


# FORM OF ORDER SHEET

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

**Appeal No.** 1753/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03 /10/2024	<p>The appeal of Mr. Yasir Khan presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 08.10.2024. 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**

APPEAL NO. 1753/2024

~~ASIR Khan~~

VS

POLICE DEPTT:

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APPELLANT

THROUGH:

  
MIR ZAMAN SAFI  
ADVOCATE

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

APPEAL NO. 1753 /2024 .

Mr. Yasir Khan, Constable No.52,  
Police Lines, Hangu.

.....APPELLANT

**VERSUS**

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

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 12.12.2022 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 13.08.2024 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.**

**PRAYER:**

That on acceptance of this appeal the impugned orders dated 12.12.2022 and 13.08.2024 may very kindly be set aside and the appellant be reinstated into service with all back benefits. Any other remedy which this august 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 the employee of the respondent department and has served the department as Constable No. 52 for quite considerable period quite efficiently and upto the entire satisfaction of his superiors.
- 2- That the appellant has served the department with dedication and honesty and has never committed any illegality or misconduct during his entire service

for further necessary action. That the appellant time and again visited the quarter concerned for information on his application for ex-Pakistan leave but no response was received, therefore, was having no option but to leave for abroad. Copy of the application is attached as annexure.....A.

- 4- That when the appellant came to his native country, the appellant approach the department for joining of his duty but the respondent department handed over the impugned order dated 12.12.2022 whereby major penalty of dismissal from service has been imposed upon the appellant which was communicated to the appellant through his application dated 17/04/2024. Copies of the impugned order and application are attached as annexure.....B & C.
- 5- That the appellant feeling aggrieved from the impugned order dated 12.12.2022 preferred departmental appeal before the appellate authority but the same has been rejected vide appellate order dated 13.08.2024 by the appellate authority on no good grounds. Copies of the departmental appeal and rejection order is attached as annexure.....D & E.
- 6- That appellant feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned orders dated 12.12.2022 and 13.08.2024 are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent on the subject noted above and as such violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondent department acted in arbitrary and malafide manner while issuing the impugned orders dated 12.12.2022 and 13.08.2024 which are not tenable in eye of law and liable to be set aside.
- D- That no absence notice has been served upon the appellant before issuing the impugned order dated 12.12.2024.
- E- That no publication whatsoever been published in the daily newspaper which is necessary as per law and rules therefore the impugned order dated

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F- That no chance of personal hearing/defence has been provided to the appellant before issuing the impugned order dated 12.12.2022.

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

Dated: 30.09.2024.

APPELLANT

YASIR KHAN

THROUGH: 

MIR ZAMAN SAFI

ADVOCATE

**CERTIFICATE:**

It is certified that no other earlier appeal was filed between the parties.

  
DEPONENT

**LIST OF BOOKS:**

- 1- CONSTITUTION OF PAKISTAN, 1973.
- 2- SERVICES LAWS BOOKS.
- 3- ANY OTHER CASE LAW AS PER NEED.

(4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

APPEAL NO. \_\_\_\_\_/2024

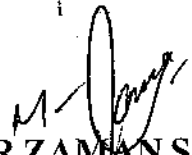
**YASIR KHAN**

**VS**

**POLICE DEPTT:**

**AFFIDAVIT**

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the 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 Court.

  
**MIR ZAMAN SAFI,**  
Advocate  
High Court, Peshawar

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR**

**SERVICE APPEAL NO. \_\_\_\_\_/2024**

**YASIR KHAN**

**VS**

**POLICE DEPARTMENT**

**APPLICATION FOR CONDONATION OF  
DELAY IN FILING THE ABOVE NOTED  
APPEAL**

**R.SHEWETH:**

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so for.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

**GROUND OF APPLICATION:**

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That the appellant was out of country and when he reached to the native country Pakistan directly approached the department for joining of his arrival but it came into the knowledge of appellant that he has been dismissed from service, while the same order communicated to the appellant through application dated \_\_/\_\_/2024.
- C- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore, prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

**APPELLANT**

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Handwritten mark or symbol.

