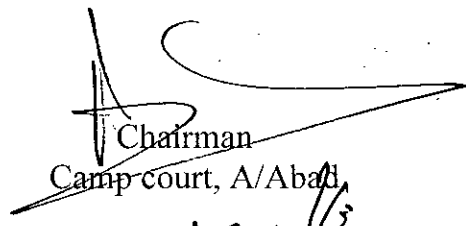


22.12.2016

Learned counsel for the appellant submitted application for withdrawal of the appeal as grievances of the appellant have been redressed departmentally.

In view of the above, the instant appeal is dismissed as withdrawn. File consigned to the record room.


Chairman
Camp court, A/Abad

ANNOUNCED

22.12.2016

22.12.16

21-11-11

21-11-11

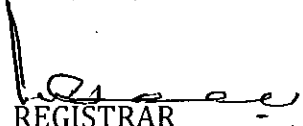



Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1134/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/11/2016	<p>The appeal of Muhmmad Ilyas presented today by Muhammad Arshad Khan Tanoli 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-	11-11-16.	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>22-12-16</u></p> <p style="text-align: right;"> MEMBER</p>

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal no- 1134/2016

Mohammad Ilyas S/O Mohammad Khan (Ex-Cook Constable No. 331 District Police Haripur), presently residing in Village Pharala, Tehsil & District Haripur.

Appellant

VERSUS

1. The Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. The Regional Police Officer, Hazara Region, Abbottabad.
3. The District Police Officer, Haripur.

Respondents

SERVICE APPEAL

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S/N	Description of Document	Ann- exure	Page No.
1.	Appeal		1-7
2.	Copy of impugned order dated 27-06-2016 of the District Police Officer.	"A"	8-
3.	Copy of departmental appeal dated 12-07-2016 to the Regional Police Officer, Hazara Region, Abbottabad.	"B"	9-12
4.	Wakalatnama		

THROUGH

M. Ilyas
APPELLANT

M. Aslam Tanoli
(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

Dated: 10-11-2016

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal no. 1134/2016

Mohammad Ilyas S/O Mohammad Khan (Ex-Cook Constable No. 331 District Police Haripur), presently residing in Village Pharala, Tehsil & District Haripur.

Appellant

VERSUS

1. The Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. The Regional Police Officer, Hazara Region, Abbottabad.
3. The District Police Officer, Haripur.

Khyber Pakhtukhwa
Service Tribunal

Registry No. 1170

Dated 10-11-2016

Respondents

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER OB NO. 404 DATED 27-06-2016 PASSED BY THE DISTRICT POLICE OFFICER HARIPUR WHEREBY THE APPELLANT HAS BEEN AWARDED WITH THE PENALTY OF DISMISSAL FROM SERVICE WITH EFFECT FROM 26-06-2016.

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL ORDER DATED 27-06-2016 OF THE DISTRICT POLICE OFFICER HARIPUR MAY GRACIOUSLY BE SET ASIDE AND THE APPELLANT BE RE-INSTATED IN SERVICE FROM THE DATE OF DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS ON RENDITION OF ACCOUNT.

Respectfully sheweth,

1. That appellant was appointed as Cook Constable in the Police Department on 19-07-2010 thus had rendered about 06 years service. Appellant always performed his assigned with zeal, zest, devotion, dedication and honesty to the entire satisfaction of his officers and never provided them with a chance to reprimand him. On different occasions the appellant remained posted with different officers and served them. They all were pleased with and satisfied to his services.

Filed to-day

Registrar

10/11/16

2. That throughout his entire service, the appellant has earned good and very good ACRs. Appellant has meritorious rather exemplary service record at his credit.
3. That unfortunately, while appellant deployed for services to the worthy District Police Officer Haripur during the month of June, 2016 (Ramazan-ul-Mubark), some personal dissention developed and the worthy officer became biased towards the appellant.
4. That on 25-06-2016, the attitude adopted and the language used by the Worthy Officer, the appellant being a low paid employee, subordinate and well acquaintance with discipline of the police department, remained calm and tolerated whatsoever happened but all that was very pathetic.
5. That at the very moment and date i.e. 25-06-2016, the worthy District Police Officer Haripur put the appellant behind the bars into the quarter guard for more than 24 hours and thereafter awarding with major punishment of dismissal from service through impugned order dated 27-06-2016 that too without any reason and rhyme he was released to proceed his home. **(Copy of impugned order dated 27-06-2016 is attached as "A")**.
6. That neither any proper departmental inquiry, as required under the law, was ever conducted nor was the appellant provided with the opportunity of personal hearing hence the law, departmental rules & regulations and principle of natural justice were seriously violated by the worthy District Police Officer Haripur in the case of

appellant while awarding him with the major punishment of dismissal from service.

