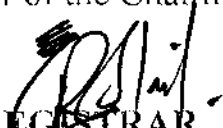


# FORM OF ORDER SHEET

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

**Appeal No.** 2017/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/10/2024	<p>The appeal of Mr. Asfandyar presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 25.10.2024. 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. 2017 /2024

ASFANDYAR

VS

POLICE DEPTT:

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APPELLANT

THROUGH:

  
MIR ZAMAN SAFI  
ADVOCATE

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

APPEAL NO. 2017 /2024

Mr. Asfandyar, Constable No.1044,  
Police Lines, Nowshera.

.....APPELLANT

VERSUS

- 1- The Regional Police Officer, Mardan Region at Mardan.
- 2- The District Police Officer, Mardan.

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18.10.2023 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 19.02.2024 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.**

**PRAYER:**

That on acceptance of this appeal the impugned orders dated 18.10.2023 and 19.02.2024 may very kindly be set aside and the appellant be re-instated 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.

**RESHEWETH:**

**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. 1044 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.
- 3- That during service the appellant applied for five (05) days leave which was granted to the appellant and the appellant has gone with his brother

on visit to Koita but unfortunately the Frontier Corps officials arrested the appellant in Koita without any reason and kept remain him in their custody for few days while later on the appellant was released.

- 4- That the Frontier Corps officials illegally kept the appellant in their custody for some days and then released him but after release when the appellant approached his department, the authority concerned handed over the impugned order dated 18.10.2023 whereby major penalty of dismissal from service has been imposed upon the appellant. Copy of the impugned order is attached as annexure.....A.
- 5- That the appellant feeling aggrieved from the impugned order dated 18.10.2023 preferred departmental appeal before the appellate authority but the same has been rejected vide appellate order dated 19.02.2024 on no good grounds. Copies of the departmental appeal and rejection order is attached as annexure.....B & C.
- 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 18.10.2023 and 19.02.2024 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 18.10.2023 and 19.02.2024 which are not tenable in eye of law and liable to be set aside.
- D- That no charge sheet and statement of allegations has been issued to the appellant before issuing the impugned order dated 18.10.2023.
- E- That no chance of personal hearing/defence has been provided to the appellant before issuing the impugned order dated 18.10.2023.
- F- That no regular inquiry has been conducted in the matter which mandatory as per law and rules and judgment of the Apex Court before taking punitive actions against any civil servant.

G- That no show cause notice has been served upon the appellant before issuing the impugned order dated 18.10.2023.

H- That the allegations leveled against the appellant are baseless and the appellant has not been tried to proceed to Afghanistan, therefore, the impugned order passed on the basis said allegations is not tenable in the eye of law and the same is liable to be set aside.

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

Dated: 16.10.2024.

APPELLANT

  
ASFANDYAR

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.

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

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


ASFANDYAR

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

4 (S)

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

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

ASFANDYAR

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 far.
- 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 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

THROUGH:   
MIR ZAMAN SAFI  
ADVOCATE

POLICE DEPARTMENT

NEWSHERA DISTRICT

ORDER

Handwritten initials "A" and circled number "9"

The order will dispose of the departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules 1975 against Constable Asfandoyar No. 1064, that he is the person who returned from Afghanistan wearing a turban that he has gone to Afghanistan without getting NOC and Ex-Pakistan Leave as envisaged in rules. On 13.08.2023, he was heard in orderly room, wherein he failed to salute the undersigned. Therefore, he was proceeded against departmentally through SPO Fuzaila who after fulfillment of legal formalities submitted his report to the undersigned vide his office No. 02/51 dated 04.10.2023, wherein he stated the allegations leveled against him, therefore, recommended him for awarding appropriate punishment.

On 18.10.2023, he was heard in person in orderly room wherein he failed to salute the undersigned, therefore, he is hereby awarded major punishment of Dismissal from service with immediate effect in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975.

Page No. 817  
 Date 18-10-2023

MASIR AHMAD  
 District Police Officer,  
 Newshehra

No. 3015-21 PA dated Newshehra on 18/10/2023  
 Copy for information and necessary action to

- 1 DSP Hqs. Newshehra
- 2 Pay Officer
- 3 Establishment Clerk
- 4 I-C Clothing Godown
- 5 OHC
- 6 PSC with its enclosures (15 sheets)
- 7 Official concerned

ATTESTED  
 Handwritten signature



**BETTER COPY PAGE-6**

POLICE DEPARTMENT

NOWSHERA DISTRICT

**ORDER**

This order will dispose of the departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules, 1975 against constable Asfandyar No.1044, that he while posted at Police Line Nowshera (Platoon No.1) was served with a Show Cause Notice on account of which that he was allowed on 05 days leave vide DD No. 09 dated 23.08.2023, but he did not report back and remained absent from lawful duty without any leave/permission of the competent authority vide DD No. 21 dated 26.08.2023. It was further alleged that he was arrested at Chaman border by security forces returning from Afghanistan meaning thereby that he has gone to Afghanistan without getting NOC and Ex-Pakistan Leave as envisaged in rules. On 13.09.2023, he was heard in orderly room wherein he failed to satisfy the undersigned. Therefore, he was proceeded against departmentally through SDPO Risalpur who after fulfillment of legal formalities submitted his report to the undersigned vide his office No. 02/SI dated 04/10/2023, wherein he proved the allegations leveled against him, therefore,, recommended him for awarding appropriate punishment.

