

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

SERVICE APPEAL No. 1073/2024

Saleem Shah..... (Appellant)

VERSUS


Regional Police Officer, Mardan Region & Other..... (Respondents)

Index

S. No	Description of documents	Annexure	Page
1.	Para-wise comments		1-3
2.	Affidavit		4
3.	Authority Letter		5
4.	Copy of DD No. 21, dated 28.02.2023	A	6
5.	Copy of DD No. 16, dated 17.01.2024	B	7
6.	copy of Charge Sheeted along with statement of allegations	C	8-9
7.	Copy of Inquiry report and Statement of Appellant.	D	10-11
8.	Copy of orders dated; 06.03.2024 & 09.07.2024	E	12-14

Respondents

Through


Said Alam DSP (Legal),
Mohmand

CNIC# 21407-4697246-1

CELL NO: 0345-9160916

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 1073/2024

Saleem Shah..... (Appellant)

VERSUS

Regional Police Officer, Mardan Region & Other..... (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO 1 & 2

RESPECTFULLY SHEWETH:

Preliminary Objections:-

1. That the instant service appeal is not maintainable under the law.
2. That the appeal is not based on facts.
3. That the appellant has got no cause of action and locus standi.
4. That the appellant has concealed the real facts from the honorable Tribunal.
5. That the appellant is estopped to file the service appeal by his own conduct.
6. That the appeal is barred by law & limitation.

**Khyber Pakhtunkhwa
Service Tribunal**

" 16782
" 16-10-24

REPLY ON FACTS:-

1. Pertains to record, however plea taken by the appellant is not plausible because every Police Officer is under obligation to perform his duty up to the entire satisfaction of his superiors.
2. Pertains to record.
3. Incorrect, while posted at Police Line Ghallanai, the appellant remained absent from

lawful duty vide DD No. 21, dated 28.02.2023 without any leave or prior permission from competent authority (copy of DD No. 21, dated 28.02.2023 is Annexed as Annexure "A"). However, the appellant reported for duty after long absence of (10- Months & 19 Days) vide DD No. 16, Dated; 17.01.2024 (copy of DD No. 16, dated 17.01.2024 is Annexed as Annexure "B"). To scrutinize the conduct of the delinquent official, he was Charge Sheeted along 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 (copy of Charge Sheeted along with statement of allegations are Annexed as Annexure "C"). 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 leveled against the delinquent official were been proved. The inquiry Officer vide his above mentioned inquiry report recommended that his 10-Months & 19-days absence period be treated as leave without pay. (Copy Of Inquiry Report and statement of appellant are Annexed as Annexure "D"). The appellant was accordingly 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) District Mohmand. It is pertinent to mentioned here that the appellant came to know about the stoppage of salary

due to absenteeism after ten months. Based on the above, hence the appellant 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 in accordance with the principle "No work no salary". His salary was accordingly been released from the same date.

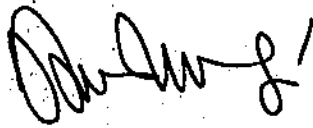
4. Incorrect, the appellant was summoned and heard in person in Orderly Room Regional Police Office Mardan on 03.07.2024, during the course of personal hearing, the appellant could not present any cogent justification to warrant interference in the order passed by the competent authority. Hence, the very conduct of appellant is unbecoming of a disciplined Police Officer. Beside the above the departmental appeal against order dated 07.03.2022 of the appellant was found time barred by 01 month and 27 days without advancing any cogent reason regarding such delay. Therefore, the appellate authority, find no substance in the appeal therefore, rejected, being devoid of merit as well as badly time barred by 01 month and 27 days. Hence, the appellate authority rejected the same vide order dated 09.07.2024 (copy of orders dated; 06.03.2024 & 09.07.2024 are Annexed as Annexure 'E'). it is worth to mention here that when appeal before the departmental authority is time barred then Service Appeal before the Service Tribunal is incompetent. Reliance is placed on 2017 SCMR965, 2006 SCMR 453, 2007 SCMR 513, 2011 SCMR 1429 AND 2021 SCMR 144.
5. Incorrect, the appellate order dated 09/07/2024 order was convincing, based on cogent reasons and in accordance with rules/Policy of Government and the Departmental Appeal being unsatisfactory, hence rejected
6. Incorrect, all the orders were convincing, based on cogent reasons and in accordance with rules/Policy of Government and the Appellant has got no cause of action, therefore, the instant appeal may kindly be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A. Incorrect, the orders dated 09/07/2024 and 06/03/2024 are legal in accordance with facts and are maintainable hence, no need to be set aside.
- B. Incorrect, the appellant has been treated in accordance to law/rules and Answering Respondents did not violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C. Incorrect, already explained in preceding paras, the appellant remained absent from law full duty dated 28.02.2023 to 17.01.2024, without any orders of the competent authority, the orders of the authorities have full backing of law/ rules hence, no violation exist on part of respondents.
- D. Incorrect, proper departmental inquiry proceedings were initiated against the appellant and opportunity of personal hearing and defense was afforded to the appellant, and Answering respondents never violated the Principal of natural Justice.
- E. The respondents department also seeks permission to raise additional grounds at the time of arguments and the appeal is time barred, may kindly be dismissed please.

