

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

**SERVICE APPEAL NO. 1249/2016**

Date of institution ... 19.12.2016

Date of judgment ... 20.06.2018

Muhammad Yaseen S/o Gul Pazir Khan

R/o P.O & Village Kot Adil, District Bannu, Khyber Pakhtunkhwa.

... (Appellant)

**VERSUS**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Bannu Range, Bannu.
3. District Police Officer, Bannu.
4. Deputy Inspector General of Police, Bannu.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 10.08.2016 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND DEPARTMENTAL APPEAL DATED 14.09.2016 FILLED HAS NOT BEEN RESPONDED WITH STATUTORY PERIOD.

Miss. Roeed Khan, Advocate.

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney

.. For respondents.

MR. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: Appellant

alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney

alongwith Mr. Muhammad Farooq, Inspector (legal) for the respondents also

present. Arguments heard and record perused.

*M. Amin*  
*20.6.2018*

2. Brief facts of the case as per present appeal is that the appellant was serving in Police Department as Constable and during service he was dismissed from service vide order dated 10.08.2016 by the competent authority on the allegation of absence from duty. The appellant filed departmental appeal on 14.09.2016 which was not decided within statutory period hence, the present service appeal on 19.12.2016.

3. Learned counsel for the appellant contended that the appellant was serving in Police Department as Constable. It was further contended that during service the appellant became ill. It was further contended that due to illness it was beyond the control of the appellant to attend the duty and in support of his illness, the appellant annexed the medical prescriptions with the ground of the appeal. It was further contended that the impugned order of dismissal from service of the appellant was passed by the competent authority on 10.08.2016 and the appellant came to know about the impugned dismissal order on 14.09.2016 therefore, the filed departmental appeal on the same day. It was further contended that when the departmental appeal was not decided within the statutory period of ninety days than he filed service appeal within time. It was further contended that neither the appellant was personally served for reply of the charge sheet/statement of allegation nor the appellant was issued any final show-cause notice and the whole proceedings of inquiry was initiated in the absence of the appellant ex-parte therefore, the appellant was condemned unheard. It was further contended that the appellant was also dismissed from service retrospectively i.e from the date of absence therefore, the impugned order is also void and liable to be set-aside and prayed for acceptance of appeal.

*M. Annam*  
20.6.2018

4. On the other hand learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was absence from duty without any permission of the higher authority. It was further contended that the inquiry proceedings were conducted in accordance with law and the inquiry officer after recording the statement of witnesses reached the conclusion that the charge against the appellant stand proved therefore, the competent authority has rightly dismissed the appellant from service on the basis of inquiry report and prayed for dismissal of appeal.

5. Perusal of the record reveals that the appellant was dismissed from service vide order dated 10.08.2016 retrospectively i.e from the date of absence, meaning thereby that the impugned order is void and in this respect reliance is also made on 1985 SCMR page 1178. The record further reveals that the appellant has claimed in service appeal as well as in departmental appeal that he became serious ill and due to illness it was beyond his control to attend the duty. The record further reveals that the appellant has also annexed the medical prescriptions of his illness with the ground of appeal. The record also reveals that the impugned order was passed on 10.08.2016, the appellant also alleged in para-5 of the appeal that he came to know about the impugned order on 14.09.2016 and he filed departmental appeal on the same day which was not decided hence, the present service appeal within time on 19.12.2016 therefore, the present appeal is within time. The record further reveals that the inquiry/departmental proceeding was initiated ex-parte by the department in the absence of appellant and no opportunity of reply to charge sheet, statement of allegation and cross examination was provided to the appellant, meaning

*W. Appin  
20.6-2018*

thereby that the appellant was condemned unheard. The record also reveals that the respondent-department has also not issued any show-cause notice to the appellant nor copy of the same is available on the record, therefore, the inquiry proceedings was not conducted by the respondent-department in accordance with rule and law. As such the impugned order is illegal and liable to be set-aside, therefore, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service. However, the respondent-department is at liberty to conduct de-novo inquiry within the period of ninety days in accordance with prescribed rule and law. The issue of back benefits will be subject to the outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
20.06.2018



(AHMAD HASSAN)  
MEMBER

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

21.05.2018

Clerk to counsel for the appellant and Addl: AG alongwith Mr. Asghar Ali, H.C for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 20.06.2018 before D.B.

*MA*  
(Muhammad Amin Kundi)  
Member


20.06.2018

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Farooq, Inspector (legal) for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service. However, the respondent-department is at liberty to conduct de-novo inquiry within the period of ninety days in accordance with prescribed rule and law. The issue of back benefits will be subject to the outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
20.06.2018

  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

27.07.2017

Counsel for the appellant and Addl: AG alongwith Mr. Farooq Khan, Inspector (Legal) for respondents present, Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20.08.2017 before D.B.



