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KHWA SERVICE TRIBUNAL, PESHAWAR

KHYBER PA

EXECUTION NO

TION

ORIGINAL INSTITUTION

DECISION

PAGES

APPEAL

30-09-2022

17.5.2024

44

1400 Attique vs Police

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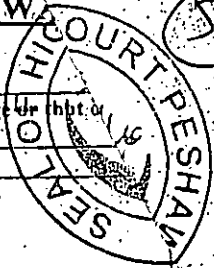
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Muhariy Compilation

Incharge Judicial Branch

25/6/24

**PESHAWAR HIGH COURT PESHAWAR
ORDER SHEET**



Date of Order or Proceedings 1	Order or other Proceedings with Signature of Judge or Inbt. of parties or counsel where necessary 2
10.03.2020	<p><u>Writ Petition No. 606-P/2019.</u></p> <p>Present: Naveed Akhtar, advocate for the petitioners.</p> <p>Syed Qaiser Shah, Addl. AG on behalf of respondents.</p> <p>*****</p> <p><u>WAQAR AHMAD SETH, CJ:-</u> Through this constitutional petition, we intend to decide the instant petition as well as connected writ petition bearing No. 3698-P/2018, being identical in nature.</p> <p>2. Engineer Ziarat Khan, Commissioner Mines & others, petitioners herein aggrieved from the acts / inactions of respondents have directed this petition with the following relief:-</p> <p>a. It is, therefore, humbly prayed that on acceptance of this petition the impugned exclusion of the petitioners from benefits of the Technical Allowance through notification dated 19.10.2018 and subsequent refusal vide letter dated 19.12.2018 may kindly be declared illegal; unlawful, against the law and the constitution and thus ineffective upon the rights of the petitioners being discriminatory.</p> <p>b. It is further prayed that, the impugned decision conveyed vide letter dated 19.12.2018 may kindly be set aside and the Technical Allowance allowed to engineers</p>

SCANNED

ATTESTED

ATTESTED
EXAMINER
Peshawar High Court


Service Appeal No. 1497/2022 titled "Muhammad Attique Khan versus Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, Peshawar and others".

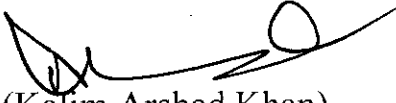
ORDER

17th May, 2024

1. Learned counsel for the appellant present. Mr. Muhammad Usman, DSP (Legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present.
2. Vide our consolidated judgment of today placed on file of connected Service Appeal bearing No. 1496/2022 titled "*Zahid Ur Rehman vs. Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, Peshawar and others*", we don't find any document of summoning the appellant to face the inquiry. Inquiry also seems to be bereft of any details nor any statement of anybody appears to have been recorded by the inquiry officer rendering it of no avail and compelling the Tribunal to allow the appeal, set-aside the impugned orders, remit the matter back to the department for conducting proper de-novo inquiry with the associating the appellant with the proceedings and providing also opportunity of defence as well as cross-examination. The exercise shall be completed within 60 days of receipt of copy of this judgment. The appellant is reinstated for the purpose of inquiry. The issue of back benefits is subject to the outcome of inquiry. Disposed of. Costs shall follow the event. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 17th day of May, 2024.*


 (Muhammad Akbar Khan)
 Member (Executive)


 (Kalim Arshad Khan)
 Chairman

RECEIVED
17 MAY 2024
SECRETARY
GENERAL

2


12.01.2024

Appellant alongwith clerk of his counsel present.
Mr. Javed Shah, Head Clerk alongwith Mr. Asif Masood Ali
Shah, Deputy District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the
appellant is busy in Supreme Court of Pakistan. Adjourned.

To come up for arguments on 21.03.2024 before the D.B.
Parcha Peshi given the parties.

SCANNED
KPST
Peshawar



(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

*Naveen Ahmad

21.03.2024

Junior to counsel for the appellant present. Mr. Asif
Masood Ali Shah, Deputy District Attorney alongwith Javed
Shah, Head Clerk for the respondents present.

Respondents are directed to produce posting and
training order of the appellant after the death of Ex-MNA Munir
Hussain in the year 2020. To come up for arguments on
17.05.2024 before the D.B. P.P given to the parties.

SCANNED
KPST
Peshawar



(Fareeha Paul)
Member(E)



(Rashida Bano)
Member (J)

Fazle Subhan, P.S

3

01.03.2023

Appellant in person present. Mr. Fazal Shah Mohmand,
Additional Advocate General for the respondents present.

Reply/comments on behalf of the respondents submitted have
already been submitted through office on 23.06.2023 which is
placed on file. Copy of the same handed over to the appellant. To
come up for arguments on 22.11.2023 before D.B. P.P. given to the
parties.

(Muhammad Akbar Khan)
Member (I)

22.11.2023

Clerk of learned counsel for the appellant present.
Mr. Muhammad Jan, District Attorney for the respondents
present.

Clerk of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the
appellant is not available today due to strike of lawyers.
Adjourned. To come up for arguments on 12.01.2024 before
the D.B. Parcha Peshi given to the parties.

(Fareeha Paul)
Member (E)

(Salah-ud-Din)
Member (J)

Naeem Amin

SCANNED
KPST
Peshawar

Kamranullah

(4)

24th May, 2023

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Javid Shah, Focal Person for the respondents present.

2. Written reply on behalf of respondents not submitted. Learned Additional Advocate General seeks time for submission of written reply. Last opportunity granted. Adjourned. To come up for written reply/comments on 26.06.2023 before S.B. P.P given to the parties.



(Kalim Arshad Khan)
Chairman

Kaleem Ullah

26.06.2023

Learned Member (Executive) Mr. Muhammad Akbar Khan is on leave, therefore, to come up for the same on 01.08.2023.



(READER)

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

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28.02.2023

Appellant alongwith his counsel present and submitted an application for extension of time to deposit security and process fee which have not been deposited within the stipulated period. The appellant is directed to deposited security fee within three days. Respondents be summoned through TCS, the expenses of which be deposited by the appellant within three days. To come up for reply/comments on 10.04.2023 before S.B. P.P given to the appellant and his counsel.

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28/02/2023

RS-100
Appellant Deposited
Security & Process Fee
10/3/23



(Muhammad Akbar Khan)
Member (E)

10.04.2023

Clerk of learned counsel for the appellant present.
Mr. Asad Ali Khan, Assistant Advocate General for the
respondents present.

Notice be issued to the respondents and to come up
for of reply/comments on 24.05.2023 before the S.B.
Parcha Peshi given to the parties.



(Salah-Ud-Din)
Member (J)

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06th Dec: 2022

Junior to counsel for the appellant present and seeks adjournment due to engagement of learned senior counsel for the appellant in Honourable Peshawar High Court. Adjourned. To come up for preliminary hearing on 16.01.2023 before the S.B.

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KPST
Peshawar



(Kalim Arshad Khan)
Chairman

16.01.2023

Learned counsel for the appellant present.

Preliminary arguments heard.

Points raised need consideration, hence the appeal in hand is admitted to regular hearing subject to all legal and valid objections including the question of limitation. The appellant is directed to deposit security fee within 10 days. Respondents be summoned through TCS, the expenses of which be deposited by the appellant within three days. To come up for submission of written reply/comments on 28.02.2023 before the S.B.

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Peshawar



(Salah-Ud-Din)
Member (J)

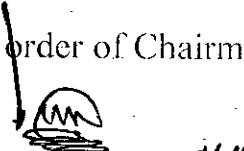

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Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1497/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/10/2022 <i>Counsel was informed telephonically for the date fixed</i>	<p>The appeal of Mr. Muhammad Attique resubmitted today by Mr. Muhammad Furqan Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 28-10-22 Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p>  REGISTRAR
	28 th Oct., 2022	<p>Counsel for the appellant present and requested for adjournment in order to complete the documents including enquiry report etc. To come up for preliminary hearing on 06.12.2022 before S.B.</p> <p> (Fareeha Paul) Member(E)</p>

SCANNED
KPST
Peshawar


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The appeal of Mr. Muhammad Attique Khan Ex-Constable of Police Department District Kurram received today i.e. on 30.09.2022 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellants.
- 2- Copy of affidavit mentioned in para-4 of the memo of appeal (Annexure ~~A~~) is not attached with the appeal which may be placed on it.
- 3- Annexure-B of the appeal is illegible which may be replaced by legible/better one.

No. 2743 /S.T,

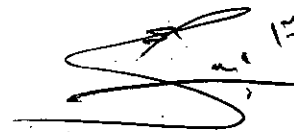
Dt. 5/10 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Furqan Yousafzai Adv. Pesh.

