

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 611/2024

Farid Ullah Ex-Constable No.147, Malakand Range Reserve Swat

.....Appellant

VERSUS

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, Swat.

..... Respondents

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DSP/Legal Swat

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 611/2024

Farid Ullah Ex-Constable No.147, Malakand Range Reserve Swat

.....Appellant

VERSUS

**Khyber Pakhtunkhwa
Service Tribunal**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, Swat.

Diary No. 15205
Dated 27/8/24

..... Respondents

PARAWISE COMMENTS BY THE OF RESPONDENTS NO.01, 02 & 03.

Respectfully Shewith,

Preliminary Objections.

- 1) That the appellant has got no Cause of action and locus standi to file the present appeal.
- 2) That the appeal is bad due to misjoinder and non-joinder of necessary parties.
- 3) That the appeal is barred by law & limitation.
- 4) That the appellant has not come to the Tribunal with clean hands.
- 5) That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
- 6) That the instant appeal is not maintainable in its present form.
- 7) That the appellant has concealed the material facts from this Honorable Tribunal.

FACTS:

- 1) Correct to the extent that the appellant was appointed as Constable in Police Department, however, during his period, the appellant never performed his duty with honesty and devotion. The appellant is addicted to chronic absence from duty remained absent from official duty on many occasions without prior permission or approved leave of his high ups. The appellant had also been dismissed from service for two times on account of willful absence from duty which reveals that he never interested in discharge of his official duties. Orders of previous dismissal is **(Annexed-A)**. Furthermore, his performance was remained unsatisfactory and during his service he got (30) bad entries, which is **(Annexed-B)**.
- 2) Incorrect. Being member of discipline force there is a proper way to earn Medical Leave by submitting an application to the high-ups for granting of Medical Leave however, appellant without adopting proper way for earning Medical Leave, remained absent from duty vide DD No.38 dated 08/01/2022

(Annexed-C) till date of his dismissal. The indiscipline and irresponsible behavior of the appellant previously resulted into dismissal on the ground of his willful absence from duty, however, without mending his ways, he again absented himself from lawful duties which shows his disinterest toward performance of his official duties.

- 3) Incorrect. That Constable Farid Ullah No. 147 while posted to Javid Iqbal Shaheed Police Lines, Swat had absented himself from lawful duty without prior permission or leave from his Immediate Officer vide DD No.38 w.e.f. 08-01-2022 up till his dismissal. Consequently, he was issued Show Cause Notice No.31/PA dated 14/02/2022 to explain his position but his reply was found unsatisfactory and was not ready to report for his lawful duty. Being found guilty of the charges leveled against him, the appellant was awarded major punishment of dismissal from service vide OB No.111 dated 15/08/2022 (Annexed-D). The appellant was addicted to a chronic absentee and was remained absent from official duty on many occasion without prior permission or approved leave of his high ups. The appellant had dismissed from service two times on account of willful absence from duty.
- 4) Correct to the extent that the appellant filed departmental appeal before the Regional Police Officer Malakand Region which was thoroughly examined and he did not produce any cogent reason to defend the charges leveled against him. It has also come to surface that he remained habitual absentee and prior to this he had also being dismissed from service from two times and account of absence from duty, hence his appeal was filed accordingly vide Region Office Order No.13425/E dated 01/12/2022 (Annexed-E). Revision Petition of the appellant was also filed on the same grounds by CPO Peshawar vide Order dated 22/03/2024 (Annexed-F).
- 5) The appellant has wrongly challenged the legal and valid orders of the respondents before the Honorable Tribunal through unsound reasons/ grounds.

GROUND:

- A. Incorrect. The order of the respondent is legal, lawful and in accordance with law/rules.
- B. Incorrect. Proper Show Cause Notice was issued to the appellant under Rules 5(3) of the Khyber Pukhtunkhwa Police Rules-1975 (Amended 2014) but he did not submit his reply the notice and remained himself absent from duty till his dismissal.
- C. Incorrect. That the appellant was proceeded habitual absentee and absented himself from official duty without prior permission or approved leave.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 611/2024

Farid Ullah Ex-Constable No.147, Malakand Range Reserve Swat

.....Appellant

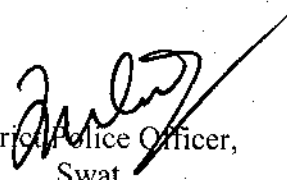
VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, Swat.