PRAYERS:

Keeping in view the above stated facts it is humbly prayed that the appeal being time barred, not maintainable, barred by law/ limitation may kindly be dismissed with costs, please.



(Usama Amin Cheema) PSP
District Police Officer,
Mohmand
(Respondent No. 2)



(Najeeb-Ur-Rehman Bugvi) PSP
Regional Police Officer
Mardan Region,
(Respondent No. 1)

4

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

SERVICE APPEAL No. 1073/2024

Salcem Shah..... (Appellant)

VERSUS

Regional Police Officer, Mardan Region & Other..... (Respondents)

AFFIDAVIT

I, Usama Amin Cheema (PSP), District Police Officer, Mohmand (Respondent No. 2), do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondents No. 1 & 2 are correct to the best of my knowledge and belief. Nothing has been concealed from this Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defence has been struck off *Cost*.



23/09/24

DEPONENT

(Signature)
(Usama Amin Cheema) PSP
District Police Officer,
Mohmand
(Respondent No. 2)

5

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 1073/2024

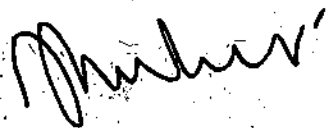
Saleem Shah..... (Appellant)

VERSUS


Regional Police Officer, Mardan Region & Other..... (Respondents)

AUTHORITY LETTER

Mr. Said Alam working as DSP (Legal), Mohmand is hereby authorized for submission of legal documents, comments and affidavit before the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar on behalf of Respondents No. 1 & 2 in above mentioned Service Appeal.



(Usama Amin Cheema) PSP
District Police Officer,
Mohmand
(Respondent No. 2)



(Najeeb-Ur-Rehman Bugvi) PSP
Regional Police Officer,
Mardan Region,
(Respondent No. 1)

Handwritten signature inside a circle.

Handwritten signature with a circled initial.

Handwritten notes including a date '15-10-02', 'M.N.D', 'A.M.H.C.-R.L', and a signature.

Large block of handwritten text, possibly a report or notes, written in Urdu.

Handwritten text at the bottom left, including a circled number '6' and the word 'Amex "A"'. Includes a date '28/02/02' and '21/02/02'.

Handwritten signature at the bottom right.

Handwritten signature inside an oval, dated 16/10/24.

Handwritten signature 'A. M. M.' with a circled 'A' above it.

Official stamp of the 'COMMISSIONER OF INLAND REVENUE' dated 15/08/2024, with a signature over it.

Main handwritten text block containing a detailed report or letter in Urdu script.

Handwritten text at the bottom left, including a circled number '7' and the name 'Amir B'.

Handwritten text at the bottom right, possibly a name or title.

8

Annex "C"

CHARGE SHEET

1). I, Muhammad Ayaz PSP, District Police Officer, Mohmand, as competent Authority, hereby charge you FC Salim Shah s/o Sarwar Khan No. 2641 as follows:-

Whereas, you FC Salim Shah s/o Sarwar Khan No. 2641 while posted at Police Lines Ghallanai, were marked absent from lawful duty vide DD No. 21, dated 28-02-2023 of Police Lines Ghallanai. However, you 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. This shows your inefficiency and lack of interest in your official duties.