(Ahmad Hassan)  
Member



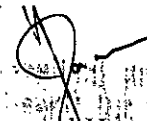
(M. Hamid Mughal)  
Member

20.11.2017

Learned Counsel for the appellant present. Assistant Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment Adjourned. To come up for arguments on 23.01.2018 before D.B



(Gul Zeb Khan)  
MEMBER



(Muhammad Hamid Mughal)  
MEMBER

23.01.2018

Clerk of the counsel for appellant present. Mr. Kabir Ullah Khattak, Addl: AG for the respondents present. Counsel for the appellant is not in attendance due to general strike of the bar. To come up for ~~arguments~~ arguments on 26.03.2018 before D.B.




Member



Chairman

26.03.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present: Clerk counsel for the appellant seeks adjournment as learned counsel for the appellant is not available. Adjourn. To come up for arguments on 21.05.2018 before D.B



(Muhammad Amin Kundi)  
MEMBER

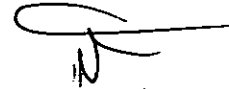


(Muhammad Hamid Mughal)  
MEMBER

1249/2016

28.02.2017

Counsel for appellant and Mr. Muhammad Asghar, H.C alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents No. 1 to 3 submitted. Learned Additional AG relies on the written reply submitted by respondents No. 1 to 3 on behalf of respondent No. 4. To come up for rejoinder and arguments on 13.04.2017 before D.B.




(ASHFAQUE TAJ)  
MEMBER

13.04.2017

Counsel for the appellant and Mr. Kabir Ullah Khattak, Assistant AG for the respondents present. Counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 27.07.2017 before D.B.



(Ahmad Hassan)  
Member



(Muhammad Amin Khan Kundi)  
Member

22.12.2016

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 10.08.2016 vide which the appellant was awarded major penalty of dismissal from service. Against the impugned order the appellant filed departmental appeal on 14.09.2016 which was not responded within the statutory period, hence the instant service appeal.

Since the instant appeal is within time and matter required further consideration of this Tribunal therefore, the same is admitted for regular hearing, subject to deposit of security and process fee within 10 days. Notices be issued to the respondents for written reply/comments for 30.01.2017 before S.B.

Appellant Deposited  
Security & Process Fee

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

30.01.2017

Counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents not submitted. Learned Additional AG requested for further time for submission of written reply. To come up for written reply/comments positively on 28.02.2017 before S.B.



  
(ASHFAQUE TAJ)  
MEMBER



Form-A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1249/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/12/2016	<p style="text-align: center;">The appeal of Mr. Muhammad Yaseen resubmitted today by Roeda Khan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	21-12-2016	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22-12-16</u>.</p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Muhammad Yaseen son of Gul POazir Khan r/o P.O. Village Kot Adil Distt. Bannu received today i.e. on 19.12.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Copies of charge sheet, statement of allegations, show cause notice and reply thereto are not attached with the appeal which may be placed on it.
- 3- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2109 /S.T,

Dt. 20 /12 /2016

*Amir*  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Roeeda Khan Adv. Pesh.

*We dont have charge sheet, statement of allegations, show cause notice & reply, as exparte impugned order passed by department.*

*R Khan*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR**

Services Appeal No. 1249 /2016

Mr: Muhammad Yasin

**VERSUS**

Provincial Police Officer etc

**INDEX**

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3.	Addresses of parties		7
4.	Application for condonation of delay, affidavit		8-9
5.	Copy of medical treatment	A	10
6.	Copy of medical receipts	B	11-14
7.	Copy of the dismissal order dated 10/08/2016	C	15
8.	Copy of Departmental appeal and Registered AD receipt	D & E	16,17
9.	Wakalat Nama		

Through

Appellant *MY*

*Roeda*

ROEEDA KHAN,

&

*Afsa*  
AFSHA MANZOOR,

Advocate,

High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,PESHAWAR

Appeal No. 1249/2016

Khyber Pakhtunkhwa  
Service Tribunal

Ex-Constable Number 2055

Diary No. 1300

Dated 19-12-2016

Muhammad Yaseen S/o Gul Pazir Khan R/o P.O & Village Kot  
Adil, District Bannu, Khyber Pakhtunkhwa.

... APPELLANT

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police officer Bannu Range, Bannu.
3. District Police Officer, Bannu.
4. Deputy Inspector General of Police, Bannu.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE SERVICES  
TRIBUNAL ACT 1974 KHYBER PAKHTUNKHWA,  
AGAINST THE ORDER DATED 10/08/2016  
WHEREBY THE APPELLANT WAS DISMISSED  
FROM SERVICES AND DEPARTMENTAL APPEAL  
DATED 14/09/2016 FILED HAS NOT BEEN  
RESPONDED WITHIN STATUTORY PERIOD

Filed to-day

  
Registrar

PRAYER IN APPEAL:

ON ACCEPTANCE OF THE APPEAL THE  
IMPUGNED ORDER DATED 10/08/2016 MAY

Re-submitted to -day  
and filed.
  
