

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 801/2023
Abdullah Shah S/o Amal Shah
R/o Sheikhan, Dabb Begu Khel,
Esak, Tehsil & District Karak

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

AUTHORITY LETTER

Mr. Malak Jan Inspector Legal Karak, is hereby authorized/nominated to submit para-wise comments/reply in the instant service appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar and also to defend instant service appeal on behalf of Respondent's No.1 to 3.



District Police Officer,
Karak
(Respondent No.3)
(KHAN KHAIL KHAN)Provl:
Incumbent



DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.2)
(DR MUHAMMAD AKHTAR ABBAS)
Incumbent



Additional Chief Secretary,
Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
(Respondent No.1)
(ABID MAJEED)
Incumbent
Additional Chief Secretary
Home & T.A. Department
Khyber Pakhtunkhwa.

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

Service Appeal No. 801/2023
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R/o Sheikhan, Dabb Begu Khel,
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..... Appellant

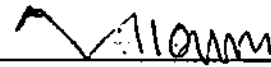
VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

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Respondents
· Through
Representative

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

Service Appeal No. 801/2023
Abdullah Shah S/o Amal Shah
R/o Sheikhan, Dabb Begu Khel,
Esak, Tehsil & District Karak

**Khyber Pakhtunkhwa
Service Tribunal**

Dinry No. 17278

Dated 28-10-24 Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 3.

Respectfully Sheweth:-

Preliminary Objections:-

- i. That the appellant has got no cause of action to file the instant appeal.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appellant is estopped by his own conduct to file the instant appeal.
- iv. That the appeal is bad in eyes of law and not maintainable.
- v. That the appellant has not approached the honorable Tribunal with clean hands.
- vi. That the appeal is barred by law and limitation.

REPLY ON FACTS

1. Correct to the extent of appointment of the appellant as Constable in police department.
2. Incorrect as the appellant's service record would reveal that he is habitual absentee and has earned numerous bad entries for certain misconducts in his service. (Detail of bad entries is attached as Annexure-A).
3. Incorrect as misleading as during his service, the appellant was suspended and proceeded departmentally time & again for certain misconducts and non-professionalism.
4. Pertains to record, hence needs no comments.
5. Pertains to record of the appellant's leave sanctioned to him on various occasions. However, the instant case pertains to appellant's absence from lawful duties with effect from 18.08.2014 without any leave sanctioned / granted to him for which he was proceeded departmentally as per law.
6. Incorrect, the appellant deliberately and without any leave or prior permission absented himself from lawful duties reported vide DD No. 14 dated 18.08.2014 Police Lines, Karak despite the fact that the appellant had been warned time and again to mend his way but he continued with the same indiscipline manner. He was proceeded departmentally being issued Charge Sheet along with summary of allegations vide No.91/EC dated 29.09.2014 and SDPO Hqrs, Karak was appointed as enquiry officer to ascertain the misconduct of the appellant. The enquiry officer submitted his finding report vide No.432/HQ, dated 29.10.2014 wherein the appellant was recommended for

- major punishment. The respondent No.4, keeping a lenient view and sufficient service of the appellant, retired him compulsory from service vide O.B No. 898 dated 06.11.2014. Copy of Charge Sheet & Statement of Allegation, finding report, Final Show Cause Notice and order of compulsory retirement as **Annexure-B, B-1, B-2 & B-3**.
7. Incorrect, the appellant was summoned by the enquiry officer time and again through local police to attend the enquiry proceedings but he deliberately did not show up before the enquiry officer. Copy of the served parwana for appearance as **Annexure-C**. Detailed reply already submitted in para-6 above.
 8. Incorrect, the appellant was well aware of the enquiry proceedings against him but he was not willing to attend the office of the enquiry officer despite repeated notices for appearance. The appellant was also issued Final Show Cause Notice vide No.161/EC, dated 30.10.2014 by the competent authority and duly served upon him but this time too, the appellant displayed unprofessionalism and did not submit any reply to the Final Show Cause Notice. The appellant was informed well in time regarding his order of compulsory retirement from service. Detailed reply submitted in the preceding Paras.
 9. Reply already submitted in paras 6,7 & 8 above.
 10. The appellant had not preferred any departmental appeal to the appellate authority (RPO Kohat), however, he directly submitted an application to the respondent No.2 for re-instatement into service that too after lapse of 05 years. However, same was dismissed being devoid of merit and badly time barred vide Inspector General of Police, KP, Peshawar Memo: No.S/4695-96/18, dated 20.11.2018, Copy as **Annexure-D**.
 11. Reply already submitted in para-10 above.
 12. The appeal is devoid of merit, badly time barred and liable to be dismissed on the following grounds.

