


FORM OF ORDER SHEET

Court of _____

Appeal No. 463/2024

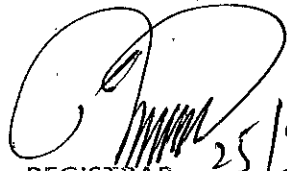
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/03/2024	<p>The appeal of Mr. Mujahid Ullah resubmitted today by Mr. Muhammad Ishaq Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 01.04.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Majid Ullah received today i.e on 22 .03.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and re-submission within 15 days.

- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no. 4 & 5 are un-necessary/improper parties, in light of the rules filed and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- Annexures of the appeal are unattested.
- Check list is not attached with the appeal.
- Affidavit is not attested by the Oath Commissioner.
- Copy of revision petition having no date be dated.
- Copy of departmental appeal against the order 09.10.2015 mentioned in the memo of appeal is not attached with the appeal be placed on it.
- Wakalat nama in favour of appellant is not attached with the appeal.
- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 662 /S.T.

25/3/2024


25/3/24
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Ishaq Adv.
Peshawar

Re submitted after
removing objections.



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In S.A. 463 /2024

Majid Ullah

VERSUS

Inspector General of Police and others

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Dated: 15.03.2024.

Majid Ullah
Appellant

Through

Muhammad Ishaq
Muhammad Ishaq
Advocate, Peshawar.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In S.A. 463/2024

Majid Ullah S/O Nasrullah, Belt No: 3672, Capital City
Police Peshawar.

----- *Appellant*

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa.
2. Capital City Police Officer Peshawar.
3. Superintendent of Police Head Quarter Peshawar.

----- *Respondents*

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL ACT -1974 AGAINST THE
IMPUGNED ORDER DATED 30-08-2023 OF THE
RESPONDENT NO.2, WHEREBY THE APPELLANT
HAS BEEN REINSTATED INTO SERVICE BUT
TREATED FORFITURE OF ONE YEAR APPROVED
SERVICE AND TOTAL ABSENCE / OUT SERVICE
PERIOD WITHOUT PAY AND AGAINST NO
ACTION TAKEN ON THE DEPARTMENTAL
APPEAL OF THE APPELLANT BY THE
RESPONDENT WITHIN THE STATUTORY PERIOD.**

(2)

PRAYER:

THAT ON ACCEPTANCE OF THIS INSTANT SERVICE APPEAL OF THE APPELLANT THE IMPUGNED ORDER DATED: 30.08.2023 MAY VERY KINDLY BE SETASIDE TO THE EFFECT OF REFUSING THE BACK BENEFITS AND THE RESPONDENT MAY FURTHER BE DIRECTED TO TREAT THE FORFITURE OF ONE YEAR APPROVED SERVICE REGUALR AND TOTAL ABSENCE OUT OF SERVICE PERIOD WITH PAY WITH ALL BACK BENEFITS SINCE 25.06.2015 TO THE DATE OF REINSTATEMENT I.E 30.08.2023. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

Respectfully Sheweth,

1. That the Appellant was appointed enrolled as Sepoy in regular Police Force in 2008.
2. That the appellant since his date of appointment performed his duties honesty, vigilantly, with zeal & zest at different police station to the entire satisfaction of his superior with unblemished service record.
3. That the appellant was charged malafidely in Criminal Case vide FIR No: 540, dated:

27.06.2015, registered U/S 302/34 PPC, Police Station: Badhaber Peshawar.

4. That the appellant was arrested by the local police and after rejection of bail was sent to jail.
5. That the case was trailed however the appellant was dismisses from service by the respondents vide order dated: 25.06.2015. **(Copy of Dismissal is attached as Annexure "A")**
6. That after trial the appellant was acquitted.
7. That after acquittal the appellant approached the respondent No.1 for reinstatement (copy attached) hence vide its order dated: 30.08.2023 the appellant was reinstated however no back benefits was given to appellants. **(Copy of reinstatements is attached as Annexure "B")**
8. That the respondent No.2 partially allowed the departmental appeal application and reinstated the appellant but no back benefits were given while its impugned order dated: 30.08.2023.
9. That the appellant feeling aggrieved moved another departmental appeal to the respondent for grant of back benefits, the respondent turn it deep ears and no response was given hence the

instant appeal. (Copy of Appeal is attached as Annexure "C")

10. That extremely the appellant aggrieved from the order dated: 30.08.2023, the appellant have no other remedy except to approach this Hon'ble Tribunal on the following grounds inter alia:-

Grounds:

- A. That the issuance of impugned order dated: 30.08.2023 by the respondent and not granting back benefit i.e treating forfeiture of one year approved service and total absence period without pay is against law, rules and norms of natural justice, hence the impugned order dated: 30.08.2023 liable to be set aside.
- B. That the appellant has not been treated in accordance with law and thus respondent violated Article 4, 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C. That the respondent acted in arbitrary and malafide manner by treating period of absence as without pay order dated: 30.08.2023.
- D. That the action of the respondent is sheer autocracy by issuing impugned order dated:

- E. That the absence of the appellant was not due to him but because of the illegal and unlawful suspension and dismissal from service by the respondent.
- F. That the end of justice so requires that the appellant be reinstated in service with all back benefit but the competent authority, very hasty manner passed the order.
- G. That further grounds with leave of this Hon'ble Tribunal would be raised at the time of arguments before this Hon'ble Tribunal.

It is, most humbly prayed that on acceptance of this Appeal, the respondent may be directed to grant / award all back benefit w.e.f removal order dated: 25.06.2015 till reinstatement dated: 30.08.2023 and the seniority of the period also be counted towards his length of service.

Any other remedy / relief which this Hon'ble Court deems just and appropriate in circumstances of the case not specifically asked for may also be granted in favour of the appellant against the respondents.

Dated: 15.03.2024.

Appellant *Majid*

Through

Muhammad Ishaq

Muhammad Ishaq

Advocate, Peshawar.

Verification:-

Verified on oath that all the contents of this plaint are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Deponent.

(6)

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In S.A _____/2024

Majid Ullah

VERSUS

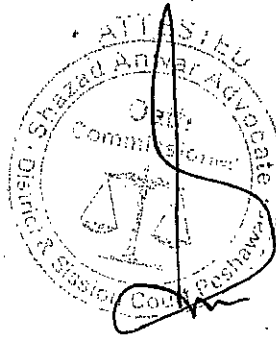
Inspector General of Police and others

AFFIDAVIT

I, Majid Ullah S/O Nasrullah, Belt No: 3672, Capital City Police Peshawar, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Majid
DEPONENT

Identified By:
Muhammad Ishaq
Muhammad Ishaq
Advocate, Peshawar.



25-03-2024

Attested

(7)

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In S.A _____/2024

Majid Ullah

VERSUS

Inspector General of Police and others

ADDRESSES OF PARTIES

APPELLANT:

Majid Ullah S/O Nasrullah, Belt No: 3672, Capital City Police Peshawar.

ADDRESSES OF RESPONDENTS:

1. Inspector General of Police, Khyber Pakhtunkhwa.
2. Capital City Police Officer Peshawar.
3. Superintendent of Police Head Quarter Peshawar.

Dated: 15.03.2024.

Majid Ullah

Appellant

Through

Muhammad Ishaq

Muhammad Ishaq

Advocate, Peshawar.

A. Ishaq

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR**

In S.A _____/2024

Majid Ullah

(8) AmuA
18/08

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Majid No.397 of Capital City Police Peshawar on the allegations that he while posted at Police Lines, Peshawar involved in criminal case vide FIR No.540 dated 27.06.2015 u/s 302/34-PPC PS Badaber & also absented himself from lawful duty w.e.f 25.06.2015 till date without taking permission or leave.

In this regard, he was placed under suspension & issued charge sheet and summary of allegations vide No.158/E/PA/SP/H.Qrs, dated 03.08.2015. SDPO Saddar Circle was appointed as Enquiry Officer. He conducted the enquiry and submitted his report that defaulter official was escaped from the spot after the commission of offence and still at large & proclamation procedure has been completed and complete challaned has been sent to court u/s 512 Cr.P.C against the defaulter official. The E.O further recommended major punishment for the defaulter official vide Enquiry Report No.1657/PA dated 19.08.2015.

Upon the finding of Enquiry Officer, he was issued final show cause notice & delivered him on home address through local Police but he failed to submit his explanation within stipulated period or appear before the undersigned as yet.

In the light of recommendations of E.O & other material available on record, the undersigned came to conclusion that the alleged official found guilty of prolong/deliberate absence & involvement in criminal case. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect. Hence, the period he remained absent from 25.06.2015 till date is treated without pay.

Encl
(28)


**SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR**

OB. NO. 3761 / Dated 09/10 /2015

No. 4269-77 PA/SP/dated Peshawar the 12/10 /2015

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar, DSP Rural & ASP Gulbahar.
- ✓ Pay Office, OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

Attested,



(19)

**THE HON'BLE INSPECTOR GENERAL OF POLICE
PESHAWAR REGION PESHAWAR.**

**APPEAL UNDER RULE 11 FO THE POLICE
RULES 1975 AGAINST ORDER OF THE
WORTHY SUPERINTENDENT OF POLICE
HEAD QUARTER PESHAWAR VIDE NO
3761 DATED 09-10-2015 VIDE WHICH
THE APPELLANT WAS DISMISSED FROM
SERVICE WITHOUT ANY LAWFUL
JUSTIFICATION.**

Respected sir, with great respect and veneration the appellant may graciously be allowed to submit the following for your kind and sympathetic consideration.

Fact of the case.

1. That the appellant was enrolled as sapoy in regular police force in the year 6/2008.
2. The appellant since his appointment discharged his official duty and function with great efficiency and dedication to the entire satisfaction of superiors.
3. That in police department, the appellant continued his meritorious services and earned support of his senior officers.

*Attested
and*

4. That on 27-06-2015 the appellant was charged under section 302/34 PPC PS Badaber and was arrested by police and was trailed in the court of law.

5. That in his absence the appellant was dismissed from service and the period of absence was treated without pay. **(copy of order is attached)**

6. That the order of dismissed from service the appellant has strong legal and factual reservation which are submitted in the following lines for your kind and sympathetic consideration.

Grounds of appeal.

A. That the impugned order of dismissed from service is not in accordance with law facts, evidence on record rules and principals of justice hence it is liable to be set aside.

B. That the alleged enquiry against the appellant was conducted unilaterly, one sided and at the back of the appellant which has got no legal values and hence the impugned order is not sustainable in the eyes of law, thus no punishment is allowed in such like circumstances.

Attested
GA

- C. That in case if appellant is not traceable then Ex-parte proceedings were to be initiated against the delinquent official but in the impugned order it does not appear that ex-parte proceeding against the appellant were directed initiated at any stage of the enquiry. Hence the enquiry and impugned order suffer from material legal irregularity.

- D. That ordinarily when it is established that presence of the defaulter official cannot be proceeded then absence of defaulter is published in two national dailies, but in the case of the appellant no such like action was taken

- E. That civil servant whose absence was treated as leave without pay cannot be treated absent from duty. It is settled law that when absence is treated as leave on full pay or without pay than a civil servant cannot be treated as absent and least he could not be awarded major penalty of removal from service in such cases.

- F. Absence form duty is no grave misconduct. dismissal from service is harsh punishment.

- G. Lastly the appellant was traield in the court of law and he has been equated from the charge

*Attested
Gup*



(13)

**OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR.**

ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Majid No. 397, who was awarded the major punishment of "Dismissal from service" under PR-1975 (amended-2014) by SP/HQr: Peshawar vide OB No. 3761, dated 09.10.2015.

2- Brief facts leading to the instant appeal are that the defaulter Constable while posted at Police Lines, Peshawar was proceeded against departmentally on the charges of his involvement in a criminal case vide FIR No. 540, dated 27.06.2015, w/s 302/34-PPC PS Badaber, Peshawar and also absented himself from lawful duty w.e.f 25.06.2015 to 09.10.2015 (03 months & 14 days) without taking prior permission/leave of the competent authority.

3- He was issued Charge Sheet and Summary of Allegations by SP/HQr: Peshawar. SDPO/Saddar, Peshawar was appointed as Enquiry Officer to scrutinize the conduct of the accused official. The Enquiry Officer after conducting departmental enquiry submitted his findings in which the accused official was recommended for major punishment. The competent authority in light of findings of the Enquiry Officer issued him Final Show Cause Notice which was delivered to him on his home address through local police but he failed to submit reply and hence, awarded the major punishment of dismissal from service.

4- He was heard in person in Orderly Room. During personal hearing the appellant pleaded that he was fallaciously implicated in the said FIR and requested that he is innocent in the instant case. Moreover, the Honorable Court of Additional Sessions Judge-VII, Peshawar vide order dated 02.05.2023 acquitted him of the charges leveled against him in the said FIR. Keeping in view of the above, his appeal for reinstatement in service is hereby partially accepted. The punishment order of SP/HQr: issued vide OB No: 3761, dated 09.10.2015 is hereby set aside. He is hereby reinstated in service with immediate effect and awarded the minor punishment of "forfeiture of one year approved service". However, the period he remained absent and out of service is treated as leave without pay.

"Order is announced"

A. J. J. J.

2143 CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 3031-38 /PA, dated Peshawar the 29/ 08/2023

Copies for information and necessary action to the:-

1. SP/ HQr: Peshawar.
2. AD-IT CCP Peshawar.
3. PO. CRC, OASI & PO.
4. FMC along with complete fouji missal.
5. Official concerned.

To,

The Inspector General of Police
Khyber Pakhtunkhwa Peshawar

Subject: REVISION / MERCY PETITION / APPEAL U/S OF
POLICE E & D RULES 1975 AMENDED IN 2014

Respectfully Sheweth:

The applicant humbly submits as under:

1. That the applicant namely : Constable Majid Bearing old OB No. 3761 and new one OB-3672 was serving in Police Department with full devotion and loyalty since the date of his appointment.
2. That during his services he has not made any disobedience nor any wrongful act.
3. That since his date of appointment he has served with full satisfaction of his superior.
4. That he has always obeyed the order of the superior and there remain no complaint existed against him since his date of appointment in service.
5. That in year 2015 formal departmental enquiry was held against the applicant because of his unlawful involvement in FIR No. 540, Dated: 27.06.2015 on the basis of false FIR he was arrested by the local police and was behind the bars.
6. That during his absence from service the applicant was dismissed from service, vide no. 4269 dated: 12.10.2015.
7. That appellant was trialed in the court of law and after the complete trial the applicant was honourably acquitted from the charge by the Hon'ble Court of Additional Sessions

After

gud

Judge VII Peshawar, vide order dated: 02.05.2023 as Annexure "A"

- 8. That after acquittal the appellant filed a department appeal for reinstatement in the service against the reward of his punishment of dismissal from service.
- 9. That the appeal was partially accepted and the appellant was reinstated in service with reward of minor punishment "Forfeiture one year approved services" and the period he remain absent and out of service treated as leave without pay as Annexure "B"
- 10. That the applicant preferred an appeal against the forfeiture one year approved services and period counting without leave, on compassionate grounds.



Attended
MS

That being Honourably acquittal from the charge and of the action beyond control, it is therefore, humbly prayed that on acceptance of this mercy appeal / revision petition impugned appellant order No.3031-38PA dated: 29.08.2023, communicated to the appellant may kindly be modified / set aside, to the extent of the forfeiture of one year approved services and the extent of intervening period of the appellant as period spent on duty and may kindly be reinstated in service with effect from 25.06.2015 with all back benefits.

Thanking you

No b=0310171737

Constable Majid
No. OB-3672

تہیت 50	35143	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈویکٹ:	بار کونسل ایسوسی ایشن نمبر: BC-16-3186	PESHAWAR BAR ASSOCIATION
رابطہ نمبر: 0313-9080633		
		

بعدالت جناب: سر جسٹس شریف حسین مستونخواہ

منجانب: ماجد	دعویٰ:
ماہنامہ	علت نمبر:
بنام	مورخہ:
آئی جی اے اینڈ ویزہ کالہ	جرم:
	تھانہ:

باعت تحریر آتکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کیلئے تاسم خان ایڈوکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

PESHAWAR BAR ASSOCIATION
KHYBER PAKHTOONKHWA

المرقوم: 25/3/2024

العبد العواہ شد العبد
مقام

Majid