7. That even order of major punishment of dismissal from service passed by the worthy District Police Officer Haripur, if perused, is of only 02 lines and does not disclose any reason or cause of the appellant's dismissal from service. The impugned order, in the words of legal language, is not a speaking order thus having no legal status in the eyes of law.
8. That the appellant has served the department for about 06 years and is a young man, experienced and only bread earner of his family consisting upon school going minor children and old/ailing parents. In these days of high dearness and in a state of having no source of income the appellant along with his family has been suffering with financial hardships.
9. That above impugned order dated 27-06-2016 of the District Police Officer Haripur was appellant against by the appellant before the Regional Police Officer, Hazara Region, Abbottabad through departmental appeal dated 12-07-2016 which was never responded till date. **(Copy of departmental appeal dated 12-07-2016 is attached as Annex-"B")**.
10. Hence instant service appeal, inter alia, on the following grounds:

GROUNDS:

- a) That impugned order dated 27-06-2016 is illegal, unlawful, without lawful authority passed in a slipshod and cursory manner and contrary to facts and record thus is liable to be set aside.
- b) That impugned order being a short one, consisting upon only 02 lines; non-speaking order thus has no legality in the eyes of law, departmental rules/regulations and principle of natural justice hence liable to be turned down.
- c) That impugned order has been passed by the authority without adhering to the inquiry procedure set forth by law for the dispersion of justice at preliminary stages during the course of departmental inquiries and in utter violation of mandatory statutory provisions of law.
- d) That no proper departmental inquiry was ever conducted in the case of appellant to prove his guilt or innocence which was mandatory under the law.
- e) That appellant was not provided with the opportunity of personal hearing before awarding major penalty of dismissal from service which provision is mandatory under the law, hence the impugned needs to be turned down.
- f) That the appellant has been awarded major penalty of dismissal from service without any reason & proof rather

on the basis of personal dissension and malafide which is against the law and rules.

PRAYER:

It is therefore, humbly prayed that on acceptance of instant service appeal the impugned order dated 27-06-2016 the appellant may graciously be set aside and the appellant be re-instated in service from the date of dismissal from service with all consequential back benefits of service on rendition of account.

Any other relief which this Honour Tribunal deems fit in the circumstance of the case may also graciously be awarded.

M. Jhyas

APPELLANT

THROUGH

M. Aslam Tanoli

(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
HARIPUR.

Dated: 10-11-2016

Verification

It is verified that the contents of instant appeal are true and correct to the best of my knowledge and nothing has been concealed therefrom.

M. Jhyas

Deponent/Appellant

Dated: 10-11-2016

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Mohammad Ilyas S/O Mohammad Khan (Ex-Cook Constable No. 331 District Police Haripur), presently residing in Village Pharala, Tehsil & District Haripur.

Appellant

VERSUS

1. The Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. The Regional Police Officer, Hazara Region, Abbottabad.
3. The District Police Officer, Haripur.

Respondents

SERVICE APPEAL

AFFIDAVIT:

I, Mohammad Ilyas S/O Mohammad Khan, do hereby solemnly declare and affirm on oath that the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Service Tribunal.

M. Ilyas

Deponent/Appellant

Dated: 10-11-2016

Identified By:

M. Aslam Tanoli

Mohammad Aslam Tanoli
Advocate High Court
At Haripur,



M. Ilyas
Appellant

W. J. Khan
9-11-16

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Mohammad Ilyas S/O Mohammad Khan (Ex-Cook Constable No. 331 District Police Haripur), presently residing in Village Pharala, Tehsil & District Haripur.

Appellant

VERSUS

1. The Provincial Police Officer, Khyber Paktunkhwa, Peshawar.
2. The Regional Police Officer, Hazara Region, Abbottabad.
3. The District Police Officer, Haripur.

Respondents

SERVICE APPEAL

CERTIFICATE

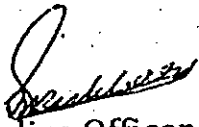
It is certified that no such Appeal on the subject has ever been filed in this or any other court prior to the instant one.