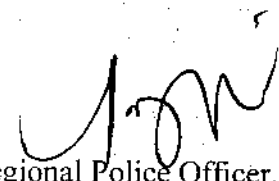
..... Respondents

AUTHORITY LETTER

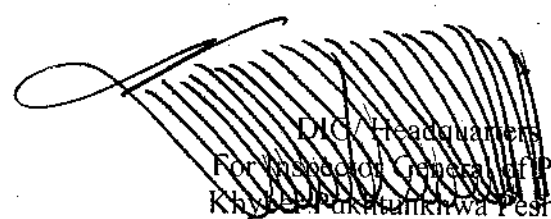
We, the above respondents do hereby authorize Mr. Naeem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.


District Police Officer,
Swat.

(Respondent No.03)
(DR. ZAHID ULLAH) PSP
(Incumbent)



Regional Police Officer,
Malakand Region.
(Respondent No.02)
(MUHAMMAD ALI KHAN) PSP
(Incumbent)

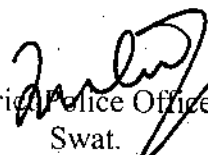


DIC/Headquarters
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.
(Respondent No.01)
(DR. RIZWAN MANZOOR) PSP
(Incumbent)

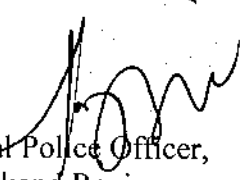
- (14)
- D. Incorrect. That the appellant had previously being dismissed from service on account of willful absence from official duty and besides his previous dismissal from service, he did not mended his ways and again remained absent from lawful duty which resulted into dismissal from service. The indiscipline act of appellant was badly affecting the other members of Police Department therefore; he was rightly dismissed from service due to his own negligence and indiscipline behavior.
- E. Incorrect. As explained above in detail. That no violation of law/ rules has been done by the respondent. The appellant was habitual absentee and was dismissed from service as per law.
- F. Incorrect. That the appellant has been treated in accordance with law/ rules.
- G. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

PRAYER:

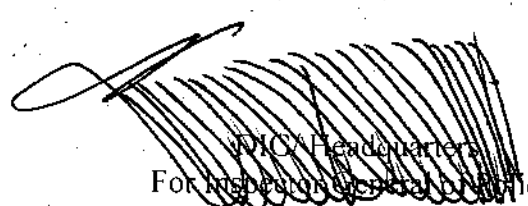
It is therefore requested that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.


District Police Officer,
Swat.

(Respondent No.03)
(DR. ZAHID ULLAH) PSP
(Incumbent)


Regional Police Officer,
Malakand Region.

(Respondent No.02)
(MUHAMMAD ALI KHAN) PSP
(Incumbent)


D/O Headquarters
For Inspection General Office,
Khyber Pukhtunkhwa Peshawar.

(Respondent No.01)
(DR. RIZWAN MANZOOR) PSP
(Incumbent)

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

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..... Respondents

AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal. 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



[Signature]
 District Police Officer
 Swat
 (Respondent No. 01)

[Signature]
 Regional Police Officer,
 Malakand Region
 (Respondent No. 02)

[Signature]
 Provincial Police Officer,
 Peshawar
 (Respondent No. 03)

DISTRICT POLICE OFFICER,
DIR UPPER.

ANNEX: A.

ORDER.

This order is passed on the Departmental Enquiry conducted against Constable Farid Ullah No. 251 while posted in Police Station Dir.

Allegations leveled against the above named defaulter Constable Farid Ullah No. 251 while posted in Police Station Dir, deliberately absented himself from his lawful duty (w.e.f 04.05.2016 to till date) without any leave or prior permission from his superior, so this amounts a gross negligence on his part.

His previous record of absence as under:-

S#	Absence period		No. of Days
	From	To	
1.	22.01.2015	29.01.2015	07 days
2.	04.04.2015	10.04.2015	06 days
3.	09.06.2015	11.06.2015	02 days
4.	19.06.2015	20.06.2015	01 day
5.	29.06.2015	30.06.2015	01 day
6.	07.07.2015	10.07.2015	03 days
7.	14.07.2015	15.07.2015	01 day
8.	18.08.2015	22.08.2015	04 days
9.	27.09.2015	29.09.2015	02 days
10.	09.12.2015	26.01.2016	47 days
11.	08.03.2016	10.04.2016	32 days
12.	04.05.2016	11.01.2017	251 days
Grand Total			357

In order to initiate proper Departmental Enquiry, Charge Sheet and Statement of allegations were served upon him. Mr. Zahid Khan DSP HQrs, Dir Upper, was appointed as Enquiry Officer. The Enquiry Officer in its finding report stated that the defaulter Constable is liable / guilty and recommended him for Major Punishment.

