

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1828/2023.

Rehan Ullah S/O Raees Khan R/O Bada Meer Abban Khan, Dalo Khel Tehsil and District Bannu.....Appellant.

VERSUS

Commandant FRP, Khyber Pakhtunkhwa, Peshawar & others..... Respondents

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RESPONDENTS

03-18-2024

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Service Appeal No. 1828/2023.

Rehan Ullah S/O Raees Khan R/O Bada Meer Abban Khan, Dalo Khel Tehsil and District Bannu.....Appellant.

VERSUS

Commandant FRP, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

PARAWISE REPLY BY RESPONDENTS 1 to 2.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS:-

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11779

Dated 18.03.2024

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has no cause of action and locus stand to file the instant appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

FACTS:-

- 1) Pertain to personal information of the appellant needs no comments.
- 2) Incorrect. Perusal of record the appellant found inefficient and a habitual absentee as he was previously remained absent from lawful duty on different occasion for a long period of 275 days, which he was awarded several punishments including one time dismissal from service. (Copy of punishment orders are attached as annexure "A & B"). The appellant alongwith others detailed for duty at district Abbottabad, where he remained absent from duty with effect from 23.11.2022 to 05.01.2023 for period of 43 days and again remained absent from duty with effect from 04.04.2023 till the date of his removal from service i.e 13.04.2023, without any valid leave or prior permission of the competent authority. It is worth to mentioning here that in reply of Charge Sheet he was taken the plea the injury of his cousin, while in the instant appeal he taken the plea of the illness of his mother by meaning thereby that the appellant is narrated a propounded story. (Copy of Charge Sheet and his reply are attached herewith as annexure "C & D").
- 3) Incorrect. On the allegations of willful absence the appellant was issued Charge Sheet alongwith Summary of Allegation and SI Mira Khan was nominated as Enquiry Officer to conduct proper enquiry against him. The appellant submitted his reply of Charge Sheet, which was found unsatisfactory by the Enquiry Officer. Hence after completion of enquiry, the Enquiry Officer submitted his findings, wherein the appellant was found guilty of the charges leveled against him. The opportunity of defense in the shape of personal hearing was also offered to the appellant, but he failed to avail this opportunity. Thus after fulfillment of all codal formalities, he was awarded major punishment of dismissal from service as per law/rules.

- 4) Incorrect. After conducting of proper enquiry the appellant was awarded major punishment of dismissal from service as per law rules.
- 5) Incorrect. The appellant was already served with Charge Sheet alongwith Summary of Allegation, to which he replied, but his reply was found unsatisfactory by the Enquiry Officer. Hence the appellant is well known about the departmental enquiry and it is evident from Charge Sheet and his reply. Hence, the appellant was absolutely treated in accordance to law within the meaning of Article 4 of the constitution by giving him sufficient and proper opportunities at every level of defense and that the entire proceedings were carried out in accordance with existing laws and rules.
- 6) Incorrect. Departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.
- 7) Incorrect. The appellant was supposed to perform his duty with zeal and zest, but instead he deliberately remained absent from his assigned duty for no reason and now he presented the maintenance of his family. In this regard, it is worth to mentioning here that in past the appellant was also awarded major punishment of removal from service on account of willful absence, which he subsequently reinstated in service by the appellate authority on departmental appeal, by taking lenient view, but he did not mend his way and repeated the same practice.
- 8) Incorrect. The appellant has not come to this Honorable Tribunal with clean hands; hence the instant appeal being devoid of merits may kindly be dismissed on the following grounds.

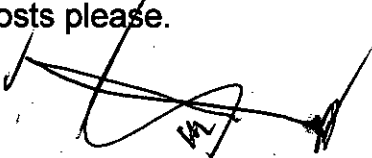
GROUND:-

- A. Incorrect. As the appellant was remained absent from his lawful duty without any valid leave or prior permission for his seniors, which he was proceeded against proper departmentally under the relevant law/rules. Thus the orders of his dismissal and subsequent rejection order passed by the respondents No. 01 and 02 are legally justified and in accordance to law/rules.
- B. Incorrect. The appellant was dealt with proper departmentally as for initiating of departmental enquiry he was issued Charge Sheet with Summary of allegations and an Enquiry Officer was nominated as per law/rules. The Charge Sheet was served upon him by the Enquiry Officer accordingly to which he replied. Hence, a sufficient opportunity at every level of defense has already been offered to the appellant, but he deliberately failed to avail this opportunity, despite of fact he was called for personal hearing time and again by the competent authority. Thus he was dismissed from service on account of a gross misconduct on his part, otherwise the respondents have no personal grudges with him.
- C. Incorrect and the para has already been explained in the preceding Para 02 of facts.

