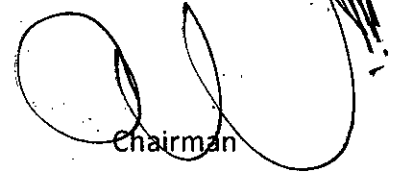


Appeal No. 518/2012  
Mr. Mohammed Elafique

7.  
29.10.2013

Neither appellant nor counsel for the appellant present.

Notices be issued to the appellant and his counsel for preliminary hearing on 12.12.2013.



Chairman

8.  
13.12.2013

Neither appellant nor counsel for the appellant present. To come up for preliminary hearing on 06.02.2014.



Member

9.  
06.02.2014

No one is present on behalf of the appellant. Notices be issued to the appellant/counsel for the appellant for preliminary hearing on 18.03.2014.



Member

10.  
18.03.2014

None for the appellant present. On previous date none was present on behalf of the appellant and notice to appellant and his counsel issued for today but even today none is available on behalf of the appellant. As such the appeal is dismissed in default. *in hisse*  
File be consigned to the record.

ANNOUNCED  
18.03.2014.



Member


3.  
9.5.2013

Counsel for the appellant present and requested for adjournment. Case adjourned to 18.6.2013 for preliminary hearing.

  
Member.

4.  
11.6.2013

Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals; (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 22.7.2013.

  
Reader

5.  
22.07.2013

No one is present on behalf of the appellant. Case is adjourned. To come up for preliminary hearing on 19.09.2013.

  
Member

6.  
19.09.2013

Counsel for the appellant present and requested for adjournment. To come up for further preliminary hearing on 29.10.2013.



  
Member

Form- A

FORM OF ORDER SHEET

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

Case No. 518/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07/03/2013	<p>The appeal of Mr. Muhammad Sahafiq resubmitted today by Mr. Muhammad Hayat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21-3-2013	<p>This case is entrusted to primary Bench for preliminary hearing to be put up there on <u>9-5-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>


The appeal of Mr. Muhammad Shafiq Ex-Constable received today i.e. on 04/03/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 day.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Copies of Medical report/OPD receipt mentioned in para-2 of the memo of appeal (Annexure-A) are not attached with the appeal which may be placed on it.
- 3- Copies of Charge Sheet, Show Cause Notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 4- Copy of Impugned dismissal order dated 07/9/2012 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 5- Copies of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.
- 6- Annexures of the appeal may be attested.
- 7- Five more copies/sets of the appeal along with annexure i.e. complete in all respect may also be submitted with the appeal.

No. 373 /S.T,

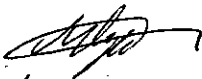
Dt. 4/3 /2013.

MR. MUHAMMAD HAYAT, ADV; PESH.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Re submitted on 2-3-13  
after removal of objections

Noted :- objection no 3 could not be removed as  
no inquiry has been conducted and no show cause  
notice has been served to the appellant

  
- Mr. Hayat advocate

**BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. 518 /2013

Muhammad Shafiq.....**Appellant**

**VERSUS**

Government of KPK through Inspector General of Police, KPK,  
Peshawar and others.....**Respondents**

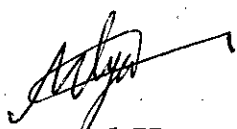
**I N D E X**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Service Appeal		1-4
2.	Affidavit		5
3.	Application for Condonation of delay		6-7
4.	Affidavit		8
5.	Addresses of the parties		9
6.	Copy of medical report/ OPD receipt	A	10-12
7.	Copy of order dated 07/09/2012	B	13
8.	Copy of order dated 01/02/2013 <sup>B</sup> <i>Appeal</i>	C	14-15
9.	Wakalat Nama		

Appellant

Through

Dated: 04/03/2013

  
**Muhammad Hayat Khan**  
Advocates, High Court  
Peshawar.  
Cell No. 0300-5989437

1

**BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. 518 /2013

**GVS Peshawar**  
**Mardan V. State**  
No. 518  
dated 04/3/13

Muhammad Shafiq S/o Ajab Gul Ex-Constable No. 3091

R/o Dundia, (Lund Khwar) Tehsil Takht Bhai District,

Mardan.....**Appellant**

**VERSUS**

Government of KPK through:

1. Inspector General of Police, KPK, Peshawar.
2. Deputy Inspector of Police, Mardan Region-I, Mardan.
3. District Police Officer, Mardan.....**Respondents**

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL**

**ACT, 1974.**

**Respectfully Sheweth:**

re-submitted to  
and filed:

Brief facts giving rise to present appeal are as under:

That the appellant serving in Police Department, District Mardan as constable.

