

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1679/2022

Watan Badshah
Ex-Const No. 391, District Kohat

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

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Deponent

03-07-24

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

P-1

Service Appeal No. 1679/2022
Watan Badshah
Ex-Const No. 391, District Kohat

..... Appellant

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. _____

Dated _____

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Sheweth:-

Preliminary Objections:-

- i. That the appellant has got no cause of action to file the instant appeal.
- ii. That the appeal is time barred, hence it deserves to be dismissed in limine.
- iii. That the appellant is legally barred to file appeal due to his own conduct.
- iv. That the appeal is not maintainable.
- v. That the appellant has not come to this Honorable Court with clean hands.
- vi. That the appellant is estopped from filing the instant appeal due to his own conduct.

Facts:-

1. Correct only to the extent of the appellant's appointment as constable on 21.10.2004. However, during service, he proved to be an inefficient official and habitual absentee from lawful duties without prior permission of the authority. (Detail of previous history of the appellant is annexure A).
2. Incorrect, the appellant while posted at Police Lines Kohat absented from his lawful duties vide DD No. 18 dated 02.12.2017. Being member of a discipline force, he was required to apply for proper leave, on account of sick child and waited for its approval. However, he left station without leave / permission of senior officer which amount to misconduct on his part. (Copy of DD No. 18 dated 02.12.2017 is annexure B).

3. Incorrect and misleading, on account of willful absence vide DD No. 18 dated 02.12.2017, he was served with Show Cause Notice, in response to which he submitted his written reply wherein he admits his willful absence. On receipt of reply, appellant was called for personal hearing in OR, but he could not produce any cogent defense in support of his willful absence. Hence, he was awarded major punishment of compulsory retirement from service as per law vide order dated 22.02.2017. His length of service at the time of compulsory retirement was 13 years, 02 months and 01 days. The appellant has already availed the pension benefits vide DAO Kohat PPO No. KT-12775. **(Copy of show cause notice, reply and order dated 22.02.2017 is annexure C, D & E).**
4. Incorrect, the appellant, after lapse of 05 years, filed a badly time-barred departmental appeal, which was rejected through speaking order. **(Copy of rejection order is annexure F).**
5. Both the departmental as well as revision petition / mercy petition were rejected on limitation and it is well settled law that in case the departmental appeal is time-barred, then service appeal will also be time barred and incompetent. Moreover, the appellant has already been granted pensionary benefits and thus, has no cause of action. **(Copy of pension documents is annexure G).**
6. That appellant in the shape of compulsory retirement has also availed pensionary benefits, thus, has got no cause of action to file the instant service appeal which is also badly time-barred. Therefore, it is liable to be dismissed on sole grounds of limitation, besides following grounds:-


Grounds:-


- A. Incorrect, the orders of respondents are strictly in accordance with law / rules.
- B. Incorrect, proper opportunity of personal hearing as per law was provided before passing final order dated 22.02.2017.
- C. Incorrect, on account of willful absence appellant was served with Show Cause Notice. Appellant in reply to the Notice admits willful absence, hence awarded major punishment of compulsory retirement from service in accordance with rules.

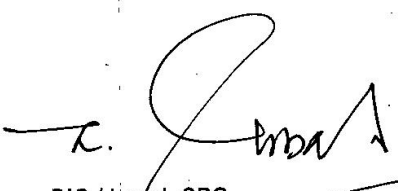
- D. Incorrect, reply already given vide para above.
- E. Incorrect, reply already given vide para above.
- F. Incorrect, reply already given vide para above.
- G. Incorrect, appellant was treated as per law / rules.
- H. Incorrect, on account of willful absence, Show Cause Notice was served upon appellant, which was responded by submitting reply wherein, he admits willful absence.
- I. Incorrect, appellant has already receiving pensionary benefits.
- J. That the respondents also seeks permission of the Honorable Tribunal to advance other grounds during arguments.

Prayer:-

It is therefore, prayed that the appeal being badly time barred and without any substance, may kindly be dismissed with cost, please.


District Police Officer,
Kohat
(Respondent No. 3)
(MUHAMMAD OMER KHAN) PSP


Regional Police Officer,
Kohat Region
(Respondent No. 2)
(SHER AKBER) PSP, S.St


DIG / Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS) PSP

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

p-04

Service Appeal No. 1679/2022
Watan Badshah
Ex-Const No. 391, District Kohat

..... Appellant

VERSUS

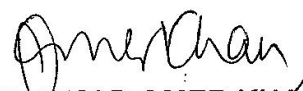
Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

AFFIDAVIT

I, Muhammad Omer Khan, District Police Officer, Kohat Respondent No. 3 do hereby solemnly affirm and declare on oath that the contents of reply to the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed 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 is struck off.


(MUHAMMAD OMER KHAN) PSP
District Police Officer,
Kohat
(Respondent No. 3)



ABSENCE HISTORY OF EX CONSTABLE WATAN BADSHAH NO. 391

1. 02 days, 22 hrs vide OB: No. 35, dated 26.02.2007
2. 02 months and 10 days w.e.f. 29.10.2010 to 08.01.2011 OB: No. 264, dated 18.04.2011.
3. 20 days w.e.f 02.12.2017 to 22.12.2017 OB: No. 1088, dated 22.12.2017.

Total absence: 92 days

Attested
Adnan

SRE / L.KT
Adnan

Attested
M. J. ...

17. 13. 17
M. J. ...

...

...

...

...

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT**SHOW CAUSE NOTICE****(Under Rule 5(3) KPK Police Rules, 1975)**

1. That You **Constable Watan Badshah No. 391** have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa, Police Rules 1975 (Amendment 2014) for following misconduct;
 - i. You while posted at Police Lines Kohat had absented yourself from official duty vide DD No. 18 dated 02.12.2017 till date, without any leave or permission from the competent authority and did not taking interest in your official duty, which shows your in-efficiency and lack of interest in the discharge of government duties.
2. That by reason of above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer.
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officers.
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014) for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

No. 9509 /PADated 12-12 /2017DISTRICT POLICE OFFICER,
KOHAT

12/12

Attested
M. Khan

M. Khan

Attested
[Signature]

۱۱۳۹۱
۱۷۱۱

۱۷۱۱

۱۲-۱۲-۰۱۷
۹۵۰۹۲۱۵
۱۷۱۱

Annex-D
۱۷۱۱

POLICE DEPTT:DISTRICT KOHATORDER

This order is passed on the Show Cause Notice against Constable Watan Badshah No. 391 under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014).

Brief facts are that he while posted at Police Lines Kohat had absented himself from official duty vide DD No. 18 dated 02.12.2017 till date, without any leave or permission from the competent authority and did not taking interest in his official duty, which shows his in-efficiency and lack of interest in the discharge of government duties.

He was served with Show Cause Notice, reply of Show Cause Notice received and found un-satisfactory. He was called in OR and heard in person but he did not satisfy the undersigned about his innocence. He is habitual absentee and his further retention in the force is a bourdon on Govt: exchequer. The allegation leveled against him have substantially been proved.

In view of above I, Javed Iqbal District Police Officer, Kohat being a competent authority under KPK Police Rules 1975 Amendment 2014, hereby award a major punishment of "Compulsory retirement" with immediate effect.

OB No. 1088
Date 22/12/2017


DISTRICT POLICE OFFICER,
KOHAT

No 40230-81 PA, dated Kohat the 26-12 /2017.

Copy of above is forwarded to the Reader/PO/EC/OHC for necessary action.

Attested


04/01
018

لکھنؤ
جیک
پوسٹ
کام
وکی

Annex - F P-10

KOHAT REGION

POLICE DEPTT:


ORDER.

This order will dispose of a departmental appeal, moved by the Ex-Constable Watan Badshah of district Kohat against the punishment order, passed by DPO Kohat vide OB No. 1088, dated 22.12.2017 whereby he was awarded major punishment of **compulsory retirement from service** on the allegations of willful and long absence from lawful duties without any leave or prior permission from his seniors.

He preferred appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record 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. Moreover, the appellant has already been granted pension benefits since his compulsory retirement from service and his appeal is also badly time-barred about **05-years** which is hereby **rejected** being devoid of merits.

**Order Announced
10.06.2022**


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


No. 8908 /EC, dated Kohat the 14/06 /2022.

Copy to District Police Officer, Kohat for information and necessary action w/r to his office Letter No. 4719/LB. dated 25.05.2022. His Service Record is returned herewith.

*Attested
M. Azeem*

*CHC/SRB
15/6/2022*




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

3439244759
21-06-2022

omite
anistan
Kohat

(1)

No. 1-3

A.G.NO.125

FORM 3 (PEN)

PENSION PAPERS
OF

Mr./Mrs./Miss Ex: CONST. WATAN BADSHAH No. 391

*Attested
M. Khan*

N.B Please read carefully the relevant rules, instruction and orders.
In the case of family pension for death while in service, page 2 will not be filled in and
Page 3 will be applicable.

FORM 3 (PEN)

PART-I

(To be filled in and signed by the applicant himself/herself)
APPLICATION FOR PENSION AND/OR GRATUITY

To

The DAO, Kohat

Sir,

I have the honour to say that I ^{*have retired} ^{*have been permitted to retire from service on}
(Date) 22-12-2017 ^{*am due to retired}

I, therefore, requested that the pension/gratuity admissible under the rules may kindly be sanctioned to me.

2. I declare that I have neither applied for nor received any pension or gratuity for any portion of this service, nor shall I submit any application hereafter without quoting a reference to the application and to the orders which may be passed on.

3. Should the amount of the pension and/or gratuity granted to me be afterwards found to be in excess of that to which I am entitled under the rules, I hereby undertake for refund any such excess.

4. I wish to draw/do not wish to draw gratuity in lieu of one fourth of my pension.

5. I wish to commute my pension to the extent of Rs.

6. I wish to draw my pension from the District Accounts Office/Treasury/
Sub-treasury/ National Bank of Pakistan Branch at

7. The following documents, duly attested, are enclosed:

- (a) Three Specimen Signatures of mine/two sets of my thumb and finger impressions on the prescribed form
- (b) Three photographs of mine.

*Attested
Waleem*

Your Obediently Servant

Signature Waleem

S/O

W/O

D/G

Post held on the

Date of retirement at

Date

*Delete in applicable alternative.

PART-II

(To be completed by the Office/Department receiving the application for pension)

SECTION (I) PARTICULARS OF APPLICANT

- *1. Name of Civil servant WATAN BADSHAH
- *2. Father's Name GUL SHAH DIN
- *3. Nationality PAKISTANI
- *4. Postal Address O.T.S ROAD SID 93H KOHAT
- *5. Post held on the date of retirement/death and BPS (05)
- *6. Date of Birth 17.05.1977

- *7. Date of
 - Commencement of service 21-10-2004
 - Retirement/death 22-10-2017
 - Application for pension

- *8. Length of Service

From	<u>21</u>	<u>10</u>	to	<u>22</u>	<u>12</u>		Y	M	D
		<u>2004</u>			<u>2017</u>		<u>13</u>	<u>02</u>	<u>01</u>
From			to						

Total: 13 - 02 - 01

- *9. Date of commencement and ending of each spell of military service, if any:

From	to	Y	M	D
From	to			

Total: _____

- *10. Government under which service has been rendered in chronological order:

Government of	from	to	i.e.
Government of	from	to	i.e.
Government of	from	to	i.e.

Total: _____

- *11. Class of pension or gratuity applied for
- *12. Average Emolument/emolument last drawn 16760/-
- *13. Proposed gross pension/gratuity 5083.86/-
- *14. Proposed family pension
- *15. Proposed gratuity in lieu of 1/4th pension of 1779.35/-
- *16. Proposed value of commutation 526310.19
- *17. Proposed net pension 3304.51/-
- *18. Place of

District Accounts Office	<u>KOHAT</u>
Treasury/Sub-Treasury	<u>KOHAT</u>
- *19. Date from which pension is to commence

Attested
Muhammad

Signature of Head of Office/ Department

 District/Zone Officer
 Kohat

* Entries No. 1,2,3,4 and 18 should be made in capital letters.

SECTION (2) CALCULATION OF QUALIFYING SERVICE.

P-14
 Gross Pension
 + Benefit

Total length of service as per Col.10 of Section (1) 13 Y 02 M 01 D
 Non Qualifying Service from _____ to _____

Period
 Y M D

- (i) Extraordinary Leave.....
- (ii) Unauthorized absence.....
- (iii) Spell of service not qualifying for Pension

Total (i),(ii),(iii): - _____

Net qualifying service 13 years 02 months & one day

Add..... from..... to.....

Period
 Y M D

- (i) Periods, if any, Military Service or War. Service Allowed to count for pension.
- (ii) Benefit of condonation of deficiency in total Qualifying Service.

Total (i) & (ii) _____

Total qualifying service.....

SECTION (3) (A) CALCULATION OF AVERAGE EMOLUMENTS.

Sanctioned of emoluments during the last 36/12 months in case the Punishment been held on regular basis.

Period		Duration Month & Days		Monthly Rate of Emoluments		Amount Drawn	
From	To	M	D	Rs.	Ps	Rs.	Ps

The Total emoluments for 36/12 months are _____
 Therefore "Average Emoluments work out to Rs. _____ 36/12=Rs. _____ P.M

SECTION (3) (B) STATEMENT OF PAY/EMOLUMENTS LIST DRAWN & CASE THE POST IS HELD ON REGULAR BASIS.

- (a) Pay..... Rs.
- (b) Senior Post Allowance..... Rs.
- (c) Compulsory Retirement..... Rs.
- (d) Rs.
- (e) Rs.

Total: - _____

SECTION (4) CALCULATION OF PENSION/GRATUITY.

Length of total qualifying service. 13 years 02 months & one day
 Emoluments/Average Emoluments Rs.....
 Amount of Gratuity (in case where qualifying Service is 5 year or more but out less than 10 years Rs.....

Attested
 M. Saem

Gross Pension.
 +Benefit of extra service beyond 30 years
 Less 1/4th (in case of family pension for
 Death while in service)
 or
 Less commuted portion of Pension.
 Net Pension.

Rs. 5038.86/-
 Rs. -
 Total Pension Rs. -
 Rs. 1779.35/-
 Rs. -
 Rs. 3304.51/-

**SECTION (5) CALCULATION OF GRATUITY IN LIEU OF SURRENDERED PENSION
 (IN CASE OF FAMILY PENSION FOR DEATH WHILE IN SERVICE).**

Length of total qualifying service. 13 years.
 Amount of pension surrendered. Rs.
 Rate of gratuity for every rupee surrendered
 (on age next birth day basis). Rs.
 Lump sum gratuity admissible. Rs.

SECTION (6) COMMUTED VALUE OF PENSION.

- (i) Amount of pension to be commuted. Rs.
- (ii) Age next birth day. 41 years
- (iii) Rate of commuted value for every one rupee
 (on age next birth day basis). Rs.
- (iv) Commuted value of pension. Rs.

SECTION (7) ORDERS OF THE SANCTIONING AUTHORITY.

1. The undersigned is satisfied that the service of EX. CONST. KATIAN BASHIAN has been satisfactory. The grant of full pension and/or gratuity which the Audit Officer, may find to be admissible under the rules is hereby sanctioned.

OR

The undersigned is satisfied that the service of has not been satisfactory and it has been decided that the full pension and/or gratuity found by the Audit Officer to be admissible under the rules should be reduced by the specific amount or percentage given below:-

Amount of percentage of reduction in pension
 Amount of percentage of reduction in gratuity
 Sanction is hereby accorded to the grant of pension and/or gratuity as so reduced.

2. The payment of pension and/or gratuity may commence from.....
 Before issuing the pension payment order, the Audit Officer may kindly ascertain whether the Last Pay and No Demand Certificate have been received by him. In case the last Pay Certificate and/or No Demand Certificate has/have not been received with the pension papers, the Audit Officer should issue P.P.O subject to the production of the last pay certificate and/or an undertaking at the time of the first payment of pension/gratuity, by the pensioner or his family (in case of his death) to the effect that any demand coming to the notice within a period of one year after the issue of P.P.O would be recovered from him/her.

Attested
Addeem

Signature.....
 Designation: Police Officer
Kohat

POLICE DEPARTMENT

KOHAT DISTRICT

THREE SPECIMEN SIGNATURES
IN RESPECT OF EX: CONST. WATAN BADSHAH No 391
OF KOHAT DISTRICT POLICE.

- 1. WBS
- 2. WBS
- 3. WBS

ATTESTED

WBS

~~District Police Officer~~
~~Kohat~~
DISTRICT POLICE OFFICER,
KOHAT

*Attested
WBS*

APPLICATION FOR ANTICIPATION PENSION.

Superintendent of Police Kohat has consented provincially to advance sum of Rs. a month in anticipation of the completion of the enquiries necessary to enable the Government to fix the amount of pension. I hereby acknowledge. That in accepting this advance I fully understand that my pension is subject to revision on the ground that the provisional pension now paid to me exceeds the pension to which I may be eventually entitled further promise to repay the amount advanced to me in excess of the pension to which I may be eventually entitled.

ATTESTED

[Signature]
District Police Officer
DISTRICT POLICE OFFICER, KOHAT

Signature/Thumb Impression

[Signature] *[Thumb Impression]*

UNDERTAKING

I Mr. WATAN BADSHAH Rank CONST BPS-05
No. 391 hereby declare that any amount paid in excess or outstanding Government dues come to notice of the audit office within a period of one year of the date of my retirement the same may be recovered from my pension.

ATTESTED

[Signature]
District Police Officer
DISTRICT POLICE OFFICER, KOHAT

Signature/Thumb Impression

[Signature] *[Thumb Impression]*

I Mr. WATAN BADSHAH Rank CONST BPS-05
C/No. 391 OPTION opt that I am to surrender 40% of my gross pay.

ATTESTED

[Signature]
District Police Officer
DISTRICT POLICE OFFICER, KOHAT

Signature/Thumb Impression

[Signature] *[Thumb Impression]*

NO DEMAND CERTIFICATE

Certified that nothing is outstanding against Mr. WATAN BADSHAH
Rank Const 391-05 C/No. 391 of this District Police.

[Signature]
District Police Officer
DISTRICT POLICE OFFICER, KOHAT






Attested
[Signature]

DISTRICT POLICE OFFICER
DISTRICT POLICE OFFICER
KOHAT

Attest
Moham

EX: Const. MAJAN BASHAH No. 391

Thumb and Finger impression slip of the

				
THUMB	FOREFINGER	MIDDLE FINGER	RING FINGER	LITTLE FINGER






DISTRICT KOHAT

POLICE DEPARTMENT

DISTRICT POLICE OFFICER
DISTRICT POLICE OFFICER
KOHAT

EX: Const. MAJAN BASHAH No. 391

Thumb and Finger impression slip of the

				
THUMB	FOREFINGER	MIDDLE FINGER	RING FINGER	LITTLE FINGER






DISTRICT KOHAT

POLICE DEPARTMENT

DISTRICT POLICE OFFICER
DISTRICT POLICE OFFICER
KOHAT

EX: Const. MAJAN BASHAH No. 391

Thumb and Finger impression slip of the

				
THUMB	FOREFINGER	MIDDLE FINGER	RING FINGER	LITTLE FINGER

DISTRICT KOHAT

DEPARTMENT

P-19

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1679/2022

Watan Badshah

Ex-Const No. 391, District Kohat

..... Appellant

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Inspector General of Police,
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..... Respondents

AUTHORITY LETTER

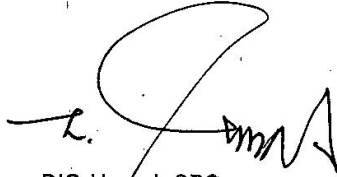
Mr. Arif Saleem steno (Focal Person) of this office is hereby authorized to file the parawise comments and any other registered documents in the Honorable Tribunal on behalf of respondents / defendant and pursue the appeal as well.



District Police Officer,
Kohat
(Respondent No. 3)
(MUHAMMAD OMER KHAN) PSP



Regional Police Officer,
Kohat Region
(Respondent No. 2)
(SHER AKBER) PSP, S.St



DIG / Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS)
PSP