


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

733/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/05/2024	<p>The appeal of Mr. Mubarak Zeb resubmitted today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar 31.05.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Mubarak Zeb received today i.e on 22.05.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Affidavit is not attested by the Oath Commissioner.
- 2- Annexures of the appeal are unattested.
- 3- Appeal has not been flagged/marked with annexures.
- 4- Check list is not attached with the appeal.
- 5- Annexures of the appeal are illegible be replaced by legible/better one.
- 6- Copy of departmental appeal is not attached with the appeal be placed on it.
- 7- 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. 61 /Inst;/2024/KPST,

Dt. 23/05 /2024.


23/5/24
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Taimur Ali Khan Adv.
High Court Peshawar.

Respected Sir,

- 1- Removed.
 - 2- Removed.
 - 3- Removed.
 - 4- Removed.
 - 5- Removed, replace with better copy.
 - 6- Removed, copy of departmental appeal is connected as Annexure-E.
 - 7- Removed.
- Resubmitted after completing coded formalities. 
- Adv: Shaukat Ali Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 733/2024

Mubarak Zeb

V/S

Police Department

INDEX

S.No.	Documents	Annexure	P. No.
1	Memo of Appeal	-----	01-03
2	Affidavit	-----	04
3	Copies of charge sheet, statement of allegations, show cause notice and dismissal order dated 14.11.2023	A,B,C&D	05-08
4	Copies of departmental appeal and order dated 01.03.2024	E&F	09-11
5	Vakalat Nama	-----	12

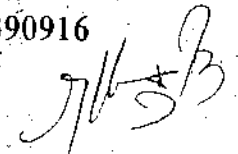
THROUGH:

APPELLANT



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell# 0333-9390916

&



(SHAKIR ULLAH TORANI)
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 733 /2024

Khyber Pakhtunkhwa
Service Tribunal

12920

22-05-2024

Mubarak Zeb Ex-Constable No. 1892,
Police Lines, Mardan.

(APPELLANT)

VERSUS

1. The Regional Police Officer, Mardan Region, Mardan.
2. The District Police Officer, Mardan.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE ORDER DATED 14.11.2023, WHEREBY
THE APPELLANT WAS DISMISSED FROM SERVICE
AND AGAINST THE ORDER DATED 01.03.2024,
WHEREBY THE DEPARTMENTAL APPEAL OF THE
APPELLANT WAS REJECTED FOR NO GOOD GROUND.

Filed to-day

Registrar

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
ORDERS DATED 14.11.2023 AND 01.03.2024 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:

1. That the appellant was appointed as constable in the respondent department and completed all his due training and courses and since his appointment the appellant has performed his duty with devotion and honesty, whatsoever, assigned to him.
2. That the father of the appellant was ill and later on he was died due to that illness and the appellant being the sole responsible of his family spent huge amount on the treatment of his father and in this respect he also got loan from people for the treatment of his father, however, he was unable to return the loan due to his bad financial position and the people demand his loan from the appellant due to which the appellant shifted his family to some other place and due to that reason he was compel to remain absent from his duty.
3. That due to that absence the appellant was dismissed from service vide order dated 14.11.2023 and handed over his charge sheet, statement, statement of allegations and show cause notice along with the dismissal order. **(Copies of charge sheet, statement of allegations, show cause notice and dismissal order dated 14.11.2023 are attached as Annexure-A,B,C&D)**
4. The appellant filed departmental appeal against the dismissal order dated 14.11.2023, which was rejected on 01.03.2024. **(Copies of departmental appeal and order dated 01.03.2024 are attached as Annexure-E&F)**
5. That the appellant now wants to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others:

GROUND:

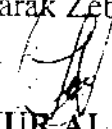
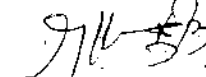
- A) That the impugned orders dated 14.11.2023 and 01.03.2024 are against the law, rules, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant was never associated in inquiry proceeding and whole action was taken against him on basis 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 and rules.

