

10.08.2015

Counsel for the appellant present. Security and process fee not deposited. Last opportunity granted for depositing the same within a fortnight, where-after notices be issued to respondents for 21.9.2015 before S.B.

  
Chairman

21.09.2015

Counsel for the appellant and Mr. Kabirullah Khan Khattak, Assistant AG for respondents present. Learned counsel for the appellant requested for withdrawal of appeal as the grievances of the appellant have been redressed.

Record perused according to which the appellant has not deposited security and process fee as well despite last opportunity. Since the learned counsel for the appellant has requested for withdrawal of appeal as such the same is dismissed as withdrawn. File be consigned to the record.

  
Chairman

ANNOUNCED  
21.9.2015

21.09.15

Anwar Zeb

27.05.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to enquiry and vide impugned order dated 28.03.2014 he was removed from service regarding which he preferred departmental appeal on 24.04.2014 which was rejected on 29.05.2014 and communicated to the appellant on 17.06.2014 and hence the present service appeal on 15.07.2014.

Learned counsel for the appellant further argued that entire proceedings were carried out ex-parte and the appellant was not associated with the enquiry. He was not given opportunity of defense and hence the impugned order is liable to be set aside.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 08.07.2015 before S.B.

  
Member

08.07.2015

Clerk of counsel for the appellant and Asstt: AG for the respondents present. Notices to the respondents have not been issued due to non-deposited of security and process fee. Appellant is directed to deposit security process fee within 7 days, thereafter notices be issued to the respondents for submission of written reply/comments on 10.08.2015.

  
Member

3.

15.10.2014

No one is present on behalf of the appellant. Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 09.12.2014.



Member

Reader Note:

4.

09.12.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 19.02.2015 for the same.

  
Reader

5.

19.02.2015

Clerk of counsel for the appellant, and requested for adjournment. Request accepted. To come up for preliminary hearing on 07.04.2015.

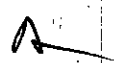


Member

6.

07.04.2015

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 27.05.2015.

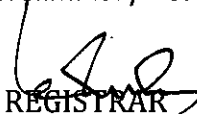
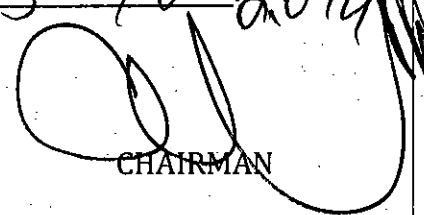


Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 957/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/07/2014	<p>The appeal of Mr. Hamid Khan presented today by Mr. Ijaz Anwar 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	6-8-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>15-10-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

Appeal No. 957 /2014

**Hamid Khan** Ex- Constable No. 09, District Police, Kohat.

(Appellant)

**VERSUS**

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

(Respondents)

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5	Inquiry Report	C	12
6	Show Cause Notice and reply to Show Cause	D & E	13-14
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8	Departmental Appeal and Rejection order dated 28.05.2014	G & H	16-18
9	Mercy Petition dated 17.06.2014	I	19-20
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Appellant

Through



**IJAZ ANWAR**  
Advocate Peshawar

  
**SAJID AMIN**

Advocate, Peshawar

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

Appeal No. 957/2014

999  
15-7-2014

**Hamid Khan** Ex- Constable No. 09, District Police, Kohat.

(Appellant)

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Kohat Region, Kohat.
3. District Police Officer, Kohat.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 28.03.2014, whereby the appellant has been awarded the major punishment of Removal from Service, against which the Departmental Appeal dated 24.04.2014, has also been rejected vide order dated 28.05.2014, communicated to the appellant on 17.06.2014.

Prayer in Appeal: -

On acceptance of this appeal both the original order dated 28.03.2014, and the appellate order dated 28.05.2014, may please be set-aside and the appellant may please be re-instated into service with full back wages and benefits of service.

