

S. No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	08.11.2016	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT SWAT</u></p> <p align="center">Appeal No. 1397/2014</p> <p align="center">Alamzeb Khan Versus District Police Officer, Swat and 2 others.</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Appellant with counsel and Mr. Muhammad Zubair, Senior Government Pleader alongwith Khawas Khan, S.I for respondents present.</p> <p>2. Mr. Alamzeb Khan son of Khan Zaman hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 25.02.2012 whereby appellant was dismissed from service and where-against his departmental appeal dated 28.3.2014 was not responded and hence the instant service appeal on 12.12.2014.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as constable when subjected to enquiry on the allegations of wilful absence from duty and dismissed from service vide impugned order referred to above.</p> <p>4. A preliminary objection was raised about the maintainability of the appeal as the impugned order was passed on 25.2.2012 while departmental appeal against the said order was preferred on 28.03.2014</p>

(Handwritten signature)
08.11.16

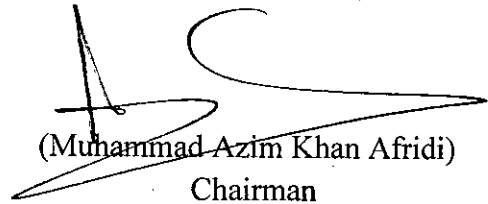
and then service appeal was preferred on 12.12.2014

5. We have heard arguments of learned counsel for the parties and perused the record.

6. The original order of dismissal of the appellant from service was passed on 25.02.2012. The appellant was obliged to have preferred departmental appeal within 30 days from the date of dismissal/communication of the said order but he preferred the said departmental appeal on 28.03.2014, after lapse of more than 2 years. Even service appeal was not preferred within 30 days after lapse of statutory period of 90 days as such we are of the view that service appeal of the appellant is not entertainable on the count and constraints of time-limitation. The same is therefore dismissed, leaving the parties to bear their own costs. File be consigned to the record room.



(Abdul Latif)
Member



(Muhammad Azim Khan Afridi)
Chairman

Camp Court, Swat:
08.11.16

ANNOUNCED

08.11.2016

06.09.2016

Appellant in person and Mr. Khawas Khan, S.I (Legal) alongwith ~~alongwith~~ Mr. Muhammad Zubair, Sr.GP for the respondents present. Appellant seeks adjournment. To come up for final hearing before the D.B on 08.11.2016 at camp court, Swat.

A

Member

Chairman
Camp Court, Swat

6

29.06.2015

Appellant in person and Addl: A.G for respondents present. Written reply not submitted. The appeal pertains to the territorial limits of Malakand Division as such to be heard at Swat. To come up for written reply/comments on 7.9.2015 at camp court Swat before S.B.


Chairman

07.09.2015

Appellant in person and Mr. Khawas Khan, S.I (legal) alongwith Mr. Muhammad Zubair, Sr. GP for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 9.12.2015 at Camp Court Swat.


Chairman
Camp Court Swat


09.12.2015

Appellant in person and Mr. Amir Qadir, GP for respondents present. Rejoinder submitted. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before D.B on 5.4.2016 at Camp Court Swat.


Chairman
Camp Court Swat

05.04.2016

None present for the appellant. Mr. Amir Qadir, GP for respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before D.B on 06.09.2016 at Camp Court, Swat.


Chairman
Camp court, Swat.

4. 18.2.2015

*Appellant deposit
Process fee & Security*

Counsel for the appellant present and submitted that major penalty of dismissal from service has been imposed on the appellant, without any enquiry and other legal formalities, without giving opportunity of personal hearing to the appellant and that the impugned order is one sided. Points raised need consideration. The appeal is admitted for regular hearing, subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 27.4.2015.


MEMBER

5.

