


FORM OF ORDER SHEET

Court of _____

Appeal No. _____ **1946/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/10/2024	<p>The appeal of Mr. Ishfaq presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 18.10.2024. Parcha Peshi given to the 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 1946 / 2024

Mr. Ishfaq

.....APPELLANT

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa & others

.....RESPONDENTS

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Dated: // -10-2024

APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL No 1946 / 2024

Mr. Ishfaq, Ex. Driver Constable No 24
Police Lines Hangu.APPELLANT

VERSUS

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

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 03/10/2023, WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST APPELLATE ORDER DATED 03/04/2024 COMMUNICATED ON 13/06/2024, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUND.

PRAYER:

That on acceptance of this appeal, the impugned order dated 03/10/2023 & appellate order dated 03/04/2024 communicated on 13/06/2024 may very kindly be set aside and the appellant may kindly be re-instated in 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 appointed as Constable Driver, and in respondent department and performing his duties diligently, honestly, efficiently and upto the entire satisfaction of his superiors.
- 2. That it is worth mention here that the during the entire service of appellant, there is no iota of complaint against the appellant form any forum rather the appellant's service was always appreciated by the high-ups of the department.

3. That while performing his duties the appellant at concerned station, the respondent department issued the impugned dismissal order dated 03/10/2023, whereby without any show cause notice nor any charge sheet or statement of allegation issued to the appellate, dismissed the appellant from his service. Copy of impugned order dated 03/10/2023 is attached as annexure.....**A**
4. That feeling aggrieved from the impugned dismissal order, the appellant preferred departmental appeal to respondent No 2 vide dated 03/11/2023. Copy of departmental appeal is attached as annexure.....**B**
5. That the respondents are reluctant to decide the departmental appeal of the appellant or communicate any order issued or passed by the appellate authority on the departmental appeal of the appellant, filed an application before the respondent No 2. Copy of application is attached as annexure.....**C**
6. That it is important to mention here that the respondent No 2 in pursuance to the ibid application, the appellate authority through impugned appellate order dated 03/04/2024, communicated on 13/06/2024, rejected the departmental appeal of the appellant with no good ground. Copy of appellate order dated 03/04/2024 is attached as annexure.....**D**
7. That thereafter feeling aggrieved from both the orders, the appellant filed a Revision Petition before the respondent No 1, which was not decided within statutory period. Copy of Revision is attached as annexure.....**E**
8. That appellant, having no other remedy, prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A. That the action & inaction of the respondents by issuing the impugned original order dated 03/10/2023 and appellate order dated 03/04/2024 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 respondents acted in arbitrary and mala fide manner while issuing the impugned original order dated 03/10/2023 and appellate order dated 03/04/2024.
- D. That no charge sheet, statement of allegation and show cause notice has been served on appellant before issuing of impugned order.
- E. That no chance of personal hearing, personal defence was provided to the appellant prior to the issuance of impugned office orders.
- F. 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.
- G. That the impugned orders are against the law, norms and facts of the case, therefore, liable to be set aside and the appellant may kindly be re-instated into service with all back benefits.
- 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: 11-10-24

[Signature]
APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT
UMAR FAROOQ MOHMAND
&
WALEED ADNAN
ADVOCATES HIGH COURT

CERTIFICATE:

No such like appeal is pending or filed between the parties on the subject matter before this Honorable Tribunal.

[Signature]
Advocate

4-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO _____ / 2024

Mr. Ishfaq

.....**APPELLANT**

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa & others

.....**RESPONDENTS**

AFFIDAVIT

I, **Ishfaq**, Ex. Driver Constable No 24 Police Lines Hangu,
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



"A"
-5-

OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: 0925-623878 Fax 0925-620135

ORDER

This order is passed on the departmental enquiry against Driver Constable Ishfaq No. 24 while posted at Police Lines, Hangu under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).