Registrar

KINDLY BE SET ASIDE AND THE APPELLANT  
MAY KINDLY BE RE-INSTATED INTO SERVICE  
WITH ALL BACK BENEFITS OF SERVICE AND ANY  
OTHER RELIEF MAY KINDLY BE GRANTED  
DEEMED FIT IN THE CIRCUMSTANCES

Respectfully Sheweth,

1. That the appellant joined police department as constable in the year 2009, and since then he performed his duties with honesty and full devotion.
2. That on 27/08/2015 the appellant fell ill and he visited the District Headquarter Hospital Bannu for treatment, where he was advised for five months rest. (Copy of medical treatment is attached as annexure A).
3. That the appellant again visited medical officer who advice him for further bed rest. (Copy of medical receipts are enclosed as annexure B).
4. That as the appellant was in serious condition and the father of the appellant due to old age was not able to inform the respondent's department about the illness of the appellant.
5. That on 14/09/2016 the appellant came to know that the respondent's department dismissed the appellant from

service on 10/08/2016. (Copy of the dismissal order dated 10/08/2016 is annexure "C")

6. That on the same day i.e. 14/09/2016 the appellant submitted his departmental appeal through registered AD No. 342 to respondent's department against the impugned order dated 10/08/2016 but no reply has been received to the appellant from respondent's department, within statutory period. (Copy of Departmental appeal and Registered AD receipt is attached as annexure D & E).

7. That the order impugned is liable to be set aside inter alia on the following grounds: -

Grounds:

A. That the impugned order is illegal, void and being passed in utter violation of law and rules on the subject.

B. That the appellant has not been treated according to law and mandatory provisions of law have been violated by respondents.

C. That no inquiry has been conducted into the matter to find out the true facts and circumstances and prove the allegations leveled against the appellant.

D. That no charge sheet and show cause notice was communicated to the appellant.

E. That even the appellant was not provided the opportunity of personal hearing.

F. That the absence from duty was neither willful, nor deliberate, rather the same was because of circumstances compelling in nature and were beyond the control of the appellant as well.

G. That the dismissal from services is a very harsh penalty and keeping in view the facts and circumstances of the case commensurate with the guilt of appellant especially by ignoring his long services career.

H. That ex-part action has been taken against the appellant, thus the impugned order is void and the appellant has been condemned unheard.

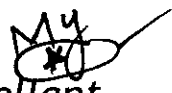
I. That even otherwise the impugned order is defective being passed with retrospective effect.

J. That the appellant is a poor and jobless person, since his illegal dismissal from service.

K. That the appellant seeks permission of this Honourable Tribunal for further additional grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the appeal the impugned order dated 10/08/2016 may kindly be set aside and the appellant may kindly be re-instated into service with all back benefits of service.

Any other relief may kindly be granted deemed fit in the circumstances.

  
Appellant

Through

  
ROEDA KHAN,

&

  
AFSHA MANZOOR,

Advocates, High Court Peshawar

**CERTIFICATE:**

Certified that no such like appeal has earlier been filed before this Honourable Court.

  
ADVOCATE

initial Dated : 20.12.16 .



**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR**

Services Appeal No. \_\_\_\_\_/2016

Mr. Muhammad Yasin

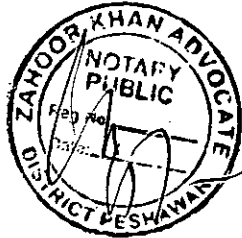
**VERSUS**

Provincial Police Officer etc

**AFFIDAVIT**

I, Muhammad Yaseen S/o Gul Pazir Khan R/o P.O & Village Kot Adil, District Bannu, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of the Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

*My*  
*+*  
Deponent



**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR**

Services Appeal No. \_\_\_\_\_/2016

Mr. Muhammad Yasin

**VERSUS**

Provincial Police Officer etc

**ADDRESSES OF PARTIES**

**ADDRESS OF APPELLANT:**

Muhammad Yaseen S/o Gul Pazir Khan R/o P.O & Village Kot Adil, District Bannu, Khyber Pakhtunkhwa.

**ADDRESSES OF RESPONDENTS: -**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police officer Bannu Range, Bannu.
3. District Police Officer, Bannu.
4. Deputy Inspector General of Police, Bannu.

Through

  
Appellant

  
ROEEDA KHAN,

&

AFSHA MANZOOR, 

Advocate,

High Court Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR**

Services Appeal No. \_\_\_\_\_/2016

Mr. Muhammad Yasin

**VERSUS**

Provincial Police Officer etc

**APPLICATION FOR CONDONATION OF DELAY IN**  
**FILING OF ABOVE NOTED APPEAL**

Respectfully Sheweth,

1. That the appellant is filing the above noted appeal along with application in which no date of hearing is yet been fixed.
2. That the appellant prays for condonation of delay in filing the above noted appeal, inter alia on the following grounds:

Grounds:

- A. That the valuable rights of the appellant are involved, hence the appeal deserves to be decided on merits.
- B. That it has been the consistent view of the superior courts that the cases should be decided on merits rather than on technicalities, including the limitation, the same is reported in 2004 PLC page 1014 and 2003 PLC (CS) 76, PLD 2003 SC Page 324.