15/7/14

Respectfully Submitted:

1. That the appellant was initially enlisted in the Police Department in the year 2010, ever since his enlistment the appellant had performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance.
2. That while serving in the said capacity, in the month of October, 2013, the appellant got seriously ill, he was taken to the Doctor, thereafter he remained under medical treatment, the doctor advised him bed rest from time to time. Due to his illness, the appellant could join his duty. (Copies of the Medical Certificates are attached as Annexure A)
3. That a charge sheet and statement of allegations dated 21.10.2013, was issued containing the allegations that "You had absented yourself from official duty vide DD no. 22 dated 07.09.2013 and reported arrival vide DD No. 08 dated 03.10.2013 without any leave or permission from the competent authority". It is pertinent to mention here that the charge sheet and statement of allegations were never communicated to the appellant in time. (Copies of Charge Sheet and Statement of allegations are attached as Annexure B).
4. That the inquiry officer without waiting for the reply of the appellant or making any endeavour to associate him with the inquiry proceedings, conducted an ex-party inquiry and submitted his findings wherein he held the appellant guilty of the charges. The inquiry officer even conducted inquiry for those charges/ period which was not even mentioned in the charge sheet. Copy of the inquiry report is attached as Annexure C)
5. That thereafter the appellant was served with final Show Cause Notice dated 11.11.2013. It is pertinent to mention that the findings of the inquiry were never communicated to the appellant along with the show cause notice. The appellant also replied the show cause notice. (Copies of Show Cause Notice and reply to Show Cause are attached as Annexure D and E).
6. That thereafter without allowing opportunity of personal hearing to the appellant, he was awarded the major punishment of Removal From Service vide order dated 28.03.2014 (Copy of the Order dated 28.03.2014 is attached as Annexure F).

7. That the appellant submitted his Departmental Appeal on 24.04.2014, before the respondent No. 2, however the departmental appeal was also rejected vide order dated 28.05.2014, copy of which was communicated to the appellant on 17.06.2014. (Copies of Departmental Appeal & rejection order are attached as Annexure G & H).
8. That after obtaining the copy of the rejection order on 17.06.2014, the appellant under bonafide belief submitted a mercy petition dated 17.06.2014, but the same has not been responded till date. (Copy of the mercy petition is attached as Annexure I)
9. That the impugned orders are illegal unlawful against law and fact, 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 awarding penalty of Removal from Service to the appellant. The appellant has not been associated with the inquiry, the enquiry officer never waited for the defence reply of the appellant, thus he has been denied the opportunity to defend himself. The whole proceedings are thus defective in the eye of law.
- C. That the appellant has not been allowed opportunity of personal hearing before his Removal from service, thus he has been condemned unheard.
- D. That the appellant has not been provided copy of enquiry report which is mandatory in case of awarding major penalty so as to enable him to know on what grounds/evidence the inquiry officer held him guilty of the charges.
- E. That the inquiry officer have mentioned in the inquiry report those charges which were not even mentioned in the charge sheet and statement of allegations, thus he has exceeded his mandated. Moreover the charges leveled against the appellant were never




proved the inquiry officer gave his findings on surmises and conjunctures.

- F. That even in the order of the removal from service, those charges/ period of absence was mentioned for which the appellant was never served with any charge sheet nor was the same mentioned in the initial charge sheet and statement of allegations, thus the order so made is illegal and void ab initio and is liable to be set aside on this score alone.
- G. That the appellant has not committed any act or omission which could be termed as misconduct, his absence from duty was not willful but was due to his ailment.
- H. That the appellant has an unblemished and spotless service career of about 4 years, the penalty imposed upon him is harsh and liable to be set aside.
- I. That since the appellant is jobless since his illegal Removal from Service.
- J. That the appellant has a large family dependant upon him, due to his illegal removal from service his whole family is suffering.
- K. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the hearing of the appeal.

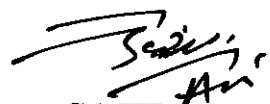
*It is, therefore, humbly prayed that On acceptance of this appeal both the original order dated 28.03.2014, and the appellate order dated 28.05.2014, may please be set-aside and the appellant may please be re-instated into service with full back wages and benefits of service.*

  
Appellant

Through

  
IJAZ ANWAR  
Advocate Peshawar

&

  
SAJID AMIN  
Advocate, Peshawar

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

Appeal No. \_\_\_\_\_/2014

*Hamid Khan* Ex- Constable No. 09, District Police, Kohat.