Brief facts of the case are as under:-

- i. Driver Constable Ishfaq No. 24 while posted at Police Lines Hangu has absented himself from official duty with effect from 10.07.2023 to till now without any leave or prior permission vide DD No. 36, dated 10.07.2023 Police Lines, Hangu.
- ii. His absence shows disinterest, negligence and amounts to gross misconduct on his part.

He was served with Charge Sheet and statements of allegations under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014) vide this office No. 221/EC, dated 08.08.2023, at which he failed to submit his reply to the 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. 1055/DSP/HQr: dated 22.08.2023. In due course of the enquiry, the defaulter Driver Constable Ishfaq No. 24 was repeatedly summoned to appear before the Enquiry for hearing, but he did not appear and has absented himself from official duty with effect from 10.07.2023 to till date without any leave or permission thus, held him guilty for the charges leveled against him, [therefore], the Enquiry Officer recommended for awarding him a major punishment. Consequently, he was called in orderly room on 05.09.2023, but he did not turn up before the undersigned. Subsequently, a Final Show Cause Notice was issued to him by this office vide No. 133/EC, dated 06.09.2023 and it served through local DFC at his home address where he did not found present and it was known from the family that Driver Constable Ishfaq No. 24 has gone abroad to Qatar for laboring, which has been confirmed by the from neighbor namely Salman Haider s/o Rafi-ud-Din r/o Malik Abad Hangu. Subsequently, a Notice was advertised in daily newspaper regarding issuing of Last Notice to him for appearing/making his arrival report at Police Lines Hangu within 07 days positively, but so far no positive response has been received from him.

Keeping in view of the above and having gone through available record, the undersigned has come at the conclusion that the defaulter Driver Constable Ishfaq No. 24 has reportedly gone abroad without obtaining NOC from the department which indicates that he is not more interested to serve the Police Department. Moreover, in such circumstances, his retention in Police Department is burden on public exchequer. therefore, I, Nisar Ahmad, PSP, QPM, 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 from the date of his absence i.e. 10.07.2023

Order Announced.

OB No. 660

Dated 10/10/2023


DISTRICT POLICE OFFICER,
HANGU

No. 4882-84/EC, dated Hangu, the 03/X/2023

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

2. The DSP HQrs with the directions to collect his official kit forthwith and Pay Officer be made recovery accordingly (if any), and EC, Reader & OHC for necessary action.


DISTRICT POLICE OFFICER,
HANGU

Better Copy

Page No 5
OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

ORDER

This order is passed on the departmental enquiry against Driver Constable Ishfaq No 24 while posted at Police Lines, Hangu under the Khyber Pakhtunkhwa Police Rules 1975 (At 2014).

Brief facts of the case are as under:-

- i. Driver Constable Ishfaq No 24 while posted at Police Lines Hangu has absented himself form Official duty with effect from 10/07/2023 to till now without any leave or prior permission vide DD No 36 dated 10/07/2023 Police Lines Hangu.
- ii. His absence shows disinterest, negligence and amounts to gross misconduct on his part.

He was served with Charge Sheet and statements of allegations under the Khyber Pakhtunkhwa Police Rules, 1975 (amended 2014) vide this Office No 221/FC dated 08/08/2023 to which he failed to submit 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 1055/DSP/HQR: dated 22/08/2023. In due course of the enquiry, the defaulter Driver constable Ishfaq No 24 was repeatedly summoned to appear before the enquiry for hearing, but he did not appear and has absented himself from official duty with effect from 10/07/2023 to till date without any leave or permission thus, held him guilty for the charges levelled against him, therefore, the enquiry officer recommended for awarded him a major punishment. Consequently he was called in orderly room on 05/09/2023, but he did not turn up before the undersigned, subsequently a final show cause notice was issued to him by this office vide No 133/EC dated 06/09/2023 and it served through local DFC at his home address where he did not found present and it was known from the family that driver constable Ishfaq NO 24 has gone abroad to qater for laboring, which has been confirmed by the from neighbor namely Salman Haider S/o Rafi Ud Din R/lo Malik Abad Hangu. Subsequently a notice was advertised in daily newspaper regarding issuing of last notice to him for appearing/making his arrival report at Police Lines Hangu within 07 days positively, but so far no positive response has been received from him.