M. Ilyas
APPELLANT

Dated: 10-11-2016

ORDER

Cook constable Muhammad Ilyas No. 331 of this district, is hereby awarded major punishment of Dismissal from service with immediate effect from 26.06.2016


District Police Officer,
Haripur

OB NO: 404

DT: 27.06.2016

M Ilyas

BEFORE HONOURABLE REGIONAL POLICE OFFICER,
HAZARA RANGE, ABBOTTABAD.

DEPARTMENTAL APPEAL AGAINST ORDER OB NO. 404 DATED 27-06-2016 PASSED BY THE DISTRICT POLICE OFFICER, HARIPUR WHEREBY THE APPELLANT HAS BEEN AWARDED WITH MAJOR PENALTY OF DISMISSAL FROM SERVICE W.E.F 27-06-2016.

PRAYER: ON ACCEPTANCE OF INSTANT DEPARTMENTAL APPEAL ORDER DATED 27-06-2016 MAY KINDLY BE SET ASIDE AND THE APPELLANT BE RE-INSTATED IN SERVICE FROM THE DATE OF HIS DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respected Sir, With most reverence and humble it is submitted:-

1. That appellant was appointed as Cook Constable in the Police Department on 19-07-2010 thus has rendered about 06 years service. Appellant always performed his assigned with zeal, zest, devotion, dedication and honesty to the entire satisfaction of his officers and never provided them with a chance to reprimand him. On different occasions the appellant remained posted with different officers and served them. They all were pleased with and satisfied to his services.
2. That throughout his entire service, the appellant has earned good and very good ACRs. Appellant has meritorious rather exemplary service record at his credit.
3. That unfortunately, while appellant deployed for services to the worthy District Police Officer Haripur during the month of June, 2016 (Ramazan-ul-Mubark), some personal dissention developed and the worthy officer became biased towards the appellant.

Mr. J. J. J.

4. That on 25-06-2016, the attitude adopted and the language used by the Worthy Officer towards the appellant, being acquaintance with the highly respectable and exalted position of the police department, cannot dare to bring on the papers, whatsoever was happened but that was very pathetic.
5. That on 25-06-2016, the worthy District Police Officer Haripur put the appellant into the quarter guard for more than 24 hours and thereafter awarding with major punishment of dismissal from service through impugned order dated 27-06-2016 that too without any reason and rhyme he was released to proceed his home. **(Copy of impugned order dated 27-06-2016 is attached as "A")**.
6. That neither any proper departmental inquiry, as required under the law, was ever conducted nor was the appellant provided with the opportunity of personal hearing hence the law, departmental rules & regulations and principle of natural justice were seriously violated by the worthy District Police Officer Haripur in the case of appellant while awarding him with the major punishment of dismissal from service.
7. That even order of major punishment of dismissal from service passed by the worthy District Police Officer Haripur, if perused, is of only 02 lines and does not disclose any reason or cause of the appellant's dismissal from service. The impugned order, in the words of legal

M. Jyoti

language, is not a speaking order thus having no legal status in the eyes of law.

8. That the appellant has served the department for about 06 years and is a young man, experienced and only bread earner of his family consisting upon school going minor children and old/ailing parents. In these days of high dearness and in a state of having no source of income the appellant along with his family has been suffering with financial hardships.
9. That in view of the facts and circumstances mentioned here above the instant departmental appeal, inter alia, on the following grounds:

GROUND:

- a) That impugned order dated 27-06-2016 is illegal, unlawful passed in a slipshod and cursory manner and contrary to facts and record thus is liable to be set aside.
- b) That impugned order being a short order consisting upon only 02 lines and non-speaking order has no legality in the eyes of law, departmental rules/regulations and principle of natural justice hence liable to be turned down.
- c) That impugned order has been passed by the authority without adhering to the inquiry procedure set forth by law for the dispersion of justice at preliminary stages during the

M. J. J.

course of departmental inquiries and in utter violation of mandatory statutory provisions of law.

- d) That no proper departmental inquiry was ever conducted in the case of appellant to prove his guilt or innocence which was mandatory under the law.
- e) That appellant was not provided with the opportunity of personal hearing before awarding major penalty of dismissal from service which provision is mandatory under the law, hence the impugned needs to be turned down.
- f) That the appellant has been awarded major penalty of dismissal from service without any reason & proof rather on the basis of personal dissension and malafide which is against the law and rules.