Re-submitted After Compliance

*Further it is submitted that annex "A"
is mentioned as Affidavit in memo of petition
which is on plain paper & infact it is an
affidavit regarding duty of appellants.*


17/10/22

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HYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

MUHAMMAD ATTUVAL Khan Appellant **Versus** IGR-9 - others Respondents

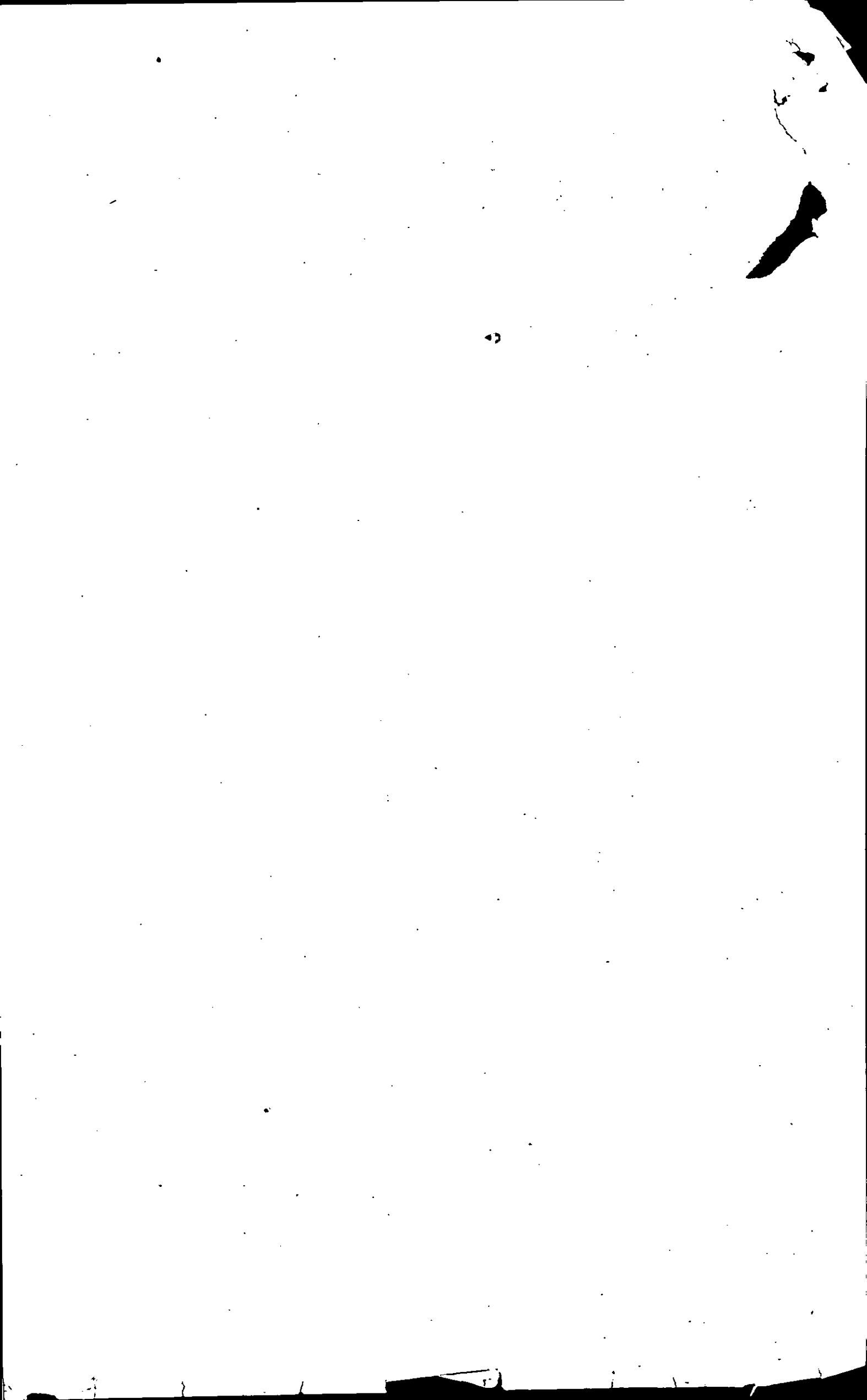
	CONTENTS	YES	NO
0	This petition has been presented by: <u>Advocate</u> <u>Court</u>	✓	
	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
	Whether appeal is within time?	✓	
	Whether the enactment under which the appeal is filed mentioned?	✓	
	Whether the enactment under which the appeal is filed is correct?	✓	
	Whether affidavit is appended?	✓	
	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
	Whether appeal/annexures are properly paged?	✓	
	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
0.	Whether annexures are legible?	✓	
1.	Whether annexures are attested?		
2.	Whether copies of annexures are readable/clear?	✓	
3.	Whether copy of appeal is delivered to AG/DAG?	✓	
4.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
5.	Whether numbers of referred cases given are correct?	✓	
6.	Whether appeal contains cutting/overwriting?	*	
7.	Whether list of books has been provided at the end of the appeal?	✓	
8.	Whether case relate to this court?	✓	
9.	Whether requisite number of spare copies attached?	✓	
0.	Whether complete spare copy is filed in separate file cover?	✓	
1.	Whether addresses of parties given are complete?	✓	
2.	Whether index filed?	✓	
3.	Whether index is correct?	✓	
4.	Whether Security and Process Fee deposited? On		
5.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On	✓	
6.	Whether copies of comments/reply/rejoinder submitted? On		
7.	Whether copies of comments/reply/rejoinder provided to opposite party? On		

is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- MUHAMMAD FURKAN YOUSAFZAI

Signature:-

Dated:- 30-9-22



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BEFORE THE COURT OF WORTHY CHAIRMAN
SERVICES TRIBUNAL, PESHAWAR

Appeal No. 1499 /2022

SCANNED
KPST
Peshawar

Muhammad Attique KhanAppellant

V E R S U S

IGP and others.....Respondents

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Memo of appeal	*	1-12
2.	Affidavit	*	13
3.	Application for condonation of delay along with affidavit	*	14-15
4.	Copy of the affidavit	A	16
5.	Copy of the order	B	17
6.	Copies of departmental appeal and impugned order dated 22/07/2022	C & D	18-26
7.	Wakalatnama	*	27

Appellant

Through

Date: 29/09/2022

Muhammad Furqan Yousafzai
Advocate, Supreme Court of
Pakistan

&

Khalid Hameed
Advocate, High Court,
Peshawar
Cell# 0333-9266225

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- 1 -

**BEFORE THE COURT OF WORTHY CHAIRMAN
SERVICES TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 1479 /2022

Diary No. 1474

Dated 30-9-2022

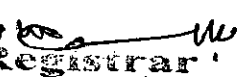
Muhammad Attique Khan, Ex-Constable No. 9108, R/o
Mandori Tehsil Alizai District Kurram.....**Appellant**

V E R S U S

1. Inspector General of Police, Khyber Pakhtunkhwa,
Central Police Office, Peshawar.
2. Regional Police Officer, Kohat Region, Kohat.
3. District Police Officer, District Kurram.

.....**Respondents**

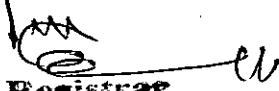
**APPEAL UNDER SECTION 4 OF KP
SERVICES TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER
DATED 26/07/2022 WHEREBY THE
RESPONDENT NO.2 DISMISSED THE
DEPARTMENTAL APPEAL OF THE
APPELLANT FILED AGAINST THE
IMPUGNED ORDER DATED
08/04/2022 PASSED BY THE
RESPONDENT NO.3 WHEREIN THE
APPELLANT WAS DISMISSED FROM
HIS SERVICE**

Filed to-day

 Registrar
 30/9/22

Prayer in Appeal:

On acceptance of this service appeal, both the

Re-submitted to ~~the~~ impugned orders dated 22/07/2022 and
and filed.


 Registrar
 17/10/22

08/04/2022 passed by the respondents No.2 and 3 may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

Respectfully Sheweth:

1. That the appellant was appointed as Sepoy Khasadar Force Kurram Agency in the year 2011.
2. That in the year 2019 when the Khasadar Force was absorbed in the Police Department, the appellant also absorbed in Police Department and become the member of Police Force of KPK as Constable.
3. That the appellant was deputed as Security Guard with the then MNA namely Munir Khan Orakzai and remained at the same position till his martyrdom in the year 2020.
4. That subsequently, the appellant was deputed as security guard with Dr. Abdul Qadeer Khan who is brother of the martyred MNA Munir Khan Orakzai, in this regard Dr. Abdul Qadeer Khan has sworn an Affidavit in shape of request to

respondent No.2 that appellant be reinstated in police service because he was deployed for his security and performed duty with Dr. Abdul Qadeer Khan. **(Copy of the affidavit is attached as Annexure-A)**

5. That on 04/05/2022, when the appellant went to the police office Kurram for enquiring about his salary and other financial issues, office of the DPO Kurram informed the appellant that he has been dismissed from service by the respondent No.3, the appellant caught by surprise when he heard about his dismissal because he was already performing his services as security guard with Dr. Abdul Qadeer Khan.
6. That on the same day i.e. 04/05/2022, the appellant collected copy of the impugned dismissal order dated 08/04/2022 and upon perusal it was found that the appellant was dismissed from service on account absence from duty. **(Copy of the order is attached as Annexure-B).**
7. That the appellant aggrieved from the impugned dismissed order dated 08/04/2022, filed departmental appeal before the respondent No.2 which was also dismissed vide impugned order

dated 22/07/2022 and upheld the impugned order of the respondent No.3. It is worthy to mention here that once the statutory period of the appeal was completed, the appellant visited the office of respondent No.3 to know about his departmental appeal wherein it was revealed to him that his appeal has been disposed of but the copy was not provided to him and few days back one of the relatives of the appellant sent him the copy of impugned order via whatsapp and till date the officials did not inform the appellant about the impugned orders. **(Copies of departmental appeal and impugned order dated 22/07/2022 are attached as Annexure-C & D respectively)**

8. That feeling aggrieved from the above mentioned orders dated 22/07/2022 and 04/05/2022 of the respondents, the appellant approached this Hon'ble Tribunal inter alia on the following grounds:

GROUND S:

- A. That the impugned order of the dismissal from service of the appellant is not in accordance with

law, facts, evidence on record, rules and principles of justice, hence liable to be set aside.