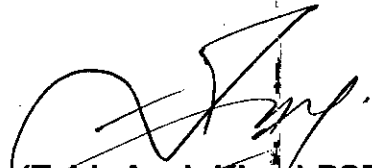
- D. Incorrect. The departmental appeal of the appellant was not based on fact. Moreover, the appellant was willfully remained absent from duty without any leave or prior permission of his senior and after conducting proper enquiry he was awarded major punishment of dismissal from service as per law rules. (Copy of Enquiry report is attached herewith as annexure "E").
- E. Incorrect. The action taken by the respondents in the case of appellant are legally justified and accordance to law/rules.
- F. Incorrect. The allegations are false and baseless. The respondents have not committed with violation of any article of Islamic Republic of Pakistan in the departmental proceedings against the appellant.
- G. The respondent may also be permitted to raise additional grounds at the time of arguments.

PRAYERS:-

Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being not maintainable may kindly be dismissed with costs please.



(Sartaj Khan)
Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 01)



(Tahir Ayub Khan) PSP
Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)

"A"

ORDER

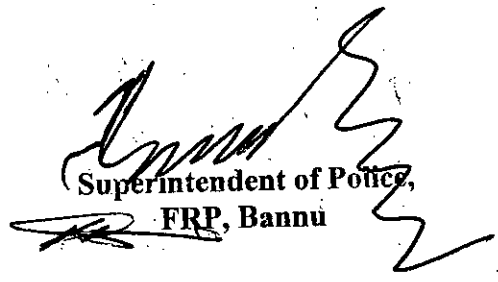
My this order will dispose off the departmental proceedings so initiated against Constable **Rehan Ullah No. 6955** /FRP who remained absent from Govt: duty vide daily dairy No.55 dated 23-11-2022 to 05-01-2023 for a total period of (43) days at Police Lines District Abbotabad without any leave or prior permission of the competent authority and again absented vide daily dairy No.20 dated 04-04-2023 till date of dismissal of FRP Police lines II District Bannu. On the basis of his prolong absence he was charge sheeted with appointment of Enquiry Officer of FRP Bannu Range to conduct proper Departmental Enquiry against the delinquent official.

The Enquiry Officer deeply probed into the facts and conducted through enquiry with submission of his findings report wherein the Enquiry Officer reported that the charge sheet was properly served upon him on 23-01-2023, but the defaulter official replied to the charge sheet within stipulated period.. Finally Enquiry Officer declared him willful and habitual absentee and recommended him for imposition of Major Punishment. Even did not bother to make arrival back for duty. He was also summoned from time to time to appear before the undersigned for personal hearing but he did not appear so far hence it is reasonably presumed that he does not want to produce any defense and seems to be dis-interested in continuous of Police service. Moreover on perusal of service record of the defaulter official, it also came to light that previously he also absented himself for (275) days with awarded of certain punishments for the same but you did not mend his way.

Therefore I, **Muhammad Tahir Shah** Superintendent of Police FRP Bannu Range Bannu, being competent authority in exercise of the powers conferred to me under the Police Rules 1975 do hereby impose upon him the Major punishment of **Dismissal from Service** with immediate effect. The period of absence is also treated as leave without pay because of non-performance of Govt: duty for the entire period.

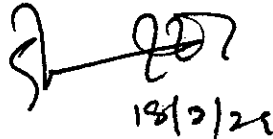
OB No. 238

Dated: 13/04/2023.


Superintendent of Police,
FRP, Bannu

Copy to: PO, SRC & OHC for necessary action.

Attest


18/04/23

'B'

494
20/2/16

inued.)

CAA

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11 of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-Constable Rehan_Ullah_Khan No.2188, of FRP Bannu Range against the order of the SP, FRP/Bannu Range, Bannu.