27.04.2015


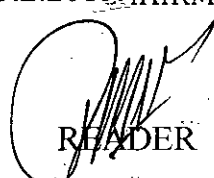

Appellant in person and Mr. Ziaullah, GP for the respondents present. Learned GP requested for time to submit written reply/comments. To come up for written reply/comments on 29.06.2015 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1397/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12.12.2014	<p>The appeal of Mr. Alamzeb Khan presented today by Mr. Eid Muhammad Khattak 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> <p style="text-align: center;">Assistant Registrar</p>
2	21.1.2015	<p>Since 20th January, 2015 has been declared as public holiday by the provincial government, therefore, case to come up for the same on 5.2.2015</p> <p style="text-align: right;"> READER</p>
3	5.2.2015	<p>Since 5th February has been declared as public holiday, therefore, case to come up for the same on 18.2.2015.</p> <p style="text-align: right;"> READER</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

S.A.No. 1397 /2014

Alamzeb Khan Appellant

Versus

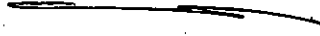
District Price Office, Swat and others..... Respondents

I N D E X

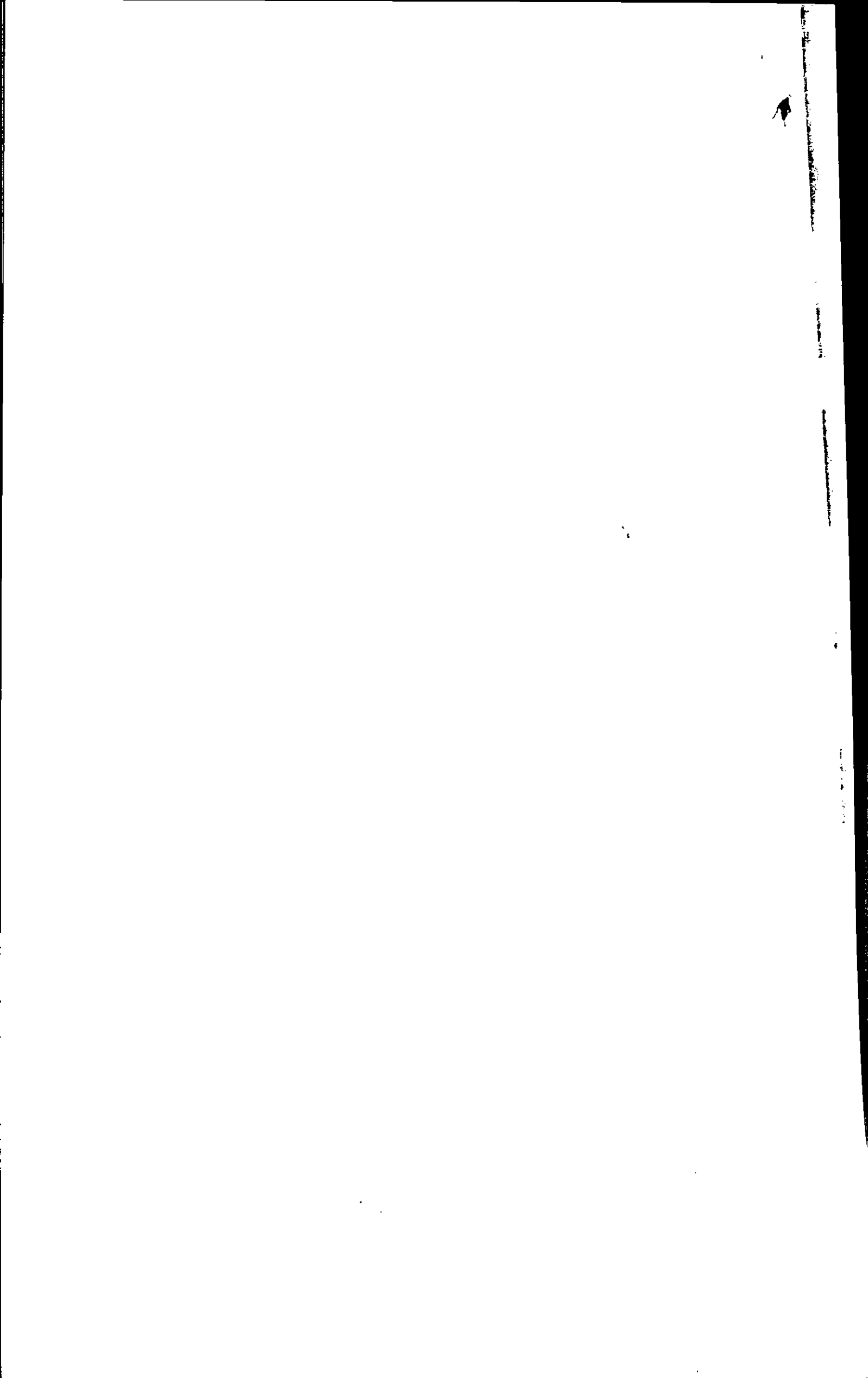
S.No.	Description of documents.	Annexure	Pages.
1	Memo of appeal with affidavit.		1-3
2	Application for condonation of delay		4
3	Affidavit.		5
4	Addresses of the parties.		6
5	Statement of allegation.	A	7
6	Charge sheet.	B	8
7	Dismissal order	C	9
8	Appeal to DIG	D	10
9	Mercy petition to I.G.	E	11
10	WAKALATNAMA.		

