



15.02.2019

Clerk of counsel for the appellant and Mr. Muhammad Riaz Paidakhel, Asstt. AG for the respondents present.

Request for adjournment is made on the ground of engagement of learned counsel for the appellant in many cases before the Honourable High Court.

Adjourned to 02.05.2019 before the D.B.


Member


Chairman

29.04.2019

Nemo for the appellant. Addl. AG for the respondents present.

It is already past 4.00 P.M and despite repeated calls no one is in attendance on behalf of the appellant.

Dismissed for non-prosecution. File be consigned to the record room.


Member


Chairman

ANNOUNCED

29.04.2019

28.11.2018

Counsel for the appellant and Addl. AG for the respondents present.

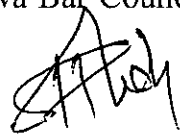
The former requests for adjournment ~~that~~^{as} brief in the instant appeal could not be prepared due to indisposition. Adjourned to 21.01.2019 before the D.B.


Member


Chairman

21.01.2019

Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today due to strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 15.02.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.02.2019

Clerk of counsel for the appellant and Mr. Muhammad Riaz Painsdakhel, Asstt. AG for the respondents present. Appellant in person, Asstt. A.G alongwith Muhammad Arif, Superintendent for the official respondents and counsel for private respondent No. 6 present.

Request for adjournment is made on the ground of engagement of learned counsel for the appellant in many cases before the Honourable High Court.


Adjourned to 02.05.2019 before the D.B.

Member

Chairman


Learned counsel for the appellant and Mr. Sardar Shaukat
learned Additional Advocate General present. Learned counsel
for the appellant seeks adjournment. Adjourned. To come up for
arguments on 20.08.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

20.08.2018

None present on behalf of the appellant. Mr. Riaz Ahmad
Paindakheil, Assistant AG for the respondents present.
Adjourned. To come up for arguments on 16.10.2018 before
D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

16.10.2018

Clerk to counsel for appellant and Mr. Riaz Paindakheil
learned Assistant Advocate General present. Clerk to counsel for
appellant seeks adjournment as learned counsel for appellant is
not in attendance. Adjourned. To come up for arguments on
28.11.2018 before D.B.


Member


Member

20.09.2017

Agent to counsel for the appellant present. Learned Deputy District Attorney for the respondents present. Agent to-counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.12.2017 before D.B.


Member
(Executive)


Member
(Judicial)

18.12.2017

Appellant in person and Mr. Muhammad Jan, DDA alongwith for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. To come up for arguments on 22.02.2018 before the D.B.


Member


Chairman

22.02.2018

Due to none availability of D.B the case is adjourned. to come up on 26.04.2018 before D.B


Member

26.04.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. The Tribunal is non functioned due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 09.07.2018.


READER


16.02.2017.

Clerk to counsel for the appellant and Assistant AG for respondents present. Arguments could not be heard due to general strike of the bar. To come up for arguments on 29.05.2017 before D.B.


(AHMAD HASSAN)
MEMBER

29.05.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondent present. Counsel for the appellant requested adjournment. Adjourned. To come up for arguments on 20.09.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member

737/15

13.4.2016

Agent of counsel for the appellant and Mr. Aziz Shah, H.C alongwith Asstt. A.G for the respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 31.05.2016.


Chairman

31.05.2016

Counsel for the appellant and Mr. Hayat Muhammad, H.C alongwith Addl. AG for the respondents present. Written statement of respondents submitted. Cost of Rs. 1000/- paid and receipt thereof obtained from learned counsel for the appellant. The appeal is assigned to D.B for rejoinder and final hearing for 18.10.2016.


Chairman

18.10.2016

Counsel for the appellant and Addl. AG for respondents present. Counsel for the appellant does not want to file rejoinder. To come up for and arguments on 16.02.2017.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

29.07.2015

Appellant Deposited
Security & Process Fee

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of wilful absence from duty and dismissed from service vide impugned order dated 11.12.2010 regarding which departmental appeal was preferred which was finally rejected on 1.6.2015 and hence the instant service appeal on 30.6.2015.

That the period of absence was treated as leave without pay and as such dismissal was not warranted. That the appellant was not associated with the inquiry in the prescribed manners. Places reliance on case law reported as 2006 SCMR 634.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 26.10.2015 before S.B.


Chairman

26.10.2015

Counsel for the appellant and Hayat Muhammad, H.C alongwith Assistant AG for respondents present. Requested for adjournment. To come up for written reply/comments on 28.01.2016 before S.B.


Chairman

28.1.2016




Counsel for the appellant and Mr. Abdur Razziq, H.C alongwith Assistant AG for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 13.4.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 737/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01.07.2015	<p>The appeal of Mr. Sannaullah resubmitted today by Mr. Sajid Amin Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	2 → 11	<p>This case is entrusted to S.Bench for preliminary hearing to be put up thereon <u>3 → 2015</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	03.07.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 29.7.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Sannaullah Ex-Constable No.1542 Distt. Police Peshawar received to-day i.e. on 30.06.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexure-C of the appeal is illegible which may be replaced by legible/better one.

No. 1024 /S.T.

Dt. 30/6 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Sajid Amin Adv. Pesh.