Keeping in view of the above and having gone through available record, the undersigned has come at the conclusion that the defaulter driver Constable Ishfaq No 24 has reportedly gone abroad without obtaining NOC from the department which indicate that he is not more interested to serve the police department. Moreover, in such circumstance his retention in Police Department is burden on public exchequer, therefore, I Nisar Ahmad, PSP, QM, 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 front Service from the date of his absence i.e. 10.07.2013

Order announced
OB No 660
Dated 03/10/2023

DISTRICT POLICE OFFICER, HANGU

محترم جناب R.P.O صاحب کوپالک رحمن

درخواست لبرائے بحالی ملازمت

جناب عالی ا

(1) یہ کہ سائل محکمہ پولیس میں بطور کانسٹیبل تعینات تھا اور الٹی ڈیوٹی بخوبی سرانجام دے رہا تھا۔

(2) یہ کہ 03/10/2023 کو R.P.O صاحب نے سائل کو ملازمت سے برخاستہ کیا۔ (آرڈر لف پی)۔

(3) یہ کہ سائل کو نہ چارج ٹیسٹ اور نہ ہی مشورہ کار لٹریس دیا گیا۔ یہ کہ سائل کو لبرائے شواہد کے ملازمت سے نکالا گیا۔ جو کہ سراسر ناانصافی ہیں۔

(4) یہ کہ سائل کے خلاف بطور ضمانت مارواچی گئی ہیں اور سائل کو سنبھالنے کا موقع نہیں دیا گیا جو کہ بالکل خلاف ورزی ہیں۔

(5) یہ کہ سائل ایک شریف گھرانے سے تعلق رکھتا ہے اور ملازمت کے علاوہ کوئی ذریعہ معاش بھی ہیں۔

لہذا استدعا ہے کہ سائل کو ملازمت پر بحال کرنے کا حکم صادر فرمایا جائے۔ سائل اور اس کا گھرانہ ناگھم رہا ہو گا۔

موزوں 03/11/2023

سائل اشفاق ڈرائیور کانسٹیبل گھر 2 پولیس اسٹیشن ہنگو

Ashfaq

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13-06-24

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ORDER.

"D" -8-

This order will dispose of the appeal preferred by Ex-Driver Constable Ishfaq No.24 of Operation Staff Hangu, against the punishment order passed by District Police Officer, Hangu vide OB No. 660, dated 03.10.2024 whereby he was awarded major punishment of Dismissal from service.

Brief facts of the case are that Ex-Driver Constable Ishfaq No.24 while posted at police lines Hangu has absented himself from lawful duty from 10.07.2023 vide DD No. 36 without prior permission from his senior officer till the date of dismissal i.e 03.10.2023.

Proper departmental enquiry proceedings were initiated against him. The appellant was served with Charge Sheet and Statement of Allegations. SDPO Hqrs: 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.


Keeping in view the recommendations of the Enquiry Officer and the above cited circumstances, the delinquent officer was awarded major punishment of Dismissal from service vide District Police Officer, Kohat OB No. 660 dated 03.10.2024.

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 02.04.2024. During personal hearing, the appellant could not advance any plausible justification in his defense to prove his innocence.

Foregoing in view, I, Sher Akbar, PSP, S.St, Regional Police Officer, Kohat, being the appellate authority, am of considered opinion that the charges of absence from duty against the delinquent officer have been fully established. The punishment of dismissal from service awarded by District Police Officer, Hangu to the delinquent officer is justified and, therefore, warrants no interference. Hence, appeal of Ex-Driver Constable Ishfaq No.24 is hereby rejected, being devoid of substance and merit.