Sir, in view of the facts and circumstances narrated here, it is earnestly prayed that the impugned order dated 27-06-2016 may graciously be set aside and the appellant be re-instated in service from the date of his dismissal and with all consequential service back benefits. Thanking you sir in anticipation.

Yours Obediently

M. Ilyas

(Mohammad Ilyas)

Ex-Cook Constable No.331

District Police Haripur

Pt. Address:

Village Ramri, Unio Council: Baitgali,
Tehsil Ghazi, District Haripur.

Present Add:

Village Pharala, Tehsil & Distt: Haripur
Mobile No: 0346-5630568

Dated: 12-07-2016

M. Ilyas

Before the Honourable KPK Services Tribunal Peshawar.
at Abbottabad

DBA No: 211
BC No:
Name of Advocate: محمد اسلم تنوئی

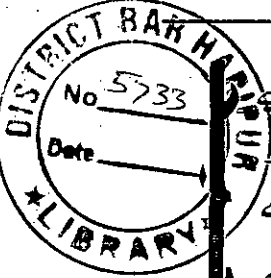
S.No: 5733



وکالت نامہ

بعدالت: جناب جسٹرس مین صاحبہ خیر بیگم خاں سپرنٹنڈنٹ سروسز ایسوسی ایشن
عنوان: محمد اسلم تنوئی
منجانب: محمد اسلم تنوئی
نوعیت مقدم: سروسز ایسوسی ایشن

باعث تحریر آنکہ



مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشگی یا تصنیف مقدمہ بمقام سروسز ایسوسی ایشن

محمد اسلم تنوئی ایسوسی ایشن کورٹ
کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں کہر پیشگی پر خود یا بذریعہ مختار خاص رہ بروعدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشگی پر مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ کچہری کے علاوہ کسی سماعت ہونے پر یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس کے ثالثی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفر درخواست حکم انتہائی یا قرتی یا گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ہوگی علیحدہ مختانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشگی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

Acceptance by
M. Aslam
مورخہ: 10/11/2016
دن ماہ سال

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

الحیدر العہد العہد

M. Aslam

(محمد اسلم تنوئی)

Before the Honourable KPK Service Tribunal Peshawar.
at Abbottabad

Muhammad Iyas

v/s

PPD/18/Pete.

Service Appeal

Application for withdrawal of title appeal,

Respectfully Sheweth:

1. That the titled appeal is pending adjudication before this Honourable Tribunal and is fixed for today for preliminary arguments.
2. That grievance of the appellant has been granted and he has been Reinstated in Service vide Regional Police Officer, Abbottabad letter dated 28/11/2016 (Copy attached).
3. That on this account the appellant may graciously allowed to withdraw the instant appeal.

Dated 22¹²/₁₆

Appellant
through: M. Aslam Tandil
(Muhammad Aslam Tandil)
Advocate High court
at Heron

ORDER

This is an order on the representations of *Ex-Cook Constable Muhammad Ilyas No: 331* of Haripur District against the order of major punishment i.e. *dismissal from service* awarded to him by the District Police Officer, Haripur vide his OB No: 404 dated 27.06.2016.

Facts leading to punishment awarded to him are that he while posted at DPO House, Haripur committed misconduct and misbehaved.

After receiving his appeal, comments of DPO Haripur were obtained. The comments of the DPO & appeal were perused. The undersigned called appellant in O.R where he expressed cogent explanation in his defense.

Keeping in view his previous unblemished record as well as being a prop of growing his minor kids the undersigned take lenient view and the punishment awarded to him i.e. dismissal from service by DPO Haripur which is too harsh and do not commensurate the gravity of offence is set-a-side and he is reinstated in service. The period in which he remained out of service is treated as leave without pay. He is also reprimanded with a warning to be careful in future.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. *5513* /PA Dated Abbottabad the *28* /11 /2016.

Copy of above is forwarded to the District Police Officer, Abbottabad w/r to his office Memo: No: 5383, dated 21.09.2016 for information and necessary action.


*Enclz Service Roll
Kauji misal?*


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

OB/SRC/OHC 'PO

*For information and necessary
action*

*7467
29/11/2016*


*DPO, Haripur
29.11.16*