


FORM OF ORDER SHEET

Court of _____

Appeal No. 1239/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/08/2024	<p>The appeal of Mr. Shahbaz presented today by Mr. Syed Nauman Ali Shah Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 5/9/2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Shehbaz received today i.e on 12.08.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ Printing of memo of appeal is dim.
- ✓ Annexures B, C & D of the appeal are illegible be replaced by legible/better one.

No. 535 /Inst./2024/KPST,

Dt. 12/8 /2024.

Amal Ullah
OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Noman Ali Bukhari Adv.
High Court at Peshawar.

Sr,
Objections Remand re file re-submitted.

Noman
23/8/24

BEFORE THE HONBLE SERVICE TRIBUNAL PESHAWAR

CHECK LIST

1.	Case title	<i>Shahbaz vs Police</i>	Yes	No
2.	Case is duly signed.		Yes	No
3.	The law under which the case is preferred has been mentioned.		Yes	No
4.	Approved file cover is used.		Yes	No
5.	Affidavit is duly attested and appended.		Yes	No
6.	Case and annexure are property paged and numbered according to index.		Yes	No
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.		Yes	No
8.	Certified copies of all requisite documents have been filed.		Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filled.		Yes	No
10.	Case is within time.		Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.		Yes	No
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500 for other as required.		Yes	No
13.	Power of attorney is in proper form.		Yes	No
14.	Memo of addressed filed.		Yes	No
15.	List of books mentioned in the petition.		Yes	No
16.	The requisite number of spare copies-attached (Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)		Yes	No
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.		Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)		Yes	No

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:-
 Signature:- *Syed Noman Ali Gulchani*
 Dated:- *12/8/20*

FOR OFFICE USE ONLY

Case:- _____
 Case received on _____
 Complete in all respect: Yes/No, (If NO, the grounds) _____
 Signature _____
 (Reader)
 Dated:- _____
 Countersigned:- _____
 (Deputy Registrar)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1239/2024

Shehbaz

V/S

Police Deptt:

INDEX

S.No	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-07
2.	condonation of delay application	-----	08
3.	Affidavit		09
4.	Copy of charge sheet	A.	10
5.	Copy of reply to charge sheet	B.	11
6.	Copy of impugned order	C.	12
7.	copy of departmental appeal	D.	13-18
8.	Copy of rejection order	E.	19
9.	Copy of naqal mad	F.	20-23
10.	Copy of record	G.	24
11.	Copy of show cause	H.	25
12.	Vakalat Nama	-----	26


APPELLANT

Shehbaz

THROUGH:


(SYED NOMAN ALI BUKHARI)

Advocate, High Court, Peshawar


(UZMA SYED)

Advocate, High Court, Peshawar

CELL NO: 0306-5109438

1

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1239 /2024

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 14887

Dated 12-08-2024

Mr. Shehbaz Driver Constable, No:09,
PS Saddar , District Hangu.

.....(Appellant)

VERSUS

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

.....(Respondents)

12/8/24

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 30.11.2023 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE ILLEGALLY WITHOUT LAWFUL AUTHORITY AND AGAINST THE REJECTION ORDER DATED 12/06/2024 RECEIVED TO APPELLANT ON 14/07/2024 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED WITHOUT SHOWING ANY REASON.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDERS DATED 30/11/2023 AND 12/06/2024 RECEIVED TO APPELLANT ON 14/07/2024, MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE FROM THE DATE OF DISMISSAL WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

①

APPEAL NO. 1239 /2024

Mr. Shehbaz Driver Constable, No:09,
PS Saddar, District Hangu.

.....(Appellant)

VERSUS

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

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 30.11.2023 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE ILLEGALLY WITHOUT LAWFUL AUTHORITY AND AGAINST THE REJECTION ORDER DATED 12/06/2024 RECEIVED TO APPELLANT ON 14/07/2024 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED WITHOUT SHOWING ANY REASON.

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THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDERS DATED 30/11/2023 AND 12/06/2024 RECEIVED TO APPELLANT ON 14/07/2024, MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE FROM THE DATE OF DISMISSAL WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Recd. at Peshawar
23/8/24

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was serving as driver constable in police deptt. The appellant performed his duties upto the entire satisfaction of his superiors with full zeal and zest and unblemished service record of appellant is evident of that.
2. That the appellant was served with charge sheet on the basis of absentia w.e.from 01.09.2023 till date, which was properly replied by the appellant and denied the allegation. **copy of charge sheet and reply is attached as annexure-A & B.**
3. That the inquiry was conducted without any opportunity was provided to the appellant and on the basis of one sided inquiry the show cause notice was issued but the same was not served upon the appellant, despite that the appellant was present at PS duwaba. So, ultimately the appellant was dismissed from service vide order dated 30-11-2023 against the law and rules. **Copy of impugned order is attached as annexure-C.**
4. That the appellant feeling aggrieved filed departmental appeal which was rejected vide order dated 12/06/2024 received to the appellant on 14/07/2024, Hence, the present service appeal on the following grounds amongst other. **Copy of Departmental appeal and rejection order is attached as annexure-D &E.**

GROUND:

- A. That the impugned order dated 30/11/2023 and 12/06/2024 was passed in fanciful manner without any proof, which is against the law, norms of justices and without lawful authority.
- B. That no preliminary show cause notice calling explanation of the appellant prior to issuance of charge sheet / summary of allegation was served upon the appellant.
- C. That the impugned order of dismissal of the appellant dated 30-11-2023, is not in accordance with law, facts and evidence on record, hence it is liable to be set aside.
- D. That the charge sheet leveled against the appellant is that while posted in police station sadder, the appellant absented himself from 01-9-

- 2023 up to the date, which is totally wrong because the appellant was just absented for the period 29/10/2023 to 19/11/2023 due to reason that the appellant was gone for performing Umrah.
- E. That the appellant was shown absent from the PS sadder while the appellant was transfer to Duwaba again on 09/09/2023 and appellant performing his duties as PS duwaba on the direction of high official. These all facts was ignored by the authority. So, the appellant never remained absent: **The copy of Naqalmad is attached as annexure-F.**
- F. That it has been wrongly mentioned in the impugned order that the appellant failed to submit reply to the charge sheet. As indicated in the above para the appellant accordingly submitted his reply to the enquiry officer, which manifestly is an un-rebuttable proof of his presence on duty.
- G. That the appellant never remained absent, but due to the reasons not known to the appellant he was shown absent.
- H. That though the appellant is shown absent from duty with effect from 01-9-2023 up to the date but daily dairy dated 09-9-2023 has shown the appellant present on duty. Similarly Daily Diary on 29-9-2023 has also shown the appellant present on duty and lastly in the daily dairy dated 28-10-2023 the appellant is shown present on duty and sending him to Police Lines Hangu from duaba on transfer.
- I. That the above Daily Diaries have belied allegation of absence of the appellant and thus the whole inquiry comes down on the ground. Resultantly no case has been left against the appellant and as such deserves reinstatement in service with all back benefits.
- J. That if reply to the charge sheet submitted by the appellant is perused/considered, it will reveal that though the appellant was present but he was marked absent on malafide ground. The appellant was never informed about his absence, service of charge sheet and initiation of departmental inquiry against him because the concerned police stations apprehended that if the appellant is informed about all these acts he would inform the high ups about the attitude being met by him at the hands of the subordinates of the competent authority. During all transfers / postings being made regarding the appellant, he remained present on duty and he never absented himself as alleged in the charge sheet. That the Enquiry Officer held one sided enquiry.

Even though the appellant was present on duty but he was not informed about the enquiry nor summoned by the enquiry officer hence such a legally defective enquiry is not sustainable in the eyes of law and deserves to be brushed aside.

K. That contention of the department is incorrect. The appellant was undoubtedly present on duty and there was no reason to send the Final Show Cause Notice dated 24/10/2024 at the home address of the appellant. While the appellant was present till 28/10/2024 on his duty. Hence at this score too the punishment order being not in accordance with law requires to be set aside. **Copy of the record is attached as annexure-G.**

L. That the show cause was collected by the appellant after dismissal order from the office but the inquiry report was not handed over to the appellant with show cause notice. On perusal of the show cause notice noted that the inquiry officer just show appellant absent for 8 days although not true as the appellant never remained absent but the allegation leveled against the appellant in charge sheet and show cause became null and void. it is well established principle of justice and fair play that where, an official has chances of awarding major punishment, a detailed enquiry is required to be conducted and under such state of affairs and without proper inquiry major punishment would be opened to be called in question and such order is inoperative on the rights of the appellant. **Copy of the show cause is attached as annexure-H.**

M. That the impugned order shows that the appellant was awarded punishment of dismissal from the date of his absence while Article 12 of the constitution has clearly envisaged that retrospective punishment cannot be awarded to defaulter and if punishment is awarded retrospectively it will be termed as unconstitutional, thus the impugned order is illegal ab-initio and liable to be set aside.

N. That neither the copy of the findings report of the inquiry officer (authorized officer) was provided to the appellant nor was alleged final show cause notice served upon the appellant. Due to such failure on the part of the competent authority, the appellant would be deemed to have not been given reasonable opportunity of defense. In such circumstances, the impugned order (order of dismissal) would be liable to be set aside and the appellant entitled to re-instatement in service w.e.f. the date of his dismissal from service. In this respect

reliance is placed on SCMR (Supreme Court Monthly Review) 1983 Page 229.

- O. That the appellant was not associated with the inquiry proceedings by the inquiry officer and thus deprived of his legal right of cross examination. Thus the appellant was kept unaware of any inquiry against him.
- P. That according to reported judgment cited as *1997 PLD page 617* stated that every action against natural justice treated to be void and unlawfully order. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel according to superior court judgment cited as *2017 PLD 173 and 1990 PLC cs 727.*
- Q. That the appellant was deprived of his inalienable right of personal hearing and opportunity to cross examine witnesses. The opportunity of offering proper defense was snatched from the appellant. The Hon'able Service Tribunal has been consistently following this yardstick almost in all cases, so departure from the set pattern and that too without any cogent reason in the present case would cause irreparable damage to the appellant at the cost of substantial justice. Such inquiry proceeding could not be termed as fair, just and reasonable, as the respondents badly failed to prove allegation mentioned in chargesheet. such practice has already been disapproved by the apex court contained in its judgments *PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS)997 and 2019 SCMR 640.*
- R. That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as *2019 CLC 1750* stated that Audi Alterum Partum" shall be read as part and parcel of the every statute. The same principle held in the Superior Court judgments cited as *2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67,* where in clearly stated that the penalty awarded in violation of maxim "Audi Alterum Partum" is not sustainable in the eye of law.
- S. That the appellant appeared before the officers and presented his case. But unfortunately the appellant was never given opportunity to present his defense and condemned unheard.
- T. That during the entire service no single complaint regarding misuse of authority, bribery, corruption, misconduct or any other departmental proceedings exist against the appellant.

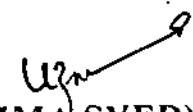
- U. That the attitude and conduct of the Department shows that they were bent upon to remove the appellant at any cost.
- V. That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- W. That the penalty of dismissal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- X. That the impugned order is against the articles 2A , 4, and 25 , of the constitution of Pakistan 1973.
- Y. That the inquiry report and show cause was not provided to the appellant, which is clear violation of Superior Court judgment. That principal is also held in the appeal of the **Waleed Mehmood vs Police Deptt, Zeeshan vs police and jan muhammad vs police**, so the impugned order was passed in violation of law and rules and norms of justice. The same principle held in the Superior Court judgments cited as 1981 PLD SC 176 and 1987 SCMR 1562, without which all the proceedings is nullity in the eyes of law. Reliance was placed on 2018 PLC (CS) 997 and 2019 SCMR 640.
- Z. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT
Shehbaz

THROUGH:


(SYED NOMAN ALI BUKHARI)
Advocate, High Court, Peshawar


(UZMA SYED)
Advocate, High Court, Peshawar

7

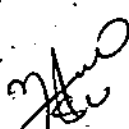
CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2024

Shehbaz

V/S

Police Deptt

**APPLICATION FOR CONDONATION
OF DELAY IN INSTANT APPEAL**

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honourable Tribunal till no date has been fixed.
2. That the rejection order was received to the appellant on 14/07/2024. So from the date of communication the service appeal is within time. So, as per section 4 of KP Service Tribunal Act 1974 and superior court judgments the limitation was not started from the born date of order but the limitation was started from the date of communication of the impugned order.
3. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.

It is therefore most humbly prayed that on acceptance of this application delay in submission of service appeal if any i.e due to non communication of order may kindly be condoned and appeal may be decided on merit in best interest of justice.


APPELLANT
Shehbaz

THROUGH:


SYED NOMAN ALI BUKHARI
(ADVOCATE, HIGH COURT)

&

UZMA SYED
(ADVOCATE, HIGH COURT)

9

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____ /2024

Shehbaz

V/S

Police Deptt:

AFFIDAVIT

I, Shehbaz, (Appellant) do hereby affirm that the contents of this service appeal and application are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT


Shehbaz





A 10

OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel No. 0925-623878 & Fax No. 0925-620135
Email: dpohangu8@gmail.com

DISCIPLINARY ACTION

I, **MR. NISAR AHMAD, PSP, QPM, DISTRICT POLICE OFFICER, HANGU**, as competent authority, am of the opinion that you, **Driver Constable Shehbaz No. 09** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

- i. You, Driver Constable Shehbaz No. 09 while posted at Police Station Saddar have absented yourself from official duty with effect from 01.09.2023 to till date without any leave or prior permission vide DD No. 20, dated 01.09.2023 PS Saddar.
- ii. Your absence shows disinterest, negligence and amounts to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations DSP Cbf is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

**DISTRICT POLICE OFFICER,
HANGU**

No. 240 /EC, dated 13 / 09 /2023.

- Copy of above to:-
1. The _____ :- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
 2. The **Accused official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

ATTACHED

~~ATTENTION~~

28-09-22

[Handwritten signature]

M. Y. M.

3. The first part of the document is a list of names and their corresponding addresses. The names are written in Hindi and the addresses are also in Hindi. The list is organized in a tabular format with columns for names and addresses.

The second part of the document contains a detailed description of the items listed in the first part. It provides information about the nature of the items, their quantities, and their estimated values. This section is written in a more narrative style, providing context for the list.

The third part of the document is a summary or conclusion. It reiterates the main points of the document and provides a final statement or recommendation. This section is also written in Hindi.

[Handwritten signature]

B
11

بحوالہ چارٹ شیٹ نمبر 240 مورخہ 13-09-2023 بیان کرتا ہوں

میں اس تحریر کے رد سے تحریری بیان دیتا ہوں کہ میں تھانہ دوابہ میں بطور ڈرائیور تعینات ہوں جبکہ تھانہ دوابہ میں دو ڈرائیوران تعینات ہیں میں ڈیوٹی سرانجام دینے کے بعد ڈرائیوران کے بعد 3 یوم رخصت بتایا پر چلا گیا مورخہ 23-8-27 کو میں گھر خود چلا گیا اور بحوالہ مد 05 روز نامچہ 23-08-27 تھانہ دوابہ میں مجھ کو غیر حاضر کر کے اسی دن مجھ کو پولیس ایچ او صاحب تھانہ دوابہ نے کہا کہ غیر حاضری کے متعلق مجھ کو کسی نے بھی نہیں کہا 3 یوم رخصت گزارنے کے بعد واپس آیا تو اس دوران مجھے بتلایا کہ ایچ او صاحب نے آپ کو تبادلہ پولیس لائن کیا ہے اور مزید بتلایا کہ ایچ او کو میں آپ کے متعلق درخواست کرونگا میں نے پولیس لائن میں حاضر نہیں کی ثاقب MTO نے مجھے فون کے بتلایا کہ آپ کا تبادلہ پولیس لائن سے تھانہ صدر ہو چکا ہے میرے آمد کے بغیر پولیس لائن سے دوابہ صدر روانگی کی گئی ہے اور تھانہ صدر میں مجھے بحوالہ مد 20 روز نامچہ 23-09-21 غیر حاضر کیا گیا اور ساتھ میں بندش تنخواہ درخواست بھی تحریر کیا ہے جس کے وجہ سے میرے تنخواہ بند ہے اور اس طرح میں نے تھانہ صدر میں آمد نہیں کیا تھا تھانہ صدر نے مجھ کو تھانہ دوابہ روانہ کیا ہے تمام تبادلہ جات کے دوران میں تھانہ دوابہ میں موجود رہا میرے ساتھ سراسر زیادتی کی ہے۔

ثاقب MTO نے اپنے طرف سے میرے تبادلہ جات کی اور اپنے طرف سے میرے حاضری ٹھہکی کی ہے جبکہ اس میں DPO صاحب کا کوئی حکم نہیں تھا اگر تبادلہ جات میں افسران کا حکم ہوتا تو میں تعمیل کرتا یہ میرا بیان ہے۔

دستخط انگریزی.....

~~ATTACHED~~

CS CamScanner

DISTRICT POLICE OFFICER,
HANGU

No. 5843-45/EC, dated Hangu, the 30/11/2023
Copy of above is submitted to the Regional Police Officer, Kohat Region, Kohat for
The DSP HQTs with the direction to collect the official for forthwith, while the P/O be
made recovery accordingly, and the Reader & CMC for necessary action.
Driver Constable Shehbaz No. 09 s/o Javed Khan r/o Zandar Kiel Thal, Distt Hangu
for information.

DISTRICT POLICE OFFICER,
HANGU

Order No. 750
Date 29/11/2023

Keeping in view of the above and having gone through available record, the undersigned
has arrived at the conclusion that neither the defaulter Driver Constable Shehbaz No. 09 has made his arrival
report from the prison, nor prior of joining the HCC from the department for investigation which
indicates that he is not more interested to serve the Police Department. Moreover, in such circumstances, his
retention in Police Department is burden on public exchequer, therefore, I, Nisar Ahmad, PSP/QPM, District
Police (Hangu), Hangu in exercise of the powers conferred upon me under the Rules ibid, dispense with general
proceedings, awarded him major punishment and dismissal from service from the date of his
release on 01/11/2023 and recoveries be made according to rules with immediate effect.

This order is passed on the department enquiry against Driver Constable Shehbaz No. 09 while posted at Police Station Sadder under the Kyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).
Brief facts of the case are as under:-
Driver Constable Shehbaz No. 09 while posted at Police Station Sadder has absented
himself from official duty with effect from 01.09.2023 to till date without any leave or
prior permission vide DD No. 20, dated 01.09.2023 PS Sadder.
His absence shows disinterested, negligence and amounts to gross misconduct on his part.
He was served with Charge Sheet and statements of allegations under the Kyber
Pakhtunkhwa Police Rules 1975 (Amendment 2014) vide this office No. 240/EC, dated 13.09.2023, to which he
failed to submit his reply to the DSP, City Hangu, who was appointed as Enquiry Officer to conduct departmental
enquiry against him. After completion of enquiry, the Enquiry Officer submitted his findings vide No.
212/SPM, dated 13.10.2023 in which defaulter Driver Constable Shehbaz No. 09 held guilty for the charges
brought against him. Consequently, he was called in orderly room on 24.10.2023, but he did not appear before the
orderly room thus, final Show Cause Notice was issued to him vide this office No. 182/EC, dated 24.10.2023, but
reply thereof was submitted by his brother namely Subhmanad Abbas s/o Javed Khan r/o Zandar Kiel Thal.
Selling therein that his brother Driver Constable Shehbaz No. 09 has gone abroad (Saudi Arabia) on 29.10.2023.
for pursuing Umrah. Subsequently, a Notice was advertised in daily newspaper regarding issuing of last
notice to him for appearing/making his arrival report to Police Lines Hangu within 07 days positively, but as far
no positive response has been achieved from him.

ORDER

OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU
T: 0925-623878 Fax: 0925-620133

C-12

**OFFICE OF THE
DISTRICT POLICE OFFICER
HANGU**

ORDER

This order is pleased on the departmental enquiry against Driver Constable Shehbaz No 09 while posted at Police Station Saddar under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).

Brief facts of the case are as under:-

- i. Driver Constable Shehbaz No 9 while posted at Police Station Saddar has absented himself from official duty with effect from 01.09.2023 to till date without any leave or prior permission vide DD No 20, Dated 01.09.2023 PS Saddar.
- ii. His absence shows disinterest negligence and amounts to gross misconduct on his part.

He was served with charge sheet and statements of allegations under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014) vide this office No. 240/EC, dated 13.09.2023 to which he failed to submit his reply to the DSP, City Hangu, which was appointed as Enquiry Officer to conduct departmental enquiry against him. After completion of enquiry the Enquiry Officer submitted his findings vide No. 121/SDPO, dated 13.10.2023 in which defaulter Driver Constable Shehbaz No. 09 held guilty for the charges leveled against him. Consequently, he was called in orderly room on 24.10.2023, but he did not appear before the undersigned thus, Final Show Cause Notice was issue to him vide this office No. 182/EC, dated 24.10.2021, but reply thereof was submitted by his brother namely Muhammad Abbas s/o Javid Khan e/o Zandar Khel thall, stating therein that his brother Driver Constable Shoheez No. 09 has gone abroad (Saudi Arabia) on 29.10.2023. for performing Umara. Subsequently, a Notice was advertised in dally newspaper regarding issuing of Last Notice to him for appearing/matizg his arrival report in Police Lines zangu within 07 days positively, but so far no positive response has been achieved from him.

Keeping in view of the above an I having gone through available record, the undersigned hues arrived at the conclusion that neither the defaulter Driver Constable Shchbaz No. 09 has made his arrival report from his prolong absence nor prior of obtained the NOC from the department for proceeding abroad, which indicates that he is not more interested to serve the Police Department. Moreover, in such circumstances, his retention in Police Department is burden on public exchequer, therefore, I, Nisar Ahmad, PSP,QPM, District Police Officer, Hangu in exercise of the powers conferred upon me under the Rules ibid, dispense with general proceedings, awarded him major punishment of Dismissal from Service from the date of his absence i.e. 01.08 2023 and recoveries be de cording to rules with immediate effect.

Order Announced

OB No. 750

Dated 08.11.2023

**DISTRICT POLICE OFFICER
HANGU**

No. 5843-45/EC, dated Hangu, the 30.11.2023

Copy of above is submitted to the regional Police Officer, Kohat Region, Kohat for favour of information please.

THE HONOURABLE DEPUTY INSPECTOR GENERAL OF POLICE
KOHAT REGION KOHAT

APPEAL UNDER RULE 11 OF THE POLICE RULES 1975
(AMENDED 2014) AGAINST ORDER OF THE WORTHY DISTRICT
POLICE OFFICER HANGU DATED 30-11-2023 VIDE WHICH
THE APPELLANT WAS DISMISSED FROM SERVICE WITHOUT
ANY LAWFUL JUSTIFICATION.

Respected Sir,

With great respect and veneration, the appellant may graciously be allowed to submit the following for your kind and sympathetic consideration;

Facts:

1. That the appellant was enrolled as Driver Constable MT in the year 2009.
2. That the appellant after enrollment as Diver Constable had successfully completed / qualified the Basic Course and started his career.
3. That the appellant round the clock worked hard and served the department with dedication.
4. That the appellant due to his meritorious services was liked by his senior officers and most of them desired to serve with them as driver.
5. That the appellant served the police department with honesty due to which his respectable officers posed their unflinching confidence in the appellant.
6. That the appellant while posted in Police Station Saddar Hangu was unfortunately charge sheeted to the effect that vide Daily Diary No.20

~~ATTESTED~~

dated 01-9-2023 the appellant absented himself with effect from 01-9-2023 to date without any leave or prior permission.

7. That the appellant submitted his reply to the charge sheet which was not considered and ultimately the appellant was dismissed from service vide order dated 30-11-2023.
8. That upon the order of dismissal, appellant has a number of legal and factual reservations.
9. That following are some of the grounds of appeal among the other which are detailed below for your kind and sympathetic consideration.

Grounds of Appeal:

- A. That the impugned order of dismissal of the appellant dated 30-11-2023, is not in accordance with law, facts and evidence on record, hence it is liable to be set aside.
- B. That the charge sheet leveled against the appellant is that while posted in police station sadder, the appellant absented himself from 01-9-2023 up to the date. If the allegation is true, then how the appellant received the statement of allegation and how he submitted his written statement to the enquiry officer. (Both copies of statements of allegations and reply are enclosed herewith as ready reference)
- C. That it has been wrongly mentioned in the impugned order that the appellant failed to submit reply to the charge sheet. As indicated in the above para the appellant accordingly submitted his reply to the enquiry officer, which manifestly is an un-rebuttable proof of his presence on duty.
- D. That the appellant never remained absent, but due to the reasons not known to the appellant he was shown absent.
- E. That though the appellant is shown absent from duty with effect from 01-9-2023 up to the date but daily dairy dated 09-9-2023 has

~~ATTESTED~~

shown the appellant present on duty. Similarly Daily Diary on 29-9-2023 has also shown the appellant present on duty and lastly in the daily diary dated 28-10-2023 the appellant is shown present on duty and sending him to Police Lines Hangu on transfer. (Copies of the Daily Diaries are enclosed).

- F. That the above Daily Diaries have belied allegation of absence of the appellant and thus the whole inquiry comes down on the ground. Resultantly no case has been left against the appellant and as such deserves reinstatement in service with all back benefits.
- G. That if reply to the charge sheet submitted by the appellant is perused/considered, it will reveal that though the appellant was present but he was marked absent on malafide ground. The appellant was never informed about his absence, service of charge sheet and initiation of departmental inquiry against him because the concerned police stations apprehended that if the appellant is informed about all these acts he would inform the high ups about the attitude being met by him at the hands of the subordinates of the competent authority.
- H. During all transfers / postings being made regarding the appellant, he remained present on duty and he never absented himself as alleged in the charge sheet. (Copy of reply to the charge sheet is enclosed)
- I. That the Enquiry Officer held one sided enquiry. Even though the appellant was present on duty but he was not informed about the enquiry nor summoned by the enquiry officer hence such a legally defective enquiry is not sustainable in the eyes of law and deserves to be brushed aside.
- J. That the impugned order states that the Final Show Cause Notice was sent at the home address of the appellant wherein his brother received the said notice and stated that the appellant had gone to Saudi Arabia for Umra.

~~ATTESTED~~

- K. That contention of the department is incorrect. The appellant was undoubtedly present on duty and there was no reason to send the Final Show Cause Notice at the home address of the appellant. Moreover, brother of the appellant at whom Final Show Cause Notice was allegedly served has strained relations with the appellant and in order to damage service career of the appellant, he has deliberately given incorrect, misleading and false statement which is not worth reliance but unfortunately such a false statement was believed by the department and made it as source /basis of punishment. Hence at this score too the punishment order being not in accordance with law requires to be set aside.
- L. That the impugned dismissal order shows that, the competent authority dispensed with the general proceedings while, it is well established principle of justice and fair play that where, an official has chances of awarding major punishment, a detailed enquiry is required to be conducted and under such state of affairs, dispensing with the general proceedings is uncalled for and major punishment would be opened to be called in question and such order is inoperative on the rights of the appellant.
- M. That the impugned order shows that the appellant was awarded punishment of dismissal from the date of his absence while Article 12 of the constitution has clearly envisaged that retrospective punishment cannot be awarded to defaulter and if punishment is awarded retrospectively it will be termed as unconstitutional, thus the impugned order is illegal ab-initio and liable to be set aside.
- N. That the impugned order has also indicated that ex-parte proceedings were initiated against the appellant and notice was published in a daily newspaper.

~~ATTESTED~~

When the appellant was present on duty, there was no reason for the deptt: to initiate ex-parte proceedings. The alleged ex-parte proceedings were defective because name of the newspaper is not mentioned. Moreover, it is required that such notice shall be published in at least two daily national newspaper but in the instant case notice was published in only one newspaper and it is not known that whether that news paper was local or national newspaper, hence the ex-parte proceedings are not conducted in accordance with the rules and procedure. Legally speaking such proceedings cannot be termed as ex-parte proceedings and thus no punishment can be based on such defective proceedings.

- O. That the enquiry proceedings were conducted against the appellant in such a manner that the appellant was deliberately not associated with the enquiry proceedings inspite of the fact that the appellant was present on duty thus making the enquiry as legally doubtful and of no consequence.
- P. That it appears that the authority was adamant to remove the appellant from service at any cost for the reasons best known to them.
- Q. That by such a doubtful, speculative and one sided enquiry the only source of bread earning by the appellant was snatched and at present for no fault on part of the appellant, his entire family is suffering a starvation like situation which may result in irreparable loss.
- R. That the enquiry and the impugned order are against all norms of law, justice, equity and fair play because the appellant was not afforded opportunity to defend himself during the inquiry proceedings. Art. 10-A of the Constitution of Pakistan has laid down that every defaulter / accused shall be given fair trial. In the case of the appellant no fair trial was given by the concerned and hence the

~~ATTESTED~~

- outcome of the inquiry including the inquiry proceedings have become unconstitutional and no punishment can be based on such unconstitutional proceedings
- S. That the impugned order has lowered down good reputation of the appellant in the eyes of the general public, family members on one hand and in the eyes of the worthy officers and colleagues on the others.
- T. That the impugned order being illegal, irregular, against rules, facts and evidence on record is liable to be set aside in the great interest of law, justice and fair play.
- U. That if deemed proper the appellant may kindly be heard in person.

Prayer:

It is, therefore, prayed / requested that order of punishment being one sided, unconstitutional, colorful, speculative, not accordance in law, rules and based on whims and principles of natural justice may kindly be set aside. The appellant may be reinstated in service with all back benefits. The appellant will be highly obliged and he will pray for your long life and prosperity throughout his life for this act of kindness.

Yours Obediently,



Shahbaz Khan Javed (Appellant)

Ex-Constable No.09

Resident of Mohallah Qalander Khan

Tehsil Thall District Hangu.

Cell No. 0332-9935093.

Dated: 28-12-2023.

ATTESTED

ORDER.

This order will dispose of the departmental appeal preferred by Ex- Driver, Constable Shahbaz No. 09 of Operation staff Hangu against the order of District Police Officer, Hangu whereby he was awarded major punishment of dismissal from service vide OB No. 750 dated 29.11.2023. Brief facts of the case are that he, while posted at Police Station Saddar Hangu, absented himself from lawful duty with effect from 01.09.2023 till the date of dismissal.

District Police Officer, Hangu initiated proper departmental enquiry proceedings against him and Sub Divisional Police Officer, Hangu, was appointed as Enquiry Officer. The Enquiry Officer, after fulfillment of codal formalities, submitted his findings wherein the appellant was found guilty of the charges leveled against him. On recommendation of the enquiry officer the District Police Officer, Hangu issued Final Show Cause Notice to him vide No. 182/EC dated 24.10.2023 but his reply to the Final Show Cause Notice was found

Keeping in view the recommendations of the Enquiry Officer and the above cited circumstances of the case, the delinquent officer was awarded major punishment of dismissal from service vide District Police Officer, Hangu OB No. 750 dated 29.11.2023.

Feeling aggrieved from the order of District Police Officer, Hangu, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in the office of the undersigned on 29.05.2024. During personal hearing the appellant did not advance any plausible explanation in his defense.

Foregoing in view, I, Sher Akbar, PSP, S.St, Regional Police Officer, Kohat, being the appellate authority, am of considered opinion that the punishment of dismissal from service awarded to the delinquent officer is justified and, therefore, warrants no interference. Hence appeal of the Ex- Driver Constable Shahbaz No. 09 is hereby rejected, being devoid of substance and merit.

Order Announced
29.05.2024

Regional Police Officer,
Kohat Region

No. 5096 /EC, Dated Kohat the 12/06/2024

Copy forwarded to District Police Officer, Hangu for information and necessary w/r to his office Memo No. 1087/LB, dated 07.03.2024. His Service Record and Fauji Misal are returned herewith.

✓
SRE/OHC
For n/acting
and stick with case

DISTRICT POLICE
OFFICER HANGU



14-7-2024

ATTACHED

(۵۳)

۸۰۰-۰۰۰-۱۹۰۰

در خصوص این پرونده به تاریخ ۱۳۸۵/۰۳/۰۱ در دفتر ثبت اسرار
تاریخ ۱۳۸۵/۰۳/۰۱ در دفتر ثبت اسرار

موضوع: تقاضای صدور سند مالکیت برای زمین واقع در
شماره ثبت: ۶۶۸/۰۳/۰۱

تاریخ: ۱۳۸۵/۰۳/۰۱
موضوع: تقاضای صدور سند مالکیت برای زمین واقع در
شماره ثبت: ۶۶۸/۰۳/۰۱

تاریخ: ۱۳۸۵/۰۳/۰۱
موضوع: تقاضای صدور سند مالکیت برای زمین واقع در
شماره ثبت: ۶۶۸/۰۳/۰۱

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SHAHBAZKHAN/JAVED MR ✓
SHAHEEN/BIBI MRS ✓
ZAR/BIBI MRS

FLIGHT SV 797 - SAUDI ARABIAN AIRLINES SUN 29 OCTOBER 2023

DEPARTURE: PESHAWAR, PK (BACHA KHAN INTL) 29 OCT 11:45
ARRIVAL: JEDDAH, SA (KING ABDULAZIZ INTL), TERMINAL 1 29 OCT 15:45
FLIGHT BOOKING REF: SV/U6DHYA
RESERVATION CONFIRMED, ECONOMY (G) DURATION: 06:00

MEAL: MEAL

NON STOP PESHAWAR TO JEDDAH
EQUIPMENT: AIRBUS A330-300

FLIGHT SV 796 - SAUDI ARABIAN AIRLINES SUN 19 NOVEMBER 2023

DEPARTURE: JEDDAH, SA (KING ABDULAZIZ INTL), TERMINAL 1 19 NOV 03:10
ARRIVAL: PESHAWAR, PK (BACHA KHAN INTL) 19 NOV 10:00
FLIGHT BOOKING REF: SV/U6DHYA
RESERVATION CONFIRMED, ECONOMY (G) DURATION: 04:50

MEAL: MEAL

NON STOP JEDDAH TO PESHAWAR
EQUIPMENT: AIRBUS A330-300

FLIGHT(S) CALCULATED AVERAGE CO2 EMISSIONS IS 448.64 KG/PERSON
SOURCE: ICAO CARBON EMISSIONS CALCULATOR
<http://www.icao.int/environmental-protection/CarbonOffset/Page.do?offset=1>

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ATTACHED



H

25
OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: 0925-623878 Fax 0925-620135

No. 182 /EC dated Hangu the 24/10/2023

FINAL SHOW CAUSE NOTICE

I, **Nisar Ahmad, PSP, OPM, District Police Officer, Hangu** as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (Amended 2014) is hereby serve you, **Driver Constable Shehbaz No. 09 while posted at Police Station Saddar** as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer wherein you were heard in person by recording your statement, but you failed to present any justification in your self defence thus, held you guilty for the charges leveled against you and recommended to be counted your eight (08) days absence period as leave without pay vide findings No.2124/SDPO, dated 13.10.2023.
- ii. From going, through the findings and recommendation of the inquiry officer, the material on record and other documentary proof including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

- i. **You, Driver Constable Shehbaz No. 09 while posted at Police Station Saddar have absented yourself from official duty with effect from 01.09.2023 to till date without any leave or prior permission vide DD No. 20, dated 01.09.2023 PS Saddar.**
- ii. **Your absence shows disinterest, negligence and amounts to gross misconduct on your part.**

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules *ibid*.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the findings of inquiry officer is enclosed.

ATTESTED


**DISTRICT POLICE OFFICER,
HANGU**

Uzma Syed
Attc

BC NO. 15-5643
ADVOCATE HIGH COURT
SYED NOMAN ALI BUKHARI

Muhammad
ACCEPTED

Shabbaz
(CLIENT)

DATE: _____/20

I, Shabbaz (Appellant) do hereby appoint and constitute the SYED NOMAN ALI BUKHARI Advocate High Court for the aforesaid Appellant(s), Petitioner(s), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct counsel, to represent the aforesaid Appellant, Petitioner(s), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

Police Deptt Respondent (s)
Defendants (s)

VERSUS

Shabbaz Appellant
Petitioner
Plaintiff

IN THE COURT OF JP Service Tribunal, Peshawar

NO. _____/20

VAKALAT NAMA