Sir

Resubmitted after complaint

41

0

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. 737/2015

Sanaullah, Ex- Constable No.1542 District Police Peshawar.

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar and others.


(Respondents)

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Sanaullah
Appellant

Through


SAJID AMIN
Advocate, Peshawar.

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

Appeal No. 737/2015

**N.W.F. Province
Service Tribunal**

Diary No. 754
Dated 30/6/2015

Sanaullah, Ex- Constable No.1542 District Police Peshawar.
(Appellant)

VERSUS

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

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 11.12.2010, whereby the appellant has been awarded the major punishment of dismissal from service and against the order dated 04.12.2012, whereby upon the departmental appeal of the appellant the penalty of dismissal from service has been converted into Removal from service against which the Departmental Review /Mercy Petition of the appellant has been finally rejected vide order dated 01.06.2015, communicated to the appellant on 04.06.2015.

Filed to-day
Registrar
30/6/15

Prayer in Appeal: -

Re-submitted to-day
and filed:

Registrar
01/07/15

On acceptance of this appeal the orders dated 11.12.2010, order dated 04.12.2012 and order dated 01.06.2015, may please be set-aside and the appellant may be re-instated in service with full back wages and benefits of service.

Respectfully Submitted:

1. That the appellant was initially enlisted as constable in the respondents department in the year 2006. Ever since his enlistment the appellant had performed his duties as assigned with zeal and devotion and there was no complaint what so ever regarding his performance. *(Copy of the enlistment order is attached as Annexure A)*
2. That while serving in the said capacity, in March, 2010, the appellant got seriously injured in a road accident, he was taken to hospital. Since the appellant received server back injury, therefore he was unable to perform for duty. The appellant remained on bed and undergone medical treatment. *(Copy of the medical certificates /OPD Chits are attached as Annexure B)*
3. That in the meantime, the appellant was proceeded against departmentally on the ground of absence from duty, a charge sheet and statement of allegations was though issued but never communicated to the appellant, containing the allegations of absence from duty.
4. That without making any endeavour to associate the appellant with the enquiry proceedings, an ex-party enquiry was conducted and the enquiry officer recommended the appellant for major punishment. *(Copy of the Inquiry Report is attached as Annexure C)*
5. That in August, 2010, the appellant when gained some health, he reported for duty. Since he was not fully recovered from injuries, therefore he requested for leave and thereafter continued his treatment in order to get fully fit.
6. That a show cause notice was also issued but never communicated to the appellant wherein the major punishment was proposed. *(Copy of the show cause notice is attached as Annexure D)*
7. That thereafter, the appellant was awarded the major punishment of dismissal from service and his absence period was treated as Leave without pay vide order dated 12.11.2010. It is pertinent to mention here that the order dated was also not communicated to the appellant. *(Copy of the order 12.11.2010, is attached as Annexure E)*

8. That the appellant when recovered from injuries, duly reported for duty somewhere in December, 2012, however he was informed that he has been dismissed from service. Thereafter the appellant requested for the provision of the departmental proceedings conducted against him and the order of his dismissal from service, lastly the impugned order was provided to the appellant on 03.01.2011.
9. That the appellant submitted his departmental appeal on 06.01.2011, upon the departmental appeal the penalty of dismissal was converted into removal from service vide order dated 04.12.2012. (*Copies of the departmental appeal and order dated 04.12.2012 are attached as Annexure F & G*)
10. That the appellant also filed Mercy /Review petition, however the same has also been rejected vide order dated 01.06.2015, communicated to the appellant on 04.06.2015 hence the instant service appeal. (*Copies of the order dated 04.06.2015 is attached as Annexure H*)
11. That the impugned orders are illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF APPEAL:

- A. That the appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before the dismissal of the appellant from service, neither has he been served with any charge sheet / statement of allegations or any absence notice nor has he been associated with the enquiry proceedings. Moreover no endeavor was made to associate the appellant with the inquiry, the whole proceedings were conducted ex-parte, the appellant has not been allowed opportunity to defend himself thus proceedings so conducted are defective in the eyes of law.
- C. That the appellant has not been allowed opportunity of personal hearing before his dismissal from service, thus he has been condemned unheard.
- D. That neither the charge sheet/statement of allegations nor the show cause notice has been served upon the appellant, thus the appellant has not been allowed opportunity to defend himself against the charges.

- E. That no endeavor has ever been made to associate the appellant with the inquiry proceedings the inquiry officer conducted an ex party inquiry and gave his findings on surmises and conjunctures.
- F. That while awarding the penalty of dismissal from service to the appellant, the period for which he remained allegedly absent has also been regularized by treating it as leave without pay, thus the vary ground on which the appellant was proceeded against had vanished and no penalty could lawfully be imposed upon him. ***Reliance is placed on 2006 SCMR 434.***
- G. That the charges leveled against the appellant were never proved in the enquiry, the enquiry officer gave his findings on surmises and conjunctures.
- H. That the appellant never committed an act or omission which could be termed as misconduct, the absence of the appellant was not willful but was due to his illness, the appellant received severe back injuries due to which he was unable to perform his duties.
- I. That the appellant is jobless since his illegal dismissal from service he has a large family dependant upon him, due to his illegal dismissal from service his whole family is suffering.
- J. That the appellant has more then 4 years spotless service career at his credit, the penalty imposed upon him is too harsh and liable to be set aside.
- K. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the hearing of the appeal.

