FORM OF ORDER SHEET

Court of_____

Appeal No.

652/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
1	2	3			
1-	13/05/2024	The appeal of Mr. Yousaf Shah resubmitted today			
-	t	by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 15.05.2024.			
		Parcha Peshi given to the counsel for the appellant.			
		By the order of Chairman			
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The appeal of Mr. Yousaf Shah received today i.e on 24.04.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Check list is not attached with the appeal.

- Appeal has not been flagged/marked with annexures marks.
- 3² Affidavit is attested by the Oath Commissioner.
- 4-^V Annexures of the appeal are unattested.
- 5- Copies of charge sheet, statement of allegations, shown cause notice, enquiry report and replies thereto are not attached with the appeal be placed on it.
- 6- Copies of departmental appeal and revision petition mentioned in the memo of appeal are not attached with the appeal be placed on it.
- 7- The documents that are to be submitted must be readable/legible.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 970 /S.T. Dt. 21-4 /2024.

5/4/24 REGISTRAR

SERVICE TRIBUNAL **KHYBER PAKHTUNKHWA** PESHAWAR.

M. Taimur Ali Khan Adv. High Court Peshawar.

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3 - Removed

5- The appellant has piled application for word, which was not permited and the word, which was not permited and the same be requisite from department or main of same be requisite from department of man of copies of defautmental append is at page-15 and hemselves is at page-18 7- Removed R-D. 8 - Removed

after compliance 13/05/2024. Ken bmitted

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 652/2024

Yousaf Shah

Police Department

INDEX

V/S

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Documents	Annexure	P. No.
Memo of Appeal		01-03
Affidavit		04
Copies of medical report	A	05-12
Copies of dismissal order dated 13.10.2022 and application	B&C	13-14
Copies of departmental appeal and order dated 23.12.2022, revision and order dated 22.03.2024	D,E,F&G	15-19
Vakalat Nama		20
	Memo of Appeal Affidavit Copies of medical report Copies of dismissal order dated 13.10.2022 and application Copies of departmental appeal and order dated 23.12.2022, revision and order dated 22.03.2024	Memo of AppealAffidavitCopies of medical reportACopies of dismissal order datedB&C13.10.2022 and applicationD,E,F&GCopies of departmental appeal and order dated 23.12.2022, revision and order dated 22.03.2024D,E,F&G

THROUGH:

APPELLANT

(TAIMURALI KHAN) ADVOCATE HIGH COURT Cell# 0333-9390916

(SHAKIR ULLAH TORANI) ADVOCATE PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 652 /2024

Yousaf Shah Ex-Constable No.530, Police Lines Charsadda.

(APPELLANT)

11111 1012363

Daney 24-04-200

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar,

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. The Regional Police Officer, Mardan Region, Mardan

3. The District Police Officer, Charsadda.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13,10,2022, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE, AGAINST THE ORDER DATED 23,12,2022, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUND AND AGAINST THE ORDER DATED 22,03,2024 COMMUNICATED TO THE APPELLANT ON 29,03,2024, WHEREBY THE REVISION OF THE APPELLANT WAS ALSO REJECTED FOR NO GOOD GROUNDS.

PRAYER:

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THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDERS DATED 13.10.2022, 23.12.2022 AND 22.03.2024 MAY KINDLY BE SET ASIDE AND APPELLANT MAY BE REINSTATED INTO HIS SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS HONORABLE TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

2.:

3.

1. That the appellant was appointed as Constable in the respondent department in the year 2009 and completed all his due training and courses and since his appointment appellant has performed his duty with devotion and honesty, whatsoever, assigned to him.

That the appellant was ill due to which he unable to perform his duty and was compelled to remains absent from his duty. (Copies of medical reports are attached as annexure-A)

That when the appellant was recovered from illness, he went to join his duty, but he was informed that he has been dismissed from service on 13.10.2022 without communicating charge sheet, show cause notice and without conducting inquiry. The appellant also field application to provide the record but no action has taken on his application. (Copies of dismissal order dated 13.10.2022 and application are attached as Annexure-B&C)

4. That appellant being aggrieved from the order dated 13.10.2022 filed departmental appeal, which was rejected 23.12.2022. The appellant then filed revision, which was also rejected on 22.03.2024 and the rejection order was communicated to the appellant on 29.03.2024. (Copies of departmental appeal and order dated 23.12.2022, revision and order dated 22.03.2024 are attached as Annexure-D,E,F&G)

That the appellant has no other remedy except to file the instant service appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUNDS:

5.