Appellant

Through


Eid Muhammad Khattak
Advocate, Peshawar.

Dated: 10.12.2014



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

S.A.No. 1397/2014

1435
12-12-2014

Alamzeb Khan s/o Khan Zaman

Ex-Police Constable No.1713 Swat, Malakand

Presently Col.Sher Khan Killi, Swabi..... Appellant

Versus

- 1) District Police Officer, Swat.
- 2) DIG Police Malakand Division, Saidu Sharif, Swat.
- 3) Inspector General of Police KPK, Peshawar.....Respondents

APPEAL UNDER SECTION 4 OF THE
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ORDER OF RESPONDENT NO.1
DATED 25.02.2012 WHEREBY THE
APPELLANT WAS DISMISSED FROM
SERVICE ON 25.02.2012.

Prayer:

On acceptance of this appeal, the impugned
order dated 25.02.2012 may kindly be set aside
and the appellant may kindly be reinstated in
service with all back benefits.

Respectfully Sheweth;

The appellant states as under:-

- 1) That the appellant was enrolled on 02.05.2009 as constable in police department, Swat.

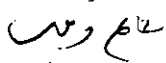
- 2) That the appellant completed the police training.
- 3) That the father of appellant has been died since long.
- 4) That suddenly the mother of the appellant became seriously ill and there was no male member at home for her look after and treatment. The appellant came to village to look after her without the prior permission of the competent authority. The absence of the appellant was not willful but was due to the compelling circumstances.
- 5) That on the charges of absence enquiry officer was appointed who conducted the enquiry issued charge sheet/ statement of allegations and dismissed the appellant from service without service of charge sheet and statement of allegation on applicant and without reply of the appellant to the above mentioned charge sheet and statement of allegations due to the law and order situation. (Annexure A,B,C).
- 6) That on receipt of dismissal order / ^{on 1-3-2014} appellant submitted a departmental appeal on 28.03.2014 when the appellant came to P.S. Chowkiyal Swat for duty and mercy petition on 25.06.2014 to respondents No.2-3, hence no reply. (Annexure D - E).
- 7) That aggrieved with the acts and actions of the respondents No.1-3 the appellant has come to this hon'ble Tribunal on the following grounds amongst the others:

GROUND:

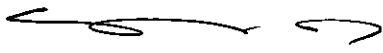
- a. That all the acts and actions of the respondents are against law, facts and material on record, hence not tenable.
- b. That the appellant was not provided any opportunity of defence due to Army Operation in the area.
- c. That the respondents have not followed the constitution of 1973 of Pakistan and fundamental rights guaranteed to the appellant in the Constitution of 1973.

- d. That no proper enquiry was conducted in the case of the appellant awarding a major penalty of dismissal.
- e. That the respondents have exercised the jurisdiction not vested to them under the law.
- f. That the respondents have violated the law and service rules while dismissing the appellant from service.
- g. That respondents have violated the decision of superior court in the case of the appellant dismissing from service. 2005 PLC (CS) 354, 2008 SCMR 1369 holding a fact finding inquiry instead of regular inquiry.

Therefore, it is requested that on acceptance of this appeal, relief may kindly be granted as prayed for in the heading of appeal with all back benefits.