Order Announced

02.04.2024


Regional Police Officer,
Kohat Region

No. 323 F /EC, Dated Kohat the 9 / 4 /2024

Copy forwarded to District Police Officer, Hangu for information and necessary w/r to his office Memo: No. 68/LB, dated 05.01.2024. His Service Roll and Fauji Misal are returned herewith.

✓ *****
SRC / OHC / Sr. Qaid

For information and strict compliance

DISTRICT POLICE
OFFICER HANGU


The Dist Police Officer
Hangu
Diary No 722
Date 17/4/2024

"E" - 9-

BEFORE THE INSPECTOR OF POLICE KHYBER PAKHTUNKHWA
PESHAWAR.

Subject:- REVISION PETITION UNDER SECTION 11-A OF THE POLICE ACT,
AGAINST THE IMPUGNED ORDERS DATED 03/10/2023, WHEREBY
MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED
UPON THE PETITIONER AND AGAINST APPELLATE ORDER DATED
03/04/2024 COMMUNICATED ON 13/06/2024, WHEREBY THE
DEPARTMENTAL APPEAL OF THE PETITIONER HAS BEEN REJECTED
ON NO GOOD GROUND.

Respected sir,

- 1) That the petitioner was appointed as Constable Driver, and in your esteemed department and performing his duties diligently, honestly, efficiently and upto the entire satisfaction of his superiors.
- 2) That it is worth mention here that the during the entire service of petitioner, there is no iota of complaint against the petitioner form any forum rather the petitioner's service was always appreciated by the high-ups of the department.
- 3) That the petitioner while performing his duties at concerned station, has issued the impugned dismissal order dated 03/10/2023, whereby without any show cause notice nor any charge sheet or statement of allegation, dismissed the petitioner from his service.
- 4) That feeling aggrieved from the impugned dismissal order, the petitioner preferred departmental appeal to Regional Police Officer Kohat Region Kohat vide dated 03/11/2023.
- 5) That the appellate authority are reluctant to decide the departmental appeal of the petitioner or communicate any order issued or passed by the appellate authority on the departmental appeal of the petitioner, filed an application before the Regional Police Officer Kohat Region Kohat and in pursuance to the ibid application, the appellate authority through impugned appellate order dated 03/04/2024, communicated on 13/06/2024, rejected the departmental appeal of the petitioner with no good ground.
- 6) That petitioner, having no other remedy, prefer the instant revision before your honor on the following grounds amongst the others.

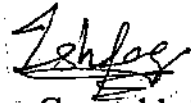
Grounds:

- a. That the action & inaction of the authorities by issuing the impugned original order dated 03/10/2023 and appellate order dated 03/04/2024 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 petitioner 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 authorities acted in arbitrary and mala fide manner while issuing the impugned original order dated 03/10/2023 and appellate order dated 03/04/2024.
- d. That no charge sheet, statement of allegation and show cause notice has been served on petitioner before issuing of impugned order.
- e. That no chance of personal hearing, personal defence was provided to the petitioner prior to the issuance of impugned office orders.
- f. 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.
- g. That the impugned orders are against the law, norms and facts of the case, therefore, liable to be set aside and the petitioner may kindly be re-instated into service with all back benefits.
- h. That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that on acceptance of this revision, the impugned order dated 03/10/2023 & appellate order dated 03/04/2024 communicated on 13/06/2024 may very kindly be set aside and the petitioner may kindly be re-instated in service with all back benefits.

Dated: 21-06-24

Petitioner
Ishfaq, 
Ex. Driver Constable No 24
Police Lines Hangu

-11-

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No 12029

Ishfaq (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police (RESPONDENT)
(DEFENDANT)

I/We Ishfaq

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

Ishfaq
CLIENT

ACCEPTED

Waleed Adnan
**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

WALEED ADNAN

UMAR FAROOQ MOHMAND

Khanzad Gul
**KHANZAD GUL
ADVOCATES**

OFFICE:

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