It is, therefore, prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

Through

  
Appellant

  
ROEEDA KHAN,

&

AFSHA MANZOOR, 

Advocate,

High Court Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR**

Services Appeal No. \_\_\_\_\_/2016

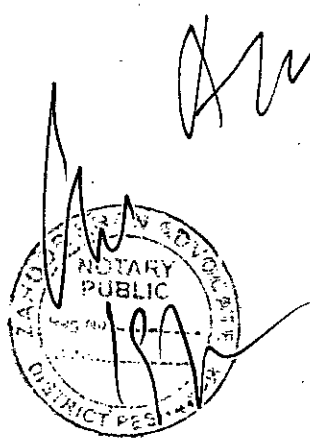
Mr. Muhammad Yasin

**VERSUS**

Provincial Police Officer etc

**AFFIDAVIT**

I, Muhammad Yaseen S/o Gul Pazir Khan R/o P.O & Village Kot Adil, District Bannu, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of the condonation of delay application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



*MY*  
Deponent

**Professor Dr. Khaleeq uz Zaman**

BA(Iqbaliat) MBBS (Pesh), LRCP (Lond), MRCS (Eng), DCPS (HPE)  
FRCS (Glas), FRCS (Ed), FRCS Neurosurgery (Ed), FCPS (Neurosurgery)  
Consultant Neurosurgeon

**Head, Deptt of Neurosurgery**

Quaid-e-Azam Postgraduate Medical College  
Pakistan Institute of Medical Sciences, Islamabad.  
Phone : 051-9260196, 9261265, Ext: 2266, 2445

**All Medical Centre**

F-8 Markaz, Islamabad  
Ph : 051-2255313-15, 8090200  
Res: 051-9261166, Fax: 051-2256237

9.11.2015

39  
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③ D...  
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④ M...  
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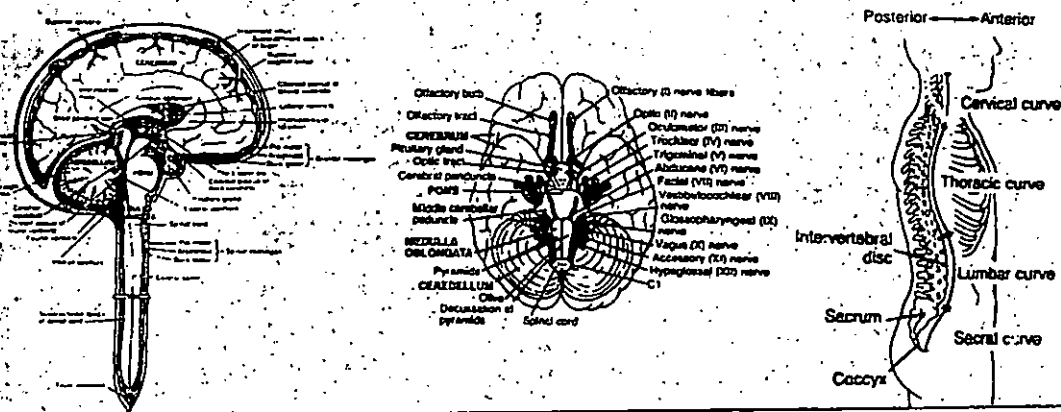
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\_\_\_\_\_

PATIENT'S HISTORY

**ABRAR DIAGNOSTIC CENTRE**

Abrar Diagnostic Centre, 312-E, Charing Cross, Peshawar Road, Rawalpindi.  
 Tel: 5470205, 5473543, 5167015 Fax: 051-8317450, Mob: 0331-5261588,  
 E-mail: mri\_ct@hotmail.com, abramri@hotmail.com, Web: www.abramrict.com



Patient Name M. Yaseen

Date of Birth 30yr Sex M Weight \_\_\_\_\_

Short History Backache 7 months Rt leg pain

Presenting Symptoms Backache

Purpose & MRI For further evaluation

Date 24-11-15 Referring Dr. Maj Gen Mohamud C/Spine

Naeem Khan

NO H/O HTN/DM/TB  
 NO H/O of Surgery  
 NO H/O of trauma

NO MRI OF CT SCAN

*Added in A.P. Khan*



# ABRAR DIAGNOSTIC CENTRE

DR. SH. BAKHTIAR AHMAD  
(M.B.B.S., F.C.P.S. PGDHM, F.M.A.S.)  
Managing Director

**Radiologist**  
Dr. Abid Ali Qureshi  
F.C.P.S  
Head of Radiology Dept.  
The CH & ICH, Lahore

Reg. No. : 7136  
Patient Name : Muhammad Yaseen  
Patient Age : 30 Years / Male  
Patient R. Date : 12.11.2015

## MRI LUMBO-SACRAL SPINE

**Discussion:** T1W and T2W sequences were performed in sagittal and axial planes through Lumbo-sacral spine.

Straightening of lumbar curvature is seen indicative of muscular spasm. Marrow signals are normal. Lower dorsal cord and conus appear normal. All visualized inter-vertebral discs are well hydrated and show normal reversal of MR signal on T1W/T2W images.