On 18/10/2023, he was heard in person in orderly room wherein he failed to satisfy the undersigned, therefore, he is hereby awarded major punishment of Dismissal from service with immediate effect, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975.

OB NO. 817

Dated: 18/10/2023

**(NASIR MEHMOOD PSP)**

District Police Officer,

Nowshera

No. 3015-21/PA, dated Nowshera the 18/10/2023

  
**ATTESTED**

خدمتِ خباہت و کجیوں پوس آفیسر صاحب  
مردانہ رہن سرمدان  
(بیلہ، براد نکال سرمدیا)

فائضی!

کوالہ کی سسٹل آرڈر نمبر 21112-305 دفتر 15-10-05 محرم 2 PA کو لاہور لاہور سرمدیا  
 خدمتِ خباہت کہ جہاں کہیں سرسرخا شکی کا تعلق ہے۔ اور سر ادبیر الزما ہیں کہ میں  
 جسمانی بارڈر جو کہ بلوچستان میں ہے۔ کہ میں نے بارڈر کراس کر کے اخٹانان سے داخل  
 ہو گیا ہوں۔ تو یہ بالکل جوڑ ہے۔ بھلا ہے بارڈر کراس کرنے کا فریڈ سے کیا گیا ہے۔ میں  
 تو کھانچے کے ساتھ اپنے سب جو کہ مراعات چلے جاتے ہیں۔ تو میرا (15) سفر بسوں  
 ہے۔ یہاں سے ہی اپنے ساتھ لیا گیا ہے۔ فکر لگانے سے لے کر لگتا ہے کہ میں نے باقاعدہ (05) دن  
 (رضوی) اتنا قیام اپنے حکم لیا تو میرے سے تیار تھا۔ ان دنوں سبوں سے اعتنائ کہ وہاں  
 اور اعتنائ مسافروں کہ سبک چلن بارڈر کراس کر کے تھے یہاں پر 2 ماہ سے قریب رہ گیا۔ تو وہاں  
 مسافروں کو یہی چور کر دیا۔ جبکہ پوسٹ فرانسس ٹور اور ان ملکوں نے مجھے پکڑا میں نے کافی سخت  
 سزا بت کیا۔ اور ان ان گروں نے فون فحواہ بات کو سبکھا پھر کھابست کیا اور مجھ سرمدیا سے  
 کوئی رقم توڑ گیا (50) سال سے ٹرانسپورٹر ہے۔ میں کافی اڈ میں ہیں۔ وقتاً فوقتاً  
 ہم مختلف محکموں کو کٹر کٹر پر میں کجا دیتے ہیں جس میں حکم دیا۔ حکم فرانسس کٹر کٹر  
 حاصل ہیں یہ سب کہ غلط نہیں میں ہوا ہے۔ اگر مجھ سے کوئی شکایت ہو تو میں اس کے لئے حاضر ہوا  
 ہوں میں رہیں جرنیل خاندان سے تعلق رکھتا ہوں۔ میرا سرمدیا کٹر کٹر ساہم بالکل صاف اور شفاف  
 ہے۔ تو میرا (06) سال میرا سرمدیا ہے۔ مذہبی بالانچے درجے 10۔ جا جان سے عادیانہ  
 اتنا ہے کہ مذہبی کو اپنے سرمدیا پر واپس کال لیا ہے اس لئے مذہبی کے سرفراز ہیں تاہا  
 ڈیما گریں گے!

الفیضی

1044  
 رکنہ تاج کلیل اسفند بار  
 (cell No. 0314-5453438)

(نوٹ: جواب کے سوا کسی اور نہج)

ATTESTED

17/02/11

"C"      8

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Asfandiyar No. 1044 of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded major punishment of dismissal from service vide OB No. 817 dated 18.10.2023. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Nowshera was granted 05 days leave vide daily diary No. 09 dated 23.08.2023, but he did not report back and absented himself from his lawful duty without any leave or prior permission of the competent authority vide daily diary No. 21 dated 26.08.2023. It was further alleged that he was arrested at Chaman border by security forces while returning from Afghanistan without getting No Objection Certificate and Ex-Pakistan Leave as envisaged in rules.


He was issued Show Cause Notice to which his reply was received, he was heard in person in orderly room on 13.09.2023, wherein he failed to satisfy the District Police Officer, Nowshera.

Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and the then Sub Divisional Police Officer, (SDPO) Risalpur, Nowshera was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings report to the District Police Officer, Nowshera and recommended the delinquent Officer for appropriate punishment.

He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Nowshera on 18.10.2023, but he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of dismissal from service vide OB: No. 817 dated 18.10.2023.

Feeling aggrieved from the order of the then District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 24.01.2024.

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. On perusal of previous service record of the appellant, it

  
**ATTESTED**

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was noticed that he is habitual absentee and prior to this, the appellant was also dismissed from service for his disinterest in the official duties. Hence, order passed by the competent authority does not warrant any interference.

Keeping in view the above, I, Muhammad Suleman, 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.

Order Announced.

(MUHAMMAD SULEMAN) PSP  
Regional Police Officer,  
Mardan.

No. 382 /ES, Dated Mardan the 19 / 02 / 2024.

Copy forwarded to District Police Officer, Nowshera, for information and necessary action w/r to his office Memo: No. 3427/PA dated 08.12.2023. His Fauji Missal is returned herewith.

(\*\*\*\*\*)

  
ATTESTED

(10)

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

\_\_\_\_\_ OF 2024

Asfandyar

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Police Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Asfandyar

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. \_\_\_\_ / \_\_\_\_ /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