTESTED علاوہ گھر میں خاندان کی کفالت کا بھے من اپیلانٹ کے ذمہ آن پڑے گا جبکہ نوکری سے

(13)

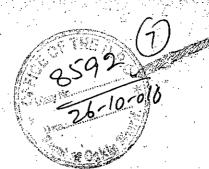
برخاست ہونے کی بناء پرمن اپیلانٹ اور من اپیلانٹ کے خاندان کو ذہنی اور مالی پریشانی کا سامنا ہوگا، للہذا انسانی ہمدر دی اور والدمحتر م محکمہ پولیس میں ملازم ہونے اور ریٹائرڈ ہونے کی بناء پرمن اپیلانٹ خصوصی رعایت کا حقد ارہوں۔

2- یہ کہ محکمانہ کاروائی سے عیاں ہے کہ S.D.P.O کبل سوات انکوائری آفیسر نے اختا می انکوائری پر تین مختلف فائینڈنگ رپورٹس مرتب کئے ہیں جس پر تاریخ درج نہ ہے ، ایک فائینڈنگ رپورٹ کے مطابق آیام غیر حاضری بلا تخواہ کرنے اور بطور سز ا10 بوم کوارٹر گارڈ کی سزادینے کی سفارش کی گئی ہے ، دوسر نے فائینڈنگ رپورٹ میں سفین سزادینے کی سفارش کی گئی ہے ، جبکہ تیسر نے فائینڈنگ رپورٹ میں سفین سزادینے کی سفارش کی گئی ہے اور یوں ایک ہی انزام اور ایک ہی انکوائری کے تحت تین مختلف فائینڈ نگ رپورٹس اور مختلف فتم کی سفارش ایک ہورئے ہیں انکوائری کے تحت تین مختلف فائینڈ نگ رپورٹس اور مختلف فتم کی سفارش اور مختلف فتا کینڈ نگ رپورٹ میں مقرضہ مور خہ 2016 ہے۔

۸۔ یہ کہ مختلف فائینڈنگ رپورٹس پر ریسپانڈنٹ نمبر 1 نے بھی مختلف قتم کے احکامات جاری کئے ہیں
 جس سے اپیلانٹ کے ساتھ امتیازی سلوک کا برتاؤ عیاں ہے۔

9- بیک بہتفصیل بالا ذکر شدہ حقائق ، من اپیلانٹ کی بیاری و ڈاکٹری نسخہ جات کے بناء پر من اپیلانٹ کی آیامی غیر حاضری میڈیکل کیو (Leave) پیس شار کرنا قرین انصاف تھا لیکن انکوائری آفیسر نے اُس کو مدنظر ندر کھتے ہوئے جن مختلف سزاوں کی سفارش کی ہے ریپانڈنٹ نمبر 1 (D.P.O صاحب سوات) کو اِن سفارشات کو مدنظر رکھ کر اس سے متفق ہوئے یا اپیلانٹ کو مذکورہ حقائق کے بنیاد پر پر الذمہ (Exonerate) کرنا چاہئے تھا لیکن ریپانڈنٹ نمبر 1 نے حقائق اور فائینڈنگ رپورش کے برعش اپیلانٹ کو کہ نہ صرف خلاف ریپانڈنٹ نمبر 1 نے حقائق اور فائینڈنگ رپورش کے برعش اپیلانٹ کو کہ نہ صرف خلاف تانون و واقعات اور حقائق ہے بلکہ من اپیلانٹ کے ساتھ ناانصافی کے متر ادف ہے۔

ا۔ یہ کہ من اپیلانٹ کا تقریباً 7/8سال کی طویل عرصہ ملازمت، جوان العمری و بیاری اور والد محترم کی محکمہ پولیس میں طویل خدمات سرانجام دینے اور متقبل قریب میں ریٹائرڈ ہونے کے بیش نظر تھم معترضہ قابل منسوخی ہے۔ جسم معترضہ ہے۔ جسم معترضہ قابل منسوخی ہے۔ جسم معترضہ ہے۔ جسم ہے۔ ج