Brief facts of the case are that Ex-Constable Rehan_Ullah_Khan No.2188, of FRP Bannu Range enlisted in Police Department on 15-07-2007 Later on he absented himself from duty w.e. from 12-05-2008 till the date of removal from service without getting permission from lawful authority. In this regard the said official was issued Show Cause Notice in accordance with law which was served upon him.

Enquiry Officer was nominated to delve in the matter with further directions to recommend the punishment, if any deserve by the defaulter. The enquiry officer who reported in his findings in which the said official recommended for imposition of Major Punishment.

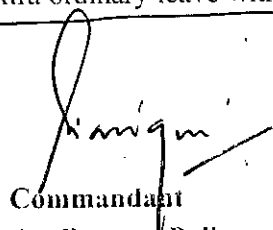
Keeping in view the above facts the official was accordingly removed from service from the date of his absence from duty vide OB No. 367 on 28-05-2009.

The enquiry file of the applicant was perused and found that he has not dealt with proper departmental proceedings as he was not participated with the enquiry proceedings while he was dismissed from service unheard.

He heard in person, during the course of hearing he advanced cogent reason in his defence his plea has found plausible and satisfactory.

Keeping in view the above and as well as his poor family background I, take a lenient view, Ex- Constable Rehan_Ullah_Khan No.2188, of FRP Bannu Range, is hereby re-instated in service from the date of removal from service. However, his absence period from duty and the intervening period from service are treated as extra ordinary leave without pay.

Order enounced

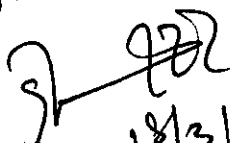


Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

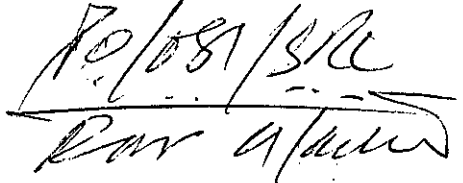
No.3218/EC, dated Peshawar the 14/4/2016

Copy of above is forwarded for information and necessary action to the SP/FRP Bannu Range, Bannu with R/O his office memo No.135, dated 14.01/2016. His service record alongwith F. Missal sent herewith.

Attesten

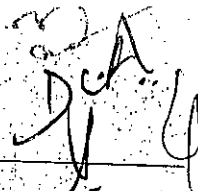


18/3/26



Supervisor of Police
FRP/Bannu

20/4



12
20/4

(D) جواب جاری شد

کھارک ریجنل ایجنسی برکائیو ایگن 84 - 1883
21-12-22

نیوں ریجن نیوں بارے صفوں ہوں۔

کہ کچھ عرصہ پہلے سے مسائل کے کزن کو کسی نے فائینڈ کرتے
شہر میں رہتے تھے۔ جسے ملایا جاتا ہے۔ ایسے ہی پتہ
رہ گیا تھا۔ چونکہ گوری قائم شدہ داری کے مسائل
کے لئے ہوں۔ جسکی داری کی خاطر سے مسائل کو
سرکار کے ڈپٹی سے قائم رہا۔

الجواب سے بزرگ جواب جاری شد اس کے بعد
ایک اور صف میں شمار کیا گیا ہے۔ اس کے لئے
مسائل خاصیت دعاگوں ہوں۔

Attesten
[Signature]
18/3/21

[Stamp]
[Signature]
6955
2.148

Mob. 0331 685 3233
CNIC: 11101-5475303-9
Date: 24-01-023

۷۴۸ انکوائری رپورٹ

6955 PRP
7355 OASI
31/12/22
2.12.22

مستعملہ انکوائری کاغذات برخلاف کانٹیل ریخان اللہ
بطابق میر ظافر صاحب ہے۔ گدیاری شدہ میر ظافر رپورٹ

میر ظافر مدمبر 55 روزنامیہ 23/02/22 تا 23/02/22
میر ظافر مدمبر 55 روزنامیہ 23/02/22 پر جواب افسران بالائے حوالہ اور دیگر 962

الشوخیاری ٹیٹ کے ان کلمات جاری کے جاری شدہ جاری ٹیٹ نمبر 84-1483 کو مورخہ 23/02/22