At L4-L5, diffuse central and right postero-lateral disc bulge is seen compressing upon right sided neural tissue.

Rest of visualized inter-vertebral discs show no neural compromise. No evidence of spondylodiscitis or mass lesion. Paraspinal soft tissues are unremarkable.

### IMPRESSION:

- Right postero-lateral disc bulge at L4-L5 compressing upon right sided neural tissue.

Dr. Abid Ali Qureshi  
F.C.P.S.  
Head of Radiology Dept.

*Accepted in A.H.*

Thank you for your referral. This is a computer-generated report and is based on image interpretation only. It cannot be considered as medico-legal tender or used in the court of law.

312-E, Charing Cross, Peshawar Road, Rawalpindi.  
Tel: 5470205, 5473543, 5167015, Fax: 051-8317450, Mob: 0331-5261588  
E-mail: mri\_ct@hotmail.com, abrarmri@gmail.com, Web: www.abrarmri.com

ORDER:

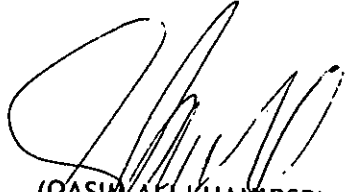
This order of the undersigned will dispose off the departmental proceeding, initiated against accused constable Mohammad Yasin No. 2055, under general proceeding of police rule 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014) for committing the following commissions/omissions:-

- That he while posted to police lines, Bannu left the station of duty on dated 28-08-2015 without any permission from the competent authority and is still absented

Mr. Inayat Ali Shah DSP/HQ Circle, Bannu conducted proper departmental enquiry into the above charges and submitted his findings vide his office memo No.655/HQ dated 23-05-2016, wherein, the Enquiry Officer recommended exparte action to be taken in proceeding initiated against the accused.

In the light of the findings of the the E.O. I. QASIM ALI KHAN, District Police Officer, Bannu in exercise of the power vested in me under police rule 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014) hereby dismiss the accused constable Mohammad Yaseen No. 2055 from service from the date of absence i.e.28.08.2015.

OB No. 605  
Dated: 10-8 /2016.