GROUND:

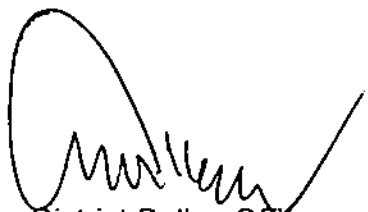
- A. Incorrect, the appellant was treated strictly in accordance with law /rules.
- B. Incorrect, the appellant deliberately had been avoiding to join the enquiry proceedings despite repeated notices for his appearance were issued through local police station and duly served upon him at his home address. Detailed reply already submitted in para-6,7,8 & 9 above.
- C. Incorrect, the appellant was summoned time and again by the enquiry officer during enquiry proceedings and by the respondent No.3 at the stage of Final Show Notice but the appellant was not interested in his job, hence intentionally avoided to show up before the enquiry officer and respondent No.3 respectively.
- D. Incorrect, the appellant had been dealt strictly in accordance with law & rules.
- E. Incorrect, no fundamental right of the appellant had been violated. The order of respondent No.3 is quite legal and in accordance with law/ rules.
- F. Incorrect, the appellant had absented himself from lawful duties w.e.f 18.08.2014 to 05.11.2014 (till the date of his compulsory retirement from service). His total absence period was counted 2 Months & 17 days. But the respondent No.3 while issuing the punishment order of the appellant treated his absence period as "Earned Leave". Earned leave is not a punishment. This type of leave means that the appellant had

worked and duly entitled for the remuneration "and the period of absence had been counted toward his service".

- G. Incorrect, the appellant's order is quite legal and strictly in accordance with the law & rules.
- H. Incorrect, rule 11 (appeal) of the KP Police Rules-1975 (Amended-2014) provides a period of limitation for 30-days for filing of departmental / revision appeal. The appellant's appeal for re-instatement had been decided on merit by the respondent No.2.
- I. Incorrect, detailed reply already submitted in para 6,7,8 & 9 above.
- J. Irrelevant para, needs no comments.
- K. Irrelevant para, needs no comments.
- L. The respondents may also be allowed to advance additional grounds at the time of hearing.

Prayer:-

In the light of above facts and circumstances, it is therefore requested that the appeal of the appellant, being devoid of merits, may kindly be dismissed with costs, please.



District Police Officer,
Karak
(Respondent No.3)
(KHAN KHAIL KHAN)Provl:
Incumbent



DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.2)
(DR MUHAMMAD AKHTAR ABBAS)
Incumbent



Additional Chief Secretary,
Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
(Respondent No.1)
(ABID MAJEED)
Incumbent
Additional Chief Secretary
Home & T.As Department
Khyber Pakhtunkhwa.

پولیس لاہور 2227 MRA ٹیگڈ 14 ستمبر 18/14

14 ستمبر 1981ء کو لاہور میں ایک حادثہ رونما ہوا جس میں ایک شخص نے خودکشی کر لی۔
 اس شخص کی شناخت محمد شریف کے طور پر ہوئی۔ اس شخص نے ایک خط لکھا جس میں اس نے اپنے
 انتقال کی اطلاع دی ہے۔ اس شخص کی شناخت محمد شریف کے طور پر ہوئی۔ اس شخص نے ایک خط لکھا
 جس میں اس نے اپنے انتقال کی اطلاع دی ہے۔ اس شخص کی شناخت محمد شریف کے طور پر ہوئی۔
 اس شخص نے ایک خط لکھا جس میں اس نے اپنے انتقال کی اطلاع دی ہے۔ اس شخص کی شناخت
 محمد شریف کے طور پر ہوئی۔ اس شخص نے ایک خط لکھا جس میں اس نے اپنے انتقال کی اطلاع
 دی ہے۔ اس شخص کی شناخت محمد شریف کے طور پر ہوئی۔ اس شخص نے ایک خط لکھا جس میں
 اس نے اپنے انتقال کی اطلاع دی ہے۔ اس شخص کی شناخت محمد شریف کے طور پر ہوئی۔