On the receipt of the finding report and other connected papers the same was perused and his guilt has been proved beyond any shadow of doubt.

Therefore the in exercise of powers vested to the undersigned under Police efficiency and discipline rules, I Muhammad Athar Waheed PSP District Police Officer, Dir Upper hereby dismiss Constable Farid Ullah No. 251 from Police service with immediate effect.

Order announced.

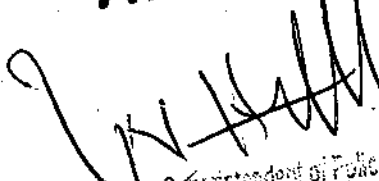
OB No. 42

Dated: 23/01/2017


District Police Officer
Dir Upper.

Previous dismissal
order by DPO Dir/U

ATTESTED


Superintendent of Police Legal
Swat.

CHARGE SHEET.

I, **SYED ISRAR UD-DIN DISTRICT POLICE OFFICER, DIR UPPER.** As competent authority, hereby charged you *Constable Farid Ullah No. 251, while posted at Police Station Kalkot presently posted at PS Dir* as follows:-

You Constable Farid Ullah No. 251 while posted at Police Station Kalkot presently posted at PS Dir, deliberately absented yourself from your Lawful duty (from 08.03.2016 to 10.04.2016 (33 days) without any leave or prior permission from your superior, so this amounts a gross negligence on your part.


2. By reason of the above, you appear to be guilty of criminal act and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules 1975

3. You are therefore required to submit your written reply within 07 days of the receipt of this charge sheet to the enquiry Officer.

4. Your written reply, if any should reach to the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case the ex-parte action shall follow against you.

Intimate as to whether you desire to be heard in person or not?

6. Statement of allegation is enclosed.


(Syed Israr-ud-Din) PSP
**District Police Officer,
Dir Upper.**

No. 1156-57 /SB, Dated Dir Upper the 28/4/ 2016.

Copy to *Constable Farid Ullah No. 251* submit while posted at Police Station Dir your reply to the Charge Sheet with stipulated period.

ATTESTED

Swat

DETAIL OF BAD ENTRIES OF EX-CONSTABLE FARID ULLAH NO.147RR

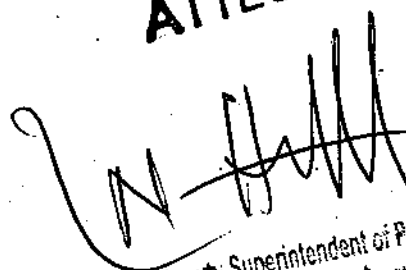
S#	OB No and Dated	Detail of Bad Entries
1.	OB No.301 dated 26/04/2016	While posted to PS Kalakot absented himself three times from lawful duty w.e.f. 09/12/2015 to 26/01/2016, 05/02/2016 to 04/03/2016 and 08/03/2016 to 10/04/2016.
2.	OB No.465 dated 01/07/2016	Suspended and closed to Police Line Dir Upper with immediate effect and till further order
3.	OB No.784 dated 21/12/2018	While posted to PP Patrak absented himself from lawful duty w.e.f.30/05/2018 upto dismissal.
4.	OB No.42 dated 23/01/2017	While posted to PS Dir absented himself from lawful duty w.e.f.04/05/2016 upto dismissal.
5.	OB No.339 dated 14/05/2019	While posted in Police Line Dir Upper absented himself from lawful duty w.e.f.15/03/2019 to 18/03/2019.
6.	OB No.224 dated 01/04/2021	Absented himself from lawful duty upto 08 days and at leave without pay.
7.	OB No.574 dated 16/08/2021	Absented himself from lawful duty upto 02 days and at leave without pay.
8.	OB No.587 dated 20/08/2021	Absented himself from lawful duty upto 02 days and at leave without pay.
9.	OB No.593 dated 23/08/2021	Absented himself from lawful duty upto 01 day and at leave without pay.
10.	OB No.793 dated 16/11/2021	Absented himself from lawful duty upto 02 days and at leave without pay.
11.	OB No.284 dated 16/04/2019	Absented himself from lawful duty upto 03 days and at leave without pay.
12.	OB No.324 dated 03/05/2019	Absented himself from lawful duty upto 01 day and at leave without pay.
13.	OB No.616 dated 12/09/2017	Absented himself from lawful duty upto 05 days and at leave without pay.
14.	OB No.878 dated 29/12/2017	Absented himself from lawful duty upto 01 day and at leave without pay.
15.	OB No.72 dated 08/02/2018	Absented himself from lawful duty upto 06 days and at leave without pay.
16.	OB No.305 dated 30/05/2018	Absented himself from lawful duty upto 06 days and at leave without pay.
17.	OB No.737 dated 26/11/2014	Absented himself from lawful duty upto 02 days and at leave without pay.
18.	OB No.714 dated 14/11/2014	Absented himself from lawful duty upto 03 days and at leave without pay.