یہ کہ جیسا کہ اُوپر وضاحت کی گئی ہے من اپیلانٹ بھاری کے بناء پر بدامر مجبوری ڈیوٹی سرانجام دینے سے قاصر رہا ہے تا ہم بصورت بحالی آئندہ کیلئے آفسران بالاکو کسی قتم کا شکایت کا موقع نہیں دول گا اور اپنی فرائف منصی خوش اسلوبی ،احسن طریقے وایما نداری اور دیانت داری سے سرانجام دول گا۔

12/7/2

لبذا بحالات بالا استدعا کی جاتی ہے بمنظوری اپیل هذا تھم معترضہ بحوالہ آرڈربگ نمبر 1 16 مورخہ 167 مورخہ 2016-29 مجاربیاز دفتر ریسپانڈ نٹ نمبر 1 کو کالعدم قرار دیا جا کرمن اپیلانٹ کونوکری پر بحال کرنے اور آیام غیر حاضری میڈیکل لیو(Leave) میں شار کرنے کا تھم صا در فر مایا جائے۔

الرقوم: 2016-2016 میں شار کرنے کا تھم صا در فر مایا جائے۔

ہورہ بھی کنٹیبل عطاءالڈ نمبر 1666 (اپیلانٹ) ساکن کوکارئی مخصیل بابوزئی ضلع سوات۔

DSC/Legal.

For Confliction

Downton

No 25-10-1206 No 25-10-1206 Pret For Comments D

Regional Police Officer,
Malakand, at Saidu Sharif Swat.

25/10/2016

ATTECTED

From:

The Regional Police Officer, Malakand, at Saidu Sharif, Swat.

To

The District Police Officer, Swat.

/E, dated Saidu Sharif, the $\underline{22-//-}$

Subject:

APPLICATION.

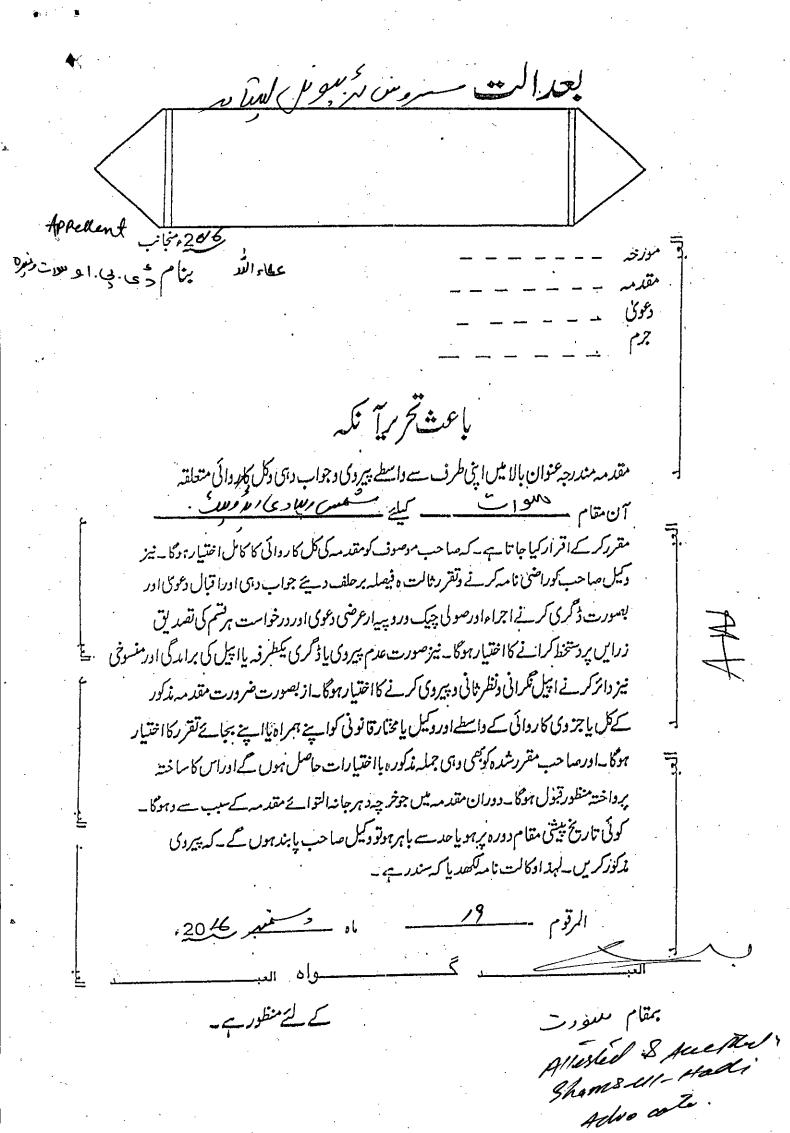
Memorandum:

Please refer to your office memo No. 13629/E, dated 04/11/2016.