کو کانٹیل مذکورہ پر بذات خود تقسیم کیا گیا۔ کانٹیل مذکورہ نے مورخہ 24.1.22 پر جواب جاری ٹیٹ پیش کیا گیا۔ جس میں 42 مذکورہ نے مجموعی طور پر ملے گزرنے والی سونے + لفظ علیہ عالیہ پشاور ریفر کرنے، جسکی تہمیداری کا خاطر لکھ کر دار سونے کے نام کے بدین وقتہ سرکاری ڈیوٹی سے قاصر رہنے لکھ جوں کے آخر میں میر ظافر آہم کو رخصت میں شمار کرنے لکھ تنخواہ کو نہ مارے ہی اس درجہ عالی ہے۔

SRC سے سابقہ ریکارڈ کے مطابق 42 مذکورہ سال 2007 کا بھرتی شدہ ہے۔ دوران سروس فی فہ لغات میں ٹوٹل 275 یوم میر ظافر کی ہے۔ جس میں 152 یوم میر ظافر بلا تنخواہ + 20/22 ہے۔ جبراً 15 یوم میر ظافر وارنٹ + 31 یوم میر ظافر رخصت اتفاقہ میں شمار + 57 یوم میر ظافر رخصت کلان میں شمار + 7 سال + الامان + اادن میر ظافر پریڈ بلا تنخواہ + سنسور + 30 یوم عہد موجودہ سبھی رول میں درج ہے۔ ریکارڈ ہمراہ لف قابل ملاحظہ ہے

جواب عالی! کانٹیل مذکورہ نے اپنے جواب میں کسی کے ہواہ لٹری میں گزرنے کے راجھی ہونے لکھ ذمہ دار سونے کے نام کے لفظ علیہ عالیہ پشاور لے جانے کا ذکر کیا ہے۔ جو کہ کوئی معقول جواب نہیں ہے۔ جس سے فن انکوائری افسر مکمل طور پر مطمئن نہیں ہوں۔

مورخہ 23/02/22 مورخہ 05/02/23 تک ٹوٹل 43 یوم میر ظافر پر کانٹیل مذکورہ سبب کا تقاریر ہے۔ رپورٹ میں سو کر گزارش ہے۔ ذہن حکم جواب افسران بالا کا انتظار ہے۔
اور نام 04/04/23 سے بدینور عندہ خاطر قیلا ریاج۔

E.O. - P.P. Ben
25/01/2023

Attested

OR.

19/12/22
Dilwan & Jan
A. K. S. A.

Superintendent of Police
FRP/Bannu
OB No - 238
13 - 04.023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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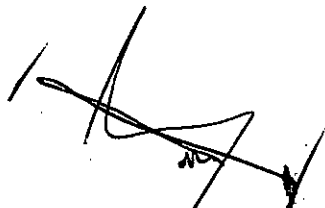
VERSUS

**Commandant FRP, Khyber Pakhtunkhwa, Peshawar &
others.....Respondents.**

AFFIDAVIT

We respondents No. 1 to 2 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of our knowledge and belief that nothing has been concealed from this Honorable Court.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/costs.

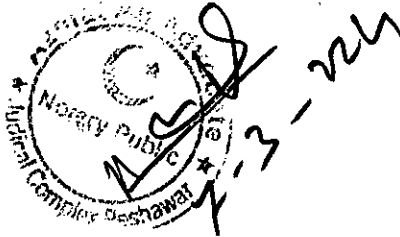


**(Sartaj Khan)
Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 01)**



**(Tahir Ayub Khan) PSP
Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)**

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1828/2023.

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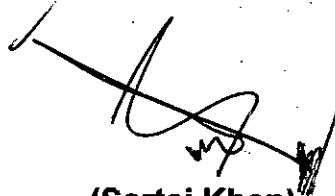
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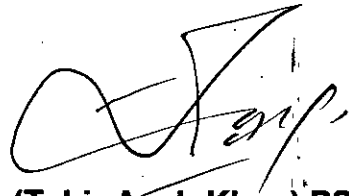
AUTHORITY LETTER

Respectfully Sheweth:-

We respondents No. 1 to 2 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs; to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.



**(Sartaj Khan)
Superintendent of Police FRP,
Bannu Range, Bannu
(Respondent No. 01)**



**(Tahir Ayub Khan) PSP
Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)**