A) That the impugned orders dated 13.10.2022, 23.12.2022 and 22.03.2024 are against the law, rules, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.

B) That in the inquiry proceeding the appellant was never associated and whole action was taken against him on the basis of ex-parte proceeding which is against the law and rules and as such the impugned order is liable to be set aside.

C) That charge sheet along with statement of allegations were not communicated to the appellant before passing dismissal order, which is violation of law, rules and norms of justice.

- D) That the appellant did not intentionally remain absent from his duty but he was ill and due to which he was unable to perform his duty and was compel to remain absent, therefore, needs to be treated with lenient view.
- E) That the penalty of dismissal from service imposed upon the appellant is very harsh, which is passed in violation of law and rule, therefore, the same is not sustainable in eyes of law and hence liable to be set aside.
 - That the appellant has not been treated in accordance with law and rules and has been condemned unheard throughout which is violation of principle of natural justice.

F)[•]

G) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that that on the acceptance of this appeal, the impugned orders dated 13.10.2022, 23.12.2022 and 22.03.2024 may kindly be set aside and appellant may be reinstated into his service with all back and consequential benefits. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also, be awarded in favour of appellant.

APPELLANT Yousaf shah

THROUGH:

(TAINFUR ALI KHAN) ADVOCATE HIGH COURT

SHOP

(SHAKIR ULLAH TORANI) ADVOCATE PESHAWAR BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. /2024

VS

Yousaf Shah

Police Department

AFFIDAVIT

1, Yousaf Shah Ex-Constable No.530, Police Lines Charsadda, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.

Yousaf Shah DEPONENT

DHQ HOSPITAL CHARSADDA Monthly OPD Serial No. 22 Date 21-Yearly OPD/CRP No 6 hr Name____ Age. Sex2 Father's/Husband/s Name Provisional Diagnosis Chief Complaint/ Treatment/Refered/Test Findings Clinical Finding/ Investigation Advised. Dirio/ Dag mistal lu j Vouit & Pain Stornan the s Tab Cipeta scomp 14 Iab Crai-An BoldBowp 14 Tab Paulades P 14 للخلل rab motelim -v 124 31 Officer oltal ÷. 2.3 d p

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Dr. Thian Ullah. M.B.B.S. B.Sc احسان الگد م.بي. بين بيني تيبر RHC وزن هوالشاقي Ex. I/C Medical Officer. RHC Umarzai Pl Nama______ Clinical Record _six : 2 Age _ Data 14,151 2: 19 #([] 1107- 2 Sun 2 grun for 10 Stat. For 10 days op done Kemoved 5.70 Pop Apple Arise Red nest For Go day Finer, hy Pai- leg Maxpan 100 mg Susp/200 mg Cap Indokost ^{4mg} Sachet. 5mg.10mg Tab

DISTRICT HEALTH OFFICE CHARSADDA **QUT-PATIENTS DEPARTMENT** Rs. 10/-Name: _____ Yearly No: 28/1/9039 120 Date:_ (4) leg Pain - Feue Disease: _ Ce E Fauer Tab. Tanind 200 Backgril willen () Se /-Role. Tab Nim S. 10--last Cito _____ Sup Manacid Eleoy lov R Acto - Belicit Adused Bed 13257 for (c) days 11-

Pr. Kashif Jan د اکٹر کاشف جان و (لناج M.B.B.S, (KMU) RMP, PMDC (MPH) ایم بی بی ایس (سے ایم بیر) Gold Medalist PMDC No: Medical Officer آرايم يي، بي ايم ذي ي (ايم يي اليج) . 18969-N B.H.U Akhun Dheri Not Valid For Court الولد مذاست ميذيك آفيسراخون ذحيري You Sof Shall Age_ Name: _ Sex 5 ____ Date 1-7-219.12 **Clinical Record** - Ho of Fall # (1) Tebri - Pain (log Reductini done e Swening in Pop Applied Tab Cal-one D . G. Tab. Brerin 2007 Temp: No 10. B.P: Advise Bed rost for as days Adv: X-ray (1) log Thiolax Cap Berica 60mg Tab Neugast Cap دابط أسدجان: 1668568-0313 ية اسدميد يكوز نيابشيرخان ماركيت عمرز كي