Application of Constable Attaullah No. 1666 of Swat District has

been examined by Worthy Regional Police Officer, Malakand and filed.

For Regional Police Officer, Malakand, at Saidu Sharif Swat



•

. . .

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1252/2016

Attaullah Ex- Co	onstable No.1666 r/	village Kok	arai, Tehsil Babuza	i, District Swat
		•		(Appellant

Versus

- 1. The District Police Officer, Swat
- 2. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar
- 3. The Regional Police Officer Malakand Region at Saidu Sharif Swat

----- (Respondents)

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District Police Officer, Swat

(Respondent No.1)

District Police Officer, Swat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1252/2016

Attaullah Ex- Constable No.1666 r/o village Kokarai, Tehsil Babuzai, District Swat

Versus

- 1. The District Police Officer, Swat
- 2. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar
- 3. The Regional Police Officer Malakand Region at Saidu Sharif Swat

----- (Respondents)

Parawise comments on behalf of Respondents.

Respectfully shewith:

Preliminarily objection:-

- 1. That the service appeal is time barred.
- 2. That the appellant has got no cause of action and locus standi to file the instant appeal.
- 3. That the appellant has concealed material facts from this August Tribunal.
- 4. That the appellant has not come to this Tribunal with clean hands.
- 5. That the appellant is estopped due to his own conduct.
- 6. That the instant appeal is not maintainable.
- 7. That instant appeal is bad in the present form and liable to be dismissed.

FACTS

- 1. Para No.1 is incorrect. The appellant has never been efficient Police personnel. He is a habitual absentee and did not take interest in official duties. On several occasions the appellant absented himself from duty. He while posted to P.S Charbagh had also absented himself and was awarded penalty of withholding two annual increments in the year 2014. Vide copy of order O.B No. 100 dated 10/06/2014 is Annexed as "A"
- Incorrect. The appellant neither applied for medical leave nor bothered to inform his superior officers rather absented himself from duty on his own, whereas pretended of illness and remained absent for 03 months, 20 days. Absence report is Annexed as "B"

(2)

- 3. Incorrect. The appellant willfully absented himself from duty and remained absent for 110 days without prior approval of the competent authority. He also did not apply for Medical leave, therefore charge sheet coupled with statement of allegations were issued against him and proper departmental Enquiry was conducted, wherein the allegations leveled had been proved, therefore he was awarded penalty of removal from services. Vide copies of charge sheet, statement of allegations, finding report, Enquiry report, final Show cause notice and final order as Annexures "C", "D", "E", "F". "G" and "H" respectively.
- 4. Correct to the extent that departmental appeal of the appellant was filed as rejected by the appellate authority. The appellant had admitted his absence in his departmental appeal. His departmental appeal was devoid for merit, therefore, was filed/rejected by the appellate authority.
- 5. Correct. As replied above.

ON GROUNDS

- A. Incorrect. The order Passed by the respondents are in accordance with Law, Rules and principles of justice.
- B. Incorrect. The appellant has been treated in accordance with Law and Rules. No provision of Law or Rules whatsoever has been violated so far.
- C. Incorrect. The departmental proceedings against the appellant are not based on ill-well. The appellant absented himself from duty without prior permission or leave, therefore he was proceeded against departmentally.
- D. Incorrect. Proper charge sheet coupled with statement of allegations were issued against the appellant. He was associated with Enquiry proceedings and was also heard in person by the competent authority. Even final show cause notice was issued against the appellant. The penalty awarded to the appellant is appropriate in circumstances.
- E. The respondents also seek the permission of this August Tribunal to raise more points/grounds at the time of Arguments.

In view of the above comment on facts and grounds it is prayed that appeal of the appellant may be dismissed with cost.