It is, therefore, humbly prayed that on acceptance of this appeal the orders dated 11.12.2010, order dated 04.12.2012 and order dated 01.06.2015, may please be set-aside and the appellant may be re-instated in service with full back wages and benefits of service.

Sayyidullah
Appellant

Through

Sajid Amin
SAJID AMIN
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2015

Sanaullah, Ex- Constable No.1542 District Police Peshawar.

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar and others.

(Respondents)

***APPLICATION FOR CONDONATION OF DELAY,
IF ANY IN FILING THE TITLED APPEAL***

Respectfully submitted:

1. That the appellant has today filed the accompanied appeal before this honorable tribunal in which no date of hearing is fixed so far.
2. That the applicant prays for condonation of delay if any in filing the instant appeal inter alia on the following grounds:-

GROUND OF APPLICATION

- A. That the appellant throughout agitated the matter before the departmental authority and never remained negligent in perusing his remedy, the appellant submitted his departmental appeal in time, and thereafter also filed review petition which remained under consideration, however it was lastly rejected vide order dated 01.06.2015, the rejection order was conveyed to the appellant 04.06.2015. Thereafter the instant appeal is filed well in time.
- B. That the delay if any in filing the instant appeal was not willful, hence deserves to be condoned.
- C. That it has been consistently held by the superior courts that appeal filed within 30 days from the date of communication of the order on departmental representation / appeal would be in time. Reliance is placed on **2013 SCMR 1053 & 1997 SCMR 287 (b)**

- D. That no proper procedure has been followed before the imposition of penalty upon the appellant. Moreover the absence period has already been treated as leave without pay. Thus the whole proceedings as well as the order of penalty is illegal and void ibinatio and no limitation run against such an illegal and void order.
- E. That valuable rights of the appellant are involved in the instant case in the instant case, hence the delay if any in filing the instant case deserves to be condoned.
- F. That it has been the consistent view of the Superior Courts that causes should be decided on merit rather than technicalities including limitation. The same is reported in 2014 PLC (CS) 1014 2003 PLC (CS) 769.

It is therefore humbly prayed that on acceptance of this application the delay if any in filing the instant appeal may please be condoned.

Sanaullah
Applicant

Through

Sajid Amin
SAJID AMIN
Advocate, Peshawar

AFFIDAVIT

I, Sanaullah, Ex- Constable No.1542 District Police Peshawar, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



Sanaullah
Deponent

1746

و سینه‌ها را با آب جوشانده



تا آنجا که در سینه‌ها که سینه‌ها را با آب جوشانده

در سینه‌ها که سینه‌ها را با آب جوشانده

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Amnour "A"
 1746
 1746
 1746

از پیشگاہ صاحب پرنٹنگ پریس

خدمت صاحب پرنٹنگ پریس بہادر پولیس

نقشہ نمبر ۱۰۰۰ کے خانہ پری مندرجہ ذیل امور ان کے
مابین سب انسپکٹر صاحب مختار
جناب ۱۰۱۰ صاحب تعانہ کے
سینئر پالیس

سال ۱۹۵۰ء مورخہ

<p>۳</p> <p>رپورٹ انیسٹریکشن دوبارہ سزایابی سابقہ جال چین نسبت سزایابی و برخواستگی اگر کوئی ہو شخصیت، قومیت وغیرہ تنظیر یا در عسرت کردہ لڑکے یا لڑکیوں کا نقل</p>	<p>۲</p> <p>بیان نمبر داران متعلق سزایابی سابقہ و برخواستگی اگر کوئی ہو شخصیت، قومیت بدر دستخط</p>	<p>۱</p> <p>نام تصدیق کنندہ متعلق جال چین بقدر دستخط</p>
<p>مکانے</p>	<p>جوتی</p>	<p>میں</p>

No.

OUT-PATIENTS DEPARTMENT

Annexure "B"

NAME

1/4/3

YEARLY NO.

13647

DATE

2-9-2010

DISEASE

Lambago - Left side Shaktia

cc - Back pain

Left leg - painful GLE

Left -

Right leg & peroneal

nerve - retracted

FACE VALUE RUPEES

8

TAB - Detmerobian

1000 IS

TAB - Revlon

1000 IS

Cap - Avian (Coax)

1000 IS

TAB - Bridin 200

1000 IS

Medical Superintendent
Police/Services, Hospital
Feshawar,

Advised - one officer

bed rest (Medical Officer Hospital)

... if go away

22

No.

Rs. 5/-

OUT-PATIENTS DEPARTMENT

NAME

قناك الله

YEARLY NO.

23426

DATE

3-5-10

DISEASE

lambago + Shatig
CC - memus
lasted pain
Back pain

GE - used
rolled pain
manu

- TAB - cotton 5ay
WS 1+1
- Gay - Resek 2ay
WS 21 1+1
- TAB - newagabun
WS 1+1
- TAB - newamitas
WS 1+1

Advised - fittes
bedrest (Home rest)
by m/s
Hospital
of Goro

FACE VALUE RUPEES 5/-

Medical Superintendent,
Police Services, Hospital
Peshawar

Handwritten signature

Nq.