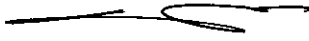

Appellant

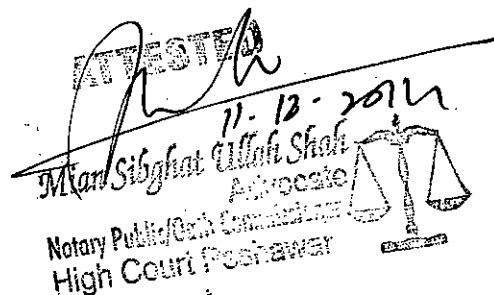

Through


Eid Muhammad Khattak
Advocate, Peshawar.

AFFIDAVIT

I, Eid Muhammad Khattak Advocate, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent


ATTESTED
11-12-2012
Mian Sibghat Ullah Shah
Advocate
Notary Public/Exam Commissioner
High Court Peshawar


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

S.A.No. _____/2014

Alamzeb Khan Appellant

Versus

District Police Officer, Swat and others..... Respondents

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth;

The appellant states as under:-

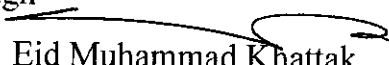
- 1) That the petitioner has to come village due to the illness of his mother without the permission of the higher authority.
- 2) That the appellant and his mother remain under treatment of the various qualified doctors.
- 3) That law and order situation was very worst in these days in Swat.
- 4) That the delay in filing of appeal was not willful, but due to the reasons beyond control of appellant (curfew/ army operation) all the routine life was disturbed in Swat due to the Army Operation and Curfew.

It is, therefore, prayed that the delay, if any, in filing the instant appeal may kindly be condoned

وہ

عید محمد خٹاک
Appellant

Through


Eid Muhammad Khattak
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

S.A.No. _____/2014

Alamzeb Khan Appellant



Versus

District Police Officer, Swat and others..... Respondents

AFFIDAVIT

I, Eid Muhammad Khattak Advocate, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

 Deponent

ATTESTED

11-12-2014
Mian Sibghat Ullah Shah
Advocate
Notary Public/Deputy Commissioner
High Court Peshawar 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

S.A.No. _____/2014

Alamzeb Khan Appellant

Versus

District Price Office, Swat and others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Alamzeb Khan s/o Khan Zaman

Ex-Police Constable No.1713 Swat, Malakand


Presently Col.Sher Khan Killi, Swabi

RESPONDENTS:

- 1) District Police Officer, Swat.
- 2) DIG Police Malakand Division, Saidu Sharif, Swat.
- 3) Inspector General of Police KPK, Peshawar

Appellant

Through


Eid Muhammad Khattak
Advocate, Peshawar.

NO 01-5 A-CHUP
06-1-012

(A) *[Handwritten signature]*

DISCIPLINARY ACTION

I **Mr. Dilawar Khan Bangash DPO Swat** as competent authority, am of the opinion that **Constable Alam Zeb No. 1713** has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of section 3 of the N.W.F.P Removal from Service (Special Powers) Ordinance, 2000.

STATEMENT OF ALLEGATIONS

That the **Constable Alam Zeb No. 1713** of Police Station Chupriyal, Swat refused to perform duty and absented himself from duty without prior permission or leave vide DD No. 45, w.o.f 02/12/2011 to 23/12/2011. It may also be mentioned here that he is habitual absentee and not taking interest in official duty as per report SHO Police Station Chupriyal dated 25/12/2011.

All these based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry committee consisting of the following is constituted under section 3 of the Ordinance.

1. Mr. Sanobar Khan DSP Matta, Swat.
2. _____

3. The enquiry Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within, 25 Days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place given by the enquiry Committee.

[Handwritten signature]
District Police Officer, Swat
31/12/2011

No. 02 /EB, Dated Gulkada the, 4/01 2012.

Copy of above is forwarded to the:-

1. Mr. Sanobar Khan DSP Matta, Swat.
2. _____

} for initiating proceeding against the Officer/ Official under the provisions of the NWFP/Removal from Service (Special Powers) Ordinance 2000.