- 5
- D) That even show cause notice was issued to the appellant before passing the impugned dismissal order dated 14.11.2023, which is against the norms of justice and fair play.
- E) That the appellant did not intentionally remain absent from his duty, but his father was ill and later he was also died due to that illness and the appellant being the sole responsible of his family spent huge amount on the treatment of his father and in this respect he also got loan from people for the treatment of his father, however, he was unable to return the loan due to his bad financial position and the people demand his loan from the appellant due to which the appellant shifted his family to some other place and due to that reason he was compel to remain absent from his duty, therefore, needs to be treated with lenient view.
- F) 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.
- G) That the appellant has not been treated in accordance with law and rules and has been condemned unheard throughout.
- H) 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 on the acceptance of this appeal, impugned orders dated 14.11.2023 and 01.03.2024 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
Mubarak Zeb

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
& 
(SHAKIR ULLAH TORANI)
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2024

Mubarak Zeb

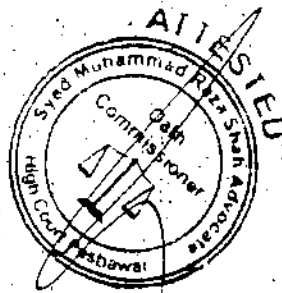
VS

Police Department

AFFIDAVIT

I, Mubarak Zeb Ex-Constable No.1892, Police Lines, Mardan, (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.


DEPONENT



30 MAY 2024



(2) OFFICE OF THE A (5)
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2023

CHARGE SHEET


1. NAJEEB-UR-REHMAN BUGVI (PSP), District Police Officer Mardan, as competent authority, hereby charge Constable Mubarak Zeb No.1892, while posted at Police Lines Mardan (now under suspension Police Lines Mardan), as per attached Statement of Allegations.

By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

3. 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, ex-parte action shall follow against you.

4. Intimate whether you desired to be heard in person.


(Najeeb-ur-Rehman Bugvi) PSP
District Police Officer, Mardan.



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

B 6
2023

No. 162 /PA

Dated 14/11/2023

DISCIPLINARY ACTION

I. NAJEEB-UR-REHMAN BUGVI (PSP), District Police Officer, Mardan, as competent authority am of the opinion that Constable Mubarak Zeb No.1892, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1973.

STATEMENT OF ALLEGATIONS

Whereas, Constable Mubarak Zeb No.1892, while posted at Police Lines Mardan (now under suspension Police Lines Mardan), remained absent from duty without any leave/permission of the competent authority vide DD No.41 dated 20-05-2023 till-date.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Saudat Ali DSP/Traffic Mardan is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1973, provides reasonable opportunity of hearing to the accused Police official, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

Constable Mubarak Zeb is directed to appear before the Enquiry Officer on the date time and place fixed by the Enquiry Officer.

(Najeeb-ur-Rehman Bugvi) PSP
District Police Officer, Mardan

② OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

7
C

7504 /PA

Dated 03/08/2023

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Mubarak Zeb No.1892, while posted at Police Station Mardan (now suspended), remained absent from duty without any leave/permission of the District Police Officer Mardan with only vide DP No.41 dated 20-05-2023 till-date.

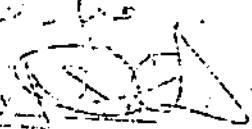
To ascertain facts, a proper departmental enquiry against you was conducted through Mr Saadat Ali DSP/Traffic Mardan vide this office Statement of Discipline and Charge Sheet No.162/PA dated 14-06-2023, who (EO) after fulfillment necessary process, submitted his findings to this office vide his office letter No 155/ST dated 24-07-2023 holding responsible you of gross misconduct & recommended for major punishment.


Therefore, it is proposed to impose Major/Minor penalty as envisaged in Rule 41 of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I Najeeb-ur-Rehman Bugvi (PSP)-District Police Officer Mardan, in exercise of the power vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to Show Cause Finally, as to why the proposed punishment should not be awarded to you.

Your reply, if any, shall reach this office within 07 days of the receipt of this Notice, failing which: it will be presumed that you have no explanation to offer & an ex-parte action shall be taken against you.

You are liberty to appear for personal hearing before the undersigned.