(Appellant)

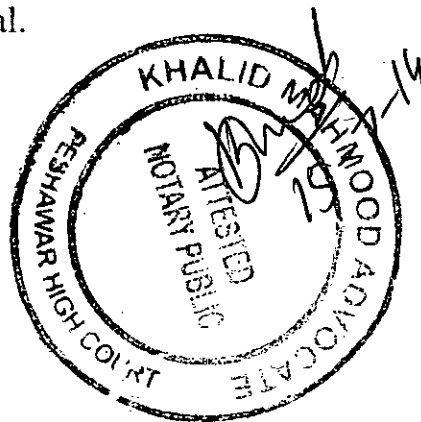
**VERSUS**

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

(Respondents)

**AFFIDAVIT**

I, *Hamid Khan Ex- Constable No. 09, District Police, Kohat*, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct to the best of my knowledge and that nothing has been kept back or concealed from this Honourable Tribunal.



  
Deponent

**Dr. Surgeon Rahim Bangash**  
 M.B.B.S., F.C.P.S.(Surg)  
 Professor K.M.C. Pesh.

**ANNIE A**  
**Lady Dr. Salma Rahim**  
 M.B.B.S., R.M.P., M.S(Gyne) M.Phil(Bio)  
 Prof. PGMI. HMC (Pesh.)

ڈاکٹر سر جن رحیم بنگاش

لیڈی ڈاکٹر سلمیٰ رحیم

ایم بی بی ایس۔ ایف سی بی ایس (سرجری)  
 پروفیسر۔ کے ایم سی پشاور

0300 8593977  
 0301 8593977

ایم بی بی ایس۔ آرا ایم پی۔ ایم ایس (گائنی)  
 ایم فل (بائیو)  
 پروفیسر ایچ ایم سی۔ پی۔ جی ایم آئی

Name Hammad Khan Age 25 Sex M Date: 2/10/23

Clinical Record

RX

Medical Certificate

Left arm hurt  
 Region hurt  
 Related to  
 the right leg  
 medical work.  
 about  
 lower back  
 tender  
 S.I. Pain  
 Test pain.  
 Δ Lumbago.  
 C wt  
 S.Cover & C.C

This is certified that M Hammad  
 Khan is suffering  
 from lumbago / sacroca. His left  
 dist is slightly involved about  
 the hip - such compression in  
 leads of 4/5 L5/S1 lumbosacral  
 hern. He is advised MRI  
 wt, advised to surgery for  
 lumbosacral if not relieved by  
 P.T

Attestation

Conservative Treaties.

He is Advant Est pu

17 months

*Rahim Bangas*  
2-10-2013

**RAHIM BANGAS**  
M.B.B.S., F.C.C.  
Prof: K.M.C.

Surgeon Rahim Bangash

M.B.B.S., F.C.P.S.(Surg)

Asst. Professor K.M.C. Pesh

7

Lady Dr. Salma Rahim

M.B.B.S., R.M.P., M.S(Gyne) M.Phil(Bio)

Prof. PGMI. HMC (Pesh.)

ڈاکٹر سرجن رحیم بنگاش

لیڈی ڈاکٹر سلمی رحیم

ایم بی بی ایس۔ ایف سی پی ایس (سرجری)

پروفیسر۔ کے ایم سی پشاور

0300 8593977

0301 8593977

ایم بی بی ایس۔ آرا ایم پی۔ ایم ایس (گائنی)

ایم فل (بائیو)

پروفیسر راج، ایم سی۔ پی، جی، ایم، آئی

Name Harish Khan

Age 21 yrs

Sex ♂

Date: 5-9-2018

Clinical Record

RX

Medical Certificate

Yo  
pain  
Lumbar Area  
13 Oct

7 to 10 hrs  
post leg pain

on S.L.R  
test positive

27.4.18

Lumbago

Attended

This is certified that I  
have referred to Harish Khan  
of Qyum Khan. He is  
having acute onset pain in the  
Mid lumbosacral region which is  
consistent with severe He is  
Advised CT of lumbosacral region  
He is advised bed rest for  
25 days.

Prof. E.H.C.  
Rahim Bangash  
M.B.B.S., F.C.P.S.  
Prof. E.H.C.

Surgeon Rahim Bangash

M.B.B.S., F.C.P.S. (Surg)

Professor K.M.C. Pesh.