Rs. 5/-

OUT-PATIENTS DEPARTMENT

NAME تيا سليا

YEARLY NO. 27166

DATE 18-5-10

DISEASE lumbago -

cc-backpain
neuralgic

GIE present

FACE VALUE RUPEES 5/-

(10)

TAB - Syntholad 5500

0.5 1x1

TAB - metacab

0.5 1x1

TAB - Myonax

0.5 1x1

Advised - Three days (night)
bed rest (Hammerhead
by msc)

Medical Superintendent
Police Services, Hospital
Peshawar

Medical Officer
Hospital
Peshawar

Handwritten signature

No.

Rs. 5/-

OUT-PATIENTS DEPARTMENT

NAME Fuller

YEARLY NO. 28046

DATE 27-5-2020

DISEASE Lumbago - strabismic left eye -

cc - normal
Back pain
Left eye
R/E Rotted & painful
Normal refraction

- TAB - Megadec 500mg
 CIS (1)
- TAB - Fenitoin 100mg
 ix
- TAB - Penicillin
 4 + 1
- TAB - Rivotril
 1 + 1

Medical Superintendent
Police/Services, Hospital
Peshawar

Advised - one doctor
bed rest / (normal hospital)
Symptoms (normal hospital) / approved

[Handwritten signature]

No.

Rs. 5/-

OUT-PATIENTS DEPARTMENT

NAME

M. C.

YEARLY NO.

34271

DATE

22-6-2010

DISEASE

Lambager - syadha
 c-c-nemus right side
 Bakpan GE - pchle
 last of panch
 Bakpan
 (GAB - 1+1) Bradiu 20y
 (GAB - 1+1) mediacabal
 (GAB - 1+1) payamul
 (GAB - 1+1)

FACE VALUE RUPEES 5/-

10

Medical Superintendent
 Police Services, Hospital
 Peshawar

Adused - one month's caught
 bed rest (Home rest) caught
 Gymnastics approved

Medical Officer
 Police Services, Hospital
 Peshawar

Handwritten signature or initials at the bottom left.

No.

RS. 5/-

OUT-PATIENTS DEPARTMENT

13

NAME

J. M. Lee

YEARLY NO.

85818

DATE

22-07-2010

DISEASE

Cambridge + Sh. ch. ca. left side

cc - neuritis

marked sin

pericardial

of the pericardial R. side

neuritis - R. side

Abnormal + left side

○

Ans - neuragochin - 50

at 1000 14

Ans - Madem 2009

at 1000 14

Ans - medinal pill

at 1000 14

Ans - metiracal

at 1000 14

Advised - one year of hospital treatment
bed rest - 10 days
beginning of 2010

Medical Superintendent
Police/Services, Hospital
Bhubaneswar.

Handwritten signature

14

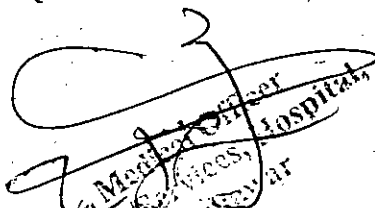
Fitness Certificate

This is certificate to Mr.

Sanaullah S/o Ihsanullah.

he is examined by me he
is fit for duty on.

17/8/010.


Member of
Police Services Hospital
Peshawar



Handwritten initials/signature at the top right of the page.

Handwritten notes: "Issue & C/O" and "P/C" with a large scribble.

No. 56-E ST
D.D. 08/2010

(Haroon-ur-Rashid Babar)
Enquiry Officer,
Sub-Divisional Police Officer,
Town Circle Peshawar.

Report is an unfiled case.

the Major Punishment

This enquiry finds the accused of total guilty of the charges leveled against him. He has also shown a lack of discipline by wilfully avoiding the enquiry proceedings, which amounts to gross misconduct. It is recommended that he be awarded

the is deliberately avoiding the enquiry proceedings against him. He is reported back for duty as yet. His previous record suggests that he is habitual absentee. He is away from Gujargar/shawar about 10 Kilometers only and the alleged Constable not of total is still absent from duty. The said official is residing in Badabher village, which is near Gujargar was contacted through phone, wherein he informs this office that the said 14/05/2010 for recording of his statement but he did not appear before the undersigned. dated 22/05/2010. No. 40 ST dated 28/05/2010 and lat summon No. 44/ST dated 14/05/2010 for recording of his statement but he did not appear before the undersigned.

The instant enquiry has been initiated against Constable Samanullah No. 542 in the order of SI (Cantt Peshawar) vide his letter No. 914/PA SP (Cantt dated 07/05/2010 in the charge sheet was posted at P.S. Gujargar, he absented himself from duty from 02/05/2010 to 20/05/2010 (18 days) vide D.D. No. 3 dated 02/04/2010 and from 22/05/2010 till date without leave or permission. The undersigned was recommended as Enquiry Officer to scrutinize the conduct of the accused official.

Please refer to your office endorsement No. 914/PA SP (Cantt dated 07/05/2010 on the subject noted above.

N. (10)

DISCIPLINARY ACTION AGAINST CONSTABLE
SAMANULLAH NO. 542 OF P.S. GUJARGAR

The Superintendent of Police,
Cantt Peshawar.