ORDER This order will disposed off departmental inquiry against Constable Yousaf Shah ide: \$30, who while posted to Police Lines Charsadda remained absented from his lawful duty without obtaining prior leave or permission of his seniors v.c.from 20.02.2022 to 28.02.2022 (08-days) vide DD No. 30 dated 28.02.2022 and 04:03.2022 to 28.04.2022 (54-days) evident vide P.Lines Chd: DD No. 36 disted 28.04.2022. The delinquent Constable is constantly absent w.e.from 29.04,2022 vide P.Lines DD No. 02 dated even and yet to report back to duty place for his official duty. His act portrays inefficiency and lack of interest in the performance of his duties and also amount to gross misconduct on his part.

On the above allegation, he was issued charge sheet together with statement of allegations under sub section 3. Section 5 of Police Rules 1975 and Mr. Irsan Shah, DSP City was appointed as Enquiry Officer who conducted proper inquiry into the matter. However, during course of inquiry, the delinquent Constable did not bothered to appear before the enquiry officer despite of numerous parwanas/calls therefore the enquiry officer submitted his findings and recommended an ex-parte action against the delinquent

Constable. The delinquent Constable was issued final show cause notice and summoned for personnel appearance but he didn't appear before the undersigned . The delinquent constable though submits his reply to the final show notice but deliberately avoiding his legitimete appearance in the Orderly-Room. The conduct of the official is compelling the undersigned to disregard leniency and take a drastic action against him.

Therefore, after going through the enquiry papers and recommendation of the enquiry officer, ex-parte action is hereby taken and the delinquent Constable is Hereby dismissed from service with immediate effect.

> District Police Officer, Charsadda

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B

No. 45 18 20 /PA, dated Charsadda (189) 8.1 59-12022

- Copy for information to the-

1) District Accounts Officer, Charsonia

2) DSP/City

5) DSP HQrs: Charsadda

- Pay Officer/EC/FMC

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Shine 11-10-2002

Better Copy - /3

<u>ORDER</u>

This order will disposed off departmental inquiry against constable Yousaf Shah No 530, who while posted to Police Lines Charsadda remained absented from 20.02.2022 to 28.02.2022 (08 days) vide OB No 30 dated 28.02.2022 to 28.04.2022 (54 days) evident vide P. Lines Chd DD No. 36 dated 28.04.2022. The delinquent constable is constantly absent w.e. from duty 29.04.2022 vide P. Lines DD NO. 02 inefficiency and lack of interest in the performance of his duties and also amount to gross misconduct on his part.

On the above allegation, he was issued charge sheet together with statement of allegations under sub section 2 Section 5 of Police Lines Rules 1975 and Mr Inam Shah DSP City was appointed as Enquiry Officer who conducted proper Inquiry into the matter. However, during the course of inquiry, the delinquent Constable did not bothered to appear before the inquiry officer despite of numerous parwanas/calls therefore the enquiry Officer submitted his findings and recommended an ex-parte action against the delinquent constable.

The delinquent constable was issued final show cause notice and summoned for personnel appearance but he did not appear before the undersigned. The delinquent constable through submit his reply to the final show cause notice but deliberately avoiding his legislate appearance in the Orderly room of the official is completing the undersigned to disregard and take a drastic action against him.

Therefore after going through the enquiry papers and recommendation of the enquiry officer, ex-parte action is hereby taken and the delinquent Constable is hereby dismissed from service with immediate effect.

District Police Officer Charsadda

No. /PA dated Charsadda the /2022

Copy for information to the

1. District Accounts Officer, Charsadda.

2. DSP/City.

3. DSP HQrs Charsadda.

4. Pay Officer/EC/FMC

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This order will dispose off the departmental appeal preferred by Ex-Constable Yousaf Shah No. 530 of Charsadda District against the order of the District Police Officer, Charsadda, whereby he was awarded major punishment of dismissal from service vide OB: No. 963 dated 11.10.2022. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines Charsadda, remained absent from his lawful duty without obtaining prior leave or permission of his seniors with effect from 20.02.2022 to 28.02.2022 (08 days) vide daily diary No. 30 dated 28.02.2022 and 04.03.2022 to 29.04.2022 (54 days) evident vide Police Lines Charsadda daily diary No. 36 dated 28.04.2022. The delinquent Officer was constantly absent with effect from 29.04.2022 vide daily diary No. 02 and did not bother to report back to duty place.