031076967
10/2/23
Received by 


(Najeeb-ur-Rehman Bugvi) PSP
District Police Officer Mardan

Copy to SIO PS Jobar (Attention Moharrar) to deliver this notice upon Constable Mubarak Zeb (0310-9496959) Son of Sabz Ali resident of Mohallah Yaqoob Khan Sawadhera or of its closed family member with name & relationship & the receipt thereof, duly signed by SIO with date, shall be returned to this office within a week time positively.

Better Copy

(7)

Better copy

Tel No. 0937-9230109 & Fax No. 0937-9230111

No. 7504/PA

Dated 03/08/2023

FINAL SHOW CAUSE NOTICE

Whereas you Constable Mubarak Zeb No. 1892. While posted at Police Line Mardan (Not suspended) remained absent from duty without any leave/punishment of the competent authority vide DD No. 41 dated 20.05.2021 till date.

To ascertain facts, a proper Departmental enquiry against you conducted through Mr. Saadat Ali DSP/Traffic Mardan vide this office Statement of Discipline Action Charge Sheet No. 162/PA dated 16.06.2023 who (EO) after fulfillment necessary process submitted his findings to his office vide his office No. 155/ST dated 24.07.2023 holding responsible you of gross misconduct and recommended for major punishment.

Therefore it is proposed to impose Major penalty as under rule 4 (b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I Najeeb Ur Rehman Bugvi (PSP) District Police Officer power vested in me under rules (5) and (b) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to show Cause Notice as to why the proposed should not be awarded to you.

Your reply if any shall reach this office with 7 days of the receipt this notice, which will be presumed that you have no explanation to office ex-parte action shall be taken against You.

You are liberty to appear personal hearing before the undersigned.

(Najeeb Ur Rehman)

District Police officer Mardan

Dated 04.08.2023

Copy to SHO PS Jabbar (Attention Moharrar) to deliver this notice upon Constable Mubarak Zeb (0310-9496959) Son of Sabz Ali Resident of Mohallah Yaqoob Khan Sawaldler of any of his closed family with name and relationship and the receipt o duly signed by SHO with date, shall be returned to this office within a week time positively.

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo.mardan@gmail.com

D 8

PA

Dated 16/11/2023

ORDER ON ENQUIRY OF CONST. MUBARAK ZEB NO.1892

This order will dispose-off a Departmental Enquiry under Police Rules 1975 against Constable Mubarak Zeb No.1892, under the allegations that while posted at Mardan (now under suspension Police Lines Mardan), was placed under suspension of this office OB No.1079, dated 06-06-2023, issued vide order-endorsement No. 3033/75/091 dated 07-06-2023, on account of **absence from duty** without any notification of the competent authority vide DD No.41 dated 20-05-2023 till-date.

To ascertain facts, he was proceeded against departmentally through the order of DSP/Traffic Mardan vide this office Statement of Disciplinary Action/Charge Sheet No. 155/ST Traffic dated 14-06-2023, who (E.O) after fulfillment necessary process, submitted his reply to this office vide his office letter No.155/ST Traffic dated 24-07-2023, holding him guilty and delinquent officer of grave misconduct & recommended for major punishment. He failed to present his reply, in compliance of delivered Statement of Disciplinary Action/Charge Sheet within stipulated period of seven days to him (E.O).

To further verify the allegations, on 04-08-2023, he was served with a show-cause Notice, under Khyber Pakhtunkhwa Police Rules-1975, issued vide this office order No. 155/ST Traffic dated 03-08-2023, to which, he was bound to submit his reply to this office within stipulated time of (07) days i.e up-to 11-08-2023, but with non-compliance till-date, while on other hand, he didn't assume duty till-date, indicating that he is not interested in Police Service.

In the light of above discussion, I am of the considered opinion that Constable Mubarak Zeb is not a willing worker & his more retention in force will bother the public at large. Therefore, awarded him **major punishment of dismissal from service** with effect from 20-05-2023, in exercise of the power vested in me under Police Rules-1975.

(Signature)
District Police Officer, Mardan

Copy forwarded for information & n/action to:-

1. The DSP/Traffic Mardan.
2. The P.O & E.O (DPO Office) Mardan.
3. The In-charge Lab (HRMIS) DPO Office Mardan.
4. The P.O (DPO Office) Mardan with () Sheets.