ارسال ہوئی - DSP/HQ
 Leave for enquiry & report
 within seven days. Sir

جناب عالی
 نقی گلان اس سے
 Anwarullah
 26-8-14

Miguel

Forwarded

Sir
 Forwarded

Lo Liaqat Karak

SS/R HQ
 04-07-14

تیسری بار
 DSP HQ-111
 1-9-2014

749
 05/09/14

جناب عالی - تیسری بار
 اطلاع دی گئی ہے کہ باوجود سب سے
 آگے کے اقدامات کے باوجود یہ شخص نے خودکشی کر لی ہے۔
 اس شخص کی شناخت محمد شریف کے طور پر ہوئی ہے۔
 اس شخص نے ایک خط لکھا جس میں اس نے اپنے انتقال کی اطلاع
 دی ہے۔ اس شخص کی شناخت محمد شریف کے طور پر ہوئی ہے۔
 اس شخص نے ایک خط لکھا جس میں اس نے اپنے انتقال کی اطلاع
 دی ہے۔ اس شخص کی شناخت محمد شریف کے طور پر ہوئی ہے۔

Atesneel

Inspector legal
 Karak

CHARGE SHEET

1. I, Atiq Ullah Khan Wazir, District Police Officer, Karak as competent authority, hereby charge you Constable Abdullah Shah No. 552 Police Lines Karak as follow: -

"You Constable Abdullah Shah No.552 absented yourself from your lawful duty w.e.from 18.08.2014 till date vide D.D No.14 dated 18.08.2014 Police Lines Karak. Your pay has been stopped to this effect. Your this act is against discipline and amount to gross misconduct / negligence in duty."

2. By reason of your commission / omission, constitute miss-conduct under Police disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department and have rendered your-self liable to all or any of the penalties specified in Police Rule-1975 ibid.

3. You are, therefore, required to submit your written defense within 7-days of the receipt of this charge sheet to the enquiry Officer DSP HQrs Karak is appointed for the purpose of conducting enquiry.

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

4. Intimate whether you desire to be heard in person.

5. A statement of allegation is enclosed.


District Police Officer, Karak




Inspector legal
Karak

DISCIPLINARY ACTION

1. I, Atiq Ullah Khan Wazir, District Police Officer, Karak as competent authority, is of the opinion that Constable Abdullah Shah No. 552 Police Lines Karak has rendered himself liable to be proceeded against on committing the following act / commission within the meaning of Police Disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department.

STATEMENT OF ALLEGATION

"Constable Abdullah Shah No.552 absented himself from his lawful duty w.e.from 18.08.2014 till date vide D.D No.14 dated 18.08.2014 Police Lines Karak. His pay has been stopped to this effect. His this act is against discipline and amount to gross misconduct / negligence in duty."

2. The enquiry Officer DSP HQrs Karak in accordance with provision of the Police Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department may provide reasonable opportunity of hearing to the accused official, record his finding and make within 10-days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

3. The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

Miqat
District Police Officer, Karak

No. 92 /EC (enquiry), dated 29/9 /2014.

Copy to:-

- 1. The enquiry Officer for initiating proceeding against the accused under the Provision of the Police Disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department.
- 2. Constable Abdullah Shah No. 552 Police Lines Karak.

Atiq Ullah Khan Wazir

Mam
Inspector legal
Karak

7

From: The Dy: Superintendent of Police,
 Headquarter, Karak
 To: The District Police Officer, Karak
 No. 432 /HQ: dated the 29 / 10 / 2014

Subject: ENQUIRY FINDINGS OF CONSTABLE ABDULLAH SHAH NO.552

Kindly refer to your office charge sheet No.91/EC, dated 29.09.2014 issued to Constable Abdullah Shah No.552 Police Lines Karak. The defaulter constable was charge sheeted as under:-

" Constable Abdullah Shah No.552 absented himself from his lawful duty w.e.from 18.08.2014 till dated vide D.D No.14 dated 18.08.2014 Police Lines Karak. His pay has been stopped to that effect. His this act is against service discipline and amounts to gross misconduct and negligence in duty."