(15)

Annexure "C"

To

The Superintendent of Police
Cantt: Peshawar.

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE
SAMULLAH NO. 1542 OF PS GULBERG

Res: Sir,

Please refer to your office Endorsement No. 9 1-PA SP
Cantt dated 10.05.2010 on the subject noted above,

The inspect enquire has been initiated against Constable
Samullah No. 1542 on the order of SP Cantt: Peshawar vide his
letter No. 94E-PA SP Cantt dated 02.05.2010 of the charged on Wala
Police at PS Gulberg be absented himself from July from
02--2-2010 to 20-5-2010 (48 days) vide DD No. 3 dated 02-04-2010
and from 22-05-2010 till date without leave or permission. The
undersigned was arrested in Enquiry Officer to scrutinize the
conduct of the accused official.

The said official was called repeatedly vide this
office summons 39/ST dated 22-05-2010 No. 49ST dated 28-05-2010
and late summon No. 44/ST dated 14-05-2010 for recording of his
statement but he did not appear before the undersigned Moharir
Gulberg was contract through phoiness, wheein he informss this
office that the said official is till absented from duty
The said official is residing in Bzdabher village, which is
away from Gulberh Peshawar about 10 Kilometers only and the
alleged Constable not reported back for duty previous
record suggests that he is habitual absencenear literacy avoiding
enquiry proceedings against him.

This enquiry finds the adused official guilty of the
charges leveled against him. He has always shown a lck of
discipline by wilfully avoiding the enquiry proceedings which
amounts to gross misconduct. It is recommended that he be
awarded the Major Punishment.

Report is submitted please-

(Haroon-un-Rashid Baber)

Enquiry Officer

Sub Divisional Police Officer

Town Circle, Peshawar.

Attest
[Signature]

Annexure "D"

(16)

FINAL SHOW CAUSE NOTICE

I, Superintendent of Police, Cantt, Capital City Police, Peshawar as competent authority, under the North West Frontier Provincial Removal from Service (Special Power) Ordinance, 2000 do hereby serve you Constable/Sanaullah No. 1542 of Capital City Police, Peshawar as follows.

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

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

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

"That you while posted at P.S/Gulberg remained absent from your lawful duty with effect from: 02-04-2010 to 20-05-2010, from: 22-05-2010 to- date without taking permission or leave which amounts to gross misconduct on your part and against the discipline of the force".

17/8
87

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under section 3. of the said Ordinance of sub section 4 of section 5 for absence willfully performing duty away from place of posting.

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

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

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

Quill
SUPERINTENDENT OF POLICE,
CANTT, PESHAWAR

No. 91 /PA, SP/Cantt: dated Peshawar the 1/9 /2010.

Handwritten signatures and notes

Copy to official concerned.

4/9/10

9/c

Annexure "E" (17)

ORDER

This is an office order for the disposal of the departmental proceedings against **Constable Sanaullah No. 1542** while posted to Police Station Gulberg who remained absent from his lawful duty w.e.f. **02.04.2010 to 20.05.2010, from: 22.05.2010 to 17.08.2010 and from: 09.09.2010 till to-date** without any leave or permission from his seniors.

On the basis of the above mentioned allegations, disciplinary proceedings were initiated against him and he was issued Charge Sheet along-with Statement of allegations. **Mr. Haroon-Ur-Rashid Babar, SDPO/Town Circle** was appointed as enquiry officer.


Findings of the E.O, SDPO/Town was received and perused by the undersigned, the defaulter **Constable Sanaullah No. 1542** was found guilty and the enquiry officer recommended him for major punishment. As per findings of the Enquiry officer, he was issued Final Show Cause Notice vide No. 91/PA, dated: 01-09-2010. His reply was received but found unsatisfactory as the defaulter constable is still absent from his lawful duty w.e.f. 09.09.2010 till to-date which clearly shows that he is not taking interest in his official duty.

His service record was checked which revealed that he was enlisted in service on 20.05.2006 and during his short tenure of service he carries 28-bad entries.

I have gone through the case file and perused the record. Keeping in view the recommendation of the enquiry officer and the record also shows him habitual absentee and malinger official. Therefore, I, being the competent authority agree with the recommendation of the Enquiry Officer. **Therefore, Constable Sanaullah No. 1542 is hereby awarded the major punishment of dismissal from service and his period of absence is counted as leave without pay.**

Order announced.

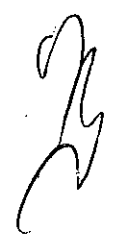
G. N. No. 4027
DATED 11-12-2010


Superintendent of Police,
Cantt, Peshawar.

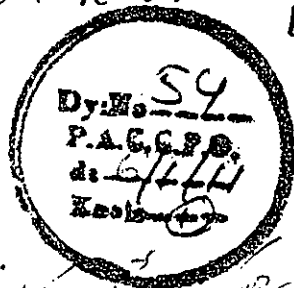
No. 91-E /S.P: Cantt: dated Peshawar, the 11-12 / 2010.