**Registered**  
7/3/13  
1.

2. That since his appointment the appellant has efficiently performed his duties and served his department honestly and with great diligence but unfortunately the appellant become victim of Hepatitis-B, the worthy D.P.O, District Mardan has sanction 20 days medical leave vide OB No. 3662 dated 10/10/2011. It is pertinent to mentioned here that the appellant also suffer from Tuberculosis (TB) and did his treatment for about 8 months. (Copy of medical report/ OPD receipt are attached as annexure "A").
3. That during the leave period the appellant has been transferred to PP Bughdada Mardan (P.S City) but no notice has been served to the appellant in this regard.
4. That the appellant was busy in his treatment but unfortunately was dismissed from service by the respondent No. 3 vide order OB No. 2484 dated 07/09/2012. (Copy of order dated 07/09/2012 is attached as annexure "B").
5. That the appellant file an appeal against the order dated 07/09/2012 to the respondent No. 2, but was also dismissed vide order dated 01/02/2013 by the respondent No. 2. (Copy of order dated 01/02/2013 ~~is~~ *appeal* attached as annexure "C").



6. That the appellant being aggrieved, the appellant approach this Hon'ble Tribunal inter-alia on the following grounds amongst others:

**GROUND:**

- A. That the order of respondent No. 1 and 2 are against law and facts as no show cause notice has been served to the appellant personally, and this fact has also been mentioned in order dated 07/09/2012, that show cause notice has been served to maternal uncle of appellant and not to the appellant.
- B. That the appellant has been awarded major punishment of dismissal which is against the rules, law and natural justice.
- C. That the appellant was absence from duty due to illness, but this fact has completely being ignored by the respondents No. 2 and 3.

**PRAYER:**

It is there fore most humbly prayed before this Hon'ble Tribunal that the orders of respondents No. 2


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and 3 may kindly be set aside and the appellant graciously be reinstated in service along with all back benefits.

Any other relief which this Hon'ble Tribunal may deem fit and proper also be awarded.

  
Appellant

Through

  
**Muhammad Hayat Khan**  
Advocates, High Court  
Peshawar.

5

**BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_/2013

Muhammad Shafiq.....**Appellant**

**VERSUS**

Government of KPK through Inspector General of Police, KPK,  
Peshawar and others.....**Respondents**

**AFFIDAVIT**

I, Muhammad Shafiq S/o Ajab Gul Ex-Constable No. 3091 R/o Dundia, (Lund Khwar) Tehsil Takht Bhai District, Mardan, do hereby solemnly affirm and declare on oath that the contents of this service appeal are true and correct to best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*M. Shafiq*

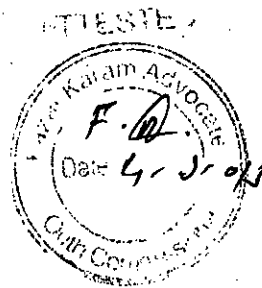
**DEPONENT**

CNIC: 16102-0277788-9

**Identified by**

*Muhammad Hayat*

**Muhammad Hayat**  
Advocate, High Court  
Peshawar.



**BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_/2013

Muhammad Shafiq.....**Appellant**

**VERSUS**

Government of KPK through Inspector General of Police, KPK,  
Peshawar and others.....**Respondents**

**APPLICATION FOR CONDONATION OF**

**DELAY IF ANY.**

**Respectfully Sheweth:**


1. That the above captioned appeal has been filed before this Hon'ble Tribunal, the contents of this application may be read as an integral part of the main appeal.
  
2. That the decision of cases on merits always to be encouraged instead of non-suiting the litigants for technical reasons including on limitation.

3. That the appellant has got order dated 01/02/2013 on 01/03/2013 and filed the present appeal without any delay.
4. That the limitation if any is not condoned by this Hon'ble Tribunal, the applicant will suffer an irreparable loss.

It is, there fore, respectfully prayed before this Hon'ble Tribunal that the application may kindly be accepted and delay if any may kindly be condoned in the interest of justice.

Applicant/Appellant

Through

  
**Muhammad Hayat Khan**  
Advocates, High Court  
Peshawar.

8

**BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_/2013

Muhammad Shafiq.....**Appellant**

**VERSUS**

Government of KPK through Inspector General of Police, KPK,  
Peshawar and others.....**Respondents**

**AFFIDAVIT**

I, Muhammad Shafiq S/o Ajab Gul Ex-Constable No. 3091 R/o Dundia, (Lund Khwar) Tehsil Takht Bhai District, Mardan, do hereby solemnly affirm and declare on oath that the contents of this Application are true and correct to best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*M. Shafiq*

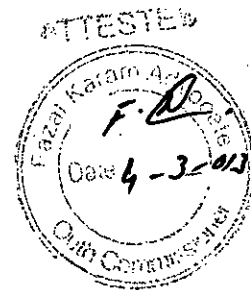
**DEPONENT**

CNIC: 16102-0277788-9

**Identified by**

*Muhammad Hayat*

**Muhammad Hayat**  
Advocate, High Court  
Peshawar.



**BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_/2013

Muhammad Shafiq.....**Appellant**

**VERSUS**

Government of KPK through Inspector General of Police, KPK,  
Peshawar and others.....**Respondents**

**ADDRESSES OF THE PARTIES**

**APPELLANT**

Muhammad Shafiq S/o Ajab Gul Ex-Constable No. 3091  
R/o Dundia, (Lund Khwar) Tehsil Takht Bhai District,  
Mardan.