In this connection the defaulter constable was called to appear before the undersigned but he did not come. After that several written parwanas were issued to the local Police to appear him before the undersigned but he did not appear. He is the resident of Dhabb Tehsil and District Karak, therefore, he was informed several times through written parwans through Police Station Karak but the said Constable did not appear before the undersigned. The written parwanas are enclosed herewith for ready reference. The constable is still absent from his duty.

After that the undersigned is of the opinion that the constable concerned seems to be not taking interest in the Police job, therefore, he is not appearing before the undersigned. Therefore, the undersigned reached to the conclusion that the said constable should be awarded with major punishment.

Attested

M. Iqbal
 Inspector legal
 Karak.

Muhammad Ismail
 (MUHAMMAD ISMAIL)
 Dy. Superintendent of Police,
 HQrs: Karak.

8

No. 161 /EC

Dated 30/10/2014

FINAL SHOW CAUSE NOTICE.

1 I, Atiq Ullah Khan Wazir, District Police Officer, Karak as competent authority under the Police Rule-1975 do hereby serve you, Constable Abdullah Shah No. 552 Police Lines Karak as follow:-

That consequent upon the completion of enquiry conducted against you by Enquiry Officer Mr. Muhammad Ismail, DSP HQrs: Karak.

2. On going through the finding and recommendation of the Enquiry Officer, the materials on the record and other connected papers including your defense before the said Enquiry Officer, the charge against you is proved and you have committed the following acts / omission specified in Police Rule-1975: -

"You Constable Abdullah Shah No.552 absented himself from your lawful duty w.e.from 18.08.2014 till date vide D.D No.14 dated 18.08.2014 Police Lines Karak. Your pay has been stopped to this effect."

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule-1975.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this Notice is received within Seven days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

6. Copy of finding of the Enquiry Officer is enclosed.


District Police Officer, Karak.

Attested


Inspector legal
Karak

ORDER

This Order is passed on the departmental enquiry against Constable Abdullah Shah No. 552 Police Lines Karak leading to the present departmental proceedings are as follows:-

Constable Abdullah Shah No.552 absented himself from his lawful duty w.e.from 18.08.2014 till date vide D.D No.14 dated 18.08.2014 Police Lines Karak. His pay has been stopped to this effect.

Charge Sheet and Statement of allegation based on above allegations were served upon the Constable Abdullah Shah No. 552. Mr. Muhammad Ismail, DSP HQ's Karak was appointed as Enquiry Officer to scrutinize the conduct of the said Constable with reference to the charges leveled against him.

The Enquiry Officer conducted departmental enquiry and reported that the defaulter Constable was time and again directed to appear before him but he turned deaf ear and did not bother for the completion of enquiry process. Therefore, the allegations leveled against him have been proved and he is recommended for award of major punishment.

Keeping in view the above circumstances, facts on file and his long service more then 19 year, poor financial position, he is awarded a major punishment of Compulsory Retirment from service with immediate effect. The period of absence is treated as earned leave. His pay has been released.

Order Announced

Dated: 05.11.2014

OB No. 898

Dated 06/11 2014


District Police Officer, Karak

OFFICE OF THE DISTRICT POLICE OFFICER, KARAK

No. _____ /EC

Copy to SRC, OHC and PO for necessary action.

Attended


Inspector legal
Karak

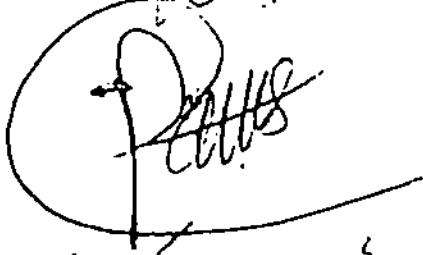
آرڈر نمبر DSP/HQ (15)

فلاح کرکی

بیروانہ بنانا SHD کرکی

عبداللہ شاہ 552 سکینہ ڈھب علاقہ قحانہ کرکی غیر حاضر شدہ
کو اطلبہ بنانی کرائی جاتے کہ بہ سلسلہ انکوائری کل فورم 10/17 کو