ڈاکٹر سر جن رحیم بنگاش

ایم بی بی ایس۔ ایف سی پی ایس (سرجری)

پروفیسر۔ کے ایم سی پشاور

03008093977

8

Lady Dr. Salma Rahim

M.B.B.S., R.M.P., M.S(Gyne) M.Phil(Bio)

Prof. PGMI. HMC (Pesh.)

لیڈی ڈاکٹر سلمیٰ رحیم

ایم بی بی ایس۔ آر ایم پی۔ ایم ایس (گائنی)

ایم فل (بائیو)

پروفیسر ایچ، ایم، سی۔ پی، جی، ایم، آئی

Name Harid Khan Age 25 Sex ♂ Date: 18-11-2013

Clinical Record

RX

Medical Certificate

1/2 pain lumb  
Refr 3 dec

on S.L.R

best position

11/11/13

Dr. Harid Khan  
Saidla

This is certified that

Mr Harid Khan Sp, Q-pun Khan

is suffering from lumbago etc.

Refr Pain is same then.

He is advised conservative

Treatment with complete bed

rest for 22 days with effort

from 18/11/13

*[Signature]*  
11-2013

RAHIM BANGASH  
M.B.B.S., F.C.P.S.  
Prof. HMC

*[Signature]*

Surgeon Rahim Bangash

M.B.B.S., F.C.P.S.(Surg)

Post: Professor K.M.C. Pesh.

9

Lady Dr. Salma Rahim

M.B.B.S., R.M.P., M.S(Gyne) M.Phil(Bio)

Post: Prof. PGMI. HMC (Pesh.)

ڈاکٹر سر جن رحیم بنگاش

ایم بی بی ایس۔ ایف سی پی ایس (سرجری)

پروفیسر کے ایم سی پشاور 03008593977

لیڈی ڈاکٹر سلمی رحیم

ایم بی بی ایس۔ آرا ایم پی۔ ایم ایس (گائنی)

ایم فل (بائیو)

پروفیسر ایچ ایم سی۔ پی جی ایم آئی

Name Hanif Khan Age 23 Sex M Date: 23-3-2015

Clinical Record

of pain in  
Ankle joint.  
Ref dx  
Lateral  
Ankle  
w/ pain  
Ankle joint

Rx

Medical Certificate

It is certified that I have  
Examined Mr Hanif s/o Deyan  
Khan. He is suffering from Ankle  
sprain. He is advised rest  
for 15 days with effect from  
23-3-2015.

[Signature]  
23-3-2015  
RAHIM BANGASH  
M.B.B.S., F.C.P.S.  
Pesh.

[Signature]

CHARGE SHEET.

(10) ANNEX B

1. I MUHAMMAD SALEEM, DISTRICT POLICE OFFICER, KOHAT as competent authority, hereby charge you Constable Hamid No.09 committed the following irregularities:-

You had absented yourself from official duty vide DD No. DD No. 22 dated 07.09.2013 and reported arrival vide DD No.08 dated 03.10.2013 without any leave or permission from the competent authority.

2. By reasons of the above, you appear to guilty of misconduct under Police Rule-1975 and have rendered yourself liable to all or any of the penalties.

3. You are therefore, required to submit your written defence within 07days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case e x-parte action shall be taken against you.

4. A statement of allegation is enclosed.

DISTRICT POLICE OFFICER,  
KOHAT

SDPO CITY  
KOHAT

Attest  
[Signature]



(11)

1156/4  
2-10-13

**DISCIPLINARY ACTION**

I, **MUHAMMAD SALEEM, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that **Constable Hamid No.09** has rendered himself liable to be proceeded against as he committed the following acts/omissions under Police Rule-1975:-

**STATEMENT OF ALLEGATIONS**

You had absented yourself from official duty vide DD No. DD No. 22 dated 07.09.2013 and reported arrival vide DD No.08 dated 03.10.2013 without any leave or permission from the competent authority.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations, **Mr: Lal Farid Khan DSP City.** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

**DISTRICT POLICE OFFICER,  
KOHAT**

No. 15862-63/PA, dated 21-10-2013.

Copy of above is forwarded to:-

1. **Mr: Lal Farid Khan DSP City.**:- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. **Constable Hamid No.09:**- The concerned official/ officer's with the directions to appear before the Enquiry officer, on the date, time and place fixed by the enquiry officer, for the purpose of enquiry proceedings.

*Attest*  
*AA*

*Al*  
*22-10-13*

*Ahmed*  
**SDPO CITY  
KOHAT**

(12) ANNEX-C

DEPARTMENTAL ENQUIRY AGAINST  
CONSTABLE HAMID NO.09 TRAFFIC POLICE, KOHAT

This is a departmental enquiry against Constable Hamid No.09 while posted at Traffic Police, Kohat. Allegation were that he had absented himself from official duty intentionally/deliberately without any leave/prior permission from his superiors vide DD No.22, dated 07.09.2013 and arrival report vide DD No.08, dated 03.10.2013 and again absented himself vide DD No.17, dated 25.10.2013 and still absent.

Charge sheet and statement of allegation was issued to him and the undersigned was appointed as enquiry officer to conduct departmental enquiry against him.

The defaulter Constable above named is not submit reply to the charge sheet and as well as not attend the office of the undersigned for recorded his statement he was several time informed through his brother Constable Farjad but he still absent.

Moharrir traffic Police LHC Khan Afsar stated in his statement that the defaulter constable above named absented himself from official duty without any leave/prior permission and now he did not make arrival report up till now.

From the enquiry so far conducted I came to the conclusion that the defaulter constable is still absence from official duty and he did not make arrival report up till now. Therefore, he is recommended for the guilty of the charges.

Submitted please.

Sub: Divisional Police Officer,  
City Kohat

*Signature*  
**SIPO CITY  
KOHAT**

*Signature*

No. 338/city  
dt: 11-11-2013

**FINAL SHOW CAUSE NOTICE**

1. I, Muhammad Saleem, District Police Officer, Kohat as competent authority under the Police Rule 1975 serve you **Const: Hamid No.09** as follow:-

The consequent upon the completion of enquiries conducted against you by the Enquiry Officer, **Mr: Lal Farid Khan DSP City, Kohat.**

2. On going through the findings and recommendations of the Enquiry Officer, the materials on the record and other connected papers, I am satisfied that the charge against you is proved and you have committed the following acts/omission specified in Police Rule 1975.

"You had absented yourself from official duty vide DD No. 22 dated 07.09.2013 and reported arrival vide DD No.08 dated 03.10.2013 and again absented himself vide DD No. 17 dated 25.10.2013 till to date without any leave or permission from the competent authority"

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule 1975.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within seven (7) days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. Copy of finding of the enquiry officer is enclosed.

No. 16363/PA

Dated 11-11-2013

DISTRICT POLICE OFFICER,  
KOHAT

*Attested*  
*(Signature)*

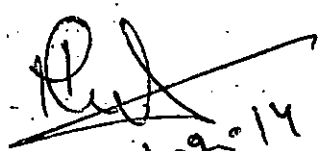
SDPO CITY  
KOHAT


(14)

ANNEX E

صاحب عالی

حوالہ نمبر 16363 سری 11/13  
 حضور علیوں کے عین جو پیش کیا گیا ہے  
 جو کہ گورنمنٹ مال کی بیماری تھی۔ چونکہ سائل  
 گورنمنٹ مال کے لیے ہے۔ اور یہ مال کی طبیعت  
 کے لیے ہے۔ اس لیے اسے اس کے لیے ہے۔  
 آج کل کے حالات سے اس کے لیے ہے۔ کہ اس کے لیے  
 فوری طور پر اس کے لیے ہے۔ اس کے لیے ہے۔  
 اس کے لیے ہے۔

  
 21-1-14

Attested  
  
 SDPO CITY  
 KOHAT

(15) ANNEX F

**ORDER**

This order is passed on the departmental enquiry against Constable Hamid Khan No. 09 of this district Police under Police Rule 1975.

Brief facts of the departmental enquiry are that he has absented himself from official duty vide DD No. 22 dated 07.09.2013 and reported arrival vide DD No.08 dated 03.10.2013 and again absented himself vide DD No. 17 dated 25.10.2013 and reported arrival vide DD No.17 dated 09.12.2013 (Total Absence Period 69 day) and again absented himself from 23.03.2014 till to date without any leave or permission from the competent authority.

He was served with charge sheet/summary of allegations and Mr. Lal Farid Khan DSP City Kohat was appointed as Enquiry Officer to proceed against him departmentally. The enquiry officer has submitted his findings and found him guilty of the charges leveled against him.