Your such act is highly objectionable and render you liable for departmental proceeding.

1). By reason of the above, you appear to be guilty of misconduct under Police Disciplinary Rules, 975 with amendments 2014 and have rendered yourself liable to all or any of the penalties specified in the Rules:-

2). You are, therefore required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer as the case may be.

3). Your written defense, if any, should reach to the Enquiry Officer within the specified period failing which it shall be presumed that you have no defense to put in and that case, ex-parte action will be taken against you.

4) You are also at liberty, if you wish to be heard in person.

5) Statement of allegation is enclosed.

Attested
①

(Muhammad Ayaz) PSP
District Police Officer,
Mohmand



OFFICE OF THE
DISTRICT POLICE OFFICER
MOHMAND

Email: dpomohmand@gmail.com

Ph: 0924-290179

Fax: 0924-290056

2024

SUMMARY OF ALLEGATION

1) I, Muhammad Ayaz PSP, District Police Officer, Mohmand, am of the opinion that FC Salim Shah s/o Sarwar Khan No. 2641 of this district has rendered himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of police Disciplinary Rule, 1975 read with Amendments 2014.

STATEMENT OF ALLEGATION

Whereas, he FC Salim Shah s/o Sarwar Khan No. 2641 while posted at Police Lines Ghallanai, 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. This shows his inefficiency and lack of interest in his official duties.

His act is highly objectionable and render he liable for departmental proceeding.

2) For the purpose of scrutinizing the conduct of the delinquent official with reference to the above allegations, Mr. Liaqat Ali DSP HQrs Mohmand is appointed as Enquiry Officer, to conduct enquiry under the Rules.

3) The Enquiry Officer shall in accordance with the provision of the Police Disciplinary Rules, 1975 read with Amendments 2014 provide reasonable opportunity of hearing to the accused, record its findings and make within 15 days of the receipt of this order recommendation as to punishment or other appropriate action against the accused.

(Muhammad Ayaz) PSP
District Police Officer,
Mohmand

No. 70-73 /PA,

Dated Mohmand the: 29 / 1 / 2024.

Copy forwarded:-

- The Regional Police Officer Mardan, for favor of information, please.
- Enquiry Officer of the District Mohmand Mr. Liaqat Ali DSP HQrs Mohmand is directed to initiate departmental proceedings against the accused under the Police Disciplinary Rules, 1975 read with amendments 2014.
- FC Salim Shah s/o Sarwar Khan No. 2641 to appear before the Enquiry Officer on the date, time & place fixed by the Enquiry Officer for the purpose of enquiry proceedings.

1) FC Salim Shah s/o Sarwar Khan No. 2641 (Summary of Allegation & Charge Sheet)

Aliqat
@

(10)

Annex "D"

Kenia without pay on no duty, no salary

fixe Rs. 10000-

pay release

از دفتر ڈی ایس پی ہیڈ کوارٹر

ہیڈ کوارٹر نمبر 200-92

ضلع مہمند

مورخہ: 26/02/2024

انکوائری رپورٹ اذان کنشیل سلیم شاہ 2641 ضلع مہمند

جناب عالی! 26.2.24

بحوالہ چارج شیٹ انگریزی نمبر PA / 73-70 مورخہ: 29/01/2024 جاریہ جناب ڈی پی او صاحب ضلع مہمند بر خلاف کنشیل سلیم شاہ نمبر 2641 معروض خدمت ہوں کہ کنشیل سلیم شاہ 2641 پر الزام ہے کہ بحوالہ مد 21 مورخہ 28-02-2023 روزنامہ پو لیس لائن سے غیر حاضر ہو کر بحوالہ مد 16 روزنامہ قائد کلڈ مورخہ 17-01-2024 کو حاضر آکر کل آیام غیر حاضری 10 اور 19 یوم بنتی ہے طویل غیر حاضری کی وجہ سے کنشیل مذکورہ کو آفسران بالائے چارج شیٹ جاری کر کے اور کمانڈ کاروائی کے احکامات صادر کئے ہے۔ انکوائری کاغذات سن ڈی ایس پی ہیڈ کوارٹر کو حوالہ ہوئی۔ نیز کنشیل مذکورہ کا تنخواہ بھی بند کی جا چکی ہے۔