3. Constable Alam Zeb No. 1713:-

With the direction to appear before the enquiry Committee on the date, time and place fixed by the Committee for the purpose of enquiry proceeding.

CHARGE SHEET

B = 8
Amm

I **Mr. Dilawar Khan Bangash DPO Swat** as competent authority, hereby charge you, **Constable Alam Zeb No. 1713** as following that you, while posted to Police Station Chupriyal, Swat committed the following irregularities:

You Constable Alam Zeb No. 1713 of Police Station Chupriyal, Swat refused to perform duty and absented yourself from duty without prior permission or leave vide DD No. 45, w.e.f 02/12/2011 to 23/12/2011. It may also be mentioned here that you are habitual absentee and not taking interest in official duty as per report SHO Police Station Chupriyal dated 25/12/2011.

All these based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.


2. By reasons of the above, you appear to be guilty of misconduct under Section-3 of the Khyber Pukhtoon Khwa Peshawar (Removal from Service) Special powers ordinance 2000, and have rendered yourself liable to all or any of penalties specified in section-3 of the ordinance.

3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry officer / Committee, as the case may be.

4. Your written defense, if any, should reach the Enquiry Officer/ Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall follow against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

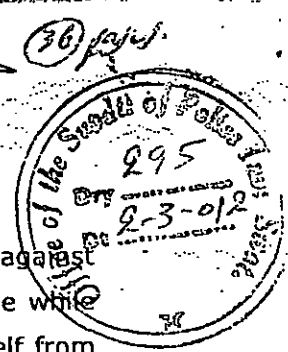

District Police Officer, Swat
31/12/2011

No. 03 /EB,

Dated 4/01 / 2012

Hunt

(C) 9



ORDER

This order shall dispose off the enquiry carried out against Constable Alam Zeb No. 1713. According to the allegations that he while posted to Investigation Wing Police Station Chupriyal absented himself from duty without prior permission or leave vide DD No. 48 w.e.f 04/11/2011 upto 25/12/2012 & D.D No. 26 w-e-f 08/01/2012 upto till now. Proper Charge sheet / statement of allegation No. 21/EB dated 16/11/2011 & No. 02/EB dated 04/01/2012 were issued to him by the S.P, Investigation, Swat. DSP/Investigation, Upper Swat was appointed as Enquiry Officer.

The enquiry officer in his finding report intimated that the above named Constable is habitual absentee, absented from duty w-e-f 04/11/2011 upto 25/12/2012 & D.D No. 26 w-e-f 08/01/2012 upto till now, not taking interest in official duty, addict of narcotics, being not suitable for Police job due to which the Enquiry Officer recommended him for dismissal from service. He was called time & again to appear in orderly room, but he did not turned and remained absent from duty.

Agreeing with the recommendation of Enquiry Officer DSP Investigation, Upper Swat, the Constable Alam Zeb No. 1713 of Investigation is hereby dismissed from service from the date of his absence.

Order announced.

OB No. 43
Dated: 25.2.2012.

District Police Officer, Swat
25/02/2012

No. 2544-45 IE,

Copy of above for information & necessary action to the:-

1. Superintendent of Police, Investigation, Swat w/r to his office Memo: No. 465/E, dated 24/01/2012.
2. DSP Matta, Swat.

کتابت
 ۱۰
 ۲۵
 کتابت
 ۱۹۱۰

کتابت عالم زین الم ۱۷۱۳ فتح لکھنؤ

در کورنت کس طرف سن مل کو کتب میں در بارہ کمال کس کا حکم
 صادر ہوا ہے

فنا عالی
 سن مل کتب میں

۱۔ یہ سن مل بلورہ $\frac{5}{9}$ کو حکم پورس میں کتب کتبیں دی گئی
 بعضی میں اور سن مل نے اپنا ڈیوٹی لوشن اسکولی اور عالی کتب میں
 سرانجام دیا ہے

۲۔ یہ سن مل نے باقاعدہ ٹریننگ لیا ہے اور سن مل کے
 کارزٹ لکھنؤ کے ساتھ کتب زیادہ حقوق ہے

