


FORM OF ORDER SHEET

Court of _____

Appeal No. 966/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/07/2024	<p>The appeal of Mr. Akbar Ali resubmitted today by himslef. It is fixed for preliminary hearing before touring Single Bench at Swat on 4.09.2024. Parcha Peshi given to appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Akbar Ali received today i.e on 10.07.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no. 1 is un-necessary/improper party, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- ✓ 2- Appeal has not been flagged/marked with annexures marks.
- ✓ 3- Address of appellant is incomplete be completed according to rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.
- ✓ 4- Memorandum of appeal is not signed by the counsel.
- ✓ 5- The law under which appeal is filed is not mentioned.
- ✓ 6- Copy of departmental appeal and revision petition mentioned in the memo of appeal are not attached with the appeal.
- ✓ 7- Page nos. 7 & 8 of the appeal are illegible be replaced by legible/better one.
- ✓ 8- Proper index is not attached with the appeal.
- 9- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

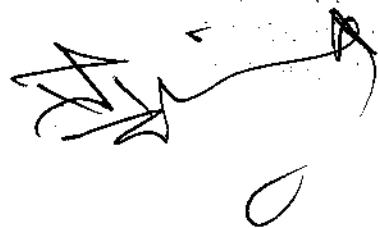
No. 313 /Inst./2024/KPST,

Dt. 9/7 /2024.


OFFICE ASISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR. 9/7/24

Umar Ali Akunzada dv.
High Court Swat.

objection removed



IN THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Appeal No. 966 / 2024

MR AKBAR ALI VS IGP ETC

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APPELLANT

THROUGH

COUNSEL UMAR A AKHUNZADA



IN THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Appeal No 966/2-24

MR AKBAR ALI S/O NOOR MOHAMMAD R/O MAINGHANO
KALAY ZARIN ABAD LOND KHOR TAKHT BHAI MARDAN
HEAD CONSTIBLE NO5916 AT BAGH DERAI MATTA UPPER
SWAT.

.....APPELLANT

VS

1. INSPECTOR GERERAL POLICE KPK AT CPO PESHAWAR
2. REGIONAL POLICE OFFICER MALAKAND SAIDU SHARIF
SWAT
3. DISTRICT POLICE OFFICER SWAT SAIDU SHARIF SWAT

.....RESPONDENTS

**SERVICE APPEAL U/S 4 OF SERVICE
TRIBUNAL ACT 1974 AGAINST ORDER
DATED 07/5/2024 OF RESPONDENT NO 2,
WHEREBY THE APPEAL FILED BY THE
APPELLANT TO RESPONDENT NO 3 VIDE
ORDER NO 648/I DATED 16/01/2023 HAD
BEEN DISMISSED**

PRAYER

UPON THE ACCEPTANCE OF THE INSTANT
APPEAL THE IMPUGNED ORDERS DATED 07/05/2024.

ORDER NO 648/1 DATED 18/01/2023 AND ORDER NO 168 DATED 25/11/2022, OF RESPONDENTS NO 1, 2 AND 3 RESPECTIVELY MAY KINDLY BE SET ASIDE TO THE EXTENT OF "FORFEITURE OF TWO YEARS APPROVED SERVICE" AND THE APPELLANT MAY KINDLY BE AWARDED THE BENEFITS OF THE TWO YEARS, FORFEITED BY RESPONDENT NO 1 AND 2, PLUS THE SALARY FOR THE INTERVENING PERIOD. WHICH IS CONSIDERED AS LEAVE WITHOUT PAY, MAY ALSO KINDLY BE GRANTED TO APPELLANT

Respectfully sheweth;

Brief facts leading to the institution of the instant appeal before this honorable court are;

1. That the appellant constable AKBAR ALI no 1346(THEN) was awarded major punishment of dismissal from service by respondent no 3 vide OB no 168 dated 25 /11/ 2022 on the allegations, That he was posted to security duty at interment center fizagat, swat brought his mobile phone with SIM card and also supplied snuff during his duty to internee MOHAMMAD ILYAS.
2. That being aggrieved from the said order, the appellant filed appeal to respondent no 2 which was allowed vide order no 648/1 dated 16/01/2023. The appellant was reinstated to service. The appellate authority set aside his punishment of dismissal and converted it to forfeiture of two years approved service.
3. That being aggrieved from the order of the appellate authority, the appellant filed revision petition before appellate board, which was rejected vide order dated 07/05/2024 hence the instant appeal.

