FORM OF ORDER SHEET

Appeal No. 2287/2024

	Ap	peal No. 2287/2024
5.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/11/2024	The appeal of Mr. Abdul Khaliq refiled today by
		registered post through Muhammad Arshad Khan Tanoli
,		Advocate. It is fixed for preliminary hearing before touring
		Single Bench at A.Abad on 26.11.2024. Counsel for the
•		appellant has been informed telephonically.
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		By order of the Chairman REGISTRAR
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Appliation Id: 100

CNIC: 1310109147461

Appelant: Abdul Khaliq LHC No. 592, Police Line District Battagram Vs Inspector General of Police Khyber Pakhtunkhwa Peshawar

Department Police

Type Appeal

Submitted on: 25-10-2024 11:27:26am

Discription: Service Appeal under Section 4 of KP Service Tribunal Act, 1974 for the impugned appellate order dated 17/10/2024 and 17/10/2024, regarding reduction in time scale constable may be set-aside and benefits thereof may be granted to the appellant.

Objections:

The appeal of Mr. Abdul Khaliq received in soft copy through the e-fling system has been found correct, you may now submit it in hard copy for further proceeding, on or before 2024-11-01

View PDF

Appliation Id: 100 CNIC: 1310109147461

Appelant: Abdul Khaliq LHC No. 592, Police Line District Battagram Vs Inspector General of Police

Khyber Pakhtunkhwa Peshawar

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Objections: Pending

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Khyber Pakhtunkhwa services tribunal. Peshawa:

About Mule Versus

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Appellant

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5.	Whether the enactment under which the appeal is filed mentioned? Whether affidavit is appended?	7	┝
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BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service appeal No. 2287/2024

Abdul Khaliq LHC No. 592, Police Line District Battagram.

...APPELLANT

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

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3.	Copy of dismissal order of the appellant from service dated 23/04/2024	10	"B"
4.	Copy of departmental appeal dated 08/05/2024 and rejection order dated 23/06/2024	11 to 12	"C" & "D"
5.	Copy of review petition	13 to 14	"E"
6.	Copies of both the letter dated 09/10/2024 & 17/10/2024	15_/6	"F"
7.	Wakalatnama :	1₹	

Through;

/2024 Dated:

(Muham)

Advocate Supreme Court of Pakistan

At Abbottabad

(Muhammad Ibrahim Khan)

Advocate High Court, Abbottabad

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service appeal No. 2287/2024

Abdul Khaliq LHC No. 592, Police Line District Battagram.

...APPELLANT

VERSUS

- 1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
- 2. Regional Police Officer Hazara Range Abbottabad.
- 3. District Police Öfficer, Battagram.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF KP SERVICE TRIBUNAL ACT, 1974.

PRAYER ON ACCEPTANCE OF INSTANT SERVICE APPEAL, THE IMPUGNED APPELLATE ORDER DATED 09/10/2024 AND 17/10/2024, REGARDING REDUCTION IN ITME SCALE CONSTABLE MAY BE SET ASIDE AND BENEFITS THEREOF MAY BE GRANTED TO THE APPELLANT. ANY

OTHER RELIEF WHICH THIS HONORABLE
TRIBUNAL MAY DEEMS FIT AND PROPER
IN THE CIRCUMSTANCE OF THE CASE MAY
ALSO BE GRANTED TO THE APPELLANT.

Respectfully Sheweth;

The facts forming the back grounds of instant service appeal are arrayed as under;-

- That the appellant was serving as LHC and was posted at Kas Pull Check post Battagram.
- 2. That on 23/04/2024, the appellant was present inside the Kas pull check post Battagram and some unknown assailants murdered, one Policeman, Namely Constable Amjad Hussain No. 18. The appellant after hearing the firing on the main gate came out from the check post and found constable Amjad Hussain No. 18 seriously injured. Copy of FIR No. 138 Police Station City Battagram dated 23/04/2024 is annexed as Annexure "A".