- B. That it is a well established principle of law and justice, that whenever a charge is to be framed against an accused or defaulter, it shall be specific so that to enable the defaulter to prepare his defence properly. However, in the case of the appellant it will indicate that the charge is vague and ambiguous because the worthy competent authority has not mentioned that from which date to which date the appellant allegedly remained absent. Hence the basic and fundamental right of preparing defence by the appellant was infringed and in this scenario the impugned order has become legally defective and no punishment can be awarded on such a vague and ambiguous charge against the appellant.
- C. That as per policy, in case of absence there shall be proper inquiry before passing an order and the appellant belongs to District Kurram and no notice has been received by the appellant from the respondents nor the statement of any of the inhabitant/relative of the appellant has been recorded nor the alleged inquiry officer visited the village and home of the appellant nor recorded the statement of Malik/Elders of the

locality, on this score alone the impugned orders are liable to be set aside.

D. That the alleged enquiry against the appellant was conducted unilaterally, one sidedly and at the back of the appellant which in the eyes of law has got no legal value and hence the impugned enquiry and the impugned orders are not sustainable in the eyes of law. Thus no punishment can be awarded on such a one sided enquiry.

E. That under Art. 10-A of the constitution of Pakistan, transparent, impartial and independent enquiry/ trial against accused/ defaulter has been declared as his fundamental and inalienable right but here, in the instant enquiry fundamental right of the appellant has not been adhered. Thus enquiry and the impugned orders are violation of the fundamental right of the appellant. Hence, the impugned orders are not operative on the rights of the appellant.

F. That the impugner orders have though mentioned framing charge sheet and the statement of allegation against the appellant but has forgotten to mention about his service on the appellant. If charge sheet and statement of

allegations were framed against the appellant, then they should have been served upon the appellant. However, nothing has been said about their service upon the appellant in the impugned order. Under the law/rules service of the charge sheet and statement of allegations upon the defaulter are mandatory. Without their service upon a defaulter, enquiry cannot proceed against him. If a defaulter is not physically present before the authority then, it is required that they should be sent at the home address of the defaulter but it appears that the established/prescribed procedure was not followed. It appears that the worthy competent authority was bent upon to punish the appellant at any cost, hence, the prescribed procedure and as well as legal/codal formalities were not followed in letter and spirit which has rendered the impugned orders as legally defective orders which has got no impact on the service rights of the appellant and thus he is presumed to be on duty since his dismissal from service.

- G. That in case if appellant was 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 proceedings against the appellant were directed at any stage

of the enquiry. Hence the enquiry and the impugned orders suffer from material legal irregularity.

- H. That although in the impugned order, it has been mentioned by the worthy competent authority that in the news paper "Aaj Subah" dt:23-1-2022 proclamation regarding absence of the appellant was published, the above procedure adopted by the competent authority is not in accordance with the prescribed procedure. Ordinarily, when it is established that presence of the defaulter official cannot be procured then at the beginning of the enquiry, ex-parte proceedings are directed and absence of the defaulter is published in the that two national dailies but in the case of appellant one can surprisingly observe that, no order regarding initiation of ex-parte enquiry against the appellant was issued. Secondly the proclamation of absence of the appellant was not published in the two national dailies like Mashriq Jang etc. but published in only one daily local newspaper namely Aaj Subah, whose circulation cannot be confirmed, hence this cannot be said as a satisfactory proclamation. Thirdly, the enquiry proceeding against the appellant came to an end on 21/01/2022 while the alleged proclamation in a local newspaper was published on 23/02/2022 i.e. after conclusion of the

instant enquiry against the appellant while according to the well established procedure, it should have been published at the commencement of the enquiry instead of conclusion of enquiry. Hence, the above realities have established beyond any reasonable doubt that in absence of the order for commencement of ex-parte proceedings against the appellant, nor publishing of the alleged absence in the two national daily newspapers and publishing the alleged absence of the appellant in a local newspaper after conclusion of enquiry have made the impugned order as legally not sustainable and deserve to be brushed aside.

- I. That it appears from the impugned order that no efforts were made to enquire whereabouts of the appellant from his residence located in Kurram Headquarter or from the residence of the martyred MNA with whom he was attached as security guard and Dr. Abdul Qadeer with whom he was performing duty as security guard and the time of inquiry / order. If, due enquiry would have been made it would ascertain by the concerned officers of the department that the appellant was physically present on duty and performing as security guard with the Dr. Qadeer Khan.

J. That during the alleged enquiry if the enquiry officer has recorded evidence of any witness, such an evidence has got no legal value because the appellant was not provided opportunity to cross examine such witness. Hence no punishment whatsoever can be awarded on such one sided and unilateral evidence.

K. That more or less 11 years service of the appellant was ended with one stroke of pen without any lawful justification.

L. That under the law maximum punishment like dismissal from service is to be awarded after following al legal and codal formalities in letter and spirit. Moreover, respondents will not treat the matter as an ordinary one and while awarding such a maximum / harsh punishment he should give serious and repeated considerations but from the impugned orders, it appears that legal and codal formalities were not followed in letter and spirit and no serious consideration was paid while depriving the appellant from his only source of income.

M. That the appellant is absolutely innocent. The appellant remained present on duty with the brother of the martyred Munir Khan Orakzai MNA. The appellant after approval by the

respondents was performing security duty with Dr. Abdul Qadeer Khan.

N. That inspite of having sources and resources, the respondents did not touch this aspect nor any enquiry was conducted at this angle in order to ascertain, where about of the appellant and performing his duty with Dr. Abdul Qadir Khan. By conducting one sided inquiry the appellant was prejudiced and thus in the shape of the impugned orders miscarriage of justice occasioned to the appellant.

O. That the appellant is a law abiding person and he has always kept his departmental interests above his personal interests. Appellant being member of the law enforcing agency cannot imagine to remain absent without leave or permission.

P. That the charge of remaining absent from duty is totally baseless, misleading and without any foundations. Hence upon such a flimsy, vague and baseless charge no punishment to the appellant is justified.

Q. That the appellant supports a large family. Except the present service, the appellant has got no other source of income. If the impugned order is upheld, the appellant will be deprived of his

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only source of income and his family will land in starvation. Resultantly the appellant may face irreparable loss.

R. That any other grounds will be raised at the time of arguments with prior permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that on acceptance of this service appeal, both the impugned orders dated 22/07/2022 and 08/04/2022 passed by the respondents No.2 and 3 may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

OR

Any other relief may deemed fit in the circumstances of the law may also be granted in favour of the appellant against respondent.

Appellant

Through

Date: 29/09/2022

Muhammad Furqan Yousafzai
Advocate, Supreme Court of
Pakistan

&

Khalid Hameed
Advocate, High Court,
Peshawar

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BEFORE THE COURT OF WORTHY CHAIRMAN
SERVICES TRIBUNAL, PESHAWAR

Appeal No. _____/2022

Muhammad Attique Khan **Appellant**

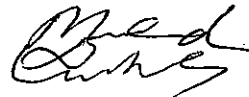
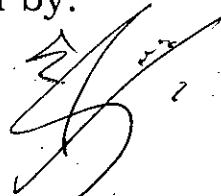
V E R S U S

IGP and others..... **Respondents**

AFFIDAVIT

I, **Muhammad Attique Khan, Ex-Constable No. 9108, R/o Mandori Tehsil Alizai District Kurram**, do hereby solemnly affirm and declare on oath that the contents of accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

Identified by:



DEPONENT

CNIC#

Cell#

Muhammad Furqan Yousafzai
Advocate, Supreme Court of
Pakistan.



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-14-

BEFORE THE COURT OF WORTHY CHAIRMAN
SERVICES TRIBUNAL, PESHAWAR

CM No. _____/2022

IN

Appeal No. _____/2022

Muhammad Attique Khan**Appellant**

V E R S U S

IGP and others.....**Respondents**

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth:

1. That the above Service Appeal has been filed by the petitioner and no date of hearing has yet been fixed.
2. That due to no knowledge of impugned order nor the impugned order has been sent to the petitioner nor served on the petitioner and was kept secret after completion of statutory period of appeal, the petitioner visited the office of respondent No.3 where it was revealed to the petitioner that his departmental appeal has been disposed of and impugned order passed by the respondent No.3 was sent to the petitioner few days back through whatsapp by his relative.