D.P.O. Hangu  
Handwritten signature and 'D.P.O. Hangu' stamp.

Handwritten notes and scribbles in the middle left section.

For Docket  
Handwritten text 'For Docket'.

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Main body of handwritten text, possibly a report or list of items, written in Urdu/Arabic script.

Handwritten notes at the bottom left, including 'A' and 'B' with circles around them.





OFFICE OF THE  
DISTRICT POLICE OFFICER,  
HANGU

Tel: 0925-623878 Fax: 0925-620135

(B)

(7)

**ORDER**

This order is passed on the departmental enquiry against Constable Yasir Khan No. 52 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 Yasir No. 52 deputed in Civil Hospital as Guard has absented himself from official duty with effect from 30.07.2022 to till date without any leave or prior permission vide DD No. 41 dated 30.07.2022 of Police Lines, Hangu.
- ii. His absences shows his disinterest, negligence and professional gross misconduct on his part.

He was served with Charge Sheet and statements of allegations vide this office No. 164/EC, dated 12.09.2022, to which he failed to submit his reply to the DSP City, Hangu who was appointed as Enquiry Officer to conduct departmental enquiry against him. After completion of enquiry, the Enquiry Officer submitted his finding report vide his office No. 1863/SDPO, dated 04.11.2022, in which the defaulter Constable Yasir Khan No. 52 was time & again summoned to appear before the enquiry officer for further proceedings into the matter, but did not turn up so far and still absented himself from lawful duty with effect from 30.07.2022. Reportedly, the defaulter constable has gone abroad without NOC from the department as per enclosed his travel history, which also shown his indiscipline manner and gross misconduct on his part thus, held him guilty for the charges leveled against therefore, the enquiry officer recommended his for awarding a major punishment.

Thereafter, he was called in orderly room on 07.11.2022, but he did not appear before the undersigned. Consequently, a Final Show Cause Notice was issued to him vide No. 281/EC, dated 08.11.2022 to which he also failed to submit his reply, whereas his brother namely Umar Farooq s/o Musadiq Hussain r/o Pass Kalay, Hangu has been submitted reply into the matter on his behalf stating therein the his brother Constable Yasir Khan No. 52 has gone abroad for labouring as well.

Subsequently, on 29.11.2022, a Notice was advertised in daily newspaper regarding issuing of Last Notice/chance to him for appearing/making his arrival report at Police Lines Hangu within 15 days positively, but no response could be offered in his self defence so far.

Keeping in view of above and having gone through available record, the undersigned has arrived at the conclusion that defaulter Constable Yasir Khan No. 52 has absented himself from official duty with effect from 30.07.2022 to till date without any leave or prior permission as well as has gone abroad for laboring without obtaining NOC from the department, 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, Asif Bahader, (PSP), District Police Officer, Hangu in exercise of the powers conferred upon me under the Rules ibid, dispense with general proceedings and awarded him a major punishment of Dismissal from Service and his absence period is treated as Leave without pay with immediate effect.

Order Announced  
OB No. 632  
Dated 12/12/2022

DISTRICT POLICE OFFICER,  
HANGU.

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 7517/EC, dated Hangu, the 13/12/2022

Copy of above is submitted to the Regional Police Officer, Kohat Region,

Kohat for favour of information, please  
Pay Officer, EC, Reader & OHC for necessary action.

DISTRICT POLICE OFFICER,  
HANGU.

*(Handwritten signature)*

DISTRICT POLICE  
OFFICER IN CHARGE

SAC  
F-1  
No. 5

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12/4/24

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CC

بکھنور جناب DIG صاحب کو ہاٹ ریجن کو ہاٹ

9

درخواست بمراد دوبارہ بحال کرنے برائے سابقہ کاٹھیل یاسر خان بلک نمبر 52

جناب عالی!

مذکورہ گزارش کی جاتی ہے کہ ساکن سال 2016ء کا بھرتی شدہ ہے اور ساکن بحوالہ آرڈر بک نمبر 632 مورخہ: 12.12.2022 کو جناب ڈسٹرکٹ پولیس آفیسر ہنگو نے بوجہ غیر حاضری محکمہ پولیس سے درخواست کیا۔

تفصیل آرڈر بک ہمراہ لف ہے۔  
کیونکہ ساکن خانہ خود کا واحد کفیل ہے اور کوئی دوسرا ذریعہ معاش نہیں ہے۔ غیر حاضری یا امر مجبوری تھی اب ساکن محکمہ پولیس میں دوبارہ بحال ہونے کی استدعا کرتا ہے۔

استدعا: لہذا بذریعہ درخواست استدعا کی جاتی ہے کہ ساکن کے چھوٹے چھوٹے بچوں پر رحم فرما کر ساکن کو دوبارہ محکمہ پولیس میں بحال کرنے کا حکم صادر فرمائیں۔ ساکن آپ جناب کی اقبال بلندی کیلئے تاحمد عا گورہیگا۔

مورخہ: 03.06.2024

الغرض

آپ کا تابع فرمایاں

سابقہ کاٹھیل یاسر خان بلک نمبر 52

حال برخواست

E<sup>4</sup>

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ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Yasir Khan No:52 of district Hangu against the order of District Police Officer, Hangu whereby he was awarded inajor punishment of dismissal from service vide OB No. 632 dated 12.12.2022. Brief facts of the case are that he, while performing duty as guard at Civil Hospital Hangu, had absented himself from lawful duty with effect from 30.07.2022 till date of dismissal i.e, 12.12.2022 without any leave or permission vide DD No. 41, dated 30.07.2022 of Police Line Hangu.

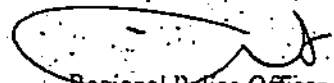
Proper departmental enquiry proceedings were initiated against him and Sub Divisional Police Officer, City Hangu was appointed as Inquiry Officer. The Enquiry Officer, after fulfillment of codal formalities, submitted his findings wherein the appellant was found guilty of the charges leveled against him. He was, therefore, recommended for major 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 penalty of dismissal from service vide OB No. 632 dated 12.12.2022

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 on 06.08.2024. During personal hearing the appellant did not advance any plausible explanation in his defense. Moreover, his appeal is also time barred by 01 year and 06 months.

Foregoing in view, I, Saif 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 by the District Police Officer, Hangu is justified and, therefore, warrants no interference. Hence, appeal of Ex-Constable Yasir Khan No.52 is hereby rejected, being without merit and badly time barred by 01 year and 06 months.

Order Announced  
06.08.2024

  
Regional Police Officer,  
Kohat Region

No. 6521/EC. Dated Kohat the 13/8/2024

Copy forwarded to District Police Officer, Hangu for information and necessary w/r to his office Memo. No. 2925/LB, dated 14.06.2024. Service Record and Fauji missal are returned herewith.

✓  
E.C. / O.K.  
D.A. n/a

\*\*\*\*\*  
  
Office of the District Police Officer,  
Hangu  
1376  
District No.  
16/8/2024



VAKALATNAMA

11

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

OF 2024

Yasir Khan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Police Deptt:

(RESPONDENT)  
(DEFENDANT)

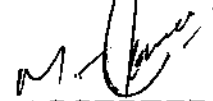
I/We Yasir Khan

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** 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. 27 / 09 / 2024



CLIENT



ACCEPTED

MIR ZAMAN SAFI  
ADVOCATE

OFFICE:

Room No.6-E, 5<sup>th</sup> Floor,  
Rahim Medical Centre, G.T Road,  
Hashtnagri, Peshawar.  
Mobile No.0333-9991564  
0317-9743003