Oistrict Police Officer, Swat

(Respondent No.01)

District Police Officer,

Swat

Provincial Police Officer,

Khyber Pakhtunkhwa, Peshawar

(Respondent No.02)

Deputy Inspector General of Police,

Malakand Region at Saidu Sharif;

Swat

(Respondent No.03)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1252/2016



Attaullah Ex- Constable No.1666 r/o village Kokarai, Tehsil Babuzai, District Swat

Versus

- 1. The District Police Officer, Swat
- 2. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar
- 3. The Regional Police Officer Malakand Region at Saidu Sharif Swat

----- (Respondents)

Affidavit

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of my knowledge/ behalf and nothing has been kept secret from the August Court.

District Police Officer, Swat (Respondents No.1)

District Police Officer, Swat

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar (Respondents No.2)

Regional Police Officer Malakand Region at Saidu Sharif Swat

(Respondents No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1252/2016

Attaul	llah Ex- Constable No.1666 r/o village Kokarai, Tehsil Babuzai, District Swat
	(Appellant)
	Versus
1.	The District Police Officer, Swat
2.	The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar
3.	The Regional Police Officer Malakand Region at Saidu Sharif Swat
	(Respondents)

Authority Letter

We, the above respondents do hereby authorize Mr. Khawas Khan SI Legal Swat to appear in the Service Tribunal on our behalf on each date fixed in connection with titled Service Appeal and do whatever is needed.

District Police Officer, Swat

(Respondents No.1)
District Police Officer,
Swat

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar (Respondents No.2)

Regional Police Officer Malakand Region at Saidu Sharif Swat (Respondents No.3) ORDER

This order will dispose off-the departmental enquiries proceedings against Constable Attaullah No.1666 that he while posted to Police Post Gwalerai Police Station Chuprial and JIS Police Lines has absented himself from duty without prior permission or leave vide D.D. No.20 w.e.f. 22-11-2013 to 17-12-2013 and D.D. No.56 w.e.f. 22-02-2014 to 24-03-2014 (Total 01 month, 26 days, 09 hrs and 30 minutes) as per reports of SHO Police Station Chuprial and Lines Officer, JIS Police Lines dated 21-12-2013 and 07-03-2014 respectively.

1666

DSP/Headquarters and SDPO/City Circle were deputed as Enquiry Officers. The Enquiry Officers conducted proper departmental enquiries against the delinquent officer and recorded the statements of all concerned officers. They provided ample opportunity to the delinquent officer to defense the absence rendered by him. After conducting proper departmental enquiries, the Enquiry Officers submitted their findings wherein he recommended the delinquent officer for treating the absence period as leave without pay and also a Minor Punishment. He was called in Orderly Room, however, he could not present any plausible defense for his unlawful absence.

Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Sher Akbar, S.St, P.S.P, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of withholding two annual increments with cumulative effect and the absence period treated as leave without pay.

Order announced?

District Police Officer, Swat.

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Anerez B Cloth's Min Moling 217 25,029 JUNG SON (Jul) 217,000612:50 Cie Co Gielo 29/20 in De Willer 18 20 19 4 No Mily in And well gille - On bijele () - 20 C) ilogis Missing Cill II Miss 2 Cill Gills & prio Co John John Com Coin Sold Child (in (16) (20) 16 5) 44 / 10 30 mm St 017,000 620:30 Co Co Co Spen Cill Mine 34 Chima Bolling Contract Contrac pa (0) = 0 1616 2013 de gri Suisio (0) (2) (3) (6) Major poly (6) (6) e 1 1 3 (br p) mida frabapt pina ? (Stank) (Exer 15-4-016 89" 1/A-8 (C Swat's Colguet. 1 CoAsi - 6/2 > \$ 22-4-016 عدد والله عند الله المرابع من من مل اللوامري a conjugace

CHARGE SHEET

America C

I Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat. as competent authority, hereby charge you, Constable Attaullah No.1666 while posted to IIS Police Lines as follows:-

It has been reported that you committed the following act/acts, which is/are gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975.

You Constable Attaullah No.1666 while posted to JIS Police Lines have absented yourself from duty without prior permission or leave vide DD No.44 w.e.f. 01/04/2016 up till now as per report of RI, JIS Police Lines dated 20/04/2016.

- 2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule-4 of the Disciplinary Rules 1975.
- 3. You are, therefore, required to submit your written reply within seven (7) days of the receipt of this Charge Sheet to the Enquiry officer.
- 4. Your written reply, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
 - 5. Intimate as to whether you desire to be heard in person or not.
 - 6. A statement of allegations is enclosed.

District Police Officer, Swat

No. _____/E,

Dated: ______/2016.

PRIC

28-4-016

Anexa?D

DISCIPLINARY ACTION

Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat as competent authority, is of the opinion that he Constable Attaulah No.1666 while posted to JIS Police Lines have refidered himself liable to be proceeded against departmentally as he has committed the following acts/unissions as defined in Rule 2 (iii) of Police Rules 1975, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. PA/Khyber Pakhtunkhwa/ Bills/ 2011/ 44905 dated 16/09/2011 and C.P.O, K.P.K Peshawar Memo: No. 3037-62/Legal, dated 19/11/2011.

STATEMENT OF ALLEGATIONS

It has been reported that he while posted to <u>JIS Police Lines</u> committed the following act / acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

That he Constable Attaullah No.1666 while posted to JIS Police Lines has absented himself from duty without prior permission or leave vide DD No.44-w.e.f. 01/04/2016 up till now as per report of RI, JIS Police Lines dated 20/04/2016.

- 2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, SDPO/Kabal Circle, Swat is appointed as Enquiry Officer.
- 3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the enquiry officer.

District Police Officer, Swat

Copy of above is forwarded to the:-

SDPO/Kabal Circle. Swat for initiating proceeding against the accused Officer/ Official namely Constable Attaullah No.1666 under Police Rules, 1975.

2. Constable Attauliah No.1666 IIS Police Lines.
With the direction to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceeding.

. . . ♥=

Anester E

آذ د فتر ایس ڈی پی اوسر کل کبل

كنسٹيبل عطاءالله نمبر 1666 مور خه 01.04.2016 بحواليه مد 44 پوليس لائن كبل سے غیر حاضر ہو کر نقلمد بغرض محکمانہ کاروائی آفسران بالا کے خدمت میں آرسال کی گئی ۔جناب . DPO صاحب نے کنسٹیبل مذکورہ کے خلاف چارج شیٹ نمبرE /89 محررہ 24.04.2016 جاری کر کے من SDPO کوانکوائیری آفسر مقرر کیا گیا۔

دوران انکوائیری کلیم جان MASI پولیس لائن کبل کا بیان لیاجاً کر بیانی سیکه نسٹیبل مذکورہ بحوالیہ مد 44روزنامچہ 1.04.2016 ہے بدستور غیر حاضر ہے۔ بندش تنخواہ / محکمانیہ كاروائي شروع كرنے كيلئے در خواست ہائے آفسران بالا كو جيجوائے گئے ہے۔ كنسٹيبل مذكورہ عادى غير حاضر باش ہے۔ جہاں بھی تبدیل ہو تاہے۔ یولیس لائن کو واپس کیا جا تاہے۔ نا قابل اعتاد پولیس آفسر ہے۔

کلیم جان MASI پولیس لائن کبل کے بیان اور ویگر تحقیقات ہے معلوم ہواہے کہ

کنسٹیبل مذکورہ کو سنگین سزا دینے کی سفارش کیجاتی ہے۔ تاکہ دوسرے پولیس جوانان غیر حاضری جیسی موذی بہاری سے نجات اور مذکورہ کے سراہے سبق حاصل کر منکے۔

Issue Final Show Care Notice

مان تعلى علاء الله 1666 موري مردا في بان مو - ك سه وي كالري سه وي كالرياع من الم صدرالكم اصران مالا سعد نا سرواهل الريب و المقالمان ها وعارات مده کا وی عربر سے سر ای میاری سو سالیوں صده کا و ما و ما و ما - ce Enjo 23 = ce chilyron, -op A Mestal 1666 W/s be O !! sopolicicle + ++ Chilles 13/2/20 2 10/20 - 20/20 20/20 20/20 كو الحلاع دي لأي ع ع المور من الله والمعر المر المر المر المراه المراع المراه المراع من المام سارف کے سر رس کا عراق اور کے اس سرور سے ۔ اللہ ا ع إن من المنز سالله منزلك كاغرات معربيه و من كرونا