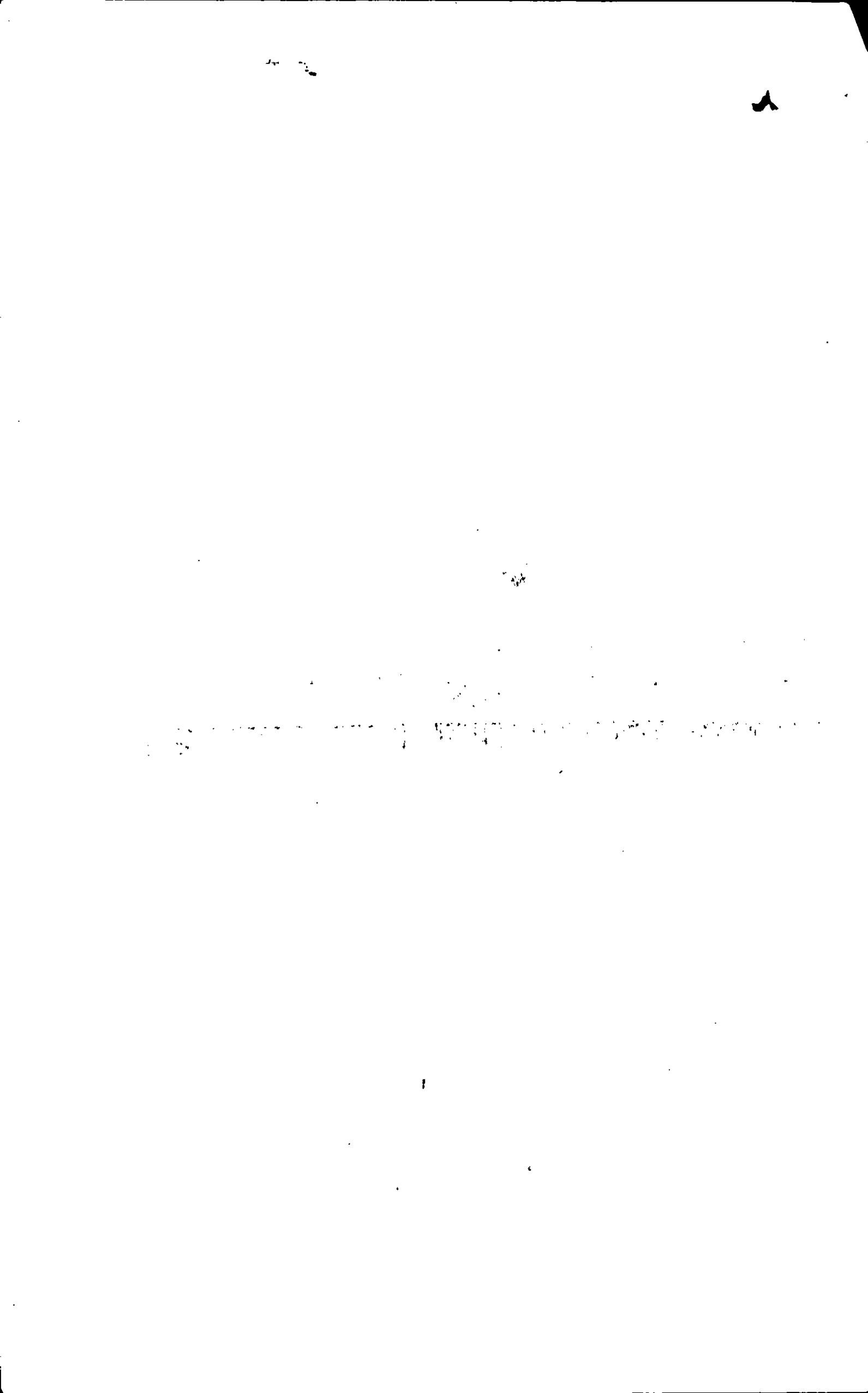
  
(QASIM ALI KHAN)PSP  
District Police Officer,  
Bannu.

No. 13561-66 /SRC dated Bannu, the 11/8 /2016

- Copies for necessary action to:
1. The DSP/HQ. Circle, Bannu.
  2. The District Accounts Officer, Bannu
  3. The Pay Officer, Bannu.
  4. The OASI, DPO Office, Bannu along with the enquiry file for placing it in the Fjui Missal of concerned official.
  5. The SHO of PS Saddar.
  6. The accused officer namely Mohid: Yaseen Khan S/O Gul Pazir Khan R/O Kot Adil presently residing in village kot barara.

*Ali Shah*  
*4/8/2016*





1. The Board of Directors of the Company has approved the proposed dividend of Rs. 10.8 per share for the financial year 2015-16.

2. The Board of Directors of the Company has approved the proposed dividend of Rs. 14.8 per share for the financial year 2016-17.

Approved  
M. K. Sharma

3. The Board of Directors of the Company has approved the proposed dividend of Rs. 24.8 per share for the financial year 2017-18.

4. The Board of Directors of the Company has approved the proposed dividend of Rs. 27.8 per share for the financial year 2018-19.

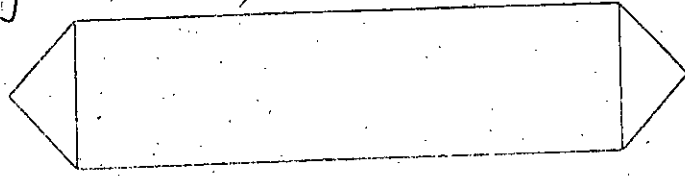
5. The Board of Directors of the Company has approved the proposed dividend of Rs. 15.8 per share for the financial year 2019-20.

6. The Board of Directors of the Company has approved the proposed dividend of Rs. 10.8 per share for the financial year 2020-21.

OB No 605  
10.8.16

Director/Secretary

بعدالت صواب سروس ٹرانسپورٹ کیلئے



2016 پنجاب

یاسین بنام

Provincial  
Police, 7  
Street

مقدمہ

دعویٰ

برم

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
ان مقام کی اور کیلئے روئیدہ حال، اہمیاں منظور کیے اور اس کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل ٹرانسپورٹ و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

Accepted

my

Signature

Pls

2016

19 ماہ دسمبر

المرقوم

العبد گواہ

کے لئے منظور ہے۔

یاسین

مقام

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

**Appeal No.1249/2016**

Ex-Constable No.2055, Muhammad Yasin S/O Gul Pazir Khan R/O P.O & village Kot Adil District Bannu, Khyber Pakhtunkhwa

..... Appellant

**Versus**

The Provincial Police Officer, KPK, Peshawar & others

..... Respondents

**PARA-WISE COMMENTS / REPLY ON THE ABOVE SUBJECT SERVICE APPEAL ARE SUBMITTED BY THE RESPONDENTS NO.1, 2 & 3.**

**Preliminary Objections**

1. That the appeal of appellant is badly time-barred.
2. That the appeal is not maintainable in its present form.
3. That the appellant has concealed the actual facts from the Honorable Tribunal.
4. That the appeal is bad in law due to non-joinder and mis-joinder of unnecessary parties.
5. That the appellant has approached the Honorable Tribunal with unclean hands.
6. That the appellant has got no cause of action and locus-standi to file the instant appeal.
7. That the appellant has been estopped by his own conduct.

**OBJECTIONS ON FACTS:**

**Respectfully Sheweth**

1. Pertains to record. However he has previously awarded punishment for absence vide order dated 12.01.2015 (Copy annexed as annexure "A").
2. Incorrect. The Appellant absented himself from his lawful duty without any information or leave.
3. Incorrect. The Appellant did not adopted proper procedure of medical treatment according to Police Rules 1934 nor did inform the department.
4. Incorrect. The Appellant was deliberately absented himself from Govt. duty without any leave or prior permission from competent authority.