Copy for information and necessary action

523/



جناب عالی



دعوات براد بھائی دوبارہ کوئی
No 40- CB 90
7-1-2011

گزشتہ خبر سائل کا حق طرف سے کوئی بیماری میں مبتلا ہے اور
سائل نے دو دنوں کے دوران ڈاکٹر کے ساتھ رہا ہے اور اس کے جسم سے سائل
کا کوئی درد یا تپ سے سائل نے اپنا علاج معالجہ وقتاً فوقتاً
جا کر لیا ہے اور ایسے سائل نے اپنا صدمہ ٹیبل لیو اور وقتاً فوقتاً بالائے
ادویات اور اعتراف سے سائل نے اپنے جسم پر نہ کر سکا جو کہ سائل کو
کوئی اثر بھی نہیں ہے اور اچھے چھوٹے صحت پرین و صدمہ ٹیبل
لیو اور اعتراف کو پیش کر سکا ہے اور سائل نے سائل
کوئی اثر بھی نہیں ہے اور کوئی اثر بھی معائنہ نہیں ہے اور سائل
اس دفعہ آخری چانس دی جائے

کہہ آئے ہیں ان کی خدمت میں عاجزانہ استدعا
کرنا ہوں کہ سائل کی حالت پر ارفع فرمائے سائل کو دوبارہ
کوئی اثر بھی نہیں ہے اور کوئی اثر بھی معائنہ نہیں ہے اور سائل

سائل نے اپنے اصل نام سے درخواست کی ہے
F.A.C./CR
For Putup Record
Dy: Supdt. of Police,
Legal, CCP/Peshawar
7-1-2011

EX 1542
EX
MCB No 0345 920 2395
(0345-9182-982 Brothers
عبدالرشید)

DSP/Legal
For Comments Please.

Handwritten signature or mark.

(19) Annexure "G"

ORDER

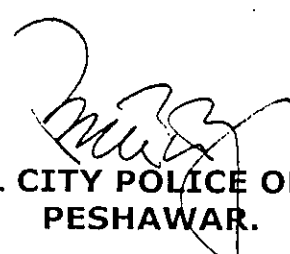
This order will dispose off departmental appeal of ex-constable **Sana Ullah No. 1542** who was awarded the major punishment of **Dismissal** from service under RSO 2000 vide OB No. 4027 dated 11.12.2010, by SP-Cantt:.

Allegations levelled against him were that he absented himself from PS Gulberg w.e.f 2.4.2010 to 20.5.2010, 22.5.2010 to 17.8.2010 & 9.9.2010 to 11.12.2010 (7-months & 15-days):

Proper departmental proceedings were initiated against him and after all codal formalities, he was awarded the above punishment.

The relevant record was perused along with his explanation. He was also heard in person in OR on 28/11/2012. Though the allegations levelled against seems correct but being a young man and educated one a lenient view is hereby taken and his dismissal order is converted into Removal from service.

O. B No: 4248
Date: 4-12-2012


**CAPITAL CITY POLICE OFFICER,
PESHAWAR. 29/11**

No. 1966-71 /PA dated Peshawar the 4.12.12

- Copies for information and n/a to the :-
- 1/ SP/Cantt:, Peshawar.
 - 2/ PO
 - 3/ CRC along with S.Roll for making necessary entry in his S.Roll.
 - 4/ OASI
 - 5/ FMC along with complete FM.
 - 6/ Official concerned.





6

Annexure "H"

20

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Sanullah No. 1542 against the Punishment order i.e Removal from service passed against the appellant by SP/Cantt: Peshawar vide his order Book No. 4027 dated 11.12.2010.

In the light of recommendations of Appeal Board meeting held on 21.05.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The official was called and heard in detail. Record perused. He has got 30 bad entries during his 04 years & 07 months service. He also failed to produce any cogent reasons for his willful absence of 07 months. Therefore, the Board rejected his appeal.

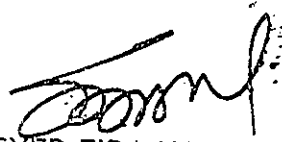
Order announced in the presence of appellant.

Sd/-
NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

No. 7316-19 /E-IV dated Peshawar the 01/06/2015

Copy of above is forwarded to the:-

1. Capital City Police Officer, Peshawar. The service Roll, Fauji Missal and Enquiry File of the above named official are returned herewith.
2. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
3. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
4. PA to DIG/HQrs Khyber Pakhtunkhwa; Peshawar.


(SYED FIDA HASSAN SHAH)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.



POWER OF ATTORNEY

In the Court of Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Sannullah Ex Constable } For
} Plaintiff
} Appellant ✓
} Petitioner
} Complainant

VERSUS

Provincial Police Officer, Khyber Pakht- } Defendant
unkhwa, Peshawar and others. } Respondent
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

SAJID AMIN ADVOCATE, HIGH COURT

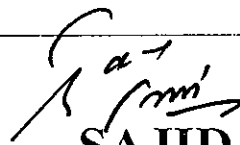
_____ my true and lawful attorney, for me
in my same and on my behalf to appear at _____ to appear, plead, act and
answer in the above Court or any Court to which the business is transferred in the above
matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits.
Compromises or other documents whatsoever, in connection with the said matter or any
matter arising there from and also to apply for and receive all documents or copies of
documents, depositions etc, and to apply for and issue summons and other writs or sub-
poena and to apply for and get issued and arrest, attachment or other executions, warrants
or order and to conduct any proceeding that may arise there out; and to apply for and
receive payment of any or all sums or submit for the above matter to arbitration, and to
employee any other Legal Practitioner authorizing him to exercise the power and
authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other
lawyer may be appointed by my said counsel to conduct the case who shall have the same
powers.

