


## FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No.** 1474/2024

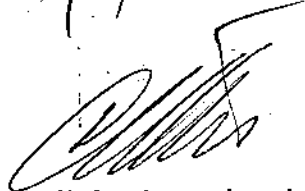
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/09/2024	<p>The appeal of Mr. Zeeshan Qadir re-submitted today by Mr. Kabir Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 27.09.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Zeeshan Qadir received today i.e on 02.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


1- Annexures-A & B of the appeal are illegible.

No. 771 /Inst./2024/KPST,

Dt. 12/9 /2024.

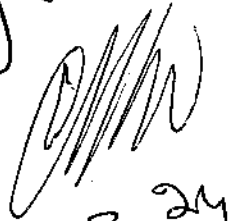


Kabeer Ullah Khattak Adv.  
High Court at Peshawar.



OFFICE ASSISTANT  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Re-submitted  
After removing  
the objections



18-9-24

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. 1474 /2024

Zeeshan Qadir

**VERSUS**


Regional Police Officer Kohat Region Kohat & others

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Through

APPELLANT

  
Kabirullah Khattak  
Advocate, High Court  
Peshawar.

Dated: 02/09/2024

BEFORE THE HON'BLE SERVICE TRIBUNAL  
PESHAWAR

In Re S.A No. 1474 /2024

Zeeshan Qadir S/o Abdul Qadir SRC/Computer  
Operator DPO Office District Orakzai.

Appellant

*VERSUS*

1. Regional Police Officer Kohat Region Kohat.
2. District Police Officer Orakzai.

Respondents

APPEAL U/S-4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL ACT  
1974 AGAINST THE IMPUGNED ORDER  
DATED 20/03/2024 COMMUNICATED TO  
THE APPELLANT ON 02.04.2024 WHEREBY  
MINOR PENALTY OF FORFEITURE OF TWO  
YEARS APPROVED SERVICE IMPOSED  
AGAINST THE APPELLANT AGAINST  
WHICH THE APPELLANT FILED  
DEPARTMENTAL APPEAL ON 02.05.2024

(2)

PASSED BY THE RESPONDENT NO.2 MAY VERY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE RESTORED ON HIS ORIGINAL POST WITH ALL BACK WAGES AND BENEFITS.

ANY OTHER RELIEF DEEMED APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE NOT SPECIFICALLY ASKED FOR, MAY ALSO BE GRANTED TO THE APPELLANT.

Respectfully Sheweth,

1. That the appellant was initially appointed as constable on 15.12.2014 and after appointment he performed his official duty with full devotion and hard work and no complaint whatsoever has been made against the appellant.
2. That while performing his official with respondent department the appellant becomes busy in his study process for master from Agricultural University Peshawar, and for that very purpose the appellant properly submitted an application to respondent department for leave without pay. That's why the appellant was unable to perform his official duty with respondent department. But unluckily copy of application was not kept by the appellant it may kindly be requisite from official respondents.

3. That a show cause notice was issued against the appellant on 15.02.2021 by the respondent department which was properly replied by the appellant. (Copy of show cause notice and reply are attached as annexure "A & B").
4. That on 02.04.2021 major punishment of dismissal from service was imposed against the appellant on the ground of the above mentioned absentee. (Copy of dismissal order is attached as annexure "C").
5. That the appellant was filed service appeal No.267/22 before this Hon'ble Tribunal which was accepted on 14.11.2023 whereby the appellant was reinstated for the purpose of de-novo inquiry by providing opportunity of self defence, personal hearing and cross examination to the appellant which is requirement of fair trial within a period of 90-days. (Copy of court judgment 14.11.2023 is attached as annexure "D").
6. That in compliance of the judgment passed by the this Hon'ble Tribunal the appellant was reinstated on 20.03.2024 by the respondent department, while minor punishment of forfeiture of two years approved service was imposed against the appellant, but the said impugned order was communicated to the appellant on 02.04.2024 when the appellant mark his attendance for his official duty with respondent department through Naqalmand No.11 dated 02.04.2024. (Copy of impugned

order and Naqalmad are attached as annexure "E&F").

7. That the appellant submitted Departmental appeal on 02.05.2024 against the impugned order dated 20.03.2024 which was not respondent by the respondent department within the statutory period of 90-days. (Copy of departmental appeal is attached as annexure "G").

8. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUNDS:-

A. That the impugned order dated 20.03.2024 to the extent of minor punishment is come under the definition of void order because it has been passed without fulfilling the codal formalities.

B. That no opportunity of cross examination was provided to the appellant by the inquiry officer and according to the recommendation of inquiry officer, the inquiry officer admitted that the appellant was moved an application for leave without pay, he further stated that the

(5)

appellant produce plausible explanation of his absence. (Copy of inquiry report is attached as annexure "H").

C. That no charge sheet no statement of application was issued or served to the appellant which is a clear cut violation of rule 6 (a) (b) of police rules 1975.

D. That the respondent departments head not treated the appellant in accordance with law and rules as well as according to the judgment of this Hon'ble Tribunal on the subject and acted in violation of article 4 and 25 of the constitution of Islamic Republic of Pakistan.

E. That the appellant was reinstated by the respondent department and that's very ground is enough for declaring the appellant is innocent person hence the impugned order dated 20.03.2024 to the extent of minor punishment may be liable for setting aside.

F. That any other ground not raised here may graciously be allowed to be raised at the time of arguments on the instant service appeal.



(6)

*It is therefore, most humbly prayed that on acceptance of this appeal the impugned order dated 20.03.2024, to the extent of minor punishment passed by the respondent no.2 may very graciously be set aside and the appellant may kindly be restored on his original post with all back wages and benefits.*

*Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.*

APPELLANT

Through

  
Kabir Ullah Khattak  
&   
Roeda Khan  
Advocates, High Court  
Peshawar.

Dated: 02/09/2024

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

  
Advocate.

(7)

BEFORE THE HON'BLE SERVICE TRIBUNAL  
PESHAWAR

In Re S.A No. \_\_\_\_\_/2024

Zeeshan Qadir

*VERSUS*


Regional Police Officer Kohat Region Kohat. & others

AFFIDAVIT

I, Zeeshan Qadir S/o Abdul Qadir SRC/Computer Operator DPO Office District Orakzai, do hereby solemnly affirm and declare that all the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

  
DEPONENT

*Identified by:*

  
Roeeeda Khan  
Advocate High Court  
Peshawar.

8

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2024

Zeeshan Qadir

***VERSUS***

Regional Police Officer Kohat Region Kohat & others

**ADDRESSES OF PARTIES**

***PETITIONER.***

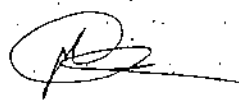
Zeeshan Qadir S/o Abdul Qadir SRC/Computer  
Operator DPO Office District Orakzai.

**ADDRESSES OF RESPONDENTS.**

1. Regional Police Officer Kohat Region Kohat.
2. District Police Officer Orakzai

Through

  
APPELLANT

  
Roeeda Khan  
Advocate, High Court  
Peshawar.

Dated: 02/09/2024

OFFICE OF THE DISTRICT POLICE OFFICER ORAKZAI

No. 66/EC (Enq)

dated 15.08.2021

**SHOW CAUSE NOTICE**

(Under Rule 5 (b) KPK Efficiency & Discipline Rules 2011).

1. That you FC Zeeshan Qadir s/o Sheikhan) have rendered yourself liable to be proceed under Rule 5 (b) of Khyber Pakhtunkhwa efficiency & Discipline Rules 2011 and power delegated to me vide CPO Peshawar Notification No. B511-8615/E-V dated 28.12.2015 following misconduct.  
"as per report you were absent from your lawful duty without any leave or prior permission from your higher ups. Which is quite adverse on your part and shows your disruptive and irresponsible behavior in the discharging of your official duties.
2. That by reason of above as sufficient Material is placed before the undersigned therefore it is decided to proceeds against your in general Police proceedings without did of enquiry officer.
3. That this misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the Police in the Political force with amount to encourage in efficient and unbecoming of good Police officer.
5. That by taking cognizance of the matter under enquiry the undersigned as competent authority under the said rules, proposes stem action against you awarding one or more of the kind punishment as provided in the rules.
6. You are called upon to show cause as to why should not be detail strictly in accordance with the Khyber Pakhtunkhwa efficiency and Discipline Rules, 2011 and power delegated to me vide CPO Peshawar Notification No 8511-8615/E-V dated 28.12.2015 for misconduct referred to above.
7. Your should submit reply to this show cause notice within 7 days of the receipt of the notice failing which on ex parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with his notice.

District Police Officer Orakzai

(9)

(2/A)

(10)

OFFICE OF DISTRICT POLICE OFFICER ORAKZAI

No. 66 /EC(Eng). Dated 18-11-2021

SHOW CAUSE NOTICE

(Under Rule 5(b) Kpk Efficiency & Discipline Rules-2011)

1. That you FC Zishan Qadir s/o Abdil Qadir of Sheikhan have rendered yourself liable to be proceed under Rule 5(b) of Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 and power delegated to me vide Peshawar Notification No. 8511-8615/E-V, dated 28.12.2015 in respect of misconduct.

"As per report you were absent from your lawful duty without any leave or prior permission from your higher ups, which is quite adverse on your part and shows your disruptive and irresponsible behavior in the discharging of your official duties".

2. That by reason of above, as sufficient material is placed before the undersigned; therefore, it is decided to proceed against you in Police proceeding without aid of enquiry officer.

3. That the misconduct on your part is prejudicial to good order and discipline in the Police force.

4. That your retention in the Police force will amount to an detriment to efficient and unbecoming of good Police officer.

5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes to punish you by awarding one or more of the kind punishment as provided in the rules.

6. You are called upon to show cause as to why you should not be punished strictly in accordance with the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 and power delegated to me vide CPC Peshawar Notification No. 8511-8615/E-V, dated 28.12.2015 for misconduct referred in the above.

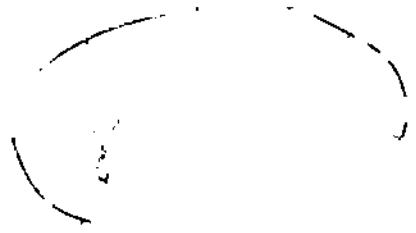
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which, an ex parte action shall be taken against you.

8. You are further directed to inform the undersigned that you wish to be heard in person or not.

9. Grounds of action are also enclosed with this notice.

District Police Officer, Orakzai

Copy to  
11/11/21  
2021



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*[Handwritten mark, possibly a signature or initials.]*

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CCD

121



THE DISTRICT POLICE OFFICER ORAKZAI

OFFICE ORDER

The order will dispose off the departmental enquiry conducted against Constable Zishan Qadir s/o Abdul Qadir Bell No. 264 section Shekhan under the Khyber Pakhtunkhwa Rules (Amended 2014-1975)

Constable Zishan Qadir s/o Abdul Qadir was absent from his duty.

SP Investigation Orakzai was nominated as enquiry officer to scrutinize the conduct of the accused official. The enquiry officer vide his finding and foundation charges leveled against him, and recommend him for major punishment.

These act of the accused official earned bad name to a discipline force and involved himself in criminal act.

In view of the above and available record, I reached to the conclusion that the accused official was involved in criminal act. Therefore, these charges leveled against Constable Zishan Qadir s/o Abdul Qadir have been established beyond any shadow of doubt. Therefore, in exercise of powers conferred upon me under the rules ibid, a major punishment of "dismissed from service and salaries of absence period to be recovered" is imposed on accused Constable Zishan Qadir s/o Abdul Qadir with immediate effect. Kit and salary of Constable be collected.

Announced OB# 613  
Dated 2-4-2021

DISTRICT POLICE OFFICER, ORAKZAI

No. 953 JEC Dated 27 July 2021

Copy of above to the:

1. The Regional Police Officer, Kohat.
2. SP Investigation Orakzai
3. DSP H/Os.
4. SDPO Upper for collection of items and clearance.
5. Pay Officer/SRC/OHC/Reader for necessary action.

DISTRICT POLICE OFFICER, ORAKZAI

OFFICE OF THE DISTRICT POLICE OFFICER ORAKZAI

OFFICE ORDER:-

The order will dispose off the departmental enquiry conducted against Constable Zishan Qadir s/o Abdul Qadir Belt No. 264 section Sheikhhan under the Khyber Pakhtunkhwa Police Rules. (Amended 2014) 1975. D-1

Constable Zishan Qadir s/o Abdul Qadir was absent from his lawful duty since long.

SP investigation Orakzai was nominated as enquiry officer to scrutinize the conduct of the accused official. The enquiry officer vide his finding and found him guilty of the charges leveled against him and recommended him for major punishment.

These act of the accused official earned bad name to a discipline force on one hand and involved himself in criminal act.

In view of the above and available record, I reached to the conclusion that the accused official was involved in criminal act. Therefore these charges leveled against accused constable Zishan Qadir s/o Abdul Qadir have been established beyond any shadow of doubt. Therefore, in exercise of power conferred upon me under the rules ibid, a major punishment of "dismissed from service and salaries of absence period be recovered" is imposed on accused constable Zishan Qadir s/o Abdul Qadir with immediate effect Kit etc issued to the constable be collected.

Announced OB# 613

DATED 02-04-2021

DISTRICT POLICE OFFICER ORAKZAI

No 953/ EC Dated 02-04-2021.

Copy of above to the

1. The Regional Police Officer Kohat
2. SP Investigation Orakzai
3. DSP HQrs
4. SDPo Upper for collection of items and clearance.
5. Pay Officer/ SRC/ OHC/ Reader for necessary action.

DISTRICT POLICE OFFICER ORAKZAI



(D) (14)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 266/2022

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Zishun Qadir S/O Abdul Qadir Ex-Constable No. 264 R/O Shekhan Banda  
District Orakzai. ... (Appellant)

VERSUS

1. District Police Office, Orakzai.
2. Regional Police Officer, Kohat.
3. Inspector General of Police, Khyber Pakhtunkhwa Peshawar. (Respondents)

Miss Roeda Khan  
Advocate ... For Appellant

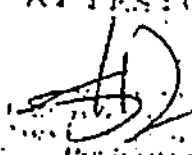
Mr. Muhammad Jan.  
District Attorney ... For Respondents

Date of Institution.....	24.02.2022
Date of Hearing.....	14.11.2023
Date of Decision.....	14.11.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

"On acceptance of this appeal, the impugned orders dated 02.04.2021, may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits."

ATTESTED  


2. Brief facts of the case are that appellant was appointed as constable in police department vide order dated 25.12.2014 and was performing his duty upto the entire satisfaction of his superiors. Show cause notice was issued to the appellant on basis of absence, which was replied by the appellant. Thereafter, appellant was dismissed from service as well as recovery of absence period vide order dated 02.04.2021. Feeling aggrieved, he filed



departmental appeal on 03.04.2021 which was not responded to, hence the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules. He further argued that no charge sheet and statement of allegation has been served upon the appellant, which is violation of Rule-6 (A)(B) of Police Rules 1975. He contended that neither show cause notice nor regular inquiry has been carried out by the respondent department and no opportunity of self-defence was afforded to the appellant and the appellant was condemned.

5. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules. He contended that applicant has admitted his absence from his lawful duty and has also admitted willful delay in filing departmental appeal. He further contended that the appeal is badly time barred therefore, he requested for dismissal of the instant service appeal.

6. Perusal of record reveals that the appellant was serving as constable in respondent department. Departmental proceedings were initiated against the appellant by issuing show cause notice which was duly replied by the appellant but respondent awarded major penalty of dismissal from service as well as recovery of salary vide impugned order dated 02.04.2021 on the ground of absence from duty. Appellant being member of police uniform force will have to dealt with under Section 5 & 6 of the Police Rules, 1975 but

wrong law which alone make the impugned order void-ab-initio. Moreover, appellant explain reason of his absence, which was study and getting higher education. Respondent will have to proceed appellant under rule 5 & 6 of Police Rules, 1975 by adopting proper procedure provided under which issuing of charge sheet, statement of allegation by appointing inquiry officer who will have to conduct impartial inquiry by providing proper chance of personal hearing, self-defence and specially cross examination and conduct regular inquiry. Authority dispense with inquiry without giving any plausible reason in a arbitrary manner which is against the law on the subject. It is also pertinent to mention here that appellant filed reply of show cause notice which means his absence was not willful as he explain it in his reply. Respondents instead of inquiry into the fact of study of appellant straight away dismissed him from service without conducting proper inquiry.

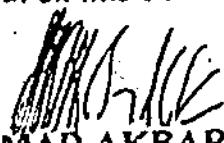
7. It is a well settled legal proposition that regular inquiry is must before imposition of major penalty of dismissal from service, whereas in case of the appellant, no such inquiry was conducted. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required

person without providing right of hearing to him. Reliance is placed on 2010 PLD SC 483.

8. Appellant also filed application for one year leave without pay to respondents and intimate his reason of absence which is study and absence is not willful or due to compelling circumstances. As appellant was dealt under wrong law i.e (E&D) Rules, 2011 instead of Police Rules, 1975 which is evident from show cause notice, hence, order based upon such show cause notice come within definition of void order, therefore, no limitation runs against it. Appellant submitted an application for condonation of delay which is allowed.

9. For what has been discussed above, we are unison to set aside impugned orders and reinstate the appellant into service for the purpose of denovo inquiry by providing opportunity of self-defense, personal hearing and cross-examination to the appellant which is requirement of fair trial. Respondents are further directed to conduct denovo inquiry within 90 days after receipt of copy of this judgment. Costs shall follow the event. Consign:

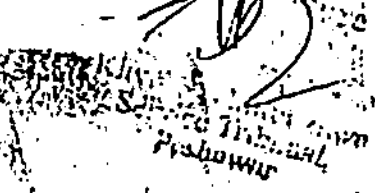
10. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 14<sup>th</sup> day of November, 2023.

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

\*Kaleemullah

Certificate

  
Tribunal  
Peshawar

Date of Pronouncement  
Number of Pages  
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Name  
Date of Filing

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22/12/23  
22/12/23

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**ORDER**  
14.11.2023

1. Appellant alongwith his counsel present. Mr. Muhammad Jan, District Attorney for the respondents present.
2. Vide our detailed judgement of today placed on file, we are unison to set aside impugned orders and reinstate the appellant into service for the purpose of denovo inquiry by providing opportunity of self-defense, personal hearing and cross-examination to the appellant which is requirement of fair trial. Respondents are further directed to conduct denovo inquiry within 90 days after receipt of copy of this judgment. Costs shall follow the event. Consign.

3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 14<sup>th</sup> day of November, 2023.

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

\*Kaleemullah



E 19

OFFICE OF THE DISTRICT POLICE OFFICER  
ORAKZAI

**ORDER:-**

This order will dispose of de-novo departmental proceedings initiated against ex-FC Zeeshan Qadir No. 264 under the Khyber Pakhtunkhwa Police Rules, 1975 (amendment 2014).

The essential facts arising of the case are that he was absented from his lawful duties without any leave or prior permission by the competent authorities.

In compliance with the judgment of Service Tribunal dated 14.11.2023 de-novo departmental proceeding initiated after approval of the competent authority DSP Legal Orakzai was appointed as enquiry officer to conduct the de-novo enquiry. Charge Sheet along with statement of allegations was issued to the ex-constable. The ex-constable was associated with the proceedings and afforded ample opportunity of defense by enquiry officer. Hence the enquiry officer recommended him for minor punishment.

In view of above and available record, I agree with the finding of enquiry officer, therefore, in exercise of powers conferred upon me under the rules *ibid*, *Salah ud Din Kundi*, District Police Officer, Orakzai hereby award a minor punishment of forfeiture of two years approved service to accused ex-FC Zeeshan Qadir No. 264 He is re-instated in service, with immediate effect and the intervening period is treated as un-authorized leave without pay on the principle of "No work, no pay".

  
DISTRICT POLICE OFFICER  
ORAKZAI

No. 198 /PA dated Orakzai the 20/03/2024

Copy of above is submitted for favor of information to the  
Khyber Pakhtunkhwa Police, Peshawar.

مستطع اور لائی

نقلہ ۱۱

پولیس لائن

اور عالمی :- ۵ مورخہ ۰۲/۲۴ وقت ۱۳:۰۰ بجے درج سے کہ اس وقت ایک  
 شہری پروردار از دفتر آسی سے موبائل ہو کر جس کے فطابق انگریزی  
 ایڈیشن نمبر ۱۹۶/۲۸ مورخہ ۰۳/۲۴ سے سابقہ کسٹبل ذیشان قادر نمبر ۲۶۴ کو  
 نوکری پر بحال کر دیا ہے۔ کسٹبل مذکورہ سرکاری و نجی سماں کے ساتھ  
 روٹن پڑا جائزہ لیا گیا دیگر تہمت بیان کی۔ رپورٹ عالمی درج روزنامہ  
 کے نقلہ علیحدہ فریٹ ہو کر پھر میں انٹارکسٹین انٹرنیشنل مال  
 لیا جانے کی خدمت میں ارسال ہوگا

صباح عالی

نقلہ عالی

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 ۰۲-۰۴-۲۰۲۴

Dr. Forwarded  
 (Signature)

۰۲-۰۴-۲۰۲۴

۱۹/۴/۲۴

(G)

(2)

To,

The Region Police Officer,  
Kohat Region, Kohat

Subject:

DEPARTMENTAL APPEAL AGAINST  
THE IMPUGNED ORDER DATED  
20.03.2024 COMMUNICATED TO THE  
APPELLANT ON 02.04.2024 WHEREBY  
MINOR PUNISHMENT FORFEITURE OF  
TWO YEARS APPROVED SERVICE WAS  
IMPOSED AGAINST THE APPELLANT.

Prayer

THAT ON ACCEPTANCE OF THE  
INSTANT DEPARTMENTAL APPEAL  
THE IMPUGNED ORDER DATED  
20.03.2024 TO THE EXTENT OF MINOR  
PUNISHMENT MAY KINDLY BE SET  
ASIDE AND THE APPELLANT MAY  
KINDLY BE RESTORED ON HIS  
ORIGINAL POST WITH ALL BACK  
BENEFITS.

Respected Sir,

The appellant submits as under.

1. That the appellant belongs to a respectable family and law abiding citizen of Pakistan.
2. That the appellant was appointed as constable on 25.12.2014 with respondent department and after appointment the appellant performed his duty with full devotion and hard



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work and no complaint whatsoever has been made against the appellant.

3. That the appellant was busy in his study process for Master from Agriculture University Peshawar due to which the appellant was unable to performed his official duty with respondent department.
4. That due to reason mentioned in para-3, the appellant has been dismissed from service on 02.04.2021 against which the appellant filed service appeal no.266/2022 which has been accepted by this Hon'ble Tribunal on 14.11.2023 whereby the appellant has been reinstated with the direction to conduct denovo inquiry by providing opportunity of defense, personal hearing and cross examination to the appellant. (Copy of judgment is attached).
5. That in compliance of the judgment passed by this Hon'ble Tribunal the appellant has been reinstatement by respondent department on 20.03.2024 while major punishment for forfeiture of two years approved service was imposed against the appellant but the said impugned order has

been communicated to the appellant on 02.04.2024 when the appellant marked his attendance for his official duty with respondent department through Nakal Mad No.11 dated 02.04.2024. (Copy of impugned order dated 20.03.2024 & Nakal Mad No.11).

GROUNDS

- A. That from every angle, the impugned order to the extent of minor punishment is wrong, illegal void is liable to be set aside.
- B. That no opportunity of personal hearing has been provided to the appellant.
- C. That no charge sheet no statement of allegation has been served or communicated to the appellant.
- D. That the appellant has already been reinstated by the respondent department and that's sole ground is enough for the innocence of the appellant.
- E. That the appellant has not been treated according law and rule and the impugned

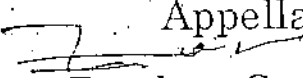
(24)

order is not tenable in the eyes of law as such double punishment has been imposed against the appellant.

It is therefore, most humbly prayed that on acceptance of the instant departmental appeal the impugned order dated 20.03.2024 to the extent of minor punishment may kindly be set aside and the appellant may kindly be restored on his original post with all back benefits

Dated: 02-05-2024

Appellant

  
Zeeshan Qadir  
S/o Abdul Qadir  
R/o Qoom Sheikhan Banda  
District Orakzai

CH

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**INQUIRY FINDING REPORT IN DENOVO ENQUIRY AGAINST EX-CONSTABLE  
ZEESHAN QADIR NO.264.**

Charge sheet based on statement of allegation with other documents received from DPO Orakzai vide. No.442/EC Dated :13/02/2024 wherein the following allegations were leveled against Ex-Constable Zeeshan Qadir. Contents of allegations are as under.

- i. That as per report Ex-Constable Zeeshan Qadir were absented from his lawful duties (321 days) without any leave or prior permission by the Competent authorities.
- ii. The undersigned was appointed on enquiry officer therefore above quoted Charge-Sheet based on statement of allegation was served upon the defaulter Ex-Constable with the direction to Submit his written Statement before the undersigned on or before the target. Reply of the defaulter official was received Placed on file and satisfactory. The Ex-Constable Zeeshan Qadir was once departmentally proceeded and finally Ex-Constable Zeeshan Qadir was dismissed from service by Competent authority Appellant Challenged the Impugned punishment before KP Service Tribunal Peshawar and was set aside with the direction to department for Denovo Enquiry within 90 days.

**1. STATEMENT OF ABDUL JALAL MASI, POLICE LINE ORAKZAI.**

He Stated that Constable Zeeshan Qadir belt No.264 remained absent from his lawful duties (321 days) upon which the matter was reported to high ups and departmental Inquiry was Conducted and he failed to produce any Plausble explanation. Resultantly he was dismissed from his Service.

**2. STATEMENT OF AJAB KHAN OASI, BABER MELA HEADQUARTER AT ORAKZAI.**

He stated that Ex-Constable Zeeshan Qadir belt No.264 absented himself from his Lawful duties 321 days) upon which the matter was reported to high ups and departmental Inquiry was initiated and show Cause statement of allegation were issued. But the said Constable avoided to come for recording his statement. Therefore the said Constable was called to attend ardali room but remained absent. Resultantly Constable Zeeshan Qadir was dismissed from his Service.

**3. STATEMENT OF EX-CONSTABLE ZEESHAN QADIR BELT No.264.**

He stated that during the relevant time I was busy in studying in Peshawar university for achieving Masters and due to which I remained absent and was dismissed from service. Appellant challenged the Impugned punishment before KP Service Tribunal Peshawar and his appeal was accepted and denovo Inquiry into his Service. The further stated that I am Committed to perform duty according Law and rules Being Ex-

Levies/Khassadar and due to unawareness of Law. The act of defaulter official is excusable and therefore I will perform my duty with true better and spirit.

FINDINGS:-

The undersigned enquired into the matter, as per available record, Ex-Constable Zeeshan Qadir absented himself without any leave or prior permission by the Competent authorities. Upon which departmental inquiry was initiated and the defaulter official were duly served with Charge Sheet and Statement of allegation and was summoned to appear before enquiry Officer for denovo inquiry. The defaulter official appeared and submitted his reply. Similarly the Statement of other two witnesses namely Abdul Jalal MASI, Police Line Orakzai and Ajab Khan OASI at Babar Mela, Headquarter Orakzai. Which are hereby attached for perusal.

RECOMMENDATIONS:-

After analyzing all the statements and record the following is recommended. Mr Zeeshan Qadir Belt No.264 remained absent from his duty, but he had also submitted an application for leave without pay to continue his studies. However, his application was not processed properly and being in the last semester of his degree program he continues his studies. He produces a plausible explanation of his absence. Moreover, he has also committed to perform his duty with full zeal and dedication.

In view of the aforementioned, it is recommended that Mr. Zeeshan Qadir may be given minor punishment.

*Order agreed with the EO,  
Forfeiture of two years  
approved service, Reinstated  
in service with immediate effect  
And the intervening period is treated as  
Unauthorized leave without pay on the  
principle of "no work, no pay"  
O.B.no. 196.  
20.03-2024*

*Sikandar Hassan*  
(SIKANDAR HASSAN)  
Enquiry officer  
DSP LEGAL ORAKZAI  
20/03/24

*[Signature]*  
20/3/24

*(Handwritten signature)*

*(Handwritten signature)*

Accepted

و حقیقتاً بدین ترتیب

در این خصوص

و کلی صاحب این سند بدین وجه که در صورتی که در این سند مذکور است که در تاریخ ۱۴۰۲/۰۸/۰۲  
 در این خصوص منجمله در خصوص این سند و کلی صاحب این سند بدین وجه که در صورتی که در این سند مذکور است که در تاریخ ۱۴۰۲/۰۸/۰۲  
 در این خصوص منجمله در خصوص این سند و کلی صاحب این سند بدین وجه که در صورتی که در این سند مذکور است که در تاریخ ۱۴۰۲/۰۸/۰۲  
 در این خصوص منجمله در خصوص این سند و کلی صاحب این سند بدین وجه که در صورتی که در این سند مذکور است که در تاریخ ۱۴۰۲/۰۸/۰۲

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آن صاحب این سند

بدین جهت که در این سند مذکور است که در تاریخ ۱۴۰۲/۰۸/۰۲

توجه فرمایید


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بیتا واقع در ...

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در تاریخ ...