

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Ex- Constable Adil Khan S/O Syed Wali Khan R/o Post Office EidakKhadi, Tehsil Mir Ali
NWTD..... (Appellant)

VERSUS

1. The Inspector General of Police KPK at Peshawar.
2. Regional Police Officer Bannu Region Bannu.
3. District Police Officer North Waziristan.

.....(Respondents)

INDEX

S.No.	Description of Documents	Annexure	Page
1.	Para-wise Reply		1-3
2.	Authority Letter		4
3.	Affidavit		5
4.	Copy of Show Cause Notice	"A"	6-7
5.	Dismissal Order Copy dated 20.09.2021	"B"	8
6.	Copy of Order dated 30.05.2022	"C"	9
7.	Time Barred Copy dated 26.07.2023	"D"	10

Attested
S.D.P.O. North Waziristan
Litigation Officer,
D.P.O Office, North Waziristan,
CNIC #: 21506-6489152-7

27-05-2024
S.B
Peshawar

REPORT THE HONORABLE RAYMOND A. HARRIS, DISTRICT ATTORNEY

IN THE MATTER OF THE ESTATE OF [Name], Deceased
(Applicant)

TESTS

Raymond A. Harris, District Attorney, Applicant,
has been examined by the undersigned and has sworn
that the facts set forth in the foregoing are true and correct.

Witness my hand and seal this _____ day of _____, 19__.

INDEX

1	Page 1
2	Page 2
3	Page 3
4	Page 4
5	Page 5
6	Page 6
7	Page 7
8	Page 8
9	Page 9
10	Page 10

(P-1)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Service Appeal No. 2352/2023

Ex- Constable Adil Khan S/O Syed Wali Khan R/o Post Office Eidak Khadi, Tehsil Mir Ali
NWTD..... (Appellant)

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

1. The Inspector General of Police KPK at Peshawar.
2. Regional Police Officer Bannu Region Bannu.
3. District Police Officer North Waziristan.

Diary No. 12583

Dated 17-05-2024

.....(Respondents)

PARA-WISE COMMENTS BY RESPONDENTS NO. 1 TO 3

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

- a) That the appeal is not maintainable in the present form.
- b) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- c) That the appellant is estopped to file the instant Appeal by his own conduct.
- d) That the appellant has not come to this Honorable Tribunal with clean hands.
- e) That the appellant has got no cause of action and locus standi to file instant Appeal.
- f) That the appeal is barred by law & limitation.

ON FACTS

1. Pertains to record, needs no comments.
2. Pertains to record of the then Deputy Commissioner, Mir Ali, hence no comments.
3. Pertains to record, needs no comments.
4. Pertains to record, needs no comments.
5. Incorrect. The appellant was selected for recruit/basic training course commencing from 31.05.2021 at Head Quarters Tochi Scouts Miranshah training Centre vide DIG training KPK letter No.5132/Trg: dated 25.05.2021, however, he failed to report for the said training as well as he neither submit any request for postponement of training nor defended his long absence from official duty and recruit/basic Police training. Show Cause Notice was issued to the appellant. The appellant was time and again directed to receive Show Cause Notice but he denied to receive the same. Hence, the appellant was awarded major punishment of dismissal from service vide order dated 20.09.2021. (Show cause notice is Annexed as Annexure 'A')
6. Departmental appeal of the appellant was badly time barred having no cogent reasons in defense.
7. Correct to the extent of submission of revision petition, which was turned down as declared time barred. It is pertinent to mention here that when appeal before departmental authority is time barred then service appeal before the Service Tribunal is incompetent.

(P-2)
Reliance has already been placed on 2017 SCMR 965, 2006 SCMR 453, 2007 SCMR 513, 2011 SCMR 1429 & 2021 SCMR 144.

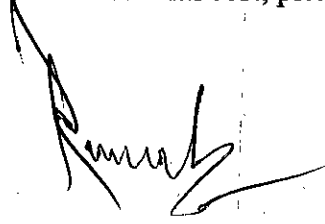
8. The appellant has no cause of action and failed to bring a prima facie case to this Hon'ble Tribunal, hence the instant Service Appeal may be dismissed inter-alia on the following Grounds:-

GROUND:

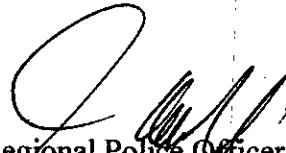
- a) Incorrect. As already explained above that The appellant was selected for recruit/basic training course commencing from 31.05.2021 at Head Quarters Tochi Scouts Miranshah training Centre vide DIG training KPK letter No.5132/Trg: dated 25.05.2021, however, he failed to report for the said training as well as he neither submit any request for postponement of training nor defended his long absence from official duty and recruit/basic Police training. Hence, the appellant was awarded major punishment of dismissal from service vide order dated 20.09.2021 (**Annexure 'B'**). The departmental appeal as well as revision petition of the appellant's were rejected on the basis of time barred vide orders dated 30.05.2022 & 26.07.2023 (**Annexures 'C' & 'D'**). It is pertinent to mention here that when appeal before departmental authority is time barred then service appeal before the Service Tribunal is incompetent. Reliance has already been placed on 2017 SCMR 965, 2006 SCMR 453, 2007 SCMR 513, 2011 SCMR 1429 & 2021 SCMR 144. Hence, on this score, all orders passed by the respondent department are quite in accordance with law/ rules and are maintainable in the eyes of law.
- b) Incorrect, misleading and misconceived. As already explained in preceding Para.
- c) Incorrect and misleading. The appellant has been treated in accordance with law/ rules. The appellant committed gross misconduct therefore, he was awarded the major punishment of dismissal from service.
- d) Incorrect and misleading. The appellant committed gross misconduct therefore, he was rightly treated in accordance with law/ rules.
- e) Incorrect and misleading. Show Cause Notice was issued to the appellant. The appellant was time and again directed to receive Show Cause Notice but he denied receiving the same. Hence, the appellant was awarded major punishment of dismissal from service vide order dated 20.09.2021.
- f) Incorrect. The orders passed by the respondent department are quite in accordance with law/ rules.
- g) Incorrect. No malafide committed by the respondent department while treating the appellant in accordance with law/ rules.
- h) Incorrect. The appellant committed gross misconduct therefore, he is not entitled to get relief from this Hon'ble Court.
- i) The respondent department seeks permission of this Hon'ble Court to adduce additional ground at the time of hearing of instant Service Appeal.

PRAYER:

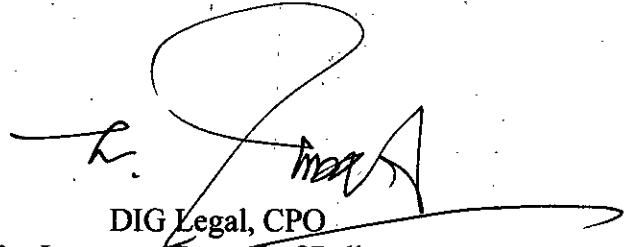
In view of the above, it is most humbly prayed that the instant Service Appeal is barred by law and limitation, having no legal force kindly be dismissed with cost, please.



District Police Officer,
North Waziristan
Respondent No.3
RoKhan Zeb
Incumbent



Regional Police Officer,
Bannu Region, Bannu
Respondent No.2
Qasim Ali Khan (PSP)
Incumbent



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

PRAYER:

In view of the above, it is most humbly prayed that the instant Service Appeal is barred by law and limitation, having no legal force kindly be dismissed with cost please.

Incumbent
Rokhan Abb
Respondent No.3
North Waziristan
District Police Officer

Incumbent
Qasim Ali Khan (PSP)
Respondent No.2
Bannu Region, Bannu
Regional Police Officer

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

(P-4)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Ex- Constable Adil Khan S/O Syed Wali Khan R/o Post Office Eidak Khadi, Tehsil Mir Ali
NWTD..... (Appellant)

VERSUS

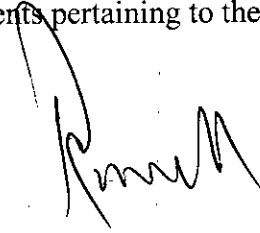
1. The Inspector General of Police KPK at Peshawar.
2. Regional Police Officer Bannu Region Bannu.
3. District Police Officer North Waziristan.

.....(Respondents)

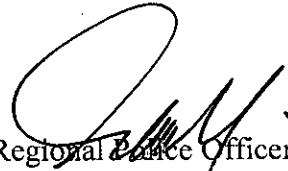
AUTHORITY LETTER

Mr. **Qudrat Ullah Khan**, DSP Legal North Waziristan, is hereby authorized to appear Before the Honorable Khyber Pakhtunkhwa Services Tribunal Peshawar on Behalf of the respondents in the above cited Service Appeal.

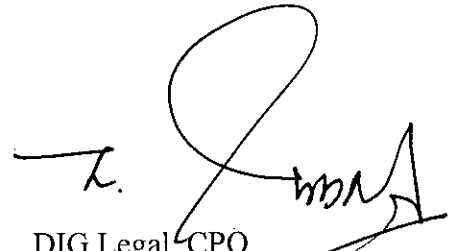
He is also authorized to submit and sign all documents pertaining to the present Service Appeal.



District Police Officer,
North Waziristan
Respondent No.3
RoKhan Zeb
Incumbent



Regional Police Officer,
Bannu Region, Bannu
Respondent No.2
Qasim Ali Khan (PSP)
Incumbent



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

(P-5)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Service Appeal No. 2352/2023

Ex- Constable Adil Khan S/O Syed Wali Khan R/o Post Office Eidak Khadi, Tehsil Mir Ali NWTD..... (Appellant)

VERSUS

1. The Inspector General of Police KPK at Peshawar.
2. Regional Police Officer Bannu Region Bannu.
3. District Police Officer North Waziristan.

..... (Respondents)

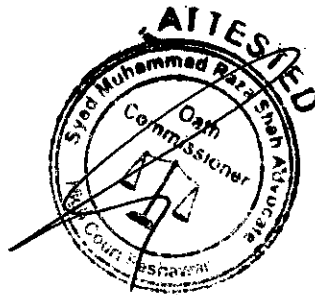
AFFIDAVIT

I, **Rokhan Zeb**, District Police Officer, North Waziristan, do hereby solemnly affirm on oath that the contents of Para-wise comments on behalf of respondents are correct to the best of my knowledge and belief. Nothing has been concealed from this Hon'ble Tribunal.

*its for stated on oath
that answer respondents
have neither been placed
ex-parties nor their defers
has been stated of const.*

DISTRICT POLICE OFFICER,
North Waziristan

CNIC No. 16201-4321719-7
Contact No. 0928-313700



02 APR 2024

OFFICE OF THE DISTRICT POLICE OFFICER, NORTH WAZIRISTAN.

SHOW CAUSE NOTICE UNDER POLICE RULES 1975.

(Under rules 5 (03) KPK Police Rules, 1975)

That you Constable Adil Khan S/O Syed Wali Khan have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules, 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification No.27th of August 2014) for the following misconduct:

- That you were selected for recruit/basic training Course commencing from 31.05.2021 at Hqrs Tochi Scouts Miranshah training centre vide DIG training KPK letter No.5132/Trg: dated 25.05.2021, but you did not compliance the order of high-ups and absented himself from Govt: duty without any cogent reason, leave or permission of the competent authority.
- That you keep yourself absent intentionally from the said training.
- This all speaks of gross misconduct on your part and you are liable to be punished under Police Rules-1975.
- Such act on your part is against the service rules/discipline and amounts to gross misconduct and negligence.

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.

That the misconduct on your part is prejudicial to good order and discipline in police Force.

That your further service in the Police Force will amount to encourage misconducts and this will be a halt in becoming a good Police officer.

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 said rules.

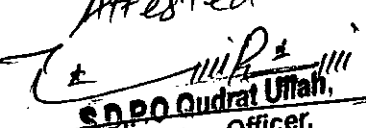
You are, therefore called to show cause as why you did not strictly follow the orders in accordance with the Khyber Pakhtunkhwa Police Rules, 1975.

Now you are intimated to submit reply to show-cause notice within 07 days of the receipt of the notice, failing an ex parte action will be taken against you.

You are further directed to inform the undersigned whether you wish to be heard in person.

(SHAFIULLAH KHAN)
District Police Officer,
North Waziristan

No. 1145 /SRC/Show cause dated the /06/2021.

Attested

S.D.P.O. Qudrat Ullah,
Litigation Officer,
D.P.O Office, North Waziristan.
CNIC #: 21506-6489152-7

(P-7)

OFFICE OF THE DISTRICT POLICE OFFICER, NORTH WAZIRISTAN.

FINAL SHOW CAUSE NOTICE

(Under rules 5 (03) KPK Police Rules, 1975

That you Constable Adil Khan S/O Syed Wali Khan have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules, 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification No.27th of August 2014) for the following misconduct:

- > That you were selected for recruit/basic training Course commencing from 31.05.2021 at Hqrs Tochi Scouts Miranshah training centre vide DIG training KPK letter No.5132/Trg: dated 25.05.2021, but you did not comply the order of high-ups and absented himself from Govt: duty without any cogent reason, leave or permission.
- > That you kept yourself absent intentionally from the said training and did not take interest in it.
- > This all speaks of gross misconduct on your part and you are liable to be punished under Police Rules-1975.
- > Such act on your part is against the service rules/discipline and amounts to gross misconduct and negligence.

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.

That the misconduct on your part is prejudicial to good order and discipline in police Force.

That your further service in the Police Force will amount to encourage misconducts and this will be a halt in becoming a good Police officer.

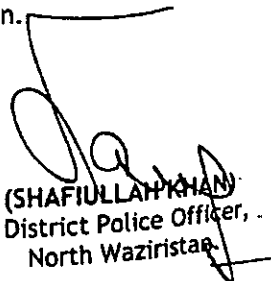
That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the said rules.

You are, therefore called to a Final show cause as why you did not strictly follow the orders in accordance with the Khyber Pakhtunkhwa Police Rules, 1975.

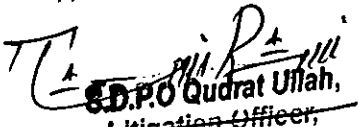
Now you are intimated to submit reply to the Final show-cause notice within 03 days of the receipt of the notice, failing an ex parte action will be taken against you.

You are further directed to inform the undersigned of your will that wish to be heard in person.

On account of the above reasons you have rendered yourself liable to be proceeded against you under Khyber Pakhtunkhwa Police Rules 1975, (As amended vide Khyber Pakhtunkhwa gazette Notification No.27th of August 2014), hence these ground will be sufficient to take an ex-parte action.


(SHAFIULLAH KHAN)
District Police Officer,
North Waziristan

No. 1956 /RSC dated the 06 /07/2021

Attested

S.D.P.O Qudrat Ullah,
Litigation Officer,
D.P.O Office, North Waziristan.
CNIC #: 21506-6489152-7

Order

(Annex - B)

(P-8)

My order will paramount to Departmental proceeding initiated against Head Constable Adil Khan S/o Syed Wali Khan while posted at Police lines Miranshah were found to indulge in the following:-

- > That he was selected for recruit/basic training Course commencing from 31.05.2021 at Hqrs Tochi Scouts Miranshah training centre vide DIG training KPK letter No.5132/Trg: dated 25.05.2021, but he did not comply the lawful order of high-ups and absented himself from Govt: duty without any cogent reason, leave or permission of the competent authority.
 - > That you kept yourself absent intentionally from the said training and did not take interest in it.
 - > This all speaks of gross misconduct on your part and you are liable to be proceeded under Police Rules-1975.
 - > Such act on your part is against the service rules/discipline and amounts to gross misconduct and negligence.
- He was served with Show Cause Notice to this effect. He was repeatedly informed through concerned SHO to receive Show Cause but he deliberately refusal to receive Show Cause Notice. Such attitude is quite contrary to law and rules being the member of a disciplined Force. Final Show Cause notice also issued but he did not reply.

Therefore, I Mr. ShafiUllah Khan, District Police Officer, North Waziristan in exercise of the power vested in me under Police Rules-1975, hereby impose upon him major punishment of "Dismissal from service" with effect from the date of his absence from Govt: duty. He is directed to deposit all the Govt: articles/items allotted to him from the concerned branches.

RI/LO to collect the Govt: items /weapons etc if any from the above person.

OB. No. 472

Dated 20/09/2021

District Police officer,
North Waziristan

No. 2084-96 /SRC dated 20.09.2021

Copy of the above is submitted for favour of information:

1. The District Accounts Officer, North Waziristan for necessary action.
2. The RI/LO Police line Miranshah for necessary action.
3. The PO, OASI, EC & SRC for n/action.

District Police officer,
North Waziristan

Attested
S.D. P.O. Ghoreat Ullah,
Litigation Officer,
D.P.O Office, North Waziristan.
CNIC #: 21506-6489152-7

ORDER:

~~(P-9)~~

(P-9) (Annex-C)

This order will dispose off departmental appeal preferred by I.A.C. Adl. Khan s/o Syed Wali Khan of North Waziristan District Police, wherein he has prayed for setting aside the order of major punishment of "dismissal from service" imposed upon him by DPO North Waziristan vide OB No.472 dated 20.09.2021 on the following allegations:-

- That he was selected for recruit/basic training course commencing from 21.12.2020 at HQs Tochi Scouts Miranshah Training Centre vide DPO Training Order No.5132/Trg dated 23.5.2021, but he did not comply the lawful order and absented himself from govt duty without any cogent reason, leave or permission of the competent authority which speaks gross misconduct on his part.

Comments from DPO North Waziristan vide his letter No.5473/SRC dated 08/04/2022 were received and perused. The appellant was also heard in person in orderly room on 26.05.2022. He is not fit for police duty physically and mentally.

Therefore, I, Syed Ashfaq Anwar, PSP, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1977 (amended in 2014) hereby endorsed the order of DPO North Waziristan vide OB No.472 dated 20.09.2021. His appeal is rejected as he is not fit for police duty physically and mentally.

ORDER ANNOUNCED

OB No. 185
Dated: 30 05 /2022.



[Large handwritten signature and scribbles]

Regional Police Officer,
Bannu Region,
Bannu.

No. 2236 /RC, dated Bannu vide 30.05 /2022
Cc:

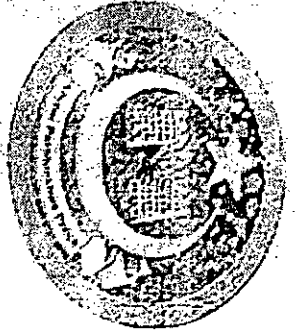
DPO-North Waziristan for information and necessary action with reference to OB No. 5473/SRC dated 08/04/2022 along with complete character and Service Record of Adl. Khan s/o Syed Wali Khan for record in your office which may be acknowledged, please.

OB-655
02/06/2022
RC
[Handwritten signature]

Attested
[Signature]
S.D.P.O. Qudrat Ullah,
Litigation Officer,
D.P.O Office, North Waziristan.
CNIC #: 21506-6489152-7

(P-10) (Annex-D)

11/6



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

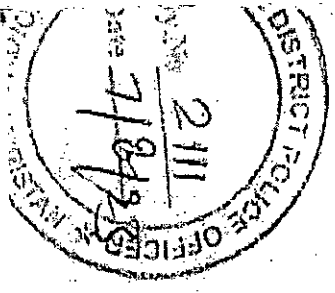
No. S/ 1985 /23, dated Peshawar the 26/07/2023.

To : The Regional Police Officer,
Bannu.

Subject: REVISION PETITION.

Memorandum:
The Competent Authority has examined and filed the revision petition submitted by Ex-Constable Adil Khan s/o Syed Wali Khan of North Waziristan district Police against the penalty dismissal from service awarded by DPO North Waziristan vide O/B No. 472, dated 20.09.2021, being time barred.

The applicant may please be informed accordingly.



(AFSAR JANI)
Registrar.

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Attested
S.D.P.O. Quadrat Ullah,
Officer,
North Waziristan.
CNIC #: 41000-0489152-7