AND to all acts legally necessary to manage and conduct the said case in all
respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf
under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the
Court/my authorized agent shall inform the Advocate and make him appear in Court. if the
case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be
held responsible for the same. All costs awarded in favour shall be the right of the counsel
or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____
Executant/Executants Sannullah.
Accepted subject to the terms regarding fee _____


SAJID AMIN
Advocate High Court

50,

737/2015

ONE CHAIRMAN SERVICE
Tribunal JKP Peshawar

Janaullah ex Constable vs D.P.O & others

Attested

Receipt for collecting fine on behalf
of appellant.

- (1) That the above title case was fixed for today hearing with honorable Chairman Service Tribunal i.e 31-05-2016.
- (2) That a fine of Rs-1000 was imposed on the respondents.
- (3) That I collect the a sum of Rs-1000 fine on behalf of appellant.

[Signature]
31/05/16

Through
Saleem Khan advocate
Associate Ijaz Anwar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.737/2015.

Sana Ullah, Ex-Constable, CCP Peshawar.....Appellant.

VERSUS.

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

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

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

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

FACTS:-

- 1 Para No.1 pertains to record hence needs no comments.
- 2 Incorrect. The appellant while posted at PS Gulbarg Peshawar absented himself wilfully from his lawful duty w.e.f 02.04.2010 to 20.5.2010, 22.05.2010 to 17.08.2010 and 09.09.2010, to 11.12.2010 (Total 07 Months and 15 days). In this regard he was proceeded departmentally and was issued a charge sheet along with summary of allegations. Proper departmental enquiry was conducted against him. The charges of deliberate absence were stand proved against him. It was also proved that the appellant is a habitual absentee and during his 04 Years and 07 Months service, he has got 30 bad entries. As the charges of deliberate absence were stand proved against him, hence he was recommended for major punishment. Upon the findings of E.O, he was issued FSCN to which he received and also replied, but his reply was found unsatisfactory, hence he was awarded major punishment of dismissal from service vide OB.No.4027 dated 11.12.2010 by SP Cantt: Peshawar.
- 3 As replied above.

- 4 Para No.4 is totally incorrect and denied. In fact the appellant was called repeatedly vide summons No.39/ST dated 25.05.2010, No 40/ST dated 28.05.2010 and summon No 44/ST dated 14.06.2010 for recording of his statement but he deliberately avoided to appear before the E.O. hence after fulfilling all codal formalities he was recommended for major punishment. (summons are annexed)
- 5 Para No.5 is totally incorrect and concocted, hence denied. The appellant did not reported for his duty and remained absent for a long time till dismissal from service.
- 6 Para No.6 is correct to the extent that he was issued a show cause notice and was served upon him. But he deliberately avoided to appear before the E.O and competent authority.
- 7 Para No.7 is correct to the extent that he was awarded major punishment of dismissal from service and was properly communicated to him.
- 8 Para No.8 is incorrect the appellant did not report back for his duty. He remained absent for a long time till dismissal from service.
- 9 Para No.9 is correct to the extent that the appellant preferred a departmental appeal which after due consideration was decided on the ground that his dismissal was converted into removal from services vide OB No. 4248 dated: 04.12.2012.
- 10 Para No. 10 is correct to the extent that the appellant filed a mercy petition but after due consideration was filed/rejected because the charges of absence were stand proved against him.
- 11 The punishment orders are in accordance with law/rules, hence liable to be upheld.

Grounds:-

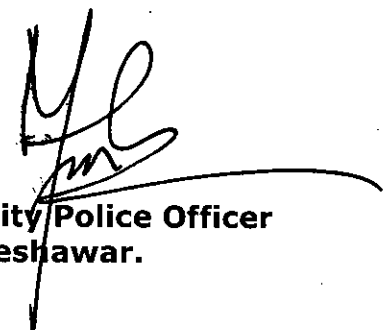
- A) Incorrect. The appellant was treated as per law and rules.
- B) Incorrect. Proper departmental enquiry was conducted against him. All codal formalities were fulfilled. He was given full opportunity to defend himself.
- C) Incorrect. The appellant was called and heard in person in OR on 28.11.2012.
- D) Incorrect. The appellant was issued a charge sheet & summary of allegations and was properly served upon him.
- E) Incorrect. The appellant was called time and again but he deliberately avoided to appear before the E.O.
- F) Incorrect. The appellant is a habitual absentee and during his short tenure of service he got about 30 bad entries.
- G) Incorrect. The charges leveled against him stood proved.
- H) Incorrect. The appellant was found guilty of misconduct by deliberately absenting himself from his lawful duty.

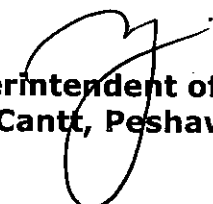
- I) Incorrect. The appellant was awarded major punishment in accordance with law/rules. Rest of para in not related.
- J) Incorrect. In fact the appellant during his 04 Years & 07 Months service got about 30 bad-entries, which reveals that he is not interested in his duty.
- K) Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER.