۳۔ یہ سن مل کے والد صاحب سے اور ایک عمارت کمال اور تمام داری
 کتب کتب میں کوئی اور سر ڈیوٹی لوشن میں والد صاحب کوئی سر کتب سے
 اور سن مل نے کتب زیادہ ہے سن مل کے والد صاحب کتب میں
 کتب میں سن مل کے والد صاحب کتب کتب میں کتب میں کتب میں
 سے کتب میں کتب میں کتب میں سن مل کو بلورہ $\frac{2}{25}$
 کارزٹ میں کتب میں

۴۔ یہ سن مل کارزٹ میں کتب میں کتب میں کتب میں کتب میں
 سن مل کے کتب میں کارزٹ کتب میں کتب میں کتب میں

۵۔ یہ سن مل کتب میں کتب میں کتب میں کتب میں کتب میں
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6- یہ سائنس آئندہ اس لحاظ سے ہونے کا موقع ہے کہ اس وقت اور اس وقت
دینیوں کے لیے اس کے آئندہ ہر حال میں سے اہتمام کرنا

7- یہ سائنس کے نئے ڈیویژنوں اور جدیدی حقائق کو مد نظر رکھتے
ہوئے سب کو بحال کیا جائے۔ اور سائنس آئندہ اس لحاظ سے
توسعات کا موقع ہے کہ اس وقت

سائنس کے نئے ڈیویژنوں اور جدیدی حقائق کو مد نظر رکھتے
ہوئے سب کو بحال کیا جائے۔ اور سائنس آئندہ اس لحاظ سے
توسعات کا موقع ہے کہ اس وقت

28-3-2074

عالم زین 1713 در خان زمان
سید سید علی احمد

طیبت نسیم، کلینک، ایف ڈی، کراچی

11

مدد: ڈیوٹی اور سہولتیں، ایف ڈی، کراچی

بسم اللہ

مقام: کراچی، 25-6-2014

ایف ڈی، کراچی، ایف ڈی، کراچی

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ایف ڈی، کراچی

BEFORE THE SERVICE TRIBUNAL, PESHAWAR

15-9-12-2015

S.A.No.1397/2014

Alamzeb.....V/S.....Distt: Police Officer and others

REJOINDER ON BEHALF OF THE APPELLANT

Sir,

That the rejoinder on behalf of appellant is as under:-

Preliminary objections:

- 1) The appeal is based on facts and law.
- 2) The appeal is within time.
- 3) That all the necessary parties have been impleaded in the appeal.
- 4) That the appellant has come to this hon'ble Tribunal with clean hands.
- 5) That the appellant has a cause of action to file the present appeal.
- 6) That the appeal of the appellant is maintainable in its present form.

FACTS

- 1) Admitted correct to some extent. However, the absence of the appellant was not willful but was due to the compelling circumstances, the illness of the mother of the appellant and the compelling circumstances were beyond the control of the appellant.

- 2-3) That both the acts relates to the service record of the appellant (completion of training etc).
- 4) That reply of para No.4 has already been given in para No.1 of the facts.
- 5) That the appellant has been dismissed from service on fact finding inquiry no regular inquiry has been conducted though charge sheet and statement of allegation were issued but not served on the appellant no show cause and final show cause notice served on appellant and no opportunity of personal hearing was provided to the appellant, which are mandatory provision of law, mandatory for awarding the major penalty to the appellant.
- 6) That though the appellant was dismissed from service in his absence on fact finding inquiry and due to the law and order situation in locality due to Army Operation the appellant came to know about his dismissal order when he came to the place of duty, then he filed a departmental appeal to DIG Police Malakand on 28.03.20014 and the condonation of delay application is on page 4 of the appeal.
- 7) That the condonation of delay application is on appeal file, page 4.

GROUNDS:

- A) That the order of dismissal is against law, facts and materials on record and no previous proceeding is available on record regarding his unintentional absence.
- B -D) That no proof of Regular Inquiry and personal hearing, show cause, final show cause, self defence is available on record, no evidence, no opportunity of cross examination of the witnesses and also no opportunity of self defence was given to the

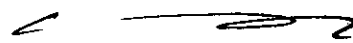
appellant. No regular inquiry was conducted though charge sheet and statement of allegation were issued to the appellant but not served on appellant due to law and order situation and due to military operation in the locality.

- E) That the respondents have not exercised the power under the law and service rules and has not followed the judgment of superior courts. It is correct that inquiry officer was appointed, but all the proceedings were completed on the back of appellant and he has recommended for major penalty on fact finding inquiry without any proof and without following the law and service rules.

Therefore, on acceptance of this Rejoinder the relief may kindly be granted to the appellant as prayed for in the heading of appeal.

Appellant

Through



Eid Muhammad Khattak

Advocate, Peshawar.

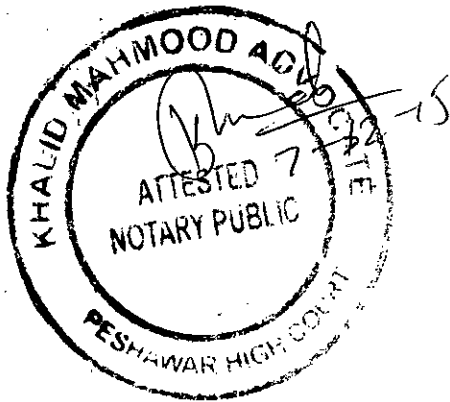
BEFORE THE SERVICE TRIBUNAL, PESHAWAR

S.A.No.1397/2014

Alamzeb.....V/S.....Distt: Police Officer and others

AFFIDAVIT

I, Eid Muhammad Khattak Advocate, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying **Rejoinder** true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR SERVICE APPEAL

NO. 1397/2014

Constable Alam Zeb Khan District Swat

Appellant


VERSUS


1. District Police Officer, Swat **(Respondents)**
2. Deputy Inspector General of Police, Malakand Division Saidu Sharif Swat.
3. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.

AUTHORITY LETTER:-

We, the above respondents do hereby authorized Mr. Aziz Ur Rahman DSP Legal Swat as representative of Police Department to appeal in the Court on behalf and do the needful in the court.


**District Police Officer, Swat
(Respondent No. 01)**


**Deputy Inspector General of Police,
Malakand Region, Swat Saidu Sharif.
(Respondent No. 02)**


**Inspector General of Police,
Khyber Pakhtunkhwa Peshawar
(Respondent No. 03)**

فائبرنگ

حوالہ انڈوسٹی ندرم غیر فائبرنگی زرہ عالم ندرم 1713

نمبر 1

دورہ 11 سے دورہ 12 تک دورہ 11 سے دورہ 12 تک دورہ 11 سے دورہ 12 تک

دورہ 12 سے دورہ 13 تک دورہ 12 سے دورہ 13 تک دورہ 12 سے دورہ 13 تک

تک کل 40 یوم 0.3 گھنٹہ اور 40 گھنٹہ غیر فائبرنگی سے نکل کر

نڈاپس انڈوسٹی کے ندرم میں رکھی نڈاپس 1713 کو جان ڈو

کرنے پر راجہ 500 گھنٹہ سے زیادہ کی گھنٹہ سے نڈاپس میں

عرف ایک بار سے زیادہ جس کے ساتھ ساتھ کئی کئی گھنٹہ

تک رہا ہے۔ یہ نڈاپس میں رکھی گئی۔ نڈاپس

تہ بڑا لکڑ دیا۔ اور نڈاپس میں رکھی گئی۔ نڈاپس

کو دیکھ کر نڈاپس میں رکھی گئی۔ نڈاپس

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کو دیکھ کر نڈاپس میں رکھی گئی۔ نڈاپس

کو دیکھ کر نڈاپس میں رکھی گئی۔ نڈاپس

دفعہ 10
سوا اور
کھڑا

بعدالت سے اس ٹریبونل میں درگاہ سوات

کورٹ فیس قیمت ایک روپیہ

مورخہ 26 اپریل 1962ء منجانب ایسیڈنٹ
مقدمہ عالم زبیر
دعویٰ حکومت پولیس حرمہ
جرم سرورن اسل
باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی وکل کاروائی متعلقہ آن مقام گھس پورہ سوات کیلئے اعزلیہ ارکان (انڈیا) کے مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل احتیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

المرقوم 26 ماہ اپریل 1962ء

العبد گ واہ شاہ العبد

بمقام سرورن ٹریبونل سوات
عبد کبیر

کے لئے منظور ہے

لکھ

Accepted and Accepted by

عالم زبیر
A. Z. B. Waheed
Waheed

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 1397/2014

Alam Zeb Khan(Petitioner)

Versus

District Police Officer Swat and others.....(Respondents)

Subject:- REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth!