بوقت 12:00 بجے تک دفتر DSP/HQ میں پیش ہوئے



ڈسپو DSP/سید لارڈ آرڈر
16-10-2014

No. 298/RHQ
16-10-2014

Auesteel

Mam
Inspector legal
Karak

MAM
Inspector Legal
Karachi

Attested

M. Wajid
DPC / Karachi
16-10-2014

پیش رو پرکھ کر کے دیکھا گیا ہے کہ اس میں کوئی تبدیلی نہیں آئی ہے۔
پیش رو پرکھ کر کے دیکھا گیا ہے کہ اس میں کوئی تبدیلی نہیں آئی ہے۔
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تاریخ: 16/10/2014

NIC No: 14202-1296802-8

پیش رو پرکھ کر کے دیکھا گیا ہے کہ اس میں کوئی تبدیلی نہیں آئی ہے۔
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Inspector legal
Karak
Miam
Amreeed

~~29-10~~
DSP/DAO

DSP/DAO

30/10/2014

...

...

DSP/DAO



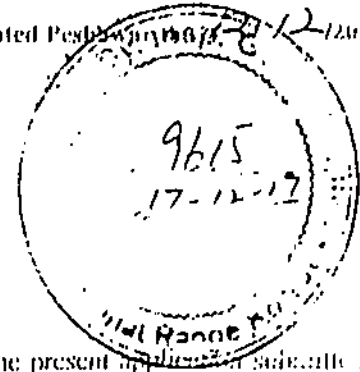
5001

20/12/18

No. SI 4027

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

19, dated Peshawar 17/12/2018



To : The Regional Police Officer,
Kohat.

Subject: Application for Re-Instatement in Service.

Memo:

The Competent Authority has examined and filed the present application submitted by Mother of Ex-Constable Abdullah Shah No. 552 of Karak district Police for re instatement in service as the revision petition of Ex-Constable Abdullah Shah No. 552 has already been processed and found being badly time barred vide CPO Memo: No. S/4695-96/18, dated 20.11.2018.

According to Rule 11 (3) of Khyber Pakhtunkhwa Police Rules 1975 (amended 2014), there shall be only one appeal against the original order. The departmental appeal as well as the revision petition of the petitioner has already been processed and there is no provision of second revision petition in the Rules.

The applicant may please be informed accordingly.

EC
17/12

Nice 11468 IFC CC 17/12/18
DPO Karak

For information of informant
The applicant accordingly.

(SYED AMIS-UL-HASSAN)
Registrar,
For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar

DIG POLICE
KOHAT

D/HC/SRC

17/12/2018

F-08 m/e

Attended

Miam
Inspector legal
Karak

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 801/2023
Abdullah Shah S/o Amal Shah
R/o Sheikhan, Dabb Begu Khel,
Esak, Tehsil & District Karak

..... Appellant


VERSUS

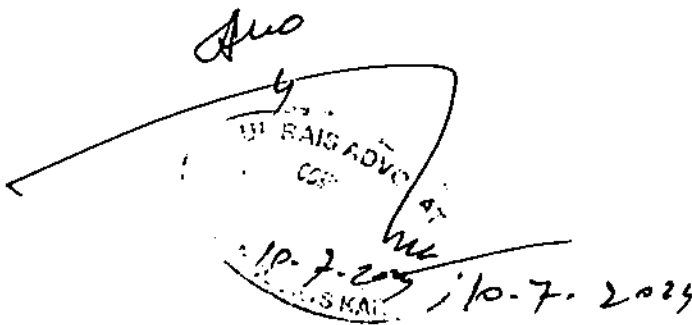
Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

AFFIDAVIT

I, Khan Khail Khan District Police Officer, Karak do hereby solemnly affirm on oath that the contents of Para-wise comments on behalf of respondents No. 1 to 3 are correct to the best of my knowledge/ belief. Nothing has been concealed from this Hon'ble Service Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/ cost.


District Police Officer,
Karak
(Respondent No.3)
(KHAN KHAIL KHAN)Provl:
Incumbent


Stamp: 101 BAIGADVIC AT
10-7-2023
S KAI