ATTESTED

[Signature]
Deputy Superintendent of Police Legal
Swat

S#	OB No and Dated	Detail of Bad Entries
19.	OB No.529 dated 29/06/2015	Absented himself from lawful duty upto 02 days and at leave without pay.
20.	OB No.357 dated 20/04/2015	Absented himself from lawful duty upto 06 days and at leave without pay.
21.	OB No.537 dated 01/07/2015	Absented himself from lawful duty upto 01 day and at leave without pay.
22.	OB No.588 dated 23/07/2015	Absented himself from lawful duty upto 03 days and at 01 leave without pay.
23.	OB No.701 dated 09/09/2015	Absented himself from lawful duty upto 04 days and at leave without pay.
24.	OB No.780 dated 09/10/2015	Absented himself from lawful duty upto 01 day and at leave without pay.
25.	OB No.805 dated 20/10/2015	Absented himself from lawful duty upto 02 day and at 01 days leave without pay.
26.	OB No.843 dated 11/11/2015	Absented himself from lawful duty upto 03 days and at leave without pay.
27.	OB No.862 dated 20/11/2015	Absented himself from lawful duty upto 04 days and at leave without pay.
28.	OB No.892 dated 01/12/2015	Absented himself from lawful duty upto 03 days and at leave without pay.
29.	OB No.958 dated 30/11/2020	Absented himself from lawful duty upto 06 day and at leave without pay.
30.	OB No.22 dated 07/02/2022	Absented himself from lawful duty w.e.f.21/12/2021 to 04/01/2022 (total 14 days) and at leave without pay

ATTESTED


Deputy Superintendent of Police Legal
Swat.

تقاریر 38 روزناچہ 08/22

= = =

مدرہ 38 گنتی ملازمین / رپورٹ غیر حاضری ماوتت 19:30 بجے
 مورخہ 08/22 اس وقت گنتی ملازمین کی گئی۔ گنتی میں کنیل
 فریڈاڈشہ 147/RR کو عدم موجود پالمر جٹلے خلاف
 رپورٹ غیر حاضری درج روزناچہ کی گئی۔

جناب عالی!

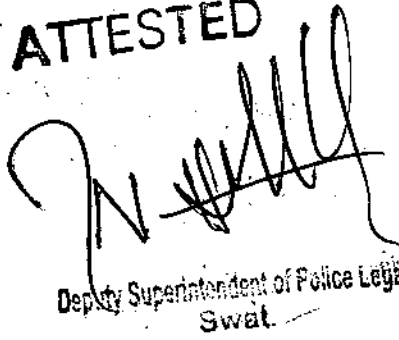
نقل مطابق اصل ہے۔



MASI- PL- Swat

17 - 01 - 22

ATTESTED


Deputy Superintendent of Police Legal
Swat

ORDER

Enex D 1

This order pertains to Show Cause Notice issued against Constable Farid Ullah No.147 while posted to JIS Police Lines, has absented himself from lawful duty without prior permission or leave from his immediate officer vide DD No.38 dated 08/01/2022 up till now, as per report of Lines officers Police Lines Kabal dated 28/01/2022.

He was issued a Show Cause Notice No.31/PA, dated 14/02/2022 to explain his position, but no reply has been received from him as he has still absent and not ready to report for his lawful duty.

Foregoing in view, the undersigned is of considered opinion that there are no chances that Constable Farid Ullah No.147 become an efficient Police Official. His further retention in service is bound to affect the discipline of the entire force. Therefore, in exercise of the powers vested in the undersigned under Rules 2 (ii) of Police Disciplinary Rules-1975, 1, Saidu Nawaz Marwat, PSP, District Police Officer, Swat as a competent authority, am constrained to award him punishment of Dismissal from service from the date of absence i.e 08/01/2022.