25

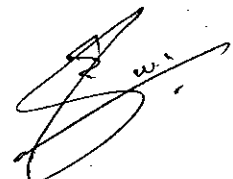
-15-

3. That delay in filing the titled service appeal is neither willful nor deliberate but due to reason mentioned above.

It is, therefore, most humbly prayed that on acceptance of this application, the delay, if any, in filing the above titled service appeal may kindly be condoned in the interest of justice.

Petitioner

Through

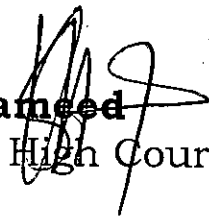


Muhammad Furqan Yousafzai
Advocate, Supreme Court of
Pakistan

Date: 29/09/2022

&

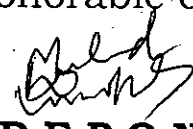
Khalid Hameed
Advocate, High Court,
Peshawar



AFFIDAVIT

I, **Muhammad Attique Khan, Ex-Constable No. 9108, R/o Mandori Tehsil Alizai District Kurram**, do hereby solemnly affirm and declare on oath that the contents of accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.




DEPONENT

26

The Regional Police Officer
Rohat Region
Khyber Pakhtunkhwa

Ann "A"
- 16 -


Subject: Request for Reinstatement of
Constable Mohammad Attiq Khan
P.N. - 9108


Dear Sir,

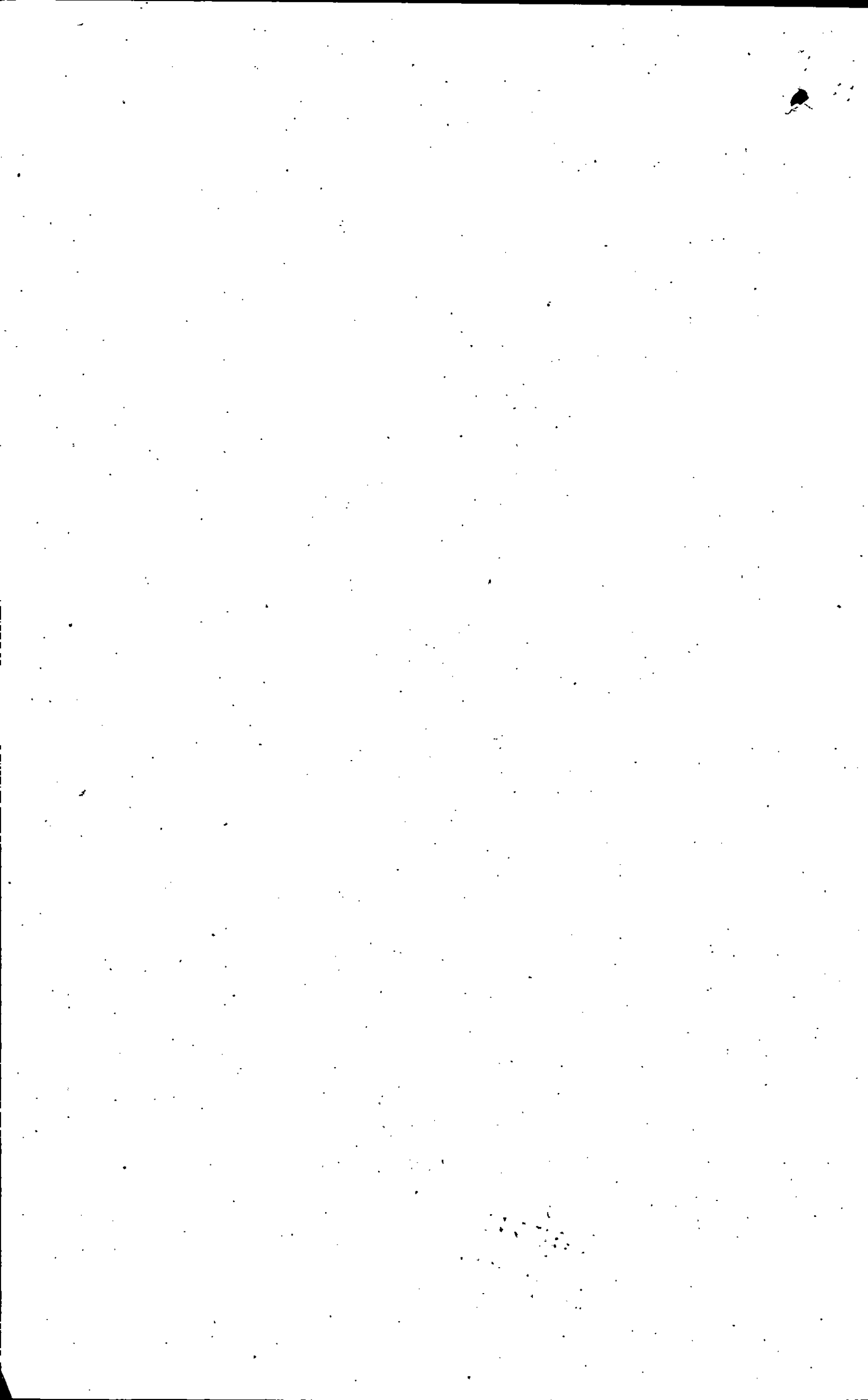
It is stated in your kind honour that
Constable Mohammad Attiq Khan s/o Rafeeq Isha
was deployed for my security. He performed his
duty with zeal & honesty. Now I came to know
that he has been dismissed from service.
You are requested that he may kindly be
reinstated. In recent past my family was
targeted by suicide bomber and we suffered
huge losses.

30/5/2022

Mob# 03009003366


Your Sincerely,
Dr. Abdul Qadir
B/o Munir Khan
Orakzai Em-MNA
Kustan.

ATTESTED

to be true copy
Advocate





27 B11

OFFICE OF THE
DISTRICT POLICE OFFICER
KURRAM, KHYBER PAKHTUNKHWA

Tel/Fax: 0926-311384 • Email: polico@kurram1@gmail.com

Alex B
-17-

ORDER

This order is passed on the Charge Sheet against Constable Muhammad Atiq under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014).

Brief of the fact is that constable Muhammad Atiq has been charged wilfully absent till the date without prior permission of the competent authority which is tantamount to misconduct and inefficiency.

That consequent upon the completion of inquiry conducted against constable Muhammad Atiq by the inquiry officer for which constable Muhammad Atiq was given opportunity vide charge Sheet No. 3201/PA dated Parachinar the 04.10.2021 and No. 3200/PA dated Parachinar the 04.10.2021, but did not appear before the inquiry officer.

Upon the findings and recommendations of the inquiry officer vide No. 370/DSP Inv./Kurram dated 11.11.2021, the material on record and other connected evidence including defense the inquiry officer concluded that constable Muhammad Atiq has to defend himself. Hence, the inquiry officer recommended major punishment for the delinquent Police personnel.

Further, notice regarding absence has already been published in Daily Aaj Subah news paper dated 23rd January 2022.

Final show cause issued to the office of the undersigned vide No. 4421/DPO/PA dated Parachinar the 08.12.2021 but did not reply and also not appeared before the undersigned for defense.

In view of the above I, Arbab Shafiqullah Jan District Police Officer Kurram in exercise of the powers conferred upon me, hereby award him a major punishment of "Dismissal from Service" under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014) with immediate effect.


District Police Officer
Kurram

OB. No. 125

Dated 08.04.2022

Copy forwarded to the:

1. Regional Police Officer Kohat Region Kohat.
2. District Account officer Kurram.
3. All DSPs/SHOs in Kurram
4. Pay Officer Kurram.
5. SRC Kurram Police
6. RI Kurram Police to collect equipments.
7. OASI Kurram Police.
8. Concerned.


District Police Officer
Kurram

ATTEST
to be true copy
Advocate

(28)

BETTER COPY OF THE PAGE NO. 17

OFFICE OF THE
DISTRICT POLICE OFFICER
KURRAM, KHYBER PAKHTUNKHWA
Tel/Fax: 0926-311354, Email: policekurram1@gmail.com

ORDER

This order is passed on the Charge Sheet against Constable Muhammad Attiq under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014).

Brief of the fact that constable Muhammad Attiq has been charged withgnly absent till the date without prior permission of the competent authority which is tantamount to misconduct and inefficiency.

That consequent upon the completion of inquiry conducted against constable Muhammad Attiq by the inquiry officer, for which constable Muhammad Attiq was given opportunity vide charge sheet No. 3201/PA dated Parachinar the 04/10/2021 and No. 3200/PA dated Parachinar the 04/10/2021, but did not appear before the inquiry officer.

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In view of the above I, Arbab Shafiullah Jan District Police Officer Kurram in exercise of the powers conferred upon me, hereby award him a major punishment of "Dismissal from Service" under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014) with immediate effect.

District Police Officer
Kurram

OB No. 125

Dated 08/04/2022

Copy forwarded to the:

1. Regional Police Officer Kohat Regional Kohat,
2. District Account Officer Kurram.
3. All DSPs/SHOs in Kurram
4. Pay Officer Kurram
5. SRC Kurram Police.
6. RI Kurram Police to collect equipments.
7. OASI Kurram Police
8. Concerned.