کنشیل مذکورہ کو دفتر طلب کر کے بیان ریکارڈ کیا گیا کہ مذکورہ نے اپنا بیان تحریری شکل میں پیش کیا کہ مذکورہ کے بیان کے مطابق میں بطور پولیس کنشیل ڈیوٹی انجام دے رہا تھا کہ اسی دوران میرے والد صاحب شدید بیمار ہو گئے کیونکہ ہمارے گھر میں اسکی خدمت کے لئے کوئی دوسرا بند موجود نہیں تھا میں تقریباً 03 ماہ تک والد کا خدمت کرتا رہا اور بعد میں وہ مورخہ 12-06-2023 کو دل کے عارضے کی وجہ سے فوت ہو گئے۔ مجھے چھٹی لینے اور اس طرح طریقہ کار کا مجھے علم نہیں تھا اپنے والد کے فوتی کے بعد میں شدید ڈپریشن میں مبتلا ہوا کیونکہ اسی دوران میری والدہ صاحبہ بھی دل کی بیماری میں مبتلا ہو گئی اور اب تک اسکا علاج جاری ہے لہذا مذکورہ چارج شیٹ بابت التماس ہے کہ مجھے ڈیوٹی پر بحال کیا جائے بیان انکوائری بذالغ ہے۔

OSI کی رپورٹ کے مطابق کنشیل مذکورہ NO DATA میں پو لیس لائن کلڈ وچکا ہے برطابق لاگ رول مورخہ 13-02-2023 بحوالہ OB نمبر 2210 پو لیس لائن تینبات ہے رپورٹ ساتھ لف ہے۔

پے آفسر کی رپورٹ کے مطابق کنشیل سلیم شاہ 2641 کو بحوالہ مد 21 مورخہ 28-02-2023 پو لیس لائن سے غیر حاضری کی رپورٹ پر تنخواہ بند ہے اور اسی تاریخ سے برطابق کمپیوٹر ریکارڈ AG آفس سے بھی بند ہے رپورٹ ساتھ لف ہے۔

برطابق اسٹیٹمنٹ برانچ کنشیل سلیم شاہ 2641 مورخہ 23-07-2020 کو نمبر 2 میں ضم ہو چکا ہے۔ لیکن تا حال انھوں نے ذہنی سروس رول بتایا ہے اور نہ ہی مطلوبہ کاغذات جمع کئے ہے EC برانچ کی رپورٹ انکوائری بذالغ ہے۔

پو لیس لائن کی رپورٹ کے مطابق کنشیل سلیم شاہ 2641 غیر حاضر شدہ بحوالہ مد 21 روزنامہ پو لیس لائن سے آج مورخہ 2024-01-07 حاضر آکر یوں بیان کیا کہ بوجہ زانیہ دشمنی پو لیس لائن سے غیر حاضر رہا پو لیس لائن کی نظر ساتھ لف ہے۔

جناب عالی!

جملہ حالات دریکارڈ سے پایا گیا کہ مذکورہ سلیم شاہ 2641 کی کل غیر حاضری کی آیام 10 اور 19 یوم بنتی ہے۔ والد کی وفات اور ماں کی بیماری کے لئے طوسی شواہد بھی نہیں کئے اور نہ آفسران بالائے رخصت ملی تھی بلاتنخواہ دینے اور چارج شیٹ فائل کرنے کی سفارش کی جاتی ہے رپورٹ عرض ہے۔

ڈی ایس پی ہیڈ کوارٹر

OR

26.2.24

FIG

29.2.24

Attested

19

Annex " E "



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,

(Muhammad Ayaz) PSP
DISTRICT POLICE OFFICER,
MOHMAND.

Dated Mohmand the 06, 03, 2024

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.

Attested
[Signature]

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

Disputed
Disc

14

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.

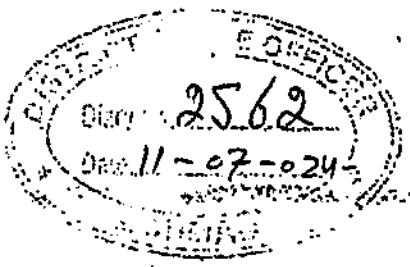
Order Announced.

(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 - operation.

↑
DPO + MARD
11-7-2024.

Attested