ORDER.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Mr. Ihsan Snah Sub Divisional Police Officer, (SDPO) City, Charsadda was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he reported that the delinquent Officer who contacted time and again to appear before the enquiry Officer, but he failed and remained absent, which showed that he was no more interested in Police Service. He recommended the delinquent Officer for ex-parte action.

The District Police Office: Charsadda perused the findings and by agreeing with the recommendation. In Enquiry Officer issued Final Show Cause Notice, but the delinquent Officer neither submitted his reply nor appeared for personal hearing. However, later on the delinquent Officer though submitted his reply to the Final Show Cause Notice but deliberately avoided his appearance in the Orderiv Room.

Therefore, after going through the enquiry papers and recommendation of the enquiry officer, ex-parte action was taken and the delinquent Officer was awarded major punishment of dismis at from service by the District Police Officer, Charsadda vide OB: No. 963 dated 11, 0.2022.

Feeling aggrieved from the order of the then District Police Officer, Charsadda, the appellant preferred the instant appeal. He was summoried and heard in person in Orderly Room held in this mice cr. 21.12.2022.

From the perusal of the souiry 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 the appellant has bilterly failed to produce any cogeni

reason to justify his absence. Hence, the absence period i.e 07 months and 14 days of the appellant clearly depicts the casual and lethargic attitude towards his official duties as the very conduct of appellant is unbecoming of a disciplined Police Officer. Hence, order passed by the competent authority does not warrant any interference.

Keeping, in view the above, I, Muhammad Ali Mhan, 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.

(*****

No. 10-12-1 /ES, Dated Mardan the //2022.

Copy forwarded to District Police Officer. Characteria for information and necessary action w/r to his office Memor No. 1359/EC dates: 13.10.2022. His Service Record is returned herewith.

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OFFICE OF THE INSPECTOR GENERAL OF POLICE Police Or KHYBER FARH FUNKHWA No. 1370 PESHAWAR.

Date 29. 3. - 44

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Yousaf Shah No. 530. The applicant was inwarded major punishment of dismissal from service by DPO Charsadda, vide OB No. 963 dated 11.10.2022 on the allegations of that he was posted at Police Lines Charsadda, he absented himself from 2 service on various occasion, his total absence i.e. 07 months & 14 days.

His revision petition was rejected by the Appellate Authority i.e. RPO Mardan vide order Endst: No. 10121/ES; dated 23.12.2022

Meeting of Appellate Board was held on 01.03.2024 wherein petitioner was heard in person. The petitioner contended that the absence was not deliberate and that he was ill.

Perusal of enquiry papers revealed that the allegations leveled against the petitioner has been proved. The peritioner failed to submit any cogent reason in his self-defense. The Board sees no ground and reasons for acceptance of his petition, therefore, his petition is hereby rejected.

> AWAL KHAN, PSP Additional Inspector General of Police, IIQrs: Khybe. Pakhtunkhwa, Peshawar.

No. S/ 651-656 /24, dated Pesliawar, the 22-03 - 12024.

- Copy of the above is forwarded to the:
- 1. Regional Police Officer Mardan. Service Roll along-with Fuuji Missal of the above named Ex-FC received vide your office Memo: No. 1063/ES, dated 24.02.2023 is returned herewith RYO UYJ for your office record.
- 2. District Police Officer, Charsadda
 - 3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
 - 4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
 - 5. PA to DIG/IIQrs: Khyber Hakhtunkhwa, Peshawar.
 - 6. Office Supdt: E-IV CPO Peshawar.

NO: 7.29

38-3-2

(FARHAN IZHAN) PSP, QPM AIC/Establishment, For Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

E.C. C.ASI Deplegation 0 0 Po Cheful 28-03-2024

VAKALAT NAMA

	NO.	/20	24	
N THE COURT OF _	KP	Service	Thibu	inal Pethawar
Yo	usaf	Shah		(Appellant)
		•	- 	(Petitioner) (Plaintiff)
× /	olice	VERSUS Departme	ant !	(Respondent)
we,}	outar	l'at		(Defendant)
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Do hereby appoint and constitute TAIMUR ALI KHAN, ADVOCATE HIGH COURT, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

/2024 Dated

(CLIENT)

ACCEPTED

TAIMUR ALI KHAN Advocate High Court

BC-10-4240 CNIC: 17101-7395544-5 Cell No. 03339390916

Adv: Shawir Unach Dorrani