- 4. That the value of the appeal for the purpose of jurisdiction an court fee , the directions given by this honorable court would be complied with by the appellant .
- 5. That the authority had communicated the order of respondent no 2 on 10/06/2024 hence the instant appeal is within time.
- 6. That the impugned orders is arbitrary , illegal , contrary to the facts and circumstances of the case and not in accordance with law, therefore , the same is liable to be set aside inter alia on the following grounds;

GROUNDS OF APPEAL;

- i) That the impugned orders are illegal, against law, sharia and facts and circumstances of the case available on the record.
- ii) That as the impugned orders is arbitrary and not compatible with the rules of justice and law.
- iii) That the impugned orders are whimsical, capricious, unfounded, and that in fact respondent no 4 had not conducted neutral and impartial enquiry and if he would have done so then it would have been part of the finding of the alleged enquiry. Furthermore at time of alleged misconduct the appellant was not on duty in interment center FIZAGAT.(copy of daily dairy attached)
- iv) That there is neither any verbal or documentary evidence in support of the charges leveled against the appellant nor any opportunity of cross examination has been given to the appellant and no chance has been given to take notes of the statements of any witness.
- v) That the impugned orders suffer from legal infirmities which render it to be ineffective.
- vi) That the trail court had failed to appreciate the evidence of both parties in proper prospective and according to the settle principles of justice.

vii) That further grounds, would be agitated during the course of arguments with the prior permission of this honorable court.

*IT IS THEREFORE RESPECTFULLY
SUBMITTED BEFORE THIS HONORABLE
COURT TO KINDLY ACCEPT THE INSTANT
APPEAL AND MAY KINDLY BE SET ASIDE TO
THE EXTENT OF "FORFEITURE OF TWO
YEARS APPROVED SERVICE" AND THE
APPELLANT MAY KINDLY BE AWARDED THE
BENEFITS OF THE TWO YEARS, FORFEITED
BY RESPONDENT NO 1 AND 2. PLUS THE
SALARY FOR THE INTERVENING PERIOD,
WHICH IS CONSIDERED AS LEAVE WITHOUT
PAY, MAY ALSO KINDLY BE GRANTED TO
APPELLANT*

*ANY OTHER RELIEF WHICH THIS HONORABLE
COURT MAY DEEM FIT AND PROPER MAY
ALSO KINDLY BE AWARDED THOUGH NOT
SPECIFICALLY PRAYED FOR.*

APPELLANT

AKBAR ALI

through counsel

(5)

IN THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

MR AKBAR ALI

VS IGP ETC.

AFFIDAVIT:

I/ MR AKBAR ALI S/O NOOR MOHAMMAD R/O
MAINGHANO KALAY ZARIN ABAD LOND KHOR
TAKHT BHAI MARDAN . HEAD CONSTIBLE NO5916 AT
BAGH DERAI MATTA UPPER SWAT

do here by solemnly affirm and declare on oath that this is the
first appeal by the appellant on the subject before this honorable
court. No earlier appeal on the same subject matter has been
filed before this honorable court by the appellant.



DEPONENT

AKBAR ALI



10/c

15-05-24

by DirK

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

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 FC Akbar Ali No. 1346. The petitioner was awarded major punishment of dismissal from service by DPO/Swat, vide OB No. 168 dated 25.11.2022 on the allegations of that he was posted to security duty at interment center Fizagat, Swat brought his mobile phone with SIM Card and also supplied snuff during his duties to internee Muhammad Ilyas which was strictly prohibited.

The Appellate Authority i.e. RPO/Malakand set aside his punishment of dismissal & converted into forfeiture of two years approved service vide order Jndst: No.648/E. dated. 16.01.2023.

Meeting of Appellate Board was held on 02.05.2024 wherein petitioner was heard in person. The petitioner contended that the mobile phone was of another inmate.

Perusal of the enquiry papers reveals that the allegations leveled against the petitioner have been proved. During hearing, petitioner failed to advance any plausible explanation in rebuttal of the charges. The Board sees no ground & reasons for acceptance of his petition: therefore, his petition is hereby rejected.

Sd.-

AWAL KILAN, PSP

Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 991-996 /24, dated Peshawar, the 07-05-2024.

Copy of the above is forwarded to the:

1. Regional Police Officer Malakand. One Service Roll, Fuji Missal containing Inquiry File of the above named FC received vide your office Memo: No. 5149-50 WPC, dated 28.03.2023 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: B-IV CPO Peshawar.

No 5742 /E
Date 16-05-24
Ensh S. Reel
F. Missal

Handwritten signatures and stamps, including "OFFICE OF THE INSPECTOR GENERAL OF POLICE" and "FOR RECORD".

(SONIA SHAMROZE KILAN) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

24

0347-9617860

0315-9314011

30/11/02

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(1/1/02) 2346

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No 13375 /
Dt 1-12-02



ORDER

This order will dispose of appeal of Ex-Constable Akbar Ali No. 1346 of Swat District in connection with minor punishment awarded by the District Police Officer, Swat vide O.B. No. 168 dated 25-11-2022 i.e. dismissal from service.

Brief facts of the case are that Ex-Constable Akbar Ali No. 1346 of Swat District while posted on security duty at internment center Hizual, Swat brought his mobile phone with SIM card and its supplied sniffer during his duties to internee Muhammad Ilyas which was strictly prohibited. In this connection preliminary enquiry was conducted by Assistant Superintendent Jail District Jail Swat and found gross misconduct/negligence on his part. Consequently he was issued Charge Sheet coupled with statement of allegations and SDPO City Circle Swat was appointed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry and submitted his findings report wherein he intimated that the allegations leveled against the above named Ex-Constable are proved and recommended him for awarding appropriate punishment. Being found guilty of the charges leveled against him the District Police Officer Swat awarded him minor punishment of dismissal from service with immediate effect vide O.B. No. 168 dated 25-11-2022.

His appeal is perused and taking a lenient view, his appeal is accepted and the punishment awarded by the District Police Officer, Swat i.e. Dismissal from Service is hereby converted into forfeiture of two (02) years approved service. He is re-instated into service with immediate effect, while the intervening period is treated as leave without pay.

No. 648 / 2023
Dated 3/6/2023

Regional Police Officer,
Malakand Region Swat

Copy for information and necessary action to the District Police Officer, Swat with reference to his office Memo No. 21754/E, dated 29-12-2022. Service Roll and Full Detail containing enquiry file of above-named Constable, received with the memo under reference are returned here with for record in your office.

For the SRO
[Signature]

[Handwritten signature]



1341 - P
 OFFICE OF THE
 DISTRICT POLICE OFFICER, SWAT
 Ph: 0946-9240393 & Fax No: 0946-9240402.
 Email: dposwat@gmail.com

ORDER

This order will dispose of the departmental enquiry conducted against Constable Akbar Ali No.1346 while posted to Security duty of internees at interment center Fizagat swat now Security Cadet College, Swat (suspend JIS Police Line Kabal, Swat) has brought mobile phone with SIM card and also supplied snuff during his duties to internee Muhammad Illyas which are strictly prohibited. In this connection preliminary enquiry has been conducted by Assistant Superintendent Jail District Jail Swat vide his office letter No.3441-WE dated 14-12-2021, which is gross misconduct / negligence on his part.

He was issued charge sheet coupled with statement of allegations vide this office No. 116/PA dated 23/12/2021 and SDPO City Circle was deputed as Enquiry Officer. The Enquiry Officer, SDPO City Circle conducted proper departmental enquiry against the above named delinquent Constable, recorded statements of all concerned. The Enquiry Officer has provided ample opportunity to the delinquent Constable to defend the charges leveled against him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings report wherein he intimated that Constable Akbar Ali No.1346 has badly failed to perform his duty correctly, also found negligent and the allegations leveled against him was proved. The EO recommended him for appropriate punishment.

Foregoing in view, the undersigned is of considered opinion that there are no chances that Constable Akbar Ali No.1346 will 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 (iii) of Police Disciplinary Rules-1975, I, ZAHID NAWAZ MARWAT, PSP, District Police Officer, Swat as a competent authority, am constrained to award him major punishment of Dismissal from service with immediate effect.

Order announced.

[Signature]
 District Police Officer
 Swat

O.B. No. 168
 Dated 25/11/2022

OFFICE OF THE DISTRICT POLICE OFFICER SWAT

No. 488-91 /PA, dated Saidu Sharif the, 28/11 /2022.

Copy for information to the;

1) DSP Headquarters Lower Swat.




For necessary action to the;

2) Pay Officer, Swat.


3) OASI, Swat.

4) EC

[Handwritten initials]
 A.T.C

<p>بار کونسل نمبر: 6</p> <p>بار ایسوسی ایشن نمبر: 130005</p> <p>رابطہ نمبر: 03464219798</p> <p>ای میل ایڈریس: ۷۷</p>	  
<p>ڈسٹرکٹ بار ایسوسی ایشن سوات</p>	

بعدالت جناب ریشمیرا

<p>Appellant: منجانب</p> 	<p>Appellee: دعویٰ اور خواست</p> <p>علت نمبر:</p> <p>مورخہ:</p> <p>جرم:</p> <p>تھانہ:</p>
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باعت تحریر آگے

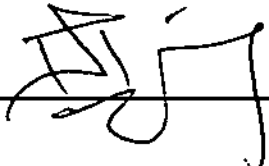
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

آن مقام Service Tribunal کیلئے مکرم علی اوندی کو مقرر کر کے

اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے، دعویٰ، جواب دعویٰ، اقبال دعویٰ اور درخواست برائے سرسبزی مقدمہ، منسوخی ڈگری یکطرفہ، اجراء و پیروی کرنے کا مختار ہوگا نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پرداختہ منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہرجانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بعدم پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے، لہذا عدالت نامہ لکھ دیا کہ سند ہے

Reshmir, complainant
مقام

السید ولد نور محمد بانی دادان

ایڈوکیٹ دستخط: 

الرقوم: 8/07/2024