23

Attested To Be Copy

District Police Officer
Kurram

29

THE HONOURABLE DEPUTY INSPECTOR GENERAL OF POLICE
KOHAT REGION KOHAT

Amicus
-18-

APPEAL UNDER RULE 11 OF THE POLICE RULES 1975
(AMENDED 2014) AGAINST ORDER OF THE WORTHY
DISTRICT POLICE OFFICER KURRAM DATED 08-5-2022
RECEIVED ON 04-5-2022 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;

Facts of the Case:

1. That the appellant was enrolled as Sepoy Khasadar Force Kurram Agency in the year 2011.
2. That the appellant since his induction / enrolment in the Kurram Agency Khasadar Force discharge his official function with great efficiency and dedication.
3. That the Worthy Officers of the Khasadar Force reposed trust in the appellant and they used to assign risky and sensitive tasks which the appellant successfully fulfilled in accordance with their satisfaction.
4. That in the year 2019 when the Khasadar Force was absorbed in the Police Department, the appellant also became member of the esteem Police Deptt.

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to be true copy
Advocate

5. That In the Police Deptt: too the appellant continued his meritorious services and earned support of his worthy senior officers.
6. That when the Khasadar Force was merged in the Police Deptt: most of the orders were made verbally because it was new arrangement and the period was transitory in nature.
7. That the appellant was deputed as Security Guard with the then MNA namely Munir Khan Orakzai and remained at the same position till his martyrdom in the year 2020.
8. That subsequently, the appellant was deputed as security guard with Dr. Abdul Qadeer Khan who is brother of the martyred MNA Munir Khan Orakzai.
9. That on 04-5-2022, when the appellant went to the police office Kurram for enquiring about his salary and other financial issues, office of the DPO Kurram informed that the appellant was dismissed from service by the Worthy DPO Kurram.
10. That the appellant caught by surprise when he heard the he was because he learned the news because he was already performing his services as security guard with Dr. Abdul Qadeer Khan. In this respect he may be contacted and due verification can be made about contention of the appellant. (his recommendations is enclosed as annexure-A)
11. That on the same day i.e. 04-5-2022, the appellant collected copy of the impugned dismissal order and upon perusal it was found that the appellant was dismissed from service on account absence from duty. (Copy of the order is enclosed as Annexure-B).
12. That the appellant was further caught by Shock when he came to know that he has been dismissed from service on the ground of absence from duty because the appellant has not remain absent from duty even for a single day and was physically present round the clock with Dr. Qadeer Khan as security guard.

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Advocate.

13. That on the order of dismissal from service the appellants has strong legal and factual reservations which are submitted in the following lines for your kind and sympathetic consideration:-

Grounds of Appeal:

- A. That the impugned order of the dismissal from service of the appellants is not in accordance with law, facts, evidence on record, rules and principles of justice, hence it is liable to be set aside.
- B. That it is a well established principle of law and justice, that whenever a charge is to be framed against an accused or defaulter, it shall be specific so that to enable the defaulter to prepare his defence properly. However, in the case of the appellants it will indicate that the charge is vague and ambiguous because the worthy competent authority has not mentioned that from which date to which date the appellants allegedly remained absent. Hence the basic and fundamental right of preparing defence by the appellants was infringed and in this scenario the impugned order has become legally defective and no punishment can be awarded on such a vague and ambiguous charge against the appellants.
- C. That the alleged enquiry against the appellants was conducted unilaterally, one sidedly and at the back of the appellants which in the eyes of law has got no legal value and hence the impugned enquiry and the impugned order are not sustainable in the eyes of law. Thus no punishment can be awarded on such a one sided enquiry.
- D. That under Art. 10-A of the constitution of Pakistan, transparent, impartial and independent enquiry/ trial against accused/ defaulter has been declared as his fundamental and inalienable right but here, in the instant enquiry fundamental right of the appellants has not been adhered. Thus enquiry and the impugned order are violation of

the fundamental right of the appellant. Hence, the impugned order is not operative on the rights of the appellant.

- E. That the impugner order has though mentioned framing charge sheet and the statement of allegation against the appellant but has forgotten to mention about their service on the appellant. If charge sheet and statement of allegations were framed against the appellant, then they should have been served upon the appellant. However, nothing has been said about their service upon the appellant in the impugned order.

Under the law/rules service of the charge sheet and statement of allegations upon the defaulter are mandatory. Without their service upon a defaulter, enquiry cannot proceed against him. If a defaulter is not physically present before the authority then, it is required that they should be sent at the home address of the defaulter but it appears that the established/prescribed procedure was not followed. It appears that the worthy competent authority was bent upon to punish the appellant at any cost, hence, the prescribed procedure and as well as legal/codal formalities were not followed in letter and spirit which has rendered the impugned order as legally defective order which has got no impact on the service rights of the appellant and thus he is presumed to be on duty since his dismissal from service. (In support of copies of the judgment of Service Tribunal KPK are enclosed as Annexure-C & D)

- F. That in case if appellant was 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 proceedings against the appellant were directed at any stage of the enquiry. Hence the enquiry and the impugned order suffer from material legal irregularity.

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Advocate

G. That although in the impugned order, it has been mentioned by the worthy competent authority that in the news paper "Aaj Subah" dt:23-1-2022 proclamation regarding absence of the appellant was published.

Sir, very respectfully, the above procedure adopted by the w/competent authority is not in accordance with the prescribed procedure.

Ordinarily, when it is established that presence of the defaulter official cannot be procured then at the beginning of the enquiry, ex-parte proceedings are directed and absence of the defaulter is published in the that two national dailies but in the case of appellant one can surprisingly observe that, no order regarding initiation of ex-parte enquiry against the appellant was issued. Secondly the proclamation of absence of the appellant was not published in the two national dailies like Mashriq Jang etc. but published in only one daily local newspaper namely Aaj Subah, whose circulation cannot be confirmed, hence this cannot be said as a satisfactory proclamation. Thirdly, the enquiry proceeding against the appellant came to an end on 21-01-2022 while the alleged proclamation in a local newspaper was published on 23-2-2022 i.e. after conclusion of the instant enquiry against the appellant while according to the well established procedure, it should have been published at the commencement of the enquiry instead of conclusion of enquiry.

Hence, the above realities have established beyond any reasonable doubt that in absence of the order for commencement of ex-parte proceedings against the appellant, nor publishing of the alleged absence in the two national daily newspapers and publishing the alleged absence of the appellant in a local newspaper after conclusion of enquiry have made the impugned order as legally not sustainable and deserve to be brushed aside.

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Advocate

- H. That it appears from the impugned order that no efforts were made to enquire whereabouts of the appellant from his residence located in Kurram Headquarter or from the residence of the martyred MNA with whom he was attached as security guard and Dr. Abdul Qadeer with whom he was performing duty as security guard and the time of inquiry / order. If, due enquiry would have been made it would ascertain by the concerned officers of the deptt: that the appellant was physically present on duty and performing as security guard with the Dr. Qadeer Khan.
- I. That during the alleged enquiry if the enquiry officer has recorded evidence of any witness, such an evidence has got no legal value because the appellant was not provided opportunity to cross examine such witness. Hence no punishment whatsoever can be awarded on such one sided and unilateral evidence.
- J. That more or less 11 years service of the appellant was ended with one stroke of pen without any lawful justification.
- K. That under the law maximum punishment like dismissal from service is to be awarded after following al legal and codal formalities in letter and spirit. Moreover, competent authority will not treat the matter as an ordinary one and while awarding such a maximum / harsh punishment he should give serious and repeated considerations but from the impugned order, it appears that legal and codal formalities were not followed in letter and spirit and no serious consideration was paid while depriving the appellant from his only source of income.
- L. That the appellant is absolutely innocent. The appellant remained present on duty with the brother of the martyred Munir Khan Orakzai MNA. The appellant after approval by the competent authority was performing security duty with Dr. Abdul Qadeer Khan and in this regard his request is already submitted as annexure-A.

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Advocate

- M. That inspite of having sources and resources, the relevant quarters did not touch this aspect nor any enquiry was conducted at this angle in order to ascertain, where about of the appellant and performing his duty with Dr. Abdul Qadir Khan. By conducting one sided inquiry the appellant was prejudiced and thus in the shape of the impugned order miscarriage of justice occasioned to the appellant.
- N. That the appellant is a law abiding person and he has always kept his departmental interests above his personal interests. Appellant being member of the law enforcing agency cannot imagine to remain absent without leave or permission.
- O. That the appellant during his 11 years service has always remained present on his service and whenever needed he applied for leave from the competent authority.
- P. That the charge of remaining absent from duty is totally baseless, misleading and without any foundations. Hence upon such a flimsy, vague and baseless charge no punishment to the appellant is justified.
- Q. That the appellant supports a large family. Except the present service, the appellant has got no other source of income.
If the impugned order is upheld, the appellant will be deprived of his only source of income and his family will land in starvation. Resultantly the appellant may face irreparable loss.
- R. That the impugned order requires that it may be revisited and legal and factual defects may be removed by applying judicial mind.
- S. That if deemed proper the appellant may kindly be heard in person.