- the injured/dead body of constable Amjad Hussain No.18 to the Hospital at near about 04:00 Am. But respondent No.3 without conducting proper inquiry, issuing show cause notice and statement of allegations, the appellant was dismissed from service after half an hour vide dismissal order dated 23/04/2024. Copy of dismissal order of the appellant from service dated 23/04/2024 is
- departmental appeal to respondent No.2 on 08/05/2024 which was rejected by respondent No.2 on 27/06/2024 Copy of departmental appeal dated 08/05/2024 and rejection order dated 23/06/2024 are annexed as Annexure "C" & "D". Thereafter, the appellant filed review petition before respondent No.1 vide departmental representation dated 10/07/2024. Copy of review petition of the appellant is annexed as Annexure "E".

4

5.

That respondent No.1 partially allowed the review representation and re-instated the appellant in service with immediate effect and converted major penalty of dismissal from service into major punishment of reduction to time scale constable and the intervening period was converted into extra ordinary leave, leave without pay vide order dated 09/10/2024 which was received by the appellant on 17/10/2024. Copies of both the letter dated 09/10/2024 & 17/10/2024 are annexed as Annexure "F". Hence, the instant service appeal is filed inter-alia on the following ground.

GROUNDS:-

a) That the appellant after performing his duties at night on 23/04/2024 was taking rest inside the Kas pull check post. Constable Amjad Hussain was on duty at the gate of the Kas pull check post who was murdered by unknown assailants on 23/04/2024 at 03:45 AM. After hearing the indiscriminate firing, the appellant came out and found that

constable Amjad Hussain was seriously injured and the appellant did not see any terrorist/assailant in dark and immediately took the necessary measures as per Police Rules but on the same date and at the spot, respondent No.3 dismissed the appellant from service vide dismissal from service order dated 23/04/2024.

- b) That the respondents did not follow the prescribed procedure which is sine quo non prior to the imposing of major penalties.

 Therefore dismissal order as well as reduction in time as Constable and treating the intervening period as Extra-Ordinary leave, leave without pay is liable to be setaside.
- taking rest in Kas pull check post after performing his duties at night but respondents' department without conducting proper inquiry, issuing statement of

allegation, show cause notice, and without affording opportunity of personal hearing dismissed the appellant from service as and when occurrence took place at Kas pull check post Battagram. That on making representation to respondent No.1 the appellant was re-instated in service and the punishment of dismissal from service was converted into reduction in time scale constable and the intervening period has been converted into extra ordinary leave, leave without pay which is perverse, discriminatory and against the law and the impugned letter dated 09/10/2024 and 17/10/2024 is liable to be set-aside.

d) That the respondents' department has led the appellant to the place which is utterly unknown to the principle of jurisprudence, good governance, fair play and natural justice.

- That this fact may not be left to fade in oblivion that the appellant was innocent and has been awarded major penalty without any reason and justification. Therefore, the impugned order dated 09/10/2024 and 17/10/2024 are liable to be cancelled.
- That the matter pertains to terms and condition of service. Hence according to article 212 (2) of the constitution of Islamic Republic of Pakistan 1973 this Honourable Tribunal has jurisdiction to entertain the instant service appeal.
- g) That instant service appeal of the appellant is well within the period of limitation.
- h) That other grounds shall be urged at the time of arguments with the permission of this Honourable Tribunal.

It is humbly prayed that on acceptance of instant service appeal, the impugned appellate order dated 09/10/2024 and 17/10/2024, regarding reduction in time scale constable may be set aside and benefits thereof may be granted to the appellant. Any other relief which this Honorable Tribunal may deems fit and proper in the circumstance of the case may also be granted to the appellant.

Through: ...APPELLANT

Dated: /2024

(Muhammad Arshad/Khan Tanoli) Advocate Supreme Court of Pakistan At Abbottabad

æ

(Muhammad Ibrahim Khan) Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing service appeal are true and correct to the best of our knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.

..APPELLANT

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

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		Service appeal No/2024
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Abdul Khaliq LHC No. 5	92, Police Line Di	strict Battagram.
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	VERSUS	
Inspector General of Poli	ice Khyber Pakhtur	khwa Peshawar & others.
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SERVICE APPEAL

AFFIDAVIT

I, Abdul Khaliq LHC No. 592, District Police Battagram, do hereby solemