

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL No.347/2024

ABDUL JALAL KHAN

.....APPELLANT

VERSUS

1. The District Police Officer, Orakzai.
2. The Regional Police Officer, Kohat Region, Kohat.

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Deponent

P. 1

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.....APPELLANT

VERSUS

3. The District Police Officer, Orakzai.
4. The Regional Police Officer, Kohat Region, Kohat.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 13209

Dated 06-06-24

Parawise Comments by Respondents.

Respectfully Sheweth:-

Preliminary Objection:-

- i. That the appellant has got no cause of action.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appeal is bad for misjoinder and non-joinder of necessary parties.
- iv. That the appellant is estopped to file the instant appeal for his own act.
- v. That the appeal is bad in eyes of law and not maintainable.
- vi. That the appellant has not approached the honourable Tribunal with clean hands.

Facts:-

1. Pertains to service record of the appellant, hence no comments.
2. Incorrect, he was awarded punishment of 143 days without pay due to absence from his lawful duties without any leave or prior permission by the competent authorities (annexure "A").
3. Incorrect, he was retired from service w.e.f from 30-06-2023 on superannuation vide OB No.382 dated:26-06-2023 (annexure "B") and informed accordingly.
4. Incorrect, The departmental appeal of the appellant was rejected and disposed of being devoid of merit by the respondent No.2 within the statutory period. Copy of order (annexure "C").
5. The service appeal is meritless and devoid of facts liable to be dismissed on the following grounds.

Grounds:


- A. He was retired on superannuation as per rules & law. He was appointed by the then Political Agent Orakzai vide order No.6160-61/PA/LK dated:25-11-1989 (annexure"D") and his date of birth (1963) was recorded in his medical fitness certificate by the then Agency surgeon Orakzai. All the above proceeding against the Ex-Sepoy was made by the then Political


Agent / Agency Surgeon of that time before the merger of levies /Khasadar into Khyber Pakhtunkhwa Police.

- B. Incorrect, he was retired from service w.e.f 30.06.2023 on superannuation vide OB No. 382 dated 26.06.2023 and he was informed accordingly.
- C. Incorrect, hence denied.
- D. Incorrect, hence denied.
- E. Incorrect, according to service record and medical fitness certificate, the date of birth of the appellant correctly incorporated in the service record at the time of appointment. The appellant was satisfied and well aware of the entry of date of birth and he never objected on it during his entire service.
- F. Incorrect, hence denied.
- G. Reply already submitted in the preceding paras.
- H. The respondents may also be allowed to advance other grounds during the course of arguments.

**PRAYERS.**

In view of the above, it is humbly prayed that the appeal is contrary to facts, law & rules, devoid of merit and not maintainable may graciously be dismissed with cost, please.

  
NAZIR KHAN (PSP)  
District Police Officer,  
Orakzai  
(R-1)

  
SHER AKBAR (PSP, S.St)  
Regional Police Officer,  
Kohat  
(R-2)

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

SERVICE APPEAL No.347/2024

ABDUL JALAL KHAN

.....Appellant

**VERSUS**

1. The District Police Officer, Orakzai.


2. The Regional Police Officer, Kohat Region, Kohat.

.....Respondents

**AFFIDAVIT**

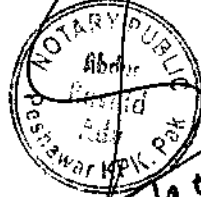
I Nazir Khan (PSP) District Police officer, Orakzai do here by solemnly affirm and declare on oath that the contents of parawise comments and enclosures are true and correct to the best of my knowledge / belief and nothing has been concealed from this Honorable Court.

*It is further stated on oath - that the answering Respondents have neither been placed in possession nor their defense struck off / cost*



District Police Officer,  
Orakzai  
Respondent No.1  
(NAZIR KHAN PSP)

**ATTESTED**



*6/6/2024*

POLICE DEPTT:

ORDER.

This order will dispose of a departmental appeal moved by Constable Abdul Jalal of district Orakzai against the punishment order, passed by DPO Orakzai vide OB No. 861, dated 21.11.2019 whereby he was awarded minor punishment of 143-days leave without pay on the allegations of his absence from lawful duty without any leave or prior permission from his seniors which shows his disinterest in official job.

Comments as well as relevant record were requisitioned from DPO Orakzai and perused. The appellant was also heard in person in O.R held in this office on 30.08.2021. During hearing the appellant advanced plausible explanation in his defense.

Above in view, the undersigned reached to the conclusion that the allegations leveled against the appellant are proved however, the punishment awarded to him is too harsh and does not commensurate with the gravity of offense. Therefore, by taking a lenient view, the punishment of 143-day leave without pay is hereby converted into leave of the kind due.

Order Announced  
30.08.2021

*Mohammad Zafar Ali*  
(MOHAMMAD ZAFAR ALI) PSP  
Region Police Officer,  
Kohat Region.

No. 13764 /EC, dated Kohat the 1-08-2021.

Copy to District Police Officer, Orakzai for information and necessary action w/r to his office Memo: No. 1571/EC, dated 27.07.2021. His Service Book is returned herewith.

*Mohammad Zafar Ali*  
(MOHAMMAD ZAFAR ALI) PSP  
Region Police Officer,  
Kohat Region.

E.C  
[Signature]

District Police Officer

Attested  
[Signature]  
128 P. legal

*(3/2)*

Annex - B  
P-5 ✓



**OFFICE OF THE DISTRICT POLICE OFFICER  
ORAKZAI**


**ORDER**

The following officers/officials of this district police are hereby retired from service on attaining the age of superannuation i.e. 60 years with effect from as noted against their name.

S/N	Name & F. Name	Belt No.	Tribe	D.O.B	D.O.A	D.O Superannuation
1.	HC Magbool Khan s/o Ghamai	1812	Mullah Khel	1963	01.02.1981	30.06.2023
2.	HC Masto Rehman s/o Fazal Rehman	1179	Mishti	1963	11.07.1989	30.06.2023
3.	HC Abdul Latif Khan s/o Pao Khan	1292	Isa Khel	1963	01.10.1995	30.06.2023
4.	HC Mastan Akbar s/o Din Akbar	1305	Sheikhan	1963	01.10.1995	30.06.2023
5.	HC Abdul Sharif s/o Muhammad Sharif	1444	Bizat	1963	16.12.1983	30.06.2023
6.	HC Jamal Hassan s/o Mir Raza	1512	Mani Khel	1963	31.01.1996	30.06.2023
7.	HC Shabab Hussain s/o Ali Faqir	1653	Ali Khel	1963	01.10.1991	30.06.2023
8.	HC Pio Asghar s/o Khaista Mir	1682	Ali Khel	1963	01.11.1989	30.06.2023
9.	HC Abdul Jalal s/o Awal Jan	1911	Mamuzai	1963	01.12.1989	30.06.2023
10.	HC Fazal Rehman s/o Razim Shah	1940	A' Khel	1963	01.02.1996	30.06.2023
11.	HC Said Shah s/o Amir Nawaz	2070	Non Ork:	1963	01.04.1994	30.06.2023

OB No. 382

Dated 26 /06/2023.

  
DISTRICT POLICE OFFICER  
ORAKZAI

Copy to:-

1. District Accounts Officer, Orakzai.
2. Pay Officer/ OASI for necessary action.
3. All concerned

  
DISTRICT POLICE OFFICER  
ORAKZAI

*Attested*  
*[Signature]*  
*DSP. legal*

Phone No: 9260112.  
Fax No: 9260114.

60 Year Annex - "C"  
PAB  
Retired

From: - The Regional Police Officer,  
Kohat Region, Kohat.  
To: - The District Police Officer, Orakzai.

No. 12813 /EC, Dated Kohat the 5 / 12 /2023.

Subject: - DEPARTMENTAL APPEAL.

MEMO:

Reference your office Letter No. 1780/EC, dated 07.11.2023 on the subject cited above.

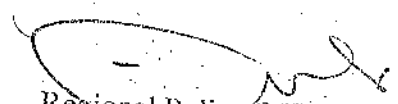
Perusal of record reveals that the appellant has retired from service on attaining the age of superannuation i.e. 60 years vide your office OB No. 382, dated 26.06.2023. As per rules, the date of birth once recorded in Service Roll shall be final and there shall be no alteration at later stage after passing two years.


Civil Servant APT Rules 1973, Rule 116 of General Financial Rules (GFR) of Federal Government and the provision incorporated in the KP ESTA Code are much clear in this regard, which are reproduced below:-


1. Civil Servant APT Rules 1973 Section 12-A: Alteration in the date of birth.. The date of birth once recorded at the time of joining government service shall be final and thereafter no alteration in the date of birth of a civil servant shall be permissible.
2. ESTA CODE KPK 2011: According to ESTA Code KP 2011, a request for an alteration in the recorded date of birth of a Government servant may only be entertained by the Appointing Authority in the case of officers in BS-17 and above and by the Administrative Department in the case of civil servants in BS-16 and below, after special enquiry and only if the Government servant applies for it within two years from the date of his entry into Government service.

Above in view, the instant appeal / representation is hereby rejected being without substance.

Encl: 8/Books  
Amixel  
E-C

  
Regional Police Officer,  
Kohat Region

for information of  
in/action  


Attested  
  
D.S.P. legal

Annex - D  
P 377

OFFICE ORDER/

The following persons of MAMUZAI TRIBE are offered posts of temporary KHASHADARS with effect from 1/12/1989 in the grade of Rs. 600-13-860 with usual allowances as admissible under the rules.

2. The posts which are being offered to them have been sanctioned by Govt upto 31/5/1990 but are likely to be extended further. Their employment in the Orakzai Khashadars are purely temporary and their services may be terminated at one month's notice without any reasons being assigned at any time irrespective of the fact that they are holding post other than one to which they were originally recruited or on the payment of one month's salary in lieu of the notice.
3. They have to join duty at their own expenses.
4. The offer is subject to the conditions that they are domiciled in FATA(Orakzai Agency).
5. In case they wish to resign at any time a month's notice will be necessary or in lieu thereof a month's pay may be forfeited.
6. They will have to produce a medical certificate of fitness if their service continues beyond six months.
7. They will be governed by such rules and orders relating to leave, travelling allowance, medical attendance, pay etc: as may be issued by Govt for the category of Govt servants to which they will belong.
8. If they accept the post on these conditions, they should report themselves for duty to Political Agent, Orakzai as soon as possible and produce original certificate in connection with their qualification, domicile and age.
9. The offer will be cancelled if no reply is received by one month or if they fail to report for duty upto the date.

1. Sajil Khan s/o Mir Janan..... = ADU KHEL.
2. Norani Khan s/o Mar Jan..... = -do-
3. Said Wali Khan s/o Abdul Haq..... = -do-
4. Niaz Mohammad s/o Mir Janan..... = ABDUR RAHIM KHEL.
5. Amanullah Khan s/o Gul Janan..... = -do-
6. Malik Jan s/o Abdullah Jan..... = -do-
7. Abdul Jalal s/o Awal Jan..... = MIR KALAM KHEL.
8. Haji Ghazi Marjan s/o M. Khudai Noor = -do-
9. Abdul Jabbar s/o Yasin..... = -do-
10. Sadi Khan s/o Akram Khan..... = SLEPOYA.

*[Signature]*  
POLITICAL AGENT,  
ORAKZAI AGENCY, HANGU.

NO. 6160-61 /P.M/LK, DATED 25/11/89.

1. Copy forwarded to the:-
2. Assistant Political Agent, Upper.
3. Accountant P.A's Office.

*[Signature]*  
POLITICAL AGENT,  
ORAKZAI AGENCY, HANGU.

Attested  
*[Signature]*  
D.S.P. Legal



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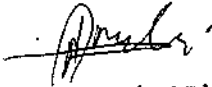
.....APPELLANT

VERSUS

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- 2.The Regional Police Officer, Kohat Region, Kohat.

AUTHORITY LETTER

Mr. Sikandar Hassan DSP Legal District Orakzai is hereby authorized to institute parawise comments duly signed by respondents, in this Honorable Court on behalf of the Respondents.



NAZIR KAN (PSP)  
District Police officer,  
Orakzai  
(Respondent No.1)



SHER AKBAR (PSP,S.St)  
Regional Police officer,  
Kohat  
(Respondent No.2)