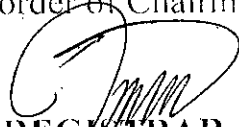


FORM OF ORDER SHEET

Court of _____

Appeal No. 647 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/05/2024	<p>The appeal of Mr. Akbar Hussain presented today by Mr. Fazal Shah Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 14.05.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 647 /2024

Akbar Hussain. Appellant

V E R S U S

Provincial Police Officer & others. Respondents

I N D E X

S #.	Description of Documents	Annex	Pages
1.	Service Appeal with Affidavit		1-4
2.	Application for Condonation of Delay with Affidavit		5-6
3.	Copy of Order dated 27-09-2023	A	7
4.	Copy of departmental appeal & Order dated 10-11-2023	B, C	8-9
5.	Copy of Revision Petition & Letter/Order dated 06-02-2024	D, E	10-11
6.	Vakalat Nama		12

Dated:- 10-05-2024

Through

Sein
Appellant

cal
Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

OFFICE:-
Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841
Email:-
fazalshahmohmand@gmail.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 647 /2024

Akbar Hussain, Ex Constable No 889, District Police, Charsadda.

.....Appellant

V E R S U S

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Mardan Region, Mardan.
3. District Police Officer, Charsadda. Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER
OF RESPONDENT NO 1, COMMUNICATED VIDE
LETTER DATED 19-02-2024, WHEREBY REVISION
PETITION OF THE APPELLANT FILED AGAINST THE
ORDER DATED 10-11-2023 OF RESPONDENT NO.2
AND ORDER DATED 27-09-2023 OF RESPONDENT
NO 3, HAS BEEN REJECTED/FILED.

PRAYER:-

On acceptance of this appeal the impugned Order communicated to the appellant vide Letter/Order dated 19-02-2024, Order dated 10-11-2023 and Order dated 27-09-2023, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant was initially enlisted as Constable in FRP Khyber Pakhtunkhwa Police on 18.09.2009, and was then transferred to District Police, and since enlistment the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.

2. That the appellant while lastly posted to Police Lines Charsadda, became ill on 11-01-2023 and was unable to have performed his duties, therefore visited the Medical Officer who advised him medicines and bed rest, departmental action was initiated against the appellant however and after recovery the appellant appeared before respondent No 3 on 22-08-2023 who after hearing the appellant, released his pay.
3. That once again on 03-09-2023, the appellant as well as his mother fell ill however without affording him any opportunity of hearing, the appellant was dismissed from service by respondent No 3 vide Order dated 27-09-2023. **(Copy of Order dated 27-09-2023 is enclosed as Annexure A).**
4. That the appellant preferred departmental appeal before respondent No 2 on 09-10-2023, which was rejected vide Order dated 10-11-2023. **(Copy of departmental appeal & Order dated 10-11-2023 is enclosed as Annexure B & C).**
5. That the appellant then filed Revision Petition under Rule 11 of Police Rules 1975 on 25.01.2024, which was also filed vide Letter/Order dated 06-02-2024, however copy of the same was not communicated to the appellant and the appellant obtained copy of the same on 12-04-2024. **(Copy of Revision Petition & Letter/Order dated 06-02-2024 is enclosed as Annexure D & E).**
6. That the impugned Orders Order dated 19-02-2024, Order dated 10-11-2023 and Order dated 27-09-2023 are against the law, facts and principles of justice on grounds inter-alia as follows:-

G R O U N D S :-

- A. That the impugned Orders are illegal, unlawful, without lawful authority and void ab-initio.

- B. That mandatory provisions of law and rules have been badly violated by the respondents and the appellant has not been treated according to law and rules in violation of Article 4, 10-A and 25 of the Constitution.
- C. That the impugned orders are in total disregard of the law on the subject and as such void ab-initio.
- D. That no Charge Sheet and Show Cause Notice was issued to the appellant.
- E. That no inquiry was conducted in the matter to have found out the true facts and circumstances.
- F. That no evidence of any sort has been brought on record in support of allegations, hence the impugned Orders are liable to be set at naught.
- G. That the appellant was not afforded opportunity of personal hearing.
- H. That even otherwise proceedings mandatory in case of absence from duty were never conducted, hence too the appellant is entitled to be reinstated in service.
- I. That the absence from duty was also not wilful and deliberate rather the same was due to circumstances compelling in nature and were also beyond the control of the appellant as well.
- J. That the appellant has been dismissed from service on allegations of 23 days absence only, the punishment as such does not commensurate with the guilt even if any.
- K. That the punishment of dismissal from service cannot be awarded in case of absence, hence too the impugned Orders are void.

- L. That the appellant is jobless since his illegal dismissal from service.
- M. That the appellant has about 14 years of service with unblemished service record.
- N. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:- 10.05.2024

Through

Jain
Appellant

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

Baseer Ahmad Shah

&

Ibad ur Rehman Khalil
Ibad ur Rehman Khalil
Advocates Peshawar

AFFIDAVIT

I, Akbar Hussain S/o Shireen Khan (Ex Constable No 889, District Police, Charsadda), do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Jain
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.M No. _____/2024

In

Service Appeal No _____/2024

Akbar Hussain. Applicant/Appellant

V E R S U S

Provincial Police Officer & others. Respondents

APPLICATION FOR CONDONATION OF DELAY IF ANY

Respectfully Submitted:-

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application besides the applicant was never communicated copy of impugned order rather he with his own efforts obtained copy of order dated 06-02-204 on 12-04-2024, hence instant appeal is well within time.
3. That since the impugned order is void ab-initio being passed in utter violation of law and rules on the subject furthermore lis are to be decided on merit instead of technicalities.
4. That no evidence of any sort has been collected in support of the allegations.
5. That law as well as the dictums of the superior Courts also favors decisions of cases on merit.

It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.

Dated:- 10.05.2024

Through

Sein
Applicant/Appellant
CSM
Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

Baseer Ahmad Shah

&

Baseer
Ibad ur Rehman Khalil
Advocates Peshawar

AFFIDAVIT

I, Akbar Hussain S/o Shireen Khan (Ex Constable No 889, District Police, Charsadda), do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Sein
DEPONENT

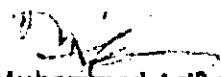
ORDER

This order will dispose-off the departmental enquiry against FC Akber Hussain No. 889, while posted at Police Lines Charsadda, remained absent from his lawful duty w.e from 11.01.2023 to 22.08.2023 (07-Months & 11-days) & from 03.09.2023 till date without any leave or prior permission from his seniors. Absence report recorded vide D.D No. 26 dated 11.01.2023 & No. 11 dated 03.09.2023. This shows his inefficiency and lack of interest in the performance of his official duties.

On the above allegation he was issued Charge Sheet together with statement of allegations under, Section 5 Sub Section 3 of Police Rules 1975 and Mr. Sanobar Khan the then DSP Sardheri was nominated as inquiry officer for probing into the matter by conducting departmental inquiry against him and he after fulfillment of codal formalities has submitted his findings and recommend him for appropriate punishment.

Subsequently, FC Akber Hussain No. 889, was issued Final Show Cause Notice U/S 5(3) Police Rules 1975, which was received by his relative Asif serving in CTD Charsadda, reply to which was received.

After perusal of the enquiry papers & recommendation of the enquiry officer and his reply to the final show cause notice, The undersigned reached to the conclusion that the official is drug i.e "ICE" addict and remain under treatment at rehabilitation center. On 16.06.2023 his enquiry was kept pending till the recovery of his health and on 22.08.2023 he report his arrival at police lines charsadda and also appear before the undersigned in connection with his enquiry, he was heard in person and his pay was released on compassionate grounds, he was given a final chance and was kept under watch at police lines charsadda but he again remained absent on 03.09.2023 till date. He was again summoned to the office of the undersigned on 26.09.2023 but he is deliberately avoiding to attend this office. Keeping in view all the above it is derived that the official doesn't deserve to be the part of police force further more, hence awarded the Major punishment of dismissal from service with immediate effect.


(Muhammad Arif) P.P.
DISTRICT POLICE OFFICER
CHARSADDA

O.B No 1343

Date 27/09/2023

No. 1823-26/HC, dated Charsadda the 27/09/2023

CC.

Pay Officer

EC/FMC

I/C Lab

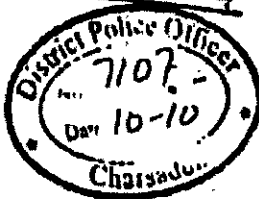
(8)

B

بخدمت جناب ریجنل پولیس افسر مردان

30/9/23
09/10/23

(درخواست ہمراد سرویس بخالی)



جناب عالی

گزشتہ ایک سالوں سے بطور کنستبل اپنے فرائض سرانجام دے رہا تھا، چونکہ منکورہ کنستبل کی والدہ صاحبہ بہت سخت بیمار تھی اور ہسپتال میں زیر علاج تھی جسی تیمارداری کے لیے اس کے علاوہ کوئی نہیں تھا جسکی وجہ سے اسے غیر حاضر رہا اور غیر خاضری کے بنا پر منکورہ کنستبل کو بخوالہ ضلعی پولیس افسر چارسدہ آرڈرنمبری 1823-26 مورخہ 27/09/2023 پر خدمت کیا گیا (ارٹر کلی ہمراد لف ہے)۔

اب چونکہ منکورہ کنستبل کے چھوٹے چھوٹے بچے ہیں اور اس کے علاوہ دوسرا کوئی ذریعہ معاش بھی نہیں ہے۔

اس لیے ہر ذریعہ درخواست استدعا ہے کہ منکورہ کنستبل کے بچوں پر رحم کر کے اس کو دوبارہ اپنے ملازمت پر بحال کرنے کے احکامات صادر فرما کر مشکور فرمائیں، بندہ نا قیامت دعاگو رہے گا۔

No. 6560/Es

dt 09-10-23

العارض

09-10-2023

مورخہ:- 20/09.2023

سابقہ کنستبل اکبر حسین نمبر 889 سکنہ زیم شاخ نمبر 3 تحصیل تنگی ضلع چارسدہ

موبائل نمبر:- 03152548173 EC/PO Charsadda

for information & contact

DSP/legal/EC
For reaction and
Comments

(Signature)

DPO/char.
10-10-23

Feeling aggrieved from the order of the then District Police Officer, Charsadda, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 08.11.2023.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. As he has bitterly failed to produce any cogent reason to justify his absence because the same clearly depicts his casual and lethargic attitude towards his official duties. The very conduct of appellant is unbecoming of a disciplined Police Officer. On perusal of previous service record of the appellant, it was noticed that he is habitual absentee and prior to this, the appellant was also removed from service for his disinterest in the official duties. Hence, order passed by the competent authority does not warrant any interference.

Keeping in view the above, I, Muhammad Suleman, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

(MUHAMMAD SULEMAN) PSP
Regional Police Officer,
Mardan.

No. 7318 /ES, Dated Mardan the 10/11 /2023.

Copy forwarded to District Police Officer, Charsadda, for information and necessary action w/r to his office Memo: No. 4010/EC dated 24.10.2023. His Service Record is returned herewith.

EC
For signature
DP/dhd.
14-11-23

13208/SB
13/12/2018
ہیئر کمشنر ہنگوئی ایئر پورٹ
دہلی

بھارت

حودہ آواز میں سے سائل ہمارے ساتھ ہنگوئی ایئر پورٹ سے علاج ہنگوئی
کوئے کے لئے سائل ہنگوئی سے ڈسچارج ہوا۔ سائل ہیئر کمشنر ہنگوئی۔ کو
سائل دوبارہ سرورڈ ہنگوئی۔ کو سائل کو دوبارہ علاج صالحی ہنگوئی ہنگوئی
ہنگوئی۔ اور اور سائل کو سرورڈ ہنگوئی دیا گیا ہے ڈسچارج ہنگوئی ہنگوئی
ہنگوئی سائل سرورڈ ہنگوئی۔ اور ہنگوئی ہنگوئی ہنگوئی ہنگوئی ہنگوئی
اس دن میں سے سائل کو سرورڈ ہنگوئی سے سائل کو سرورڈ ہنگوئی
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Director General of Police
Khyber Pakhtunkhwa
List of Officers
Name Designation
1. Mr. M. A. Khan District Officer
2. Mr. M. A. Khan District Officer
3. Mr. M. A. Khan District Officer
4. Mr. M. A. Khan District Officer
5. Mr. M. A. Khan District Officer
6. Mr. M. A. Khan District Officer
7. Mr. M. A. Khan District Officer
8. Mr. M. A. Khan District Officer
9. Mr. M. A. Khan District Officer
10. Mr. M. A. Khan District Officer
Signature
Date 25/12/18

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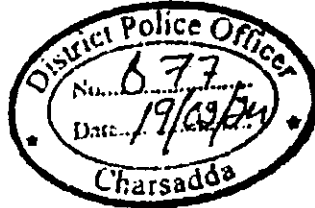
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.
Phone: 091-2210927

No. S/ 172 /24, dated Peshawar the 06/02/2024.

To: The Regional Police Officer,
Mardan.

Subject: REVISION PETITION

Memo:



The Competent Authority has examined and filed the revision petition submitted by Ex-FC Akbar Hussain No. 889 of Charsadda district Police against the punishments of dismissal from service awarded by DPO Charsadda vide OIB No. 1343, dated 27.09.2023 being badly time barred.

The applicant may please be informed accordingly.

[Signature]
(AFSAR IAN)
Registrar.

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

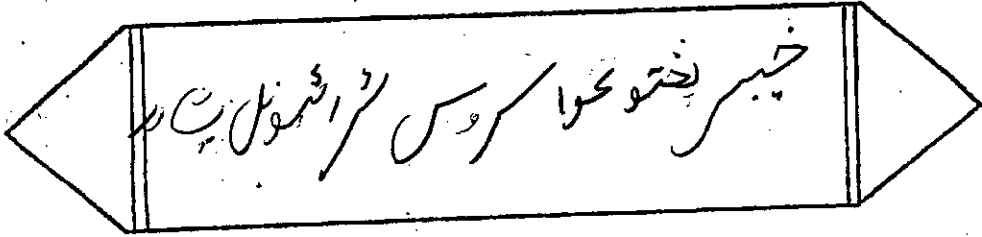
15/02/24 Charsadda.
in relation.

386/ES
15/2/24

[Signature]
RPD/ri/24/24
18/2/24

EC
For signature
[Signature]
DP/Chard.
18-2-24

بعدالت



2 مخانب
اکبر حسین بنام پی پی اور نکتہ

BC- 10-5543

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام 19 کیلئے فضل شہاب محمد عبدالرحمن لیسٹا۔ ایدہ کرکٹس

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک درو پیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانتا تو اے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

المرقوم 10
ماہ 05
2022
واحد الع
بمقام
کے لئے منظور ہے۔

اکبر حسین ولد شہاب محمد عبدالرحمن خان

Jan

Handwritten signatures and stamps at the bottom of the page.