

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHWAR

Service Appeal No 15909/2020

Ex-Constable Muhammad Usman No: 282 District Police Shangla
Vs

- (1) The Inspector General of Police Khyber Pakhtunkhwa, Peshawar
- (2) The Regional Police Officer Malakand, at Saidu Sharif Swat
- (3) The District Police Officer Shangla, at Alpuri

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Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHWAR****Service Appeal No 15909/2021****Ex-Constable Muhammad Usman No: 282 District Police Shangla****Vs****(1) The Inspector General of Police Khyber Pakhtunkhwa, Peshawar****(2) The Regional Police Officer Malakand, at Saidu Sharif Swat****(3) The District Police Officer Shangla, at Alpuri**

Respectfully Sheweth:

Para wise reply by respondents:

Preliminary Objections:

- (1) That the present service appeal is not maintainable in its form.
- (2) That the appellant has not come to this August tribunal with clean hands.
- (3) That the present appeal is badly time barred. According to service rules of service tribunal act 1974.
- (4) That the honorable service tribunal has no jurisdiction to entertain the present service appeal.
- (5) That the appellant has got no cause of action or locus stand.
- (6) That the appellant has suppressed the material facts from this honorable tribunal.

ON FACTS:

- (1) Para No 1 pertains to record.
- (2) Para No 2 also pertains to record and need no comments.
- (3) That Para No 3 is correct to extent that the FIR No 125 dated 22/08/018 under section 302/324/6/7ATA was registered at PS Besham but it has no relevancy to the instant appeal of the appellant.
- (4) That the Para No 4 pertains to the official duty of applicant at the post decade.
- (5) That the Para No 5 is correct to extend that incident not belongs /affect this appeal.
- (6) Incorrect, No such like life threats received to the applicant and his family. In this regard applicant did not inform the Police department nor filed any application in any Police Station, during course of departmental enquiry his father Mr. Ihsan Ullah stated in his statement that his son Mr. Muhammad Usman (Applicant) proceeded abroad (Saudi Arabia) for laboring. (Copy of the statement and travelling history is annexed as annex: **A, B, C & D**). Furthermore, the appellant displaced cowardice which also past native impact on other colleagues.
- (7) Para No 7 is incorrect, proper charge sheet and memo of allegation were issued to the applicant and enquiry committee was constituted in accordance with law. Disciplinary action No 38/E dated 29/10/2008 and charge sheet was issued. Enquiry committee enquired the matter and submitted finding report that the delinquent official has gone aboard and doesn't want to continue service in police department any more. The committee recommends the applicant to be dismiss from service, final show cause notice No 38/E dated 15/11/2008 was issued and then after vide order book No 01 dated 02/01/2009 applicant was dismissed from service by the then District Police Officer Shangla. (Copy of the Disciplinary action, Charge sheet, finding report of enquiry


committee, final show cause notice and dismissal order is enclosed as annex: E.F.G.H & I for ready reference)


- (8) Applicant should displayed cowardice and lefts the area /duty which show his incompetency toward his duties.
- (9) Para No 9 is incorrect, that the first departmental appeal filed by his mother which is not maintainable under the law, further the second departmental appeal filed by appellant before the Regional Police Officer at Malakand on 16.08.2021, which found time barred for 12 years.


ON GROUND:

- (A) Ground A is incorrect, all the legal formalitiés have been fulfilled and appellant wa. proceeded against departmentally in accordance with law /rules.
- (B) Ground B is incorrect, the appellant has been treated in accordance with law and rules under the constitution of Islamic Republic of Pakistan 1973.
- (C) Ground C is incorrect, the appellant absented himself willfully and has gone aboard. Applicant doesn't want to continue service in police department. Furthermore appellant displayed cowardice and runaway.
- (D) Ground D is incorrect, the enquiry committee initiated vides charge sheet/disciplinary action No.38/E dated 29/10/2008, recommended the delinquent official dismissed from service.
- (E) Ground E is incorrect proper charge sheet, memo of allegations and final show cause notice were issued as per rules.
- (F) Ground F is incorrect, enquiry committee is initiated vide disciplinary action No. 38, dated 29/10/2008, as per recommendation of enquiry committee the applica dismissed from service.

It is therefore humbly prayed that the appeal being badly time barred may very kindly be dismissed with cost.


District Police Officer
District Police Officer,
SHANGLA.


Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.


Inspector General of Police
Khyber Pakhtunkhwa

Annex: (A)

تعمیر نام

سید محمد جمال الحق ولد سائیکس سائیکس دہری تمام در پردہ داہا ذیل
قرار دئے تاکہ سائیکس سائیکس سیرام محمد عثمان لوہن فورس میں
حکومت سائیکس سائیکس سیرام محمد عثمان - صدر دئے سائیکس سائیکس
سعودی معاشرہ کا صدر دئے سائیکس سائیکس سیرام محمد عثمان
آب و دریاں پر قبضہ سیرام محمد عثمان ہے۔ یہ ان کے نوکر یا ماخوذان
سائیکس سائیکس

مورم 15/10/08

① العاصمہ النوری

اصحاب الحق ولد سائیکس سائیکس دہری تمام

15502-0147145-3

ان کے نام

② شمس الدین ولد سائیکس سائیکس دہری تمام
تعمیر نام
15502-2007672-1
③ جان ناصر ولد سعید علی خان
15502-5786624-9

صبا انیم بن محمد عثمان 282 کے والد سے در پردہ داہا والا تعمیر نام
تعمیر نام سائیکس سائیکس سیرام محمد عثمان - صدر دئے سائیکس سائیکس
صبا انیم بن محمد عثمان 282 کے والد سے در پردہ داہا والا تعمیر نام
تعمیر نام سائیکس سائیکس سیرام محمد عثمان - صدر دئے سائیکس سائیکس

15.10.08
5, D.S. 54

Attached
ATTACHMENT CLERK
District Police Office
Sargodha

Annexure (B)

عالی

حوالہ جاری شدہ نمبر 38 تاریخ 29/10/08 جی اے سی - DPO
 مندرجہ ذیل موضوع فریق میں کہ کئی مہینوں
 282 میرا بیٹا ہے جو تقریباً ایک ماہ قبل محمد نوری
 کے سہم میں سعودی عرب ریاض چلا گیا ہے محمد نوری
 میں مذید بدزمت میں گرفتار ہے اور نہ والدین مذکورہ کا اعلان
 ہے میں کئی والدینوں جو میرے والدین کے والدین ہیں
 عدم موجودگی کے بعد میں روپوش ہو گیا ہوں لہذا استدعا
 ہے کہ میرا بیٹا محمد نوری کو واپس لے لیا جائے تو میرے والدین

احسان الحق
 اللہ
 اتصال الحق وند ساکنین کیم بیرقہ رندھی
 اللہ

15502-0147145-3

Arrested.
 ESTABLISHMENT QUERR
 District Police Office
 Shikarpur

Annex:-(C)

میں جس اعلان الحق و سہ ماہیوں کے ذریعے ذہنی اور روحانہ تباہی
میں ڈھانسنے کے ذریعے لکھنؤ کے لوگوں کو متاثر کیا گیا ہے۔
اس وقت تقریباً ایک ماہ قبل محنت مزدوری کے سلسلے میں
ریاض حدائی کے حکم پر لکھنؤ میں مذکورہ ملازمت نہیں کرتا ہے۔
صلحہ صورت میں لکھنؤ ملازمت چھوڑ کر ریاض حدائی کے گھرانے
چلے آئے ہیں۔ لکھنؤ کے لوگوں سے لکھا جائے تو یہی میرا
سرگرم ہے۔

نادر خان ولد سعید گلبرگ
نادر خان

احسان الحق
اصال الحق ولد سائیکین
برکے دہلی

15509-0147145-3

Alleged
ESTABLISHMENT CLERK
District Police Office
Shangha.



(6)

ANNEX: (U)

FEDERAL INVESTIGATION AGENCY
 INTEGRATED BORDER MANAGEMENT SYSTEM
 FIAHQ G -9/4 PESHAWAR MOR, ISLAMABAD
 FaxNo:051-9262376, Tel.No:051-9107219
 R-11(TRAVEL HISTORY)



TRAVEL HISTORY FOUND ON: 1550278151267
 Required By: Nasir Mehmood Satti PSP Director/FIA Department: FIA Diary No: 5752 & 15-10-2021
 KPK Peshawar Request Date: 14-Oct-2021 Query Date: 18-Oct-2021
 Letter Number: FIA/KPK/F-40/2021/15250

TRAVELER'S CNIC/NIC
 1550278151267

PERSONAL INFORMATION:

NAME MUHAMMAD USMAN BIRTH DATE 05-APR-1986
 FATHER/HUSBAND NAME IHSAN UL HAQ NATIONALITY Pakistan



TRAVEL DETAILS:

S.NO	TRAVEL DATE	FLIGHT NO	TRAVEL STATUS	PASSPORT NO	SITENAME	DESTINATION
1	27-Sep-08 4:26:19	GF-771	Departing	AU2851261	ISLAMABAD INTERNATIONAL AIRPORT	BAHRAIN
2	26-Aug-11 6:12:06	XY835	arriving	AU2851261	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	
3	13-Feb-12 5:53:34	XY836	departing	AU2851261	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	SAUDI ARABIA
4	26-Feb-14 12:04:32	SV724	arriving	AU2851262	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	
5	15-Aug-14 14:51:12	SV887	departing	AU2851262	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	SAU - SAUDI ARABIA
6	8-Dec-16 18:13:55	PK758	arriving	AU2851262	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	
7	26-May-17 23:56:18	PK753	departing	AU2851262	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	SAU - SAUDI ARABIA
8	6-Feb-19 8:07:08	SV702	arriving	ST358471	JINNAH INTERNATIONAL AIRPORT KARACHI	
9	6-Feb-19 8:07:08	SV702	arriving	ST358471	JINNAH INTERNATIONAL AIRPORT KARACHI	

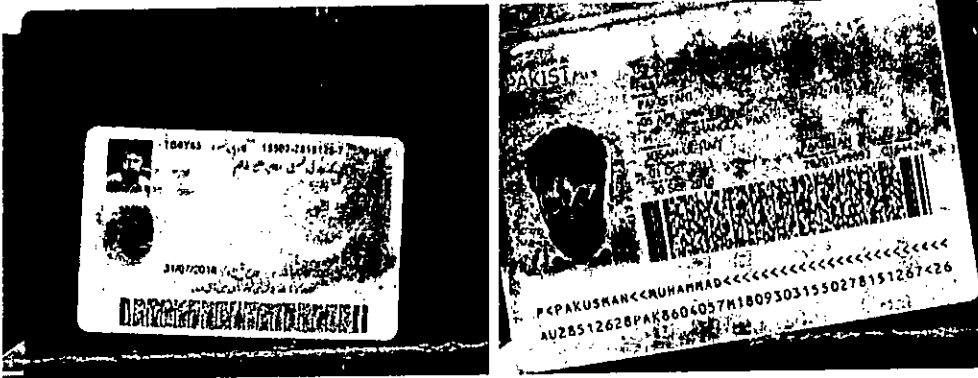
Time: 4:29:51 pm

Note: Computer Generated Report Based On Given Particulars.

NOT FOR COURT USE

TRAVEL DETAILS:

S.NO TRAVEL DATE FLIGHT NO. TRAVEL STATUS PASSPORT NO. SITENAME DESTINATION



CHECKED BY:

Inspector Legat

NOT FOR COURT USE

ANNEXURE : → (E)

DISCIPLINARY ACTION

316R
27.10.08
Alpuri

I Muham bal Khan Marwat District Police Officer Shangla as competent authority, is of the opinion that Coct:Muhd Usman 282 has rendered himself liable to be proceeded against as he committed the following acts / omissions with in the meaning of Section 3 of the North-West Frontier Province Removal from Service (Special Powers Ordinance, 2000)

STATEMENT OF ALLEGATION

You Constable Muhammad Usman NO.282 while posted to District Special Branch Besham absented your self with effect from 09.10.08 to till date without permission.Your this act amounts gross misconduct on your part.

For the purpose of scrutinizing the conduct of said accused with the reference to the above allegation. Mr. Riaz Hussain and Mr. Bahrud Din Khan is appointed as Enquiry Officer. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

The accused and a well conversant representative of the department shall join the proceedings on the date, time and place foxed by the Enquiry Officer.

[Signature]
District Police Officer,
Shangla.

No. 38 /E, dated 27/10 /2008.

Copy of above is sent to :-

1. Mr. Riaz Hussain DSP/Alpuri
2. Mr. Bahrud Din Khan ASDPO/Punan

[Signature]
ESTABLISHED BY
District Police Office
Shangla

For initiating proceeding against the officer/ official under the Provision contained in N.W.F.P/ Removal from Service (Spl: Power Ordinance,2000)

Constable Muhammad Usman NO.282 with direction to appear before the Enquiry Officer on the date time and place fixed by the Enquiry Officer, for the purpose of the Enquiry proceedings.

CHARGE SHEET

I Mr: Muhammad Iqbal Khan Marwat District Police Officer Shangla as competent authority hereby charge you *Const. Muhammad Usman* as follow: - *no. 282*

You Constable Muhammad Usman NO. 282 while posted in District Special Branch Besham absented your self from duty with effect from 09.10.2008 to till date without permission. Your this act amounts gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct under Section-3 of NWFP Removal from Service (Special Power-Ordinance, 2000) and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance, 2000.
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.
4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and that expartee action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

[Signature]
District Police Officer,
Shangla.

Arrested
ESTABLISHMENT CLERK
District Police Office

FINDING.

This enquiry report pertains to the allegation leveled against constable Muhammad Usman NO. 282 posted to District Security Branch Besham. The allegation is that he absented himself from 09.10.08 to date without permission via D.D. NO. 26 dated 09.10.08 P.S/Besham.

To scrutinize the conduct of the above accused constable with reference to the above mentioned allegation a committee comprising the undersigned was constituted by the District Chief under the N.W.F.P Removal from Service (Special Powers) Ordinance 2000 vide letter NO. 38/E, dated 29.10.2008.

During the course of enquiry the statement of Ihsanul Haq father of accused constable was recorded through the local police vide Parwana NO. 89/R/DSP-Alpuri dated 30.08.2008. According to the enclosed statement of Ihsanul Haq, father of the accused constable the later has gone to Saudi Arabia for labouring and is no more interested to join his duty.

As, according to father of the accused constable, he has gone abroad and does not want to continue service in Police Department any more, therefore, the committee recommends the constable to be discharged from Service and period of absence counted as leave without pay.

(Bahrudin Khan)

Bahrudin Khan
Insp: A.S.P.O/Puran

(Riaz Hussain)

Riaz Hussain
S.D.P.O/Alpuri

Alles lead
ESTABLISHMENT CLERK
District Police Office
Besham

SH,
many issue Final show
cause notice.
For order, please.

W/DPO/SHB!

AKU

ESCEN

Mu
11/08

ANNEXURE (A)

FINAL SHOW CAUSE NOTICE.

I Muhammad Iqbal Marwat District Police Officer, Shang
as competent authority under the NWFP Removal from Service (S
Power) Ordinance, 2000 do hereby serve you Constable ~~Man~~ Nuhamm
Usman NO.282 follow:-

- 1) i. That consequent upon the completion of inquiry conducted against you by the Enquiry committee for which you given opportunity of hearing vide office communication NO.38/2008, dated 29.10.2008.
- ii. On going through the findings, recommendations of the inquiry Committee, the material on record and other connected papers including your defence the committee

I am satisfied that you have committed the following acts/omission specified in Section-3 of the said Ordinance.

You Constable Muhammad Usman NO.282 while posted to District Special Branch Besham absented your self with effect from 09.10.2008 to till date without permission. Your this act amounts gross misconduct on your part.

- 2). As a result thereof, I was competent authority, have tentatively decided to impose upon you the penalty of Major punishment.
- 3). You are, therefore, required to show cause as to why the aforesaid penalty should not be heard in person.
- 4). If no reply to this notice is received within fifteen days to presumed that you has no defence to puty in and in case as exparte action shall be taken against you.
- 5). The copy of the findings of the Enquiry Committee is also enclosed.

[Signature]
District Police Officer, Shang
(Obs)

NO 38 /E,
Dated 15/11 /2008.

Attested
3
ESTABLISHMENT CLERK
District Police Office
Shangha.

25	Iqbal Hussain	Mushharif	52.00	G/S Minoo Sir
26	Mushiq Ahmad	Muhammad Zar	52.02	G/S Davlat Kalay
27	Samullah	Abdul Halil	51.82	G/S Dilakhanal
28	Akmal Shah	Sadri Akmal	51.77	

ORDER:-

Constable Muhammad Usman No.282 was absented him self foim 09.10.2008 to date with out proper permission of his superior.

He was served with Charge Sheet and Statement of allegation. Mr: Riaz Hussain DSP Alpuri and Bahrudin Khan ASDPO Puran were appointed as Enquiry officers to conduct proper Departmental Inquiry against the defaulter Constable. The inquiry officers in their Finding Report recommended the defaulter Constable for discharged from service and period of absence is counted as leave without pay.

A Final Show Cause Notice was issued to the defaulter on 15.11.2008. But no reply of Final Show Case Notice was received, in stipulated period i.e 15 days. SHO concerned report received that as per his Brother and father stated he has left for abroad and is no more willing to continue his service in Police Department.

Therefore, I Muhammad Iqbal Khan Marwat, District Police Officer Shangla, as a competent authority exercising the Power vested in me under N.W.F.P Removal from service Special Power Ordinance 2000, awarded to him a Major punishment i.e dismissed from service with effect from the date of his absence i.e 09.10.2008.

Order announced.

OB No. 01

Dated. 02 / 01 / 2009

[Signature]
District Police Officer,
Shangla.

[Signature]
ESTABLISHING CLERK
District Office

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHWAR

Service Appeal No 15909/2021

Ex-Constable Muhammad Usman No: 282 District Police Shangla


Vs

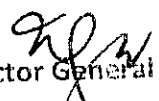
- (1) The Inspector General of Police Khyber Pakhtunkhwa, Peshawar**
- (2) The Regional Police Officer Malakand, at Saidu Sharif Swat**
- (3) The District Police Officer Shangla, at Alpuri**

AUTHORITY LETTER

Muhammad Abbas Inspector Legal office of District Police Officer Shangla is hereby authorized to appear on behalf of the respondents below, before the Honorable Tribunal Court. He is authorized to submit all the required documents and replies etc to the Honorable Tribunal Court.

~~District Police Officer
District Police Officer
Shangla~~


Regional Police Officer
Malakand


Inspector General of Police
Khyber Pakhtunkhwa

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHWAR**

Service Appeal No 15909/2021

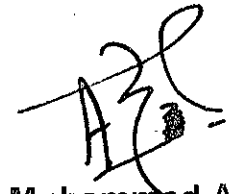
Ex-Constable Muhammad Usman No: 282 District Police Shangla

Vs

- (1) The Inspector General of Police Khyber Pakhtunkhwa, Peshawar
- (2) The Regional Police Officer Malakand, at Saidu Sharif Swat
- (3) The District Police Officer Shangla, at Alpuri

AFFIDAVIT

I Muhammad Abbas Inspector Legal Shangla Office of the DPO Shangla do hereby solemnly affirm and state on oath that the whole contents of this Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal Court.



Muhammad Abbas
Inspector Legal
Shangla
Office # 0996-850015