ATTESTED
[Signature]
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Advocate

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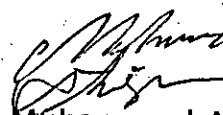
- 25 -

Prayer:

It is, therefore, humbly prayed that the order of dismissal of the appellant contains a number inconsistencies, contradictions, the charge is flimsy, vague and uncertain, the order is not based on evidence, the appellant has been denied his legal defence, due process of law was not followed while the enquiry is one sided and unilateral being conducted without association of the appellant, therefore, the impugned order being not sustainable in the eyes of law may pleased be set aside in the larger interest of law and justice and the appellant may kindly be reinstated in service with all back benefits. The appellant and his family will pray for your long life and prosperity.

Thanking you in anticipation.

Yours Obediently,



Muhammad Attique Khan

(Appellant)


Ex-constable No.9108

Resident of Mandori Tehsil Alizai
District Kurram..

Cell No. 0300-5956886.

Dated:31-05-2022.

ATTESTED


is a true copy
Advocate

37

-26- D
Annex "D"

POLICE DEPTT:

KOHAT REGION

ORDER,


This order will dispose of a departmental appeal, moved by the Ex-personnel Muhammad Attique of district Kurram against the punishment order, passed by DPO Kurram vide OB No. 125, dated 08.04.2022 whereby he was awarded major punishment of dismissal from service on the allegations of willful absence and not appearing before the scrutiny committee despite repeated summons and publishing notice regarding his absence in leading newspaper.

He preferred appeal to the undersigned, upon which comments were obtained from DPO Kurram and his service documents were perused.

I have gone through the available record which indicates that the allegations leveled against the appellants are proved beyond any shadow of doubt. He deliberately did not appear before the scrutiny committee and reportedly he was abroad. Again in 2nd phase he was called by the scrutiny committee, but failed to appear despite of issuing publication in leading newspapers. Therefore, in exercise of the powers conferred upon the undersigned, his appeal being devoid of merits is hereby rejected.

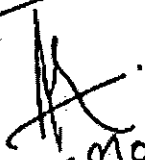
Order Announced


26.07.2022


(TAHIR AYUB KHAN) PSP
Region Police Officer,
Kohat Region.

No. 11681 /EC. dated Kohat the 26/07 /2022.

Copy to District Police Officer, Kurram for information and necessary action w/r to his office Letter No. 890/SRC, dated 07.07.2022. His Service Record is returned herewith.

SRC

1878702A


(TAHIR AYUB KHAN) PSP
Region Police Officer,
Kohat Region.
26/7/22

ATTESTED

to be true copy
Advocate


District Police Officer
Kurram

38

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

Service Appeal No. 1497/2022

SCANNED
KPST
Peshawar

Muhammad Attique Khan

..... (Appellant)

VERSUS

Inspector General of Police KPK &

others.....(Respondents)

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S.No	Description of Documents	Annexure	Page
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2.	Affidavit		4
3.	Authority Letter		5
4.	Copy of Naqal Mad dated 30-09-2021	A	6
5.	Copy Charge Sheet & Statement of Allegation	B	7-8
6.	Copy of Enquiry Report and public notice published in News Paper	C	9-10
7.	Copy of final Show Cause	D	11
8.	Copy of Dismissal Order	E	12

Respondents

Javed Shah

Javed Shah

(Focal Person DPO Kurram)

Next date: 26-06-23

Place of Hearing
Peshawar.

① (39)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 1497/2022

Muhammad Attique Khan (Appellant)

VERSUS

Inspector General of Police KPK& others.....(Respondents)

SCANNED
KPST
Peshawar

PARAWISE REPLY BY RESPONDENTS NO 1,2& 3

RESPECTFULLY SHEWETH:

Preliminary Objections:-

- That the instant service appeal is not maintainable under the law.
- That the appeal is not based on facts.
- That the appellant has got no cause of action and locus standi.
- That the appellant has concealed the real facts from the honorable Tribunal.
- That the appellant is estopped to file the service appeal by his own conduct.
- That the appeal is barred by law & limitation.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6177

Dated 23.06.23

REPLY ON FACTS:-

1. Pertains to record of Ex-Political Agent Kurram, need no comments.
2. Pertains to record, need no comments.
3. Incorrect. The answer respondents not issued any orders to the appellant regarding his duty as security guard with MNA Munir Khan Orkzai, nor did the appellant annex any order regarding his duty as security guard with MNA Munir Khan Orkzai.
4. Incorrect, the answer respondents not issued any orders to the appellant regarding his duty as security guard with Dr. Abdul Qadeer Khan, nor did the appellant annex any order regarding his duty as security guard with Dr. Abdul Qadeer Khan.
5. Incorrect. The appellant remained absent from duty after completion of his training dated 07-09-2021 till his dismissal from service dated 08-04-2022, (Absence period i.e. 06 months & 2 days). The appellant was absent from duty since 07-09-2021. (Copy of Naqal Mad dated 30-09-2021 Annexure "A"). The chargesheet along with statement of allegation was issued to the appellant on dated 04-10-2021. (Copy Charge Sheet & Statement of Allegation Annexure "B"). Hence Proper departmental enquiry proceedings were initiated against him. (Copy of Enquiry Report and public notice published in News Paper are annexed as Annexure "C"). The Enquiry Officer after fulfilling codal formalities submitted his findings, wherein he reported that the appellant 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. Therefor final Show cause dated 08-12-2021 was issued to him with an opportunity to defend himself, but the appellant failed to do so. (Copy of final Sow Cause Annexure "D"). Upon the findings and recommendation of the inquiry officer, the appellant was dismissed from service dated 08-04-2022 in accordance with rule/policy. (Copy of Dismissal Order Annexure "E").
6. Incorrect, already explained in preceding paras.
7. Correct to the extent that the appellant approached the office concern, but the appellant failed to provide any cogent justification regarding absence from official duty, hence his appeal was rejected on solid grounds.

8. Incorrect, both the orders were convincing, based on cogent reasons and in accordance with rules/Policy of Government and the Departmental Appeal being unsatisfactory, hence rejected. Appellant has got no cause of action; therefore, the instant appeal may kindly be dismissed on the following grounds.

GROUNDS

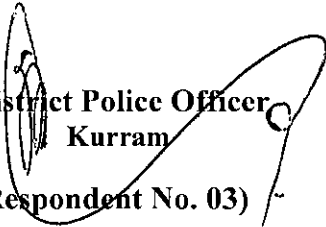
- A. Incorrect, both the orders were convincing, based on cogent reasons and in accordance with rules/Policy of Government and the Departmental Appeal being unsatisfactory, hence rejected.
- B. Incorrect, already explained in preceding paras.
- C. Incorrect, already explained in preceding paras.
- D. Incorrect, already explained in preceding paras.
- E. Incorrect, already explained in preceding paras and Answering Respondents never violated Art. 10-A of the constitution of Pakistan nor deprived the appellant from his fundamental rights.
- F. Incorrect, already explained in preceding paras.
- G. Incorrect, in final show cause notice the appellant was provided an opportunity of 07 days for his defense but no progress to the notice was received from the appellant, hence ex-parte action was taken against the appellant, in accordance to the rule/policy.
- H. Incorrect, on dated 04-10-2021 proper enquiry was initiated against the appellant, on dated 11-11-2021 the Enquiry Officer after fulfilling codal formalities submitted his findings, wherein he reported that the appellant 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, on dated 23-01-2022 notice regarding absence published in News Paper, on dated 08-12-2021 final show cause notice was issued and on dated 08-04-2022 dismissal orders was issued.
- I. Incorrect, already explained in preceding paras.
- J. Incorrect, already explained in preceding paras.
- K. Incorrect, appellant was dismissed from service in accordance to rule/law/policy of the government.
- L. Incorrect, already explained in preceding paras.
- M. Incorrect, already explained in preceding paras.
- N. Incorrect, already explained in preceding paras.
- O. Incorrect, already explained in preceding paras.
- P. Incorrect, already explained in preceding paras.
- Q. Personal views of appellant need no comments.
- R. Respondents may kindly be allowed to add any other grounds/ documents at the time of hearing.

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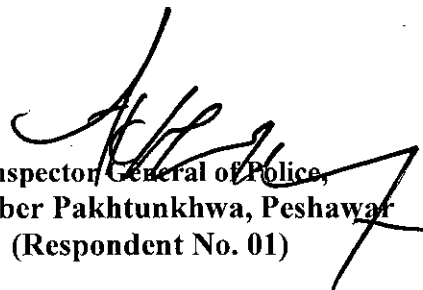
PRAYERS:

Keeping in view the above stated facts, it is humbly prayed that the appeal being not maintainable, barred by law/ limitation may kindly be dismissed with costs, please.


District Police Officer
Kurram
(Respondent No. 03)

08/06/023


Regional Police Officer
Kohat Region, Kohat
(Respondent No. 02)


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)

(4) (L12)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1497/2022

Mr. Muhammad Attique KhanPetitioner.

VERSUS.

4. Inspector General of Police, Government of Khyber Pakhtunkhwa Peshawar.
5. Regional Police Officer, Kohat Region, District Kohat.
6. District Police Officer, Kurram.

.....Respondents.

AFFIDAVIT.

