


FORM OF ORDER SHEET

Court of _____

Appeal No. 1456/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13-Sep-24	<p>The appeal of Mr. Tahir Hussain today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 26-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1456 /2024

MR. TAHIR HUSSAIN

V/S

POLICE DEPTT:

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Dated: -09-2024

THROUGH: **APPELLANT**
NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1456 /2024

Mr. Tahir Hussain, Ex-Constable No 195
District Hangu

.....APPELLANT

VERSUS

- 1- Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- Regional Police Officer, Kohat
- 3- District Police Officer, Hangu

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 22/02/2024, WHEREBY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF REVERSION TO THE POST OF SUBSTANTIVE RANK OF CONSTABLE AND IMPUGNED ORDER DATE 08/05/2024, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND IMPUGNED APPELLATE ORDER DATED 20/08/2024, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal, the impugned order dated 22/02/2024, whereby the appellant was awarded major punishment of reversion to the post of substantive rank of constable and impugned order date 08/05/2024, whereby the appellant was dismissed from service and impugned appellate order dated 20/08/2024 may kindly be set aside and the appellant may please be reinstated into service with all back benefits as well as the respondents may kindly be directed to restore the appellant at his previous position i.e. Head Constable. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1) That the appellant was initially appointed in the respondent department in the year, 2003.
- 2) That since his appointment, the appellant performed his duties quite efficiently and upto the entire satisfaction of his superiors.

- 3) That during service the appellant was departmentally proceeded on the charges of absence from official duty without following the codal formalities vide order dated 16/11/2023 and was awarded major penalty of reversion from the rank of Head Constable to the substantive rank of constable vide order dated 22/02/2024. Copies of order dated 16/11/2023 & 22/02/2024 are attached as annexure.....**A&B**
- 4) That astonishingly the appellant was dismissed from service vide impugned order dated 08/05/2024 without conducting any regular inquiry. Copy of impugned order dated 08/05/2024 is attached as annexure.....**C**
- 5) That the appellant feeling aggrieved, filed departmental appeal, which was dismissed vide appellate order dated 20/08/2024. Copy of the appellate order is attached as annexure.....**D&E**
ad-appeal
- 6) That appellant, having no other remedy, prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A) That the impugned order dated 22/02/2024, whereby the appellant was awarded major punishment of reversion to the post of substantive rank of Constable, impugned order date 08/05/2024, whereby the appellant was dismissed from service and impugned appellate order dated 20/08/2024 are against the law, facts, norms of natural justice and materials on the record, hence not tenable in the eye of law therefore are liable to be set aside.
- B) That appellant has not been treated in accordance with law and rules by the respondent Department 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 absence of appellant was neither willful nor deliberate, but due to the illness caused to the appellant due to death of his son, so he was unable to perform his duty. Copies of medical prescriptions are attached as annexure.....**F**
- D) That the appellant has been punished twice for the same cause vide impugned orders dated 22/02/2024 & 08/05/2024, which amounts to double jeopardy and the same is also violative of Article 13 of Constitution of Pakistan, 1973.

- E) That the respondents acted in arbitrary and malafide manner while issuing the impugned orders dated 22/02/2024 & 08/05/2024.
- F) That no charge sheet, statement of allegation and show cause notice has been served on appellant before issuing of impugned orders.
- G) That no regular inquiry has been conducted in the instant case which is mandatory under the rules before imposing major penalty of dismissal from service.
- H) 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 kindly be accepted as prayed for.

Dated:

THROUGH:


APPELLANT

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN

UMAR FAROOQ MOHMAND
ADVOCATES HIGH COURT

AFFIDAVIT

I, **Mr. Tahir Hussain**, do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.


DEPONENT



777
-4-

OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel No. 0925-823878 & Fax No. 0925-820135
Email: dpohangu@gmail.com

DISCIPLINARY ACTION

I, **MR. NISAR AHMAD, PSP, QPM, DISTRICT POLICE OFFICER, HANGU**, as competent authority, am of the opinion that you, **IHC Muhammad Tahir No. 195** 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, **IHC Muhammad Tahir No. 195** have absented yourself from official duty with effect from 11.11.2023 to till date without any leave or prior permission vide DD No. 29, dated 11.11.2023 Police Lines, Hangu.
- ii. Subsequently, you were also contacted on yourself mobile phone No. 0332-9515053, but is coming off.
- iii. 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 HCR 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. 245 /EC, dated 16 / 11 /2023.

1. Copy of above to:-
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.



'B'
-S-

OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: 0925-623878 Fax 0925-620135

ORDER

This order is passed on the departmental enquiry initiated against IHC Tahir Hussain No. 195 while posted at Police Lines, Hangu under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).

Brief facts of the case are as under:-

- i. IHC Tahir Hussain No. 195 has absented himself from official duty with effect from 11.11.2023 to till date without any leave or prior permission vide DD No. 29, dated 11.11.2023 Police Lines, Hangu.
- ii. Subsequently, he was also contacted on his mobile phone No. 0332-9515053, but is coming off.
- iii. His absence shows disinterest, negligence and amounts to gross misconduct on his part.

He was served with a charge sheet and a statement of allegations under the Khyber Pakhtunkhwa Police Disciplinary Rules 1975 (Amendment 2014) via this office No. 245/EC, dated 16.11.2023. He failed to submit his reply to DSP HQrs, Hangu, who was appointed as the Enquiry Officer to conduct a departmental inquiry against him. After the completion of the inquiry, the inquiry officer submitted his findings vide No. 1532/DSP/HQr, dated 30.11.2023. Time and again, the defaulter IHC Tahir Hussain No. 195 was summoned to appear before the inquiry officer for processing into the matter, but he did not appear. Therefore, the inquiry officer recommended his dismissal from service. Consequently, he was called to the orderly room on 04.12.2023, 27.12.2023, & 19.12.2023, but he did not appear before the undersigned while still absent from official duty. On 26.01.2024, he appeared and was heard in person, but no reasonable response could be given in his self-defense. Subsequently, a Final Show Cause Notice was issued to him vide this office No. 195/EC, dated 05.12.2023, and he submitted his reply on 13.12.2023, which was found unsatisfactory.

Keeping in view the above and the available record, I, Nisar Ahmed Khan, PSP, QPM, District Police Officer, Hangu, in exercise of powers conferred upon me under the Rules, dispense with general proceedings and *award him the major punishment of his reversion from the rank of Head Constable to the substantive rank of Constable with immediate effect.*

Order Announced:

OB No. 78

Dated: 21/02/2024


DISTRICT POLICE OFFICER,
HANGU

No. 856-58 /EC, dated Hangu the 22/02/2024

Copy to PO, EC, Reader & OHC for necessary action.



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: 0925-621878 Fax 0925-620135

ORDER

This order is passed on the departmental enquiry initiated against Constable Tahir Hussain No. 195 while posted at Police Lines, Hangu under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).

Brief facts of the case are as under:-

- i. Constable Tahir Hussain No. 195 while posted at Police Lines Hangu has absented himself from lawful duty with effect from 07.02.2024 to till date without any leave or prior permission vide DO No. 13, dated 07.02.2024 Police Lines, Hangu.
- ii. His absence shows disinterest, negligence and amounts to gross misconduct on his part.

He was served with charge sheet and statement of allegations under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 (Amendment 2014) vide this office No. 09/FC, dated 22.02.2024, to which he submitted his reply to DSP HQrs, 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. 481/DSP/HQr dated 26.04.2024 in which defaulter Constable Tahir Hussain No. 195 had absented himself from official duty with effect from 07.02.2024 to 26.04.2024 without any leave or prior permission and thus, held him guilty for the charges leveled against him.

Consequently, he was called in orderly room on 07.05.2024 and heard in person but no justification regarding his prolong absence could be given in his self defence.

Keeping in view of the above and having gone through available record, the undersigned has arrived at the conclusion that due to his prolong absence from official duty without any leave or prior permission which indicates that he was not interested to serve further. Moreover, in these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Muhammad Khalid, PSP, District Police Officer, Hangu in exercise of the powers conferred upon me under the Rules ibid, he is hereby dismissed from service with immediate effect.

Order Announced.

OB No. 214

Dated 7/5/2024


DISTRICT POLICE OFFICER,
HANGU

No. 2268 /EC, dated Hangu, the 08/05/2024

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

2. DSP HQrs Hangu to collect his official kit immediately.
3. Pay Officer, EC, Reader & OHC for necessary action.


DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE
DISTRICT POLICE OFFICER
HANGU**ORDER**

This order is passed on the departmental inquiry initiated against Constable Tahir Hussain No 195 while posted at Police Lines Hangu under the Khyber Pakhtunkhwa Police Rules, 1973 (Amended 2014).

Brief facts of the case are as under:-

- i. Constable Tahir Husain No 195 while posted at Police Lines Hangu has absent himself form lawful duty with effect from 07/02/2024 to till date without any leave or prior permission vide DD No 13 dated 07/02/2024 Police Lines Hangu.
- ii. His absence shows disinterest, negligence and amounts to gross misconduct on his part.

He was served with charge sheet and statement of allegations under Khyber Pakhtunkhwa Police Disciplinary Rules, 1975 (Amended 2014) vide this Office No 096/EC dated 22/03/2024 to which he submitted his reply to the DSP HQrs Hangu who was appointed as Enquiry Officer to conduct departmental inquiry against him. After completion of enquiry, the enquiry officer submitted his finding vide No 481/DSP/HQr dated 26/04/2024 in which the defaulter constable Tahir Hussain No 195 has absented himself from official duty, held him guilty for the charges leveled against him.

Consequently, he was called in orderly room on 07/05/2024 and heard in person, but no justification regarding his prolong absence could be given in his self defence.

Keeping in view of the above and having gone through available record, the undersigned has arrived at conclusion that due to his prolong absence from official duty without any leave or prior permission with indicates that he was not interested for serve further. Moreover, in this circumstances his retention in Police Department is burden on public exchequer. Therefore, I Muhammad Khalid PSP, District Police Officer, Hangu in exercise of powers conferred upon me under the Rules ibid, he is hereby dismissed from service with immediate effect.

Order announced.

OB No. 214

Dated 07/05/2024

District Police Officer
Hangu

No. 2268/EC dated Hangu dated 08/05/2024

جناب عالی!

سائلین صدر خدمت سے۔

- 1۔ یہ کہ سائل جسکے پریس میں سال 2013 میں جسکے آئی ای او لی اسٹینڈرڈ سے سروس لیا گیا ہے وہ اس سروس میں کسی قسم کی شناخت کا صحیح نہیں ہے۔
- 2۔ یہ کہ صدر 21 سال ملازمت میں سائل مختلف ایجنسیوں میں سروس کیا ہے وہ اس سروس میں اس کا کیا ہے۔ اس سروس میں اس کا کیا ہے۔
- 3۔ یہ کہ سائل کو جو جب فیروز خان کی بحوالہ حکم صدر مستجاب الی آلہ صاحب ہالا ملازمت سے برخواست کیا گیا ہے۔ اس سروس میں اس کا کیا ہے۔ اس سروس میں اس کا کیا ہے۔

واقعاتی حقائق:

- i۔ یہ کہ سائل کو جو جب فیروز خان کی بحوالہ حکم صدر مستجاب الی آلہ صاحب ہالا ملازمت سے برخواست کیا گیا ہے۔ اس سروس میں اس کا کیا ہے۔ اس سروس میں اس کا کیا ہے۔
- ii۔ یہ کہ سائل کا پیدائشی نام 10/07/1971 قبل مسیح ہے جس کی وجہ سے سائل اپنی خود پر پریس لیا گیا ہے۔ اس سروس میں اس کا کیا ہے۔ اس سروس میں اس کا کیا ہے۔
- iii۔ یہ کہ سائل اپنی ملازمت سے اس سروس میں اس کا کیا ہے۔ اس سروس میں اس کا کیا ہے۔
- iv۔ یہ کہ سائل کو جو جب فیروز خان کی بحوالہ حکم صدر مستجاب الی آلہ صاحب ہالا ملازمت سے برخواست کیا گیا ہے۔ اس سروس میں اس کا کیا ہے۔ اس سروس میں اس کا کیا ہے۔
- v۔ یہ کہ سائل نے اپنی ملازمت سے اس سروس میں اس کا کیا ہے۔ اس سروس میں اس کا کیا ہے۔

مفت پروری ہوگی۔

سائل صاحب حسین سید 195 سروس پریس کنٹریل سلیجنگ
03329515053 سائل صاحب

بخدمت جناب ڈی آئی جی صاحب کو ہاٹ ریجن کو ہاٹ

عنوان: ایپل بتاؤنگی حکم مجاریہ جناب ڈی پی او صاحب بحوالہ آرڈر بک نمبر 214 مورخہ 07/05/2024

جناب عالی! سائل ذیل عرض رساں ہے۔

- ۱۔ یہ کہ سائل محکمہ پولیس میں سال 2005 میں بھرتی ہو کر اپنی ڈیوٹی احسن طریقہ سے سرانجام دیتا رہا اور افسران کو کسی قسم کی شکایت کا موقع نہیں دیا۔
- ۲۔ یہ کہ عرصہ 21 سال ملازمت میں سائل مختلف ڈیوٹیاں سرانجام دے چکا ہے۔ اور جناب ڈی پی او صاحب ہنگو کے ساتھ بطور پبلک آفیسر (پی او آر) ڈیوٹی احسن طریقہ سے ادا کر چکا ہے۔
- ۳۔ یہ کہ سائل کو بوجہ غیر حاضری بحوالہ حکم عنوان بالا ملازمت سے برخواست کیا گیا ہے۔ بدیں وجہ ایپل دائر کی گئی جو اندر میعاد ہے۔

واقعاتی حذرات:

- ۱۔ یہ کہ سائل کو بوجہ غیر حاضری بغیر اصل وجہ جاننے اتنی سخت سزا دی گئی جو کہ من سائل کے ساتھ اور سائل کے بچوں کے ساتھ انتہائی زیادتی ہے۔
- ۲۔ یہ کہ سائل کا بیٹا پیدا ہو کر 9/10 ماہ قبل فوت ہوا تھا جس کی وجہ سے سائل ذہنی طور پر کافی پریشان اور ڈپریشن کا شکار ہوا تھا اور سمجھ بوجھ کے قابل بھی نہ رہا کیونکہ اولاد کا غم نے من سائل کو کافی صدمہ پہنچایا تھا جس کی وجہ سے ڈیوٹی پر جاتے ہوئے موٹر سائیکل سے گر گیا اور ڈاکٹر نے میڈیکل ریسٹ تجویز کیا (میڈیکل سٹوڈنٹس کے ساتھ ساتھ) اور راہ گزرنے گھر تک پہنچایا۔
- ۳۔ یہ کہ سائل ذہنی حالت بوجہ فوتگی اولاد و اتنی خراب تھی کہ تمام حالات میرے کنٹرول سے باہر تھے۔
- ۴۔ یہ کہ سائل کو بغیر سنوائی و فائنل شو کا نوٹس جاری کئے بغیر ملازمت سے بھی برطرف کیا گیا جو کہ قدرتی انصاف کے تقاضوں کے بالکل منافی اور من سائل کے حالات کو نظر انداز کر کے اتنی سخت سزا کا حکم جاری کیا گیا ہے۔
- ۵۔ یہ کہ سائل نے کافی محنت و ساری کا لوجسٹ کی مدد سے خود کو سمجھالا اور واپس زندگی اور امور خانہ داری و ملازمت پر توجہ مرکوز کرنا چاہی تو ڈی پی او صاحب نے سائل کے بچوں کی پرواہ کئے بغیر ملازمت سے برطرف کر دیا۔

لہذا استدعا ہے کہ بمظہوری ایپل ہڈا، برخلاف احکام مندرجہ عنوان بالا من سائل کو

ٹوکری پر دوبارہ بحال کرنے کے احکامات صادر فرمائے جائیں۔ تاکہ سائل اپنے بچوں کی کفالت اچھے

طریقے سے کر سکے۔

سائل طاہر حسین نمبر 195 سابقہ پولیس کانسٹیبل ضلع ہنگو

"E" - 8-

ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Tahir Hussain No.195 of district Hangu against the order of District Police Officer, Hangu whereby he was awarded major punishment of dismissal from service vide OB No. 214, dated 07.05.2024. Brief facts of the case are that he had absented himself from lawful duties with effect from 07.02.2024 to 20.04.2024 (73 days).

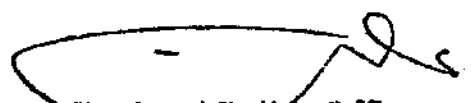
Proper departmental enquiry proceedings were initiated against him and Sub Divisional Police Officer Headquarters Hangu was appointed as Enquiry Officer. The Enquiry Officer, after fulfillment of codal formalities, submitted his findings wherein the appellant was found guilty of the charges leveled against him. He was, therefore, recommended for suitable punishment under the relevant rules.

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 OB No. 214, dated 07.05.2024.

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 06.08.2024. 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 charges leveled against him have been fully established. The punishment of dismissal from service awarded to the appellant by the District Police Officer, Hangu is justified and, therefore, warrants no interference. Hence, appeal of Ex-Constable Tahir Hussain No.195 is hereby rejected.

Order Announced
06.08.2024


Regional Police Officer,
Kohat Region

No. 6758 /EC, Dated Kohat the 20/08/2024

Copy forwarded to District Police Officer, Hangu for information and necessary w/r to his office Memo: No. 2993/LB, dated 24.06.2024. Service Record is returned herewith.

CMP No. 263 Date 7-2-24
Name Javer Hussain Age 58 Sex m

Bed No 100

Mr. Jaffer

Mr. Omar

Mr. Dees

Plan to

28. Number

Medical

Case

Admission

APD
Full
of
Tissues
over
Brest

Embodiment

Y

L V

Time P10

2

1. 28. 1/2 28
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 12. 28. 1/2 28
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 14. 28. 1/2 28
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 16. 28. 1/2 28
 17. 28. 1/2 28
 18. 28. 1/2 28
 19. 28. 1/2 28
 20. 28. 1/2 28

SRK DHO HOSPITAL HANOU
 PATIENT TICKET
 D.H.O HOSPITAL
 HANOU
 7/18/025
 1/11/11
 1/11/11

The money for
 the [unclear] [unclear]
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 [unclear] [unclear]
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 [unclear] [unclear]

21/2/21
 21/3/21
 28/2/21



SIKH DHO...
 PATRI...
 HAN...

- 13 -

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 12024

Tahir Hussain

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Dept

(RESPONDENT)
(DEFENDANT)

I/We Tahir Hussain

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/202



Tahir Hussain

CLIENT

ACCEPTED


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN


UMAR FAROOQ MOHMAND


KHANZAD GUL


ABID ALI SHAH
ADVOCATES

&

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)