5. Incorrect. Due to the willful absence of the Appellant he was issued charge sheet alongwith statement of allegations which was received by brother of the Appellant namely Amir Mehmood S/O Gul Pazer R/O Fatma Khel through DFC PS Saddar Shafi Ullah No.274, however Appellant did not submit reply & after conducting regular enquiry and fulfill all the codal formalities he was dismissed from his service. (Copy of charge sheet, statement of allegations, statement of DFC Shafi Ullah & enquiry report are annexed as annexure "B, C, D & E")
6. Incorrect. Respondent department has never received any departmental appeal from the Appellant.
7. The respondent department submit their comments with the following grounds:-


#### OBJECTIONS ON GROUNDS


- A. Incorrect. The impugned order is quite legal according to law and no fundamental rights of the Appellant is violated.
- B. Incorrect. The Appellant was treated according to law/rules nor violated any law/rules by the respondents.
- C. Incorrect. Proper enquiry has been conducted and on account of regular absence exparte action has been taken against the Appellant.
- D. Incorrect. Charge Sheet & Summary of Allegations disbursed upon his brother Aamir Mehmood S/O Gul Pazir having CNIC No.11101-2259514-3.
- E. Incorrect. Due to continuous absence from Govt: duty as well intentionally not followed the enquiry proceeding by the Appellant, exparte action has been taken by the respondent department.
- F. Incorrect. It was the primary job of the Appellant to inform his high-ups about his illness but he failed to do so. He is habitual absentee.
- G. Incorrect. The punishment awarded according to law, after conducting proper enquiry and found the Appellant guilty of misconduct. Moreover, the Appellant did not contact the respondent department at any forum about his grievances.
- H. Incorrect. Reply has already been given in above para.
- I. Incorrect. The impugned order is in accordance with law.
- J. Incorrect. The punishment awarded is according to law/rules and no injustice has been done by the respondent department.
- K. That the respondents also seek permission to raise additional grounds and proof at the time of arguments.

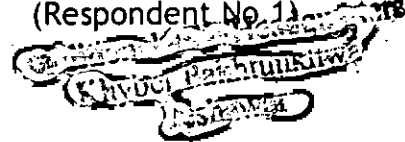
Prayer:-

Therefore, it most is respectfully submitted before this Honourable Service Tribunal that the present Service Appeal filed by Ex-Constable Muhammad Yasin No.2055 may very graciously be dismissed with cost.

  
Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.1)

  
District Police Officer,  
Bannu  
(Respondent No.3)



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

Appeal No.1249/2016

Ex-Constable No.2055, Muhammad Yasin S/O Gul Pazir Khan R/O P.O & village Kot  
Adil District Bannu, Khyber Pakhtunkhwa

..... Appellant

Versus

The Provincial Police Officer, KPK, Peshawar & others

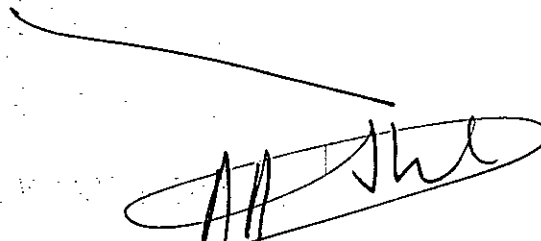
..... Respondents

**PARA-WISE COMMENTS / REPLY ON THE ABOVE SUBJECT SERVICE APPEAL ARE  
SUBMITTED BY THE RESPONDENTS NO.1, 2 & 3.**

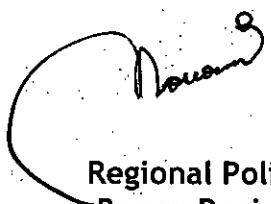
**AUTHORITY LETTER.**

Mr. Muhammad Farooq Khan, Inspector Legal, is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar on behalf of the Provincial Police Officer, KPK & Others in the above cited Appeal.

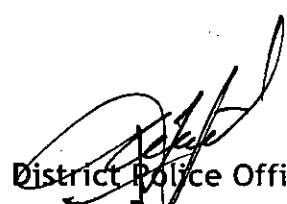
He is authorized to submit and sign all documents pertaining to the present Petition.



Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
Respondent No.1



Regional Police Officer  
Bannu Region, Bannu  
Respondent No.2



District Police Officer  
Bannu  
Respondent No.3



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

**Appeal No.1249/2016**

Ex-Constable No.2055, Muhammad Yasin S/O Gul Pazir Khan R/O P.O & village Kot Adil District Bannu, Khyber Pakhtunkhwa

..... Appellant

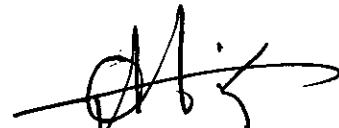
**Versus**

The Provincial Police Officer, KPK, Peshawar & others

..... Respondents

**INDEX**

S/No	Description of Documents	Annexure	Page
1	Comments/Reply		
2	Affidavit		
3	Authority Letter		



DEPONENT

11101-1483421-1

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,  
PESHAWAR

Service Appeal No. 1249 /2016

Muhammad Yasin

Versus

Provincial Police Officer Khyber Pakhtunkhwa, and others

REJOINDER ON BEHALF OF THE APPELLANT WITH  
REGARD TO THE PARA WISE COMMENTS  
SUBMITTED ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

Reply to preliminary objections: -

1. Objection no.1 is incorrect, hence denied. The appeal is well within time.
2. Objection no.2 is incorrect, hence denied. Nothing has been brought on the record, that who the appeal is not maintainable.
3. Objection no.3 is incorrect, hence denied. All the medical receipts, departmental appeal and registry has been duly annexed with the appeal, so therefore no question for concealment of material facts arises at all.

4. Objection no.4 is incorrect, hence denied.
5. Objection no.5 is incorrect, hence denied. The appellant has come to this Honorable Tribunal with clean hands.
6. Objection no.6 is incorrect, hence denied. The appellant aggrieved from the impugned order therefore, has a cause of action to file the instant appeal.
7. Objection no.7 is incorrect, hence denied. Rule of estoppel is not applicable in the given circumstances of the case.

REPLY ON FACTS:

1. Para No.1 of the reply to facts is incorrect, hence denied.
2. Para No.2 of the reply to facts is incorrect, hence denied. The appellant fell sick from 2015 till 2016 and due to his serious condition and the father of the appellant due to his old age was not able to inform the respondent's department.
3. Para No.3, 4 of the reply to facts are incorrect, hence denied. The detailed reply is given in para no.2.
4. Para No.5 of the reply to facts is incorrect, hence denied. Due to serious condition of sickness / illness the appellant was absent from duty, that is why the respondent's department dismissed the appellant from services, no

charge sheet, no statement of allegations has been received by the appellant, even though no publication has been made by the respondent's department. So before fulfilling the codal formalities the appellant was dismissed from services by the respondents.

5. Para no.6 is incorrect, the appellant has filed departmental appeal to respondent's department, which is annexure D.

REPLY TO OBJECTIONS ON GROUNDS: -

A. Para A of the reply to grounds is incorrect, hence denied.

B. Para B of the reply to grounds is incorrect, hence denied. The appellant was not treated in accordance with law, because no charge sheet, not statement of allegations, no publication has been made by respondent's department.

C. Para C of the reply to grounds is incorrect, hence denied. No inquiry has been conducted by respondent's department.

D. Para D of the reply to grounds is incorrect, hence denied. Already explained in Para B as above.

E. Para E of the reply to grounds is incorrect, hence denied. The respondent's department intentionally taken Ex-part action against the appellant.

F. Para F of the reply to grounds is incorrect, hence denied. Due to serious condition of sickness / illness the appellant was unable to inform the respondent's department.

G. Para G of the reply to grounds is incorrect, hence denied. The punishment given by respondent's department is a very harsh punishment. Especially before awarding the dismissal order, not conducting proper procedure by respondent's department.

H. Para H of the reply to grounds is incorrect, hence denied. The respondent's department did not adopt the proper procedure before issuing dismissal order, which is against the law and rules and procedure.

I. Para I of the reply to grounds is incorrect, hence denied. The impugned order is a void order and defective being passed with retrospective effect.

J. Para J of the reply to grounds is incorrect, hence denied. That so harsh punishment, dismissal from service and not fulfilling the codal formalities injustice has been done by respondents department.

K. Para - K of the reply to grounds is incorrect, hence denied. The appellant seeks permission of this Honourable Tribunal for additional grounds at the time of arguments.

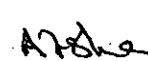
It is, therefore, most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

  
Appellant

Through



ROEEDA KHAN

& 

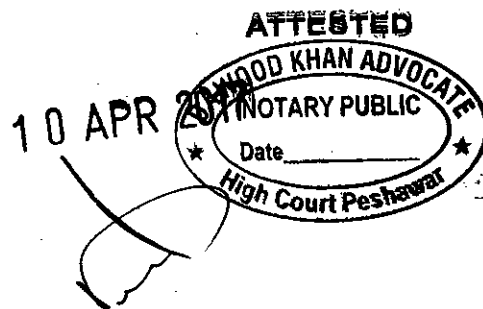
Afsha Manzoor,

Advocates, Peshawar

**AFFIDAVIT:**

Declared on oath that the contents of the instant rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

  
Deponent



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No 1331 /ST

Dated 03 /07/2018


To

The District Police Officer,  
Govt: of Khyber Pakhtunkhwa,  
Bannu.

Subject: **ORDER/JUDGEMENT IN APPEAL NO. 1249/2016, MR. MUHAMMAD YASEEN.**

I am directed to forward herewith a certified copy of Judgment/Order dated 20/06/2018 passed by this Tribunal on the above subject for strict compliance.

**Encl: As above**

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.