**RESPONDENTS**

- Government of KPK through:
4. Inspector General of Police, KPK, Peshawar.
  5. Deputy Inspector of Police, Mardan Region-I, Mardan.
  6. District Police Officer, Mardan

Appellant

Through



**Muhammad Hayat Khan**  
Advocates, High Court  
Peshawar.

10

Annezatus (A)

Mardan Medical Complex

Mardan

Medical certificate

Name= Muhammad shafique

F/Name= Ajab gull

OPD No= 1012

Date From= 1-09-2011

Date TO = 07-02-2012

Disease =Tuberculosis

It is certify that Mr. shafique s/o Ajab gull has chronic tuberculosis from the last two years he has used a lot of medicines for this because he is completely diagnosed for tuberculosis biopsy and x-rays are confirmed he is absent from the last 30 days but he was on rest at home due to his disease but now also he is not well fitted but due to job reason he is joining his duty now issue this certificate for his future secure and for your further necessary action plz.

  
Medical superintendent

MIMC MARDAN

2/2/2012

Attested by Counsel





11  
**Mardan Medical Complex**

**Mardan**

**Medical certificate**

Name= Muhammad shafique

F/Name= Ajab gull

OPD No= 1012

Date From= 1-09-2011

Date TO = 07-02-2012

Disease =Tuberculosis

The following medicines used by this patient

- 1- Astatine Full course
- 2- Lopril
- 3- Evion
- 4- Hydrilline syp
- 5- Cay flam
- 6- Essomeprazole
- 7- Biogloblin

  
Medical superintendent

MVIC MARDAN

7/2/2012

Attested by

Counsel



**MARDAN MEDICAL COMPLEX**  
**MARDAN**

PH: NO 9230051

RS:5/=

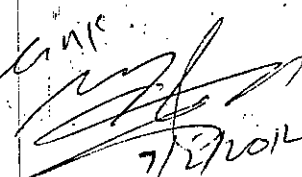
Name Muhammad Shafiq

OPD No 1012

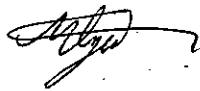
Date 1-09-2011 To 7-12-2012

Disease: Tuberculosis

It is Certify that My Muhammad Shafiq 810 Ahsad Circle has Chronic Tuberculosis Sputum in the upper Area of Bronchi. he is Completely Diagnosed for Tuberculosis. Biopsy Report & X-ray are Confirmed for this Report. Patient has done good Treatment Accordingly to the Disease. But now Patient needs Completely Bed Rest At Home For So Refer this Patient For Further opinion & necessary Action. Plc

  
 7/12/2012

Attested by Counsel



OFFICE OF THE DISTRICT POLICE OFFICER MARDAN

13  
Tel: 0937-9230109  
Fax: 0937-9230111

No. 5114-18 PA

Dated 10-9 /2012

Annexus  
B

DISMISSAL ORDER

Constable Muhammad Shafiq No. 3091, while posted at Police Lines, left for PP Bughdada vide DD report No. 51 dated 03.11.11 on account of transfer, but failed to report at PP Bughdada till-date without any leave/permission of the competent authority vide DD report No. 49 dated 11.12.2011 PS City.

In this connection, he was served with a proper Show Cause Notice under NWFP Police Rules 1975, issued vide this office No. 346/PA/SCN/R dated 23.04.2012 and delivered it upon his maternal uncle Hazrat Gul son of Pazir Gul resident of Dhundia Lund Khwar on 16.05.2012 through local Police.

In compliance, he was bound to submit his reply within the stipulated time of fifteen days on receipt of notice, but neither he has submitted the requisite reply nor assumed duty till-date, indicating negligence, disinterest in service and disobedience towards Senior Officers on his part.


Keeping in view the above facts, I am of the opinion that Constable Muhammad Shafiq No. 3091 of PP Bughdada is not interested in Police service and requires to be kicked out of the force, therefore he is awarded major punishment of dismissal from Police Force with effect from 11.12.2011, in exercise of the power vested in me under NWFP Police Rules 1975 including last Para of the show cause notice.

Order announced

O.B No. 2484

Dated 7/1/12 /2012

(Danishwar Khan)  
District Police Officer,  
Mardan

Attested by Counsel  


ORDER.