I, Mr. Javed Shah Focal Person Kurram Police Force (The Authorized representative of respondent No.3) do hereby solemnly affirm and declared on oath that the contents of this accompanying Para-Wise Comments/Reply on behalf of respondent No.3 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off /Cost.



DEPONENT

CNIC No.21303-9273132-9

Cell No. 03018019342

Identified by

Advocate General KP

65

33

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 1497/2022

Muhammad Attique Khan

..... Appellant

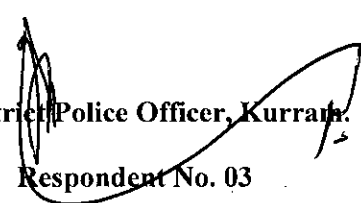
VERSUS

1. Inspector General of Police KPK, Peshawar
2. Regional Police Officer , Kohat Region Kohat
3. District Police Officer, District Kurram

..... Respondents

AUTHORITY LETTER.

Mr. Javed Shah s/o Said Wazir Focal Person bearing CNIC No. 21303-92733132-9 is hereby authorized to institute para-wise comments duly signed by respondents in the Honorable Court on behalf of the respondents.


District Police Officer, Kurram
Respondent No. 03

لوائین لائین ص ۵

روزنامہ 30-09-21

صلح کرم

صرف 3۔ آفیسر لویوٹ عبید الرحمن ASI مورف 30-09-21 وقت 8:40 بجے درج ہے۔ کمر آج OHC منزل کرم آکر بیان کرتا ہے کہ کچھ عرصہ پہلے جو تقری ٹریننگ سے فارغ ہوئی تھی۔ اس میں سے کسٹنٹل محمد عتیق و لا محمد رفیق کسٹنٹل شیباب اللہین و لا لعل دین، کسٹنٹل محمد رمضان و لا ضیواہ گل کسٹنٹل۔ محمد واحد و لا آدم ساز، کسٹنٹل زاہد الرحمن و لا میر حسن جان الہی تک اپنے جائے تعیناتی پر حاضر نہیں ہوئے۔ مذکورہ کسٹنٹل کے پیچھے تداریک سے پروانسر بار بار اطلاع کی گئی ہے لیکن انہیں اپنے جائے تعیناتی پر حاضر نہیں ہوئے۔ لیکن مذکورہ بالا کسٹنٹل کی حاضرگی کوئی اہمیت نہیں۔ مذکورہ بالا کسٹنٹل کے خلاف رپورٹ غیر حاضر درج روزنامہ 30-09-21 کے مقدمہ عدلیہ مرتب کرنے کے وزیر کاروائی کیلئے اضران بالا کی خدمت میں ارسال ہوگی

صناب عالی

Change-sheet

Period of absence (7.9.2021)

- 1. صناب عالی
- 2. لعل دین
- 3. محمد رفیق
- 4. محمد واحد
- 5. زاہد الرحمن

نقل معلومات اہل سے
 لائین افسر منزل لوال کرم
 30-09-21

Mustafiz



(35) ⁽⁷⁾ Annexure B
49

**OFFICE OF THE
DISTRICT POLICE OFFICER
KURRAM, KHYBER PAKHTUNKHWA**

Tel/Fax: 0926-311354*Email:policekurram@gmail.com

No. ...3201...../PA Dated Parachinar...4-10-2021

CHARGE SHEET

MR. TAHIR IQBAL DISTRICT POLICE OFFICER KURRAM

as competent authority under Khyber Pakhtunkhwa Police Rule 1975 (amended 2014), am the opinion that Con Muhammad Attiq s/o Muhammad Rafiq posted at Manato CP had rendered yourself liable to be proceeded against as you have committed the following act within the meaning of the Police Rules 1975 amended 2014.

1. That you Con Muhammad Attiq, have been posted at Manato CP after completion of training dated 7.9.2021 whereby, you was supposed to assumed your charge and you were time and again inform to assume the charge at Manato CP, but you failed to do so.
2. That you deliberately neither assume the charge at mentioned post nor obeyed the orders.
3. Your this act is gross misconduct on your part as police personnel.

By reason of the above, you appear to be guilty of misconduct under the Police Rule 1975 (amended 2014) and have rendered yourself liable to all or any of the penalties specified in the Police Rules.

You are, therefore, required to, submit your written statement within (03) days of the receipt of this charge sheet to the inquiry officer.

Your written defense if any should reached the inquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

A statement of allegation is enclosed.

*Attested
Tahir*

**District Police Officer
Kurram**



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**OFFICE OF THE
DISTRICT POLICE OFFICER
KURRAM, KHYBER PAKHTUNKHWA**

Tel/Fax: 0926-311354*Email:policekurram@gmail.com

No. 3200...../PA Dated Parachinar 4-10-2021

DISCIPLINARY ACTION.

MR. TAHIR IOBAL DISTRICT POLICE OFFICER KURRAM

as competent authority, am the opinion that you Con Muhammad Attiq s/o Muhammad Rafiq posted at Manato CP have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rule 1975 (amended 2014) as you have committed the following act.

STATEMENT OF ALLEGATIONS

1. That you Con Muhammad Attiq, have been posted at Manato CP after completion of training dated 7.9.2021 whereby, you was supposed to assumed your charge and you were time and again inform to assume the charge at Manato CP, but you failed to do so.
2. That you deliberately neither assume the charge at mentioned post nor obeyed the orders.
3. Your this act is gross misconduct on your part as police personnel.

For the purpose of conduct inquiry with reference to the above allegations DSP Investigation is appointed as Inquiry officer. The inquiry officer shall in accordance with the provision of the Police Rule 1975 (amended 2014), provide reasonable opportunity of hearing to the above official within (07) days of the receipt of this order, recommendations as to punishment or other appropriate action against the official.

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

**District Police Officer
Kurram**

Copy to the:

1. Inquiry Officer for initiating proceedings against the official under the provision of Police Rule 1975.
2. The official with the direction to appear before the Inquiry Officer on the date, time and place fixed by him for the purpose of inquiry proceedings.

Muhammad
Tahir

**District Police Officer
Kurram**

اشتیار

تاریخ: 19 مئی 2022ء - 23 مئی 2022ء - 10 بجے - 1 بجے

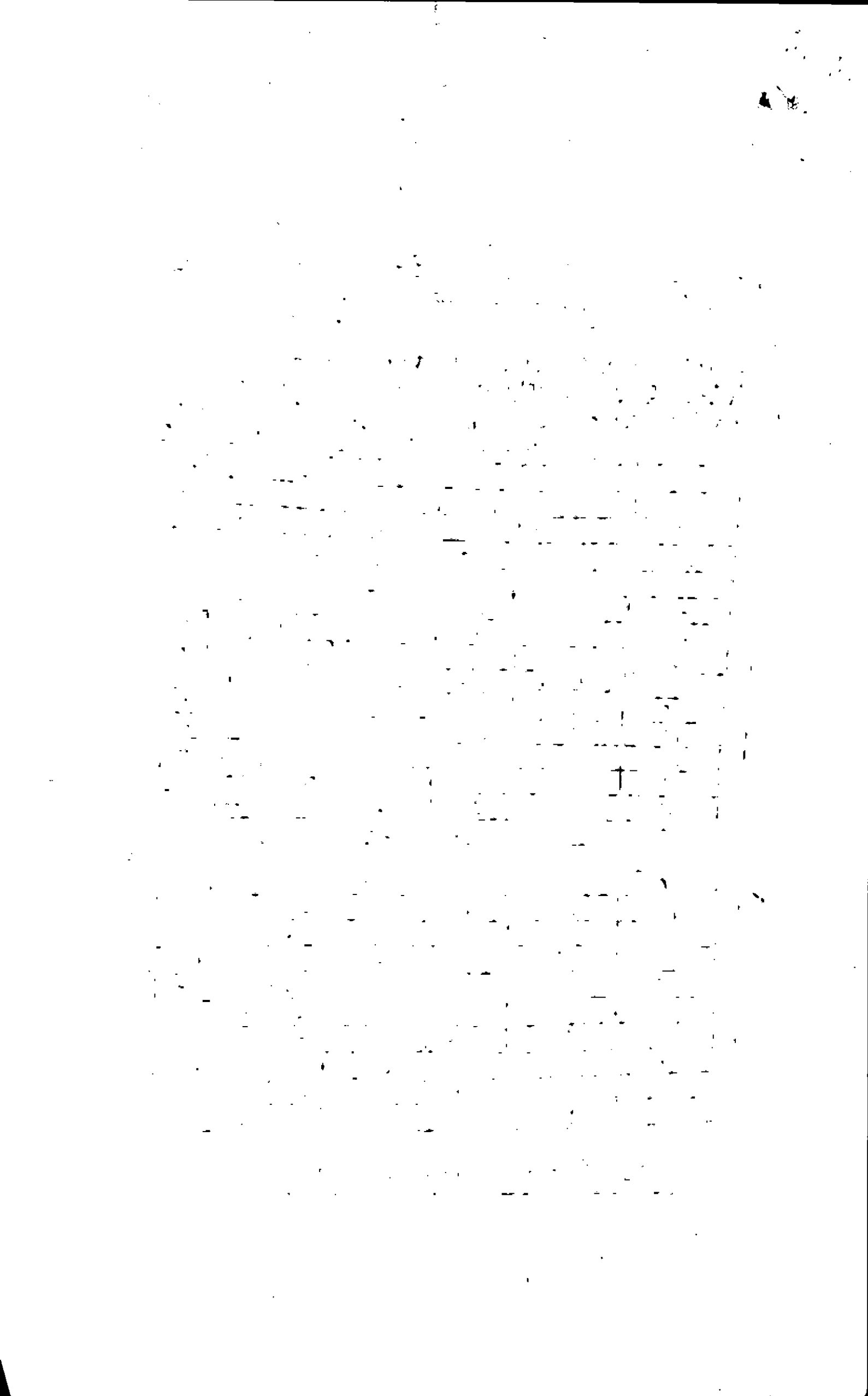
اشتہار نوٹس بابت غیر حاضری کرم پولیس فورس ضلع کرم