Order announced.

District Police Officer
District Swat

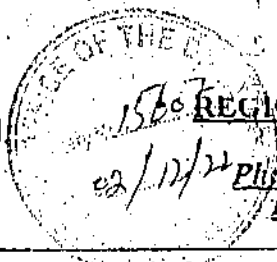
G.B No. 111

Dated 15/8 /2022.

No. 338 /PA, dated Saidu Sharif the, 15/08 /2022.

For information and necessary action to the;

- 1) DSP Headquarters
- 2) Establishment Clerk.
- ~~3) OASI~~



Annex "D" 11

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240388 & Fax No. 0946-9240390
Email: ebmalakandregion@gmail.com

12

ORDER

This order will dispose of appeal of Ex-Constable Faridullah No.147 of Malakand Range Reserve, Swat in connection with major punishments awarded by District Police Officer, Swat vide OB No:111, dated 15-08-2022 i.e. dismissed from service.

Brief facts of the case are that Ex-Constable Faridullah No.147 of Malakand Range Reserve, Swat while posted to JIS Police Lines had absented himself from lawful duty without prior permission or leave from his immediate officer vide DD No.38 w.e.f 08-01-2022 till the dismissal. He was issued Show Cause Notice to explain his position but his reply was found unsatisfactory and was not ready to report for his lawful duty. Being found guilty of the charges leveled against him, the District Police Officer, Swat awarded him major punishment of dismissal from service vide OB No.111, dated 15-08-2022 from the date of his absence i.e. 08-01-2022.

He was called in Orderly Room on 25-11-2022 and heard him in person, but he did not produced any cogent reason to defend the charges leveled against him. Moreover, on perusal of his service record it has come to the surface that he remains a habitual absentee and prior to this he had also been dismissed from service for two times on account of absence from duty; therefore, his appeal is hereby filed.

Regional Police Officer,
Malakand Region Swat

No. 13425 /E,

Dated 1-12-2022.

Copy to the District Police Officer, Swat for information and necessary action with reference to his office Memo: No.13252/E, dated 19-09-2022. Service Roll and Fuji Missal of above-named Ex-Constable, received with the memo: under reference are returned herewith for record in your office.

EC
Inform Comdt. Externed
Accordingly

ATTESTED

~~District Police Officer
SWAT.~~

ATTESTED

Deputy Superintendent of Police
Swat



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

Annex-E
10 13

Office of the
Regional Police Officer
Grade III
No: 698 / 1/04/24
At Saidu Sharif Swat

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Farid Ullah No. 147. The petitioner was dismissed from service by DPO Swat vide OB No. 111, dated 15.08.2022 on the allegations that he while posted to JIS Police Lines had absented himself from lawful duty without prior permission vide DD No. 38 w.e.f 08.01.2022 till dismissal (Total: 7 months, 1 week).

The Appellate Authority i.e. RPO Malakand rejected his appeal vide Order Indst: No. 13425/13, dated 01.12.2022.

Meeting of Appellate Board was held on 01.03.2024 wherein petitioner was heard in person. The petitioner contends that the absence was not deliberate. His wife was ill.

The Board heard the petitioner in person. During the hearing, the petitioner did not produce any cogent reason to defend the charges leveled against him. Moreover, on perusal of his previous record it has come to the surface that he remains a habitual absentee and had been dismissed from service two times on account of absence from duty. The Board sees no ground & reasons for acceptance of his petition; therefore, his petition is hereby rejected.

Sd/-
AWAL KHAN, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/- 542-547 /24, dated Peshawar, the 22-03-2024.

Copy of the above is forwarded to the:

1. Regional Police Officer Malakand. One Service Roll and One Fauji Missal received vide your office memo: No. 638-39/13, dated 16.01.2023 of the above named Ex-FC is returned herewith for your office record.
2. District Police Officer, Swat.
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: I-IV CPO Peshawar.

ATTESTED

(FARIAN KHAN) PSP, QPM
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Office Supdt:
For the District Police Officer
Swat

ATTESTED

Deputy Superintendent of Police
Swat

50 / E
04-24
Full Missal

Handwritten signatures and notes: "DPO Swat", "For Malakand", "29/03/24"