He was served with Final Show Cause Notice, called in OR on 27.03.2014 but he did not come for OR. His reply is perused and found unsatisfactory therefore, the undersigned take a departmental action against him i.e the period of absence as mentioned above counted as absence and removed from service under Police Rules 1975 with immediate effect.

OB No. 438  
Date 28-03-2014

DISTRICT POLICE OFFICER,  
KOHAT

*Intended to be in O.R.  
A habitual absentee  
Appeal is filed*

*Approved*  
SDPO CITY  
KOHAT

*31-3-14*  
*31-3-14*  
*31-3-14*  
*31-3-14*

BEFORE THE DY: INSPECTOR GENERAL OF POLICE, KOHAT  
RANGE KOHAT

SUBJECT: Appeal against the order of DPO Kohat bearing OB No.438 dated 28-3-2014 Whereby the appellant ex-constable Hamid Khan No.9 of Kohat Distt: Police was removed from service under police rules 1975 with immediate effect.

Respected Sir,

With veneration, the appellant submits the instant appeal on the basis of the following facts and grounds:-

Facts:

Allegation against the appellant as contained in the impugned order are that the appellant remained absent from duty without any leave / permission from the competent authority on the date mentioned below.

1. 07-9-2013 to 03-10-2013
2. 15-10-2013 to 09-12-2013
3. 13-3-2014 to 28-3-2014

*Signature*  
SDPO CITY  
KOHAT

On the above allegations, the appellant was charge sheeted and Mr. Lal Farid Khan DSP City Kohat was deputed to carry out departmental enquiry against the appellant. The enquiry officer, after conducting the requisite inquiry submitted his findings to DPO Kohat who then passed the impugned order.

Grounds:

- a. Although the appellant had received the charge sheet, but he was not associated with the inquiry proceedings by the enquiry officer and thus ex-party proceedings were carried out by the enquiry officer to the

prejudice of the appellant. No opportunity of cross examination was afforded to the appellant in share violation of the rules.

- b. No opportunity of personal hearing was given to the appellant by DPO Kohat.
- c. Copy of the findings of the enquiry officer was furnished to the appellant alongwith the final show cause notice by DPO Kohat and in this way the principle of natural justice was not complied with.
- d. The appellant was sick during the absence period and remained under medical treatment and advised medical rest on each occasion by the doctor.
- e. Photo copies of the medical prescriptions and medical rest advised by doctors are enclosed herewith. The original documents shall be produced at the time of personal hearing.

Prayer:

In light of the above submissions, it is prayed that by accepting the instant appeal, the impugned order may kindly be set-aside and the period of absence counted as medical leave.

I may also be heard in person please.

Dated: 24-4-2014.

Yours Obediently,

  
Ex-Constable Hamid Khan

No.9

Kohat Distt: Police,

Cell # 0332-5483007.

**POLICE DEPARTMENT**

*ANNEX H*  
**KOHAT REGION**

Office of the District Police Officer

**ORDER**

Case No. 1462/PA  
Dated 29-5-14

(18)

This order is passed on the appeal preferred by Ex-Constable Hamid Khan No. 09 of Kohat district Police; wherein he was awarded major punishment of removal from service by DPO Kohat vide O.B No. 438, dated 28.03.2014. He requested for setting aside the punishment order and reinstatement in service.

Facts are that the above named official was absented himself from official duty w.e.f. 07.09.2013 to 03.10.2013 (26 days) and 23.03.2014 to 20.03.2014 (05 days) without any leave or permission from his superior.

On the basis of above-mentioned charges / omissions, Charge Sheet & Statement of allegations was issued to him under Police Disciplinary Rule 1975 by DPO Kohat and Mr. Lal Farid Khan, DSP City Kohat was appointed as enquiry officer to conduct proper departmental enquiry against him. The enquiry officer conducted transparent enquiry, completed all enquiry formalities and submitted findings report, in which the defaulter was found guilty of the charges.

Aggrieved from the said order, the appellant preferred the instant departmental appeal for setting aside the punishment order passed by DPO Kohat.

Therefore, the defaulter official was heard in person in orderly room held in this office on 28.05.2014. He did not submit any convincing reply to his misconduct and could not satisfy the undersigned.