My this order will dispose off the appeal preferred by Ex-Constable Muhammad Shafiq No. 3091 of Mardan District Police against the order of his dismissal passed by the District Police Officer, Mardan vide OB: No. 2484 dated 07.09.2012. On the basis of allegation that he while posted at Police Lines, left for Police Post Bughdada vide DD report No. 51 dated 03.11.2011 on account of his transfer, but he failed to make his arrival till date and absented himself without any leave/permission by the competent authority. His absence report was entered in DD vide No. 49 dated 11.12.2011 in Police Station City.

The defaulter Ex-Constable was served with Show Cause Notice under NWFP Police Rules 1975, by the competent authority i.e District Police Officer, Mardan which was delivered upon his maternal, uncle Hazrat Gul resident of Dhundia Lund Khawar on 16.05.2012 through local Police.

In compliance, he was bound to submit his reply within the stipulated time of fifteen days on receipt of notice, but neither he submitted his reply nor assumed duty till date, indicating negligence, disinterest in service and disobedience towards senior officers on his part. District Police Officer, Mardan then passed an order of dismissal on 07.09.2012.

I have perused the record and also heard the appellant in person in Orderly Room on 23.01.2013. He failed to justify his plea and could not give any plausible explanation about his long absence from duty.

Therefore, I ABDULLAH KHAN KHAN (PSP) Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority issued vide OB: No. 2484 dated 07.09.2012 hence the appeal is filed.

ORDER ANNOUNCED.

*(Signature)*  
(ABDULLAH KHAN) PSP  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.

No: 379 /ES, Dated Mardan the 11/2 /2013.

1-2-2013  
3-2013

Copy to District Police Officer, Mardan for information and necessary action w/r to his office memo: No. 24/LB dated 11.01.2013. He may be informed accordingly.

His Service Record are returned herewith.  
(\*\*\*\*\*) (Encl, 3, 1st, 1st)

Attested by Counsel  
*(Signature)*

2013-3

Before the Honourable Regional Police Officer Mardan

Prayers:

APPEAL AGAINST THE ORDER OF DISMISSAL VIDE OB NO. 2484  
DATED 07-09-2012 PASSED BY THE DPO MARDAN

Honourable Sir,

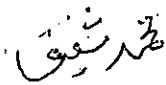
With profound regards it is very humbly submitted that I have been dismissed from service by the DPO Mardan for my alleged absence from duty. The order is not only against the rules/law but also contrary to the principles of justice.

I humbly submit the following points on the basis of facts/grounds and factual circumstances.


- i. That I had joined the police force just to serve the nation efficiently.
- ii. That actually I was suffering from Severe & Chronic disease "Hepatitis B" for about 3 months. In this the worthy DPO had sanctioned 20 days Medical leave vide OB No 3662 dated 10-10-2011.
- iii. That mean while I became suffered from Tuberculosis (T.B) and did treatment for about 8 months.
- iv. That I have been awarded major punishment of dismissal only on a show cause notice, and that is totally against the verdicts of the superior courts.
- v. That the whole proceedings were conducted against the rules, due to while my whole family including little.

So keeping in view the above facts and circumstances, it is very humbly requested that the order of the DPO may kindly be set aside and I may be reinstated in service my little children shall every pray for your long life.

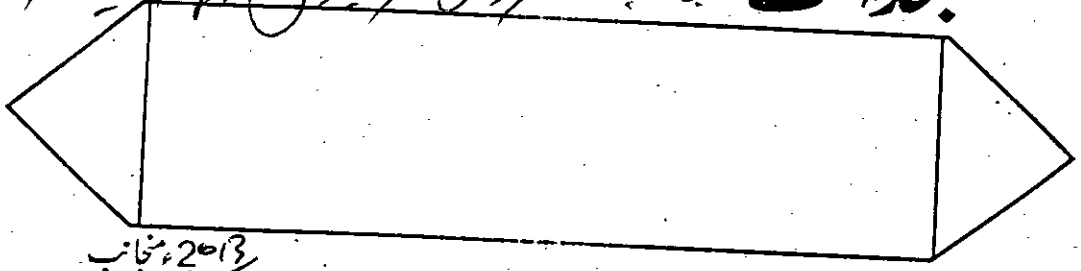
Yours Most Obediently



Muhammad Shafiq  
Mardan Distt:  
Ex-Constable No: 3091

*Attested by Counsel*  


# بعدالت حسب سرویس ڈیوٹی بیوروں کے بارے میں



2013ء مئی

محمد نصیر بنام حکومت پاکستان

اپیل

موردہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام سکس کیلئے محمد نصیر اور ڈیوٹی

مقرر کر 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 ثالثہ فیہما بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جاندا التوائے مقدمہ کے سبب سے وہ 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 لکھ دیا کہ سند رہے۔

المرقوم 4 ماہ 3 2013

بمقام محمد نصیر کے لئے منظور ہے۔  
Accepted