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


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


**Capital City Police Officer
Peshawar.**


**Superintendent of Police
Cantt, Peshawar.**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.737/2015.

Sana Ullah, Ex-Constable,CCP Peshawar.....Appellant.

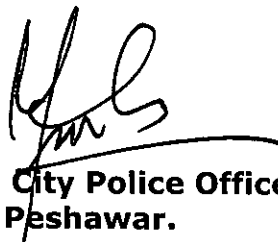
VERSUS.

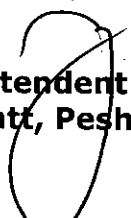
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar
3. Superintendent of Police, Cantt , Peshawar.....Respondents.

AFFIDAVIT

We respondents 1, 2, &3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


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


**Capital City Police Officer
Peshawar.**


**Superintendent of Police
Cantt, Peshawar.**

ORDER

(19)

Annexure "G"

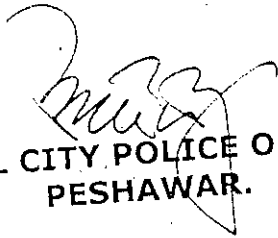
This order will dispose off departmental appeal of ex-constable **Sana Ullah No. 1542** who was awarded the major punishment of **Dismissal** from service under RSO 2000 vide OB No. 4027 dated 11.12.2010, by SP-Cantt:

Allegations levelled against him were that he absented himself from PS Gulberg w.e.f 2.4.2010 to 20.5.2010, 22.5.2010 to 17.8.2010 & 9.9.2010 to 11.12.2010 (7-months & 15-days).

Proper departmental proceedings were initiated against him and after all codal formalities, he was awarded the above punishment.

The relevant record was perused along with his explanation. He was also heard in person in OR on 28/11/2012. Though the allegations levelled against seems correct but being a young man and educated one a lenient view is hereby taken and his dismissal order is converted into Removal from service.

O. B No: 4248
Date: 4-12-2012


CAPITAL CITY POLICE OFFICER,
PESHAWAR. 29/11

No. 1966-71 /PA dated Peshawar the 4-12-12

- Copies for information and n/a to the :-
- 1/ SP/Cantt, Peshawar.
 - 2/ PO
 - 3/ CRC along with S.Roll for making necessary entry in his S.Roll.
 - 4/ OASI
 - 5/ FMC along with complete FM.
 - 6/ Official concerned.

Annexure "C"

15

To: The Superintendent of Police,
Cantt. Peshawar.

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE
SANAULAH NO.1542 OF P.S. GULBARG

MEMO:

Please refer to your office Enforcement No.91/D-PA/SP/Cantt dated 01.06.2010 on the subject noted above.

The instant enquiry has been initiated against Constable Sanaulah No.1542 in the order of SI Cantt. Peshawar vide his letter No.91/D-PA/SP/Cantt dated 01.06.2010 on the charge that while posted at P.S. Gulbarg he absented himself from lawful duty from 02.05.2010 to 20.05.2010 (48 days) vide D.D No 7 dated 02.04.2010 and from 22.05.2010 till date without leave or permission. The undersigned was appointed as Enquiry Officer to scrutinize the conduct of the accused official.

The said official was called repeatedly vide this office summons 39/ST dated 22.05.2010, No.40/ST dated 28.05.2010 and last summons No.44/ST dated 14.06.2010 for recording of his statement but he did not appear before the undersigned. A search of Gulbarg was carried through phone wherein he informs this office that the said official is still absented from duty. The said official is residing in Padishier village, which is away from Gulbarg/Peshawar about 10 kilometers only and the alleged Constable not reported back for duty till yet. His previous record suggests that he is habitual absentee, who is deliberately avoiding the enquiry proceedings against him.

This enquiry finds the accused official guilty of the charges leveled against him. He has also shown a lack of discipline by willfully avoiding the enquiry proceedings, which amounts to gross misconduct. It is recommended that he be awarded the Major Punishment.

Report submitted please.

(Signature)
(Haroon-ur-Rashid Babar)
Enquiry Officer,
Sub-Divisional Police Officer,
Town Circle Peshawar.

No. 56-E/ST

10.12.2010

Issue S.O.
(Signature)
SP/Cantt.

Annexure "D" (16)

FINAL SHOW CAUSE NOTICE

I, Superintendent of Police, Cantt, Capital City Police, Peshawar as competent authority, under the North West Frontier Provincial Removal from Service (Special Power) Ordinance, 2000 do hereby serve you Constable/Samaullah No. 1542 of Capital City Police, Peshawar as follows.

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

(ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.
I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

"That you while posted at P.S/Gulberg remained absent from your lawful duty with effect from: 02-04-2010 to 20-05-2010, from: 22-05-2010 to-
date without taking permission or leave which amounts to gross misconduct on your part and against the discipline of the force".

17/8
87

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under section 3 of the said Ordinance of sub section 4 of section 5 for absence willfully performing duty away from place of posting.

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

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

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

Quill
SUPERINTENDENT OF POLICE,
CANTT, PESHAWAR

No. 91 /PA, SP/Cantt: dated Peshawar the 1/9 /2010.

Copy to official concerned.
4/9/10