SMISOS ASI OBSLOOL هره ون ما ون ون ع کی کی کان 2 32 d Care a con es 1666 x 120 alia & 5215 in 1 ingles) 12 5 cs - 20 8 12 1 3-7-201G Allestel

ulo 1,11/6,88 8/10,2 برائيالي عرامر استل عد اور سرع عرم لعساتي سي ولاد كسيل و نعلوات ماه ري مسيره امرى معمراه لد عهم Man Copie (proposition of the contraction of the copies o 3-7-014 sid fur wanted 1) Medled. ASIPPENalexai sopo le cela 3-7-014 63.7.2014

Anexa 1915

FINAL SHOW CAUSE NOTICE

Whereas you Constable Attaullah No. 1666 while posted to JIS Police Lines have absented yourself from lawful duty without prior permission or leave vide DD No.44 w.e.f. 01-04-2016 up till now. Proper Charge Sheet No:89/EB, dated 24-04-2016 was issued to you and SDPO/Kabal Circle, Swat was deputed as Enquiry Officer to conduct proper Departmental Enquiry against you.

The Enquiry Officer, SDPO/Kabal Circle in his findings reports intimated that you are habitual absentee the allegations leveled against you are proved during enquiry and recommended Vou for Major Punishment

You are; therefore, served with this Final Show Cause Notice to show cause in writing within seven (07) days of the receipt of this notice as to why major punishment as mentioned in Rule-4 of Police Disciplinary Rules-1975 should not be imposed on you. You should also state in writing. as to whether you wish to be heard in person by the competent authority? Your failure in this respect will be deemed that you have no defense to offer.

District Police Officer, Swa

No. <u>Bh-A</u>/EB, Dated <u>25-7</u>/2016.

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ORDER

This order will dispose off the departmental enquiries against Constable Attaullah No.1666, he is liable for the following charges:-

- 1) He while posted to JIS Police Lines has absented himself from lawfu duty without prior permission or leave vide DD No.44 w.e.f. 01-04-2016 for 110 days.
- He while deputed for security duty at Hydro Power Project, Daral Khwar, Bahrain was found undisciplined and reportedly not taking interest in the performance of his lawful duty as per report of SHO Police Station, Bahrain dated 25/03/2016.

All these based on mollified intention and negligence on his part.

He was issued Charge Sheets alongwith statements of Allegations and SDPO/Kabal was deputed as Enquiry Officer in both departmental enquirles. The Enquiry Officer conducted proper departmental enquirles against the delinquent official and recorded the statements of all concerned officers. The Enquiry Officer provided ample opportunity to the delinquent official to defense the charges rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he intimated that the allegations leveled against him are proved during enquiry. He was heard in person in Orderly Room on 27-09-2016, but he did not present any plausible defense for the charges rendered by

Therefore, in exercise of the powers vested to the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Muhammad Saleem Marwat, PSP, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Removal from Service with immediate effect. Period of absence of 110 days is treated as leave without pay.

Order announced

O.B. No. 167

Dated 27/8 /2016

District Police Officer, Swat

Copy to Pay Officer for necessary action.

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1252/2016

Attaullah......Appellant.

VERSUS

DPO Swat and others......Respondents.

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

Preliminary Objections:

Para No. 1 to 7 of the comments are Incorrect.

FACTS:

Para No.1 incorrect because the appellant never remained absent from duty intentionally and as such the appellant may not be penalized for the one and same ground again and again due to his past punishment.

Para No.2 is incorrect because the appellant remained absent due to illness the and the same he brought in the notice of concerned officials.

Para No.3 is also incorrect as the appellant never remained absent willfully and the appellant was awarded major penalty without any legal substance. Because no legal procedure was adopted.

Grounds:

- A. Incorrect.
- B. Incorrect.
- C. Incorrect.
- D. Incorrect, already explained in Para No. 2 reply on facts.
- E. Para No. E is also incorrect.

It is, therefore prayed that on acceptance of this rejoinder this Hon'ble Tribunal may be pleased to accept the appeal as prayed for and the respondents be burdened with heavy cast.

Through

Appellant

Shams-ul-Hadi Advocate High Court

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1252/2016

Attaullah.....Appellant.

VERSUS

DPO Swat and others......Respondents.

AFFIDAVIT

I, **Shams-ul-Hadi**, Advocate, Peshawar do hereby as per information convoyed to me by my client solemnly affirm and declare that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ADVOCATE

AMORTH COMMUNICE &