Going through the available record and enquiry papers, the undersigned reached to the conclusion that charges leveled against him has been fully established, therefore, the punishment order of DPO Kohat is accordance with law with rules and no need interference and upheld. The appeal of the defaulter officer is hereby filed.

**ANNOUNCED**  
28.05.2014

*[Signature]*  
(DR. ISHTIAQ AHMAD MARWAT)  
Dy. Inspector General of Police,  
Kohat Region, Kohat.

No. 5184-95 JEC, dated Kohat the 28/05/2014.

Copy of above for information and necessary action to the District Police Officer, Kohat w/r to his office Memo: No. 1024/L.B, dated 13.05.2014. His service record is enclosed herewith.

2 Ex-Constable Hamid Khan No. 09 of Kohat district

*Ans / DSP / Region  
POV n/c*

*DSP (L)  
w/ PPs*

*SAC  
for enquiry  
his Service Record*

Dist. Police Officer  
3926  
30/5/14  
Kohat

*[Signature]*  
(DR. ISHTIAQ AHMAD MARWAT)  
Dy. Inspector General of Police,  
Kohat Region, Kohat.

*[Signature]*  
28/5  
28/6



(19) ANNEX I

BEFORE THE WORTHY PROVINCIAL POLICE OFFICER,  
KHYBER PAKHTUNKHWA PESHAWAR

Subject: MERCY PETITION

Respected Sir,

1. With veneration, it is submitted that the petitioner was dealt with departmentally on account of alleged absence from duty fro the period from 7-09-2013 to 02-10-2013, from 25-10-2013 to 08-12-2013 and from 23-03-2014 to 28-03-2014. The petitioner was removed from service Under Police Rules 1975 with immediate effect and the period of absence counted as absence by DPO Kohat bide O.B No. 738 dated 28-03-2014. (Photo copy of the order is enclosed).
2. The petitioner preffered an appeal before the DIG of Police Kohat region against the above noted order of DPO Kohat which was filed vide order dated 28-35-2014. (Photo copy of the order is enclosed).
3. The petitioner submits the instant petition on the grounds that the departmental inquiry against the petitioner was not carried out by the inquiry officer in accordance with rules and regulation as no opportunity of cross examination was given to the petitioner during the course of inquiry. The petitioner was not associated with the inquiry proceedings and ex-party proceedings were taken against the petitioner.

Besides this no copy of the findings of the E.O was furnished to the petitioner along with the final show cause notice by DPO Kohat in share violation of the instructions / directions of the provincial government in this regard. The petitioner was not heard in person.

In addition to the above, the DPO Kohat did not consider the medical documents submitted by the petitioner regarding sickness of the petitioner during the alleged period of absence. (Photocopy of Medical documents are enclosed)

*Affidavit*  
*Q*  
DPO CITY  
KOHAT

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4. The petitioner hails from a poor family with no source of income. The petitioner's family is faced with starvation and financial hardships.

The petitioner therefore, submits the instant petition on account of legal flaws in the departmental inquiry as well as for consideration on humanitarian grounds.

It is prayed that the petitioner may graciously be re-instated in service and the period of absence counted as medical leave please.

Yours Obediently



Ex-Constable Hamid Khan  
No. 9 of Kohat District Police

Dated: 17-06-2014



(20)

POWER OF ATTORNEY

In the Court of Chief Justice Palak Mulkhwa Service  
Tribunal, Peshawar

Hamid Khan, Ex-Constable

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

Provincial Police Officer Chief  
Palak Mulkhwa, Peshawar & others

} Defendant  
} Respondent  
} Accused

✓ Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of 2014

Fixed for \_\_\_\_\_

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

IAJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

Sajid Anwar Advocate my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar 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 subpoena 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 employ 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 \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Sajid Anwar  
**SAJID ANWAR**  
ADVOCATE HIGH COURT  
Legal Advisor Services & Labour Law Consultants  
4-3-4, Fourth Floor, Bilour Plaza Peshawar Cantt.  
Ph: 091-5272054, Mob: 0333-4574960, 0333-7155956

Ijaz Anwar  
**Ijaz Anwar**  
Advocate High Courts & Supreme Court of Pakistan  
CATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
4-3-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt.  
Ph.091-5272154 Mobile-0333-9107225