آپ کی طرف سے طلب کردہ غیر حاضری کرم کیلئے اشتہار نوٹس جاری کیا گیا ہے۔ آپ کو اپنے غیر حاضری کرم کیلئے اشتہار نوٹس فراہم کرنے کی ضرورت ہے۔ اشتہار نوٹس فراہم کرنے کے لیے آپ کو اپنے غیر حاضری کرم کیلئے اشتہار نوٹس فراہم کرنے کی ضرورت ہے۔ اشتہار نوٹس فراہم کرنے کے لیے آپ کو اپنے غیر حاضری کرم کیلئے اشتہار نوٹس فراہم کرنے کی ضرورت ہے۔

جے۔اے۔	بیک	رقم	ضلع	کرم	ضلع
1	Con	672248	پشاور	پشاور	کرم
2	Con	668281	پشاور	پشاور	کرم
3	Con	50416892	پشاور	پشاور	کرم
4	Con	672263	پشاور	پشاور	کرم
5	Con	672134	پشاور	پشاور	کرم
6	Con	672036	پشاور	پشاور	کرم
7	Con	669170	پشاور	پشاور	کرم
8	Con	2370	پشاور	پشاور	کرم
9	Con	672582	پشاور	پشاور	کرم
10	Con		پشاور	پشاور	کرم
11	Con	668423	پشاور	پشاور	کرم
12	Con	668108	پشاور	پشاور	کرم
13	Con	50166441	پشاور	پشاور	کرم
14	Con	668605	پشاور	پشاور	کرم
15	Con	50147461	پشاور	پشاور	کرم
17	Con		پشاور	پشاور	کرم
18	Con	50290354	پشاور	پشاور	کرم
19	Con	50212777	پشاور	پشاور	کرم
20	Con	668606	پشاور	پشاور	کرم
21	Con	673483	پشاور	پشاور	کرم
22	Con	668171	پشاور	پشاور	کرم
23	Con	668168	پشاور	پشاور	کرم
24	Con	50296548	پشاور	پشاور	کرم
26	Con	667054	پشاور	پشاور	کرم

المشیر: ارباب شفیق اللہ جان ٹرانس کرکٹ پولیس آفسر ضلع کرم

Ahmed
Handwritten signature



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فائل رپورٹ

52

جناب عالی!

بحوالہ چارج شیٹ نمبر PA/3200 مورخہ 04-10-2021 مجاریہ جناب D.P.O صاحب معروض خدمت ہوں۔
کہ کاشییل محمد عتیق ولد محمد رفیق کو پولیس ٹریننگ مورخہ 07-09-2021 سے فارغ ہو کر مینو چیک پوسٹ کو تبادلہ کر کے چارج نہ لینے
پر آنجناب نے چارج شیٹ کیا ہے۔ اور بار بار چارج لینے کو کہا گیا ہے۔ مگر جان بوجھ کر ذکر شدہ پوسٹ پر چارج کو قبول نہیں کیا ہے۔

عالیجاہ

مذکورہ کاشییل دیدہ دانستہ طور پر آنجناب کے چارج شیٹ کا جواب نہیں دیتا ہے۔ جو کہ جواب دینے کا وہ پابند ہے۔ اور نہ ہی انکواری
آفیس کو اپنی صفائی کیلئے آتا ہے۔ لہذا انکواری مکمل کر کے جناب D.P.O صاحب کو پولیس رول (Amended 2014) 1975 کے تحت (Major Punishment) کی سفارش کیجاتی ہے۔

رپورٹ عرض ہے۔

D.S.P (INV) kurram

Date, 11 / 1 / 2021

NO: 370 / Dsp Inv. 11/1/21

PO/BAZI
Pun stop and
Issue full show cause

Dismissed

07.04.2022.

Attended



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DISTRICT POLICE

OFFICER KURRAM, KHYBER PAKHTUNKHWA

Tel/Fax: 0926-311354*Email:policekurram1@gmail.com

No. 4421/DP/PA Dated Parachinar. 8.12.21.

FINAL SHOW CAUSE NOTICE

I **Arbab Shafiullah Jan, District Police Officer, Kurram** as a competent authority under Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) is hereby serve you **Constable Muhammad Attiq**, Posted at Manato CP. charged as:

As per report of Police Line Officer Sadda that you were transferred to Manato CP on 07.09.2021 after completion of training. Whereby you were supposed to assume your charge but you deliberately did not assume the charge at mentioned CP. Time and again you are informed to report to the place of your duty but you are still absent and not obeying the order of the superior which is a gross misconduct being a police personnel.

1. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you are given opportunity vide this Office No. 3201/PA dated. 04.10.2021 and charge No. 3200/PA dated. 04.10.2021.
2. Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense the inquiry officer, I am satisfied that you have committed the act as charged against you.

As a result thereof, I the competent authority have tentatively decided to impose upon you major penalty provided under rules ibid.

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 if no progress to this notice is received within 07 days of its delivery in the normal course circumstances, it shall be presumed that you have no defense to put in and in what case ex-parte action shall be taken against you.

The copy of the finding inquiry officer is enclosed.

In this regard you are directed to submit your reply to this office within (03) days positively. If failed or the undersigned was not satisfied from your reply a stern action shall be initiated against you as per Police Rules.

**District Police Officer
Kurram**

No. & date even:

Copy to the Inquiry Officer, for information with reference to final report dated 11.11.2021 for information and necessary action.

**District Police Officer
Kurram**



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**OFFICE OF THE
DISTRICT POLICE OFFICER
KURRAM, KHYBER PAKHTUNKHWA**

Tel/Fax: 0926-311354*Email:policekurram1@gmail.com

ORDER

This order is passed on the Charge Sheet against Constable Muhammad Attiq under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014).

Brief of the fact is that constable Muhammad Attiq has been charged willingly absent till the date without prior permission of the competent authority which is tantamount to misconduct and inefficiency.

That consequent upon the completion of inquiry conducted against constable Muhammad Attiq by the inquiry officer for which constable Muhammad Attiq was given opportunity vide charge Sheet No. 3201/PA dated Parachinar the 04.10.2021 and No. 3200/PA dated Parachinar the 04.10.2021, but did not appear before the inquiry officer.

Upon the findings and recommendations of the inquiry officer vide No. 370/DSP Inv:/Kurram dated 11.11.2021, the material on record and other connected evidence including defense the inquiry officer concluded that constable Muhammad Attiq has to defend himself. Hence, the inquiry officer recommended major punishment for the delinquent Police personnel.

Further, notice regarding absence has already been published in daily Aaj Subah news paper dated 23rd January 2022.

Final show cause issued to the office of the undersigned vide No. 4421/DPO/PA dated Parachinar the 08.12.2021 but did not reply and also not appeared before the undersigned for defense.

In view of the above I, Arbab Shafiullah Jan District Police Officer Kurram in exercise of the powers conferred upon me, hereby award him a major punishment of "Dismissal from Service" under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014) with immediate effect.


**District Police Officer
Kurram**

OB. No. 125

Dated **08.04.2022**




Copy forwarded to the:

1. Regional Police Officer Kohat Region Kohat.
2. District Account officer Kurram.
3. All DSPs/SHOs in Kurram
4. Pay Officer Kurram.
5. SRC Kurram Police
6. RI Kurram Police to collect equipments.
7. OASI Kurram Police..
8. Concerned.



**District Police Officer
Kurram**

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ایڈویکٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 1391-09-BC				
رابطہ نمبر: 0333-9866225				

بعدالت جناب: جسٹس مسٹر سر سید عبدالرشید پشاور

مخانب: <i>Appellant</i>	دعویٰ: 17301-8609499-1
	علت نمبر: 0333-9866225
	مورخہ:
	جرم:
	تھانہ:

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام لیڈ اور اسمیلے محمد فرقان لیڈ سنز آف آرڈر محمد ایڈووکیٹ راجہ کوریا کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال 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 زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ 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 لیا جائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ 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

المقوم: *محمد فرقان*

Accept
Attest

Muhammad Furqan Yousofza
EN No-5407
Advocate Supreme Court of Pakistan
Call # 0333-9266225

پشاور مقام

Muhammad

محمد عتیق خان

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

Solicitor furqan@gmail.com