Respondents very humbly submit as follows:-

Preliminary Objections:-

- a) The appeal has not been based on facts.
- b) The appeal is barred by law and limitation.
- c) The appeal of appellant is bad for mis-joinder of unnecessary and joinder of necessary parties.
- d) The appellant has not come to the Honorable Tribunal with clean hands.
- e) The appellant has got no cause of action to file the appeal.
- f) The appeal of appellant is not maintainable in the present form.

FACTS:-

1. Correct to the extent that appellant was enrolled in Police Department as constable. In the year 2011, he remained absent from duty for a period of three months and two days. He was proceeded against departmentally on charges of willful and deliberate absence from duty and was dismissed from service vide impugned order dated 25.02.2012.
2. Incorrect, qualifying recruit course is not related to the service appeal of appellant.
3. Needs no comments it pertains to the family matter of appellant.

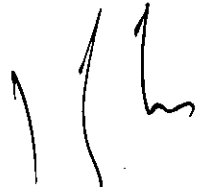
4. Incorrect, appellant has advanced lame excuse of illness of his mother to substantiate his willful and deliberate absence from duty.
5. Incorrect, proper enquiry was conducted into the charges of absence from duty leveled against appellant and he avoided defense of the charges despite the fact, he attended the enquiry officer. Copy of the finding report of enquiry officer is enclosed as Annexure-A.
6. Incorrect, appellant was dismissed from service vide order dated 25.02.2012 and did not file any departmental appeal. He has wrongly contended that he filed departmental appeal on 28.03.2014 as the departmental appeal is not traceable on record. Furthermore, the said departmental appeal has also been allegedly filed after delay of about two year long period.
7. Incorrect, the appeal of appellant is badly time barred and is not sustainable on the grounds advanced in the appeal.

GROUND:-


- a. Incorrect the impugned order is just and legal. Appellant was habitual absentee and he was least interested in the official duty. Therefore, he was correctly dismissed from service.
- b. Incorrect, appellant himself avoided defense of the charges as evident from the enquiry report which has already been enclosed as Annexure-A.
- c. Incorrect, appellant was treated in accordance with law and rules. He has never been discriminated. Opportunity of defense was provided to appellant but he was not availing it.
- d. Incorrect, regular enquiry was conducted. Charge sheet and statement of allegations were served on appellant and he avoided defense of the charges.
- e. Incorrect, respondents have exercise powers vested with them under law.
- f. Incorrect, appellant was treated in accordance with law and rules.

g. Incorrect, regular enquiry was conducted as charge sheet was issued to appellant and enquiry officer was appointed but appellant avoided defense.


It is therefore prayed that the appeal of appellant may be dismissed with costs.



District Police Officer,
Swat.
(Respondent No.1)



Deputy Inspector General
Of Police, Malakand Region
Regional Police Officer,
(Respondent No.2)
Malakand, at Swat



Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar
(Respondent No.3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR SERVICE APPEAL

NO. 1397/2014

Constable Alam Zeb Khan District Swat

Appellant

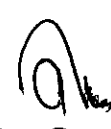
VERSUS


1. District Police Officer, Swat **(Respondents)**
2. Deputy Inspector General of Police, Malakand Division Saidu Sharif Swat.
3. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.

AFFIDAVIT:-

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/belief and nothing has been kept secret from the honorable Service Tribunal Khyber Pakhtunkhwa Peshawar.


**District Police Officer, Swat
(Respondent No. 01)**


**Deputy Inspector General of Police,
Malakand Region Swat (Saidu Sharif).
Regional Police Officer
(Respondent No. 02)**


**Inspector General of Police,
Khyber Pakhtunkhwa Peshawar
(Respondent No. 03)**