Better Copy

OFFICE OF THE
DISTRICT EDUCATION OFFICER
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111

No. _____/PA

Dated 16.11.2023

ORDER ON INQUIRY OF CONST MABARAK ZEB NO. 1892

This order will dispose off a Departmental Enquiry Officer under Police Rules against Constable Mubarak Zeb No 1892 under the allegations that while posted at Police Lines Mardan (now under suspension Police Lines Mardan) was placed under suspension vide this office OB No. 1079 dated 06-06-2023 issued vide endorsement No. _____/OSI dated 07.06.202, on account of absence from duty without any leave permission of the Competent authority vide DD No. 41 dated 20.05.2023 till date.

To ascertain facts, he was proceeded against departmentally against Mr Sadat Ali DSP/Traffic Mardan vide this office statement of Disciplinary Action/Charge to this office vide letter No. 155/ST Traffic dated 24.07.2023 holding delinquent officer, of grave misconduct and recommended for major punishment to present his reply in compliance of delivered Statement of Disciplinary Charge Sheet with stipulated period of seven days to him (EO).

To further verify the allegation on 04-08-2023 he was served within Cause Notice, under Khyber Pakhtunkhwa Police Rules 1975 issued vide this office dated 03-08-2023 to which he was bound to submit his reply to this office within of (7) days i.e upto 11.08.2023, but with non-compliance till date while on officer he did not assume duty till date, indicating that he is interested in Police Service

Order

In the light of the above discussion, I am of the considered opinion that Mubarak Zeb is not a willing worker and his more intention in force will exchequer awarded him major punishment of dismissal from service from 20.05.2023 in exercise of the power vested in me under Police Rules 1973.

(Najeeb Ur Rehman)
District Police officer Mardan

Copy forwarded for information and n/action to

1. The DSP/HQrs Mardan.
2. The PO & EO DPO Office Mardan.
3. The Incharge Lab (HRMIS) DPO Mardan.
4. The (DPO Officer) Mardan with Sheets.

F 10

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Substant Zeb No. 1892 of Mardan District Police against the order of the District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB No. 2260 dated 14.11.2023. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Mardan absented himself from his lawful duty without any leave or prior permission of the competent authority vide daily diary No. 41 dated 20.05.2023 till date of his dismissal from service.

Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Deputy Superintendent of Police Traffic, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to District Police Officer, Mardan, wherein he reported that the delinquent Officer was 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 appropriate action.

On 04.05.2023, he was issued Final Show Cause Notice through which he was bound to submit his reply within stipulated time of 07 days but he failed, indicating that he was not interested in Police service.

In the light of above discussion the delinquent Officer was not a willing worker and his retention in Police department will be bothered for Government Exchequer, therefore, awarded him major punishment of dismissal from service with effect from 20.05.2023 vide OB No. 2260 dated 14.11.2023 by the District Police Officer, Mardan.

Feeling aggrieved from the order of the District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 22.02.2024.

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 dismissed from service for his disinterest in the official duties. Hence, order passed by the competent authority does not warrant any interference. Besides the above, the appellant approached this forum at a belated stage by filing the instant appeal which is time barred for 22 days without advancing any cogent reason regarding such delay.

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 as well as time barred for 22 days.

Order Announced.

(MUHAMMAD SULEMAN) PSP
Regional Police Officer,
Mardan.

No. _____ /ES, Dated Mardan the _____ of _____ /2024.

Copy forwarded to District Police Officer, Mardan, for information and necessary action w/r to his office Memo: No. 23/LB dated 23.01.2024. His Service Record is returned herewith.

(*****)

12

VAKALAT NAMA

NO. _____/2024

IN THE COURT OF Khyber Pakhtunkhwa Service Tribunal Pesh

Mubarak Zeb (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt (Respondent)
(Defendant)

I/We, Mubarak Zeb

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT AND SHAKIR ULLAH TORANI ADVOCATE**, 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.

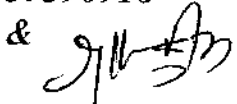
Dated _____/2024


(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court

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

& 
SHAKIR ULLAH TORANI
Advocate Peshawar
BC-22-4994
03409146056