


FORM OF ORDER SHEET

Court of _____

Appeal No. 1073 /2024

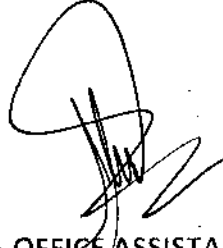
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/07/2024	<p>The appeal of Mr. Saleem Shah resubmitted today by Mr. Umar Farooq Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 01.08.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Saleem Shah received today i.e. on 24.07.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal is not signed by the appellant.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Departmental appeal is unsigned.

No. 469 /Inst./2024/KPST,

Dt. 25/7 /2024.


OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Umar Farooq Adv.
High Court Peshawar.

R/vis

*Resubmitted after necessary
completion.*



30/7/24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

APPEAL NO. 1073 /2024

SALEEM SHAH

V/S

POLICE DEPTT:

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11.	Vakalat nama	

Dated: 23-07-2024

APPELLANT
SALEEM SHAH

THROUGH:


UMAR FAROOQ MOHMAND
ADVOCATE HIGH COURT

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

APPEAL NO. 1075 /2024

Mr. Saleem Shah, Constable No. 2641,
District Police, District Mohmand.

..... **APPELLANT**

VERSUS

- 1- Regional Police Officer, Mardan Region at Mardan.
- 2- District Police Officer, District Mohmand.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 06/03/2024, WHEREBY THE IMPUGNED ABSENCE PERIOD OF TEN (10) MONTHS TREATED AS LEAVE WITHOUT PAY AND AGAINST THE APPELLATE ORDER DATED 09/07/2024, WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUND.

PRAYER:

That on acceptance of this appeal, the impugned order dated 06/03/2024 and impugned appellate order dated 09/07/2024 may very kindly be rectified/modified to the extent that the absence period may kindly be treated as period spent on duty. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHWETH:

ON FACTS:

1. That appellant is an employee of the respondent department and performing his duty with full zeal & zest and up to the entire satisfaction of his high ups.
2. That the appellant was absorbed through Phase-II, whereafter the appellant was medically examined and no any disease or disability

detected, thereafter the appellant joint the duty. Copy of fitness certificate and Daily Diary No 24 are attached as annexure.....A

- 3. That after joining the respondent department, the appellant started performing his duties quite efficiently and upto the entire satisfaction of his superiors, but the salaries of the appellant were not released and when the appellant confirmed the said, astonishingly the respondent issued the impugned order dated 06/03/2024 whereby the appellant has been proceeded departmentally and the appellant declared absent from the duty and the absence period of ten (10) months is treated as leave without pay through the impugned order. Copy of the impugned order dated 06/03/2024 is attached as annexure.....B
- 4. That feeling aggrieved from the impugned order dated 06/03/2024, the appellant preferred a Departmental Appeal before the respondent No 2. Copy of departmental appeal is attached as annexure.....C
- 5. That the respondent No 2 through impugned appellate order dated 09/07/2024, rejected the same on no good grounds. Copy of the impugned appellate order dated 09/07/2024 is attached as annexure.....D
- 6. That feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUND:

- A) That both the impugned orders dated 09/07/2024 & 06/03/2024 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be rectified/modified to the extent that absence period may kindly be treated as period on duty.
- B) That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C) That the act of respondents is tantamount to double jeopardy which is strictly forbidden by the constitution of Islamic Republic of Pakistan 1973.

- D) That, the treatment meted out to the appellant clearly based on discrimination and mala fide and as such the respondents violated the Principle of natural Justice.
- E) That appellant seeks permission to advance other grounds and proofs at the time of hearing.


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


Dated: 23-07-2024

APPELLANT
SALEEM SHAH

THROUGH: 

UMAR FAROOQ MOHMAND

WALEED ADNAN 

MAHMOOD JAN 

&


KHANZAD GUL
ADVOCATES HIGH COURT

AFFIDAVIT

I, Mr. Saleem Shah, Constable No. 2641, District Police, District Mohmand, do hereby solemnly affirm and declare on oath that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble tribunal.


DEPONENT



(A) (4)



OFFICE OF THE MEDICAL SUPERINTENDENT
DHO HOSPITAL GHALLANAI
MOHMAND DISTRICT

MEDICAL FITNESS CERTIFICATE

No 74 /MS

Dated 27/02/2023.

Mr. Saleem Shah S/O.Sarwar Khan was examined by Medical doctors in OPD on Dated 27/02/2023 bearing CNIC NO. 21402-5996484-5 and no any disease/disability detected on the time of examination. He is found mentally and physically fit.

Special Remarks _____


Medical Superintendent
DHO Hospital Ghallanai

تقلید روزنامہ مورخہ 24-02-03

ورڈ رپورٹ آمد ہافندی :- محمد خان زکاء وقت 13:00 بجے مورخہ 24-02-03 درج ذیل کے اس وقت

کنیل سلیم 2641 F.C. بصورت بنیاد لبر جو الہ OB No 2210 مطابق لائن رول OS1 برائے NO DATA

پولیس لائن کلوز کیا گیا ہے۔ اس مذکورہ کنیل طبعی و سرکاری سامان کیسے جو الہ OB

بالا سے پولیس لائن میں آمد ہافندی میں آکر رپورٹ آمد درج روزنامہ کردہ نقلی فرض

تعمیر و ترمیم کے وقت ارسال خدمت بیوی

جناب عالی!

R/Sir

تقلید مطابق لائن کا

Forwarded please!

Mohmand
24-02-03

Mohmand
24-02-03
A-Line Officer
District Mohmand



B (6)

OFFICE OF THE
DISTRICT POLICE OFFICER,
MOHMAND

Email: dpomohmand@gmail.com

Ph: 0924-290179 Fax: 0924-290056



2024

ORDER:

This order will dispose-off the inquiry proceeding initiated against **FC Salim Shah s/o Sarwar Khan No. 2641**, while posted at Police Lines Ghallanai, that he was marked absent from lawful duty vide DD No. 21, dated 28-02-2023 of Police Lines Ghallanai. However, he reported for duty after long absence of (10-Months & 19-Days) vide DD No. 16, dated: 17-01-2024 of Police Lines Ghallanai without any leave or prior permission from the senior.

To scrutinize the conduct of the delinquent official, he was issued Charge Sheet together with Statement of Allegations vide this office No. 70-73/PA, dated: 29-01-2024 and inquiry was entrusted to Mr. Liaqat Ali DSP HQrs Mohmand. The inquiry officer after fulfillment of all legal and codal formalities submitted his findings vide his office Endst: No. 200-92/HQrs Mohmand, dated: 26-02-2024 wherein the allegations levelled against the delinquent official have been proved and recommended his 10-Months & 19-Days be treated as leave without pay.

Accordingly the constable was summoned to the office and was heard in person in the Orderly Room held on 05-03-2024 with proper perusal of enquiry carried out by Mr. Liaqat Ali DSP HQrs Mohmand.

Based on the above, I **Muhammad Ayaz PSP, District Police Officer Mohmand**, being competent authority and in exercise of power vested in me under the Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) rules 2011, hereby a lenient view is taken and out of his prolonged absence, **10-Months absence period is hereby treated as leave without pay** (In accordance with Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) letter No. SO(FR)/FB/5-14/2024 dated 16-12-2014 read with decision rendered by Khyber Pakhtunkhwa service Tribunal Peshawar on dated 13-06-2011 in the service appeal No. 1689/2010 i.e "No work no salary") with Rs. 1000/- Fine and his remaining salary is hereby released with immediate effect.

Order Announced

05-03-2024.

OB No. 2672

Date 06 / 03 / 2024

No. 1132-37 / PA,

Dated Mohmand the 06 / 03 / 2024

(Muhammad Ayaz) PSP
DISTRICT POLICE OFFICER,
MOHMAND.
District Police Officer
Mohmand

Copy forwarded:-

1. The Regional Police Officer Mardan for favor of information, please.
2. SP Investigation Mohmand for information.
3. DSP HQrs Mohmand.
4. HC/PO/OSI/EC/FMC.
5. All concerned.

C, (7)

Before the Regional Police officer Mardan.

Appeal on behalf of FC Salimshah S/o Sarwar Khan No 2641,
Posted Police line Ghallanai
against the order dated 6.3.2024 Passed
by the District Police offer District Mohmand.

Respected Sir,

1. That inquiry proceedings was initiated against the appellant for the allegations of his alleged absence from lawful duty for (10) Months without prior leave or permission.
2. That the inquiry was concluded with the recommendation his 10 Months and 19 days be treated as leave without pay.
3. That in Consequence of The recommendation ibid punished the competent authority passed the impugned order dated 6-3-2024, whereby the appellant was with fine of Rs. 1000 and also his absence was ordered to be treated as without pay, hence the instant appeal on the following grounds Inter alia.

Grounds:-

- A. Because the impugned order is against the fact and law on the subject.
- B. Because the inquiry officer and the competent authority have overlooked the material facts Circumstances due to which the appellant was unable to attend his duty, therefore the impugned order is not tenable.
- C. Because the absence of the appellant was on the neither deliberate nor negligence of part of appellant, rather the same was beyond his control and was in accordance reasonable with normal course of action being result of command of nature, could be forgiven as it is human nature and is expected. from a son to take care of his sick and infirm parents, in the lave in hand it is established that the appellant, was under the Circumstances which Compelled to remain present with his parents.
- D. Because the inquiry proceedings and the impugned order is the result of improper appreciation of peculiar facts and no show cause notice finally casas given to him, which tool is violating of the mandate of law and all norms of Justice.
- E. Because the impugned order is the result proceedings and recommendations, which was not, based on principles of Safe administration of Justice particularly the officials of merged Districts being new in the regime are entitled to more kind treatment a sympathy.

It is therefore humbly prayed that on acceptance of appeal the impugned order dated 6.3.24 may kindly be set aside.

Appellant.

D. (8)

ORDER.

This order will dispose-off the departmental appeal preferred by **Constable Saleem Shah No. 2641** of Mohmand District Police against the order of the then District Police Officer, Mohmand, whereby he was awarded minor punishment of fine of Rs. 1000/- as well as 10 months & 19 days absence period was treated as leave without pay vide OB No. 2672 dated 06.03.2024. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Ghallanai, absented himself from his lawful duty vide daily diary No. 21 dated 28.02.2023 without any leave permission of the competent authority. However, he reported for duty after long absence of 10 months & 19 days vide daily diary No. 16 dated 17.01.2024.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Deputy Superintendent of Police, Headquarters, Mohmand was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to the District Police Officer, Mohmand, wherein the allegations leveled against the delinquent Officer have been proved and recommended that his 10 months and 19 days absence period be treated as leave without pay.

He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Mohmand on 05.03.2024, but he failed to advance any cogent reason in his defense. Hence, he was awarded minor punishment of fine of Rs. 1000/- as well as 10 months and 19 days absence period was treated as leave without pay vide OB No. 2672 dated 06.03.2024

Feeling aggrieved from the order of the District Police Officer, Mohmand, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 03.07.2024.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. As he has bitterly failed to produce any cogent reason to justify his absence because the same clearly depicts his casual and lethargic attitude towards his official duties. The very conduct of appellant is unbecoming of a disciplined Police Officer. Hence, order passed by the competent authority does not warrant any interference. Besides the above, the appellant approached this forum at

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a belated stage by filing the instant appeal which is badly time barred for 01 month and 27 days without advancing any cogent reason regarding such delay.

Keeping in view the above, I, **Najeeb-Ur-Rehman Bugvi, PSP Regional Police Officer, Mardan**, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit as well as badly time barred 01 month and 27 days.

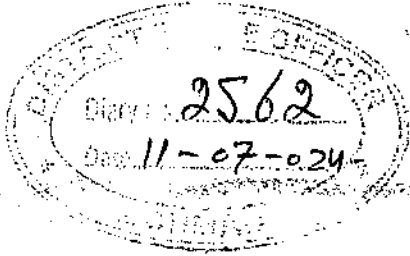
Order Announced.

(Najeeb-Ur-Rehman Bugvi) PSP
Regional Police Officer,
Mardan.

No. 1870 /ES; Dated Mardan the 09 / 07 /2024.

Copy forwarded to District Police, Mohmand for information and necessary action w/r to his office Memo: No. 145/Legal dated 06.05.2024. His Service Record is returned herewith.

(*****)



Ec / P.O / PA / OS /

For action.

K. [Signature]
DPO + MMD
11-7-2024.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

APPEAL NO. _____ /2024

SALEEM SHAH

V/S

POLICE DEPTT:

KNOW ALL to whom these presents shall come that I the undersigned appoint:

Umar Farooq Mohmand, *Advocate High Court, Peshawar*

(herein after called the advocate) to be the Advocate for the ***Mr. Saleem Shah, Constable No. 2641, District Police, District Mohmand*** in the above mentioned case, to do all the following acts, deeds and things or any of them, that is to say :


- 1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
- 2) To sign, verify and present pleadings, appeals, cross- objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
- 3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- 4) To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
- 5) To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid, He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this ____th day of July, 2024


Signature/ thumb impression
of party / parties.

Accepted By

Umar Farooq Mohmand,

Advocate High Court, Peshawar.

Bar Council No.- 14-4822

CNIC No.- 17102-7315460-3

Cell No.- 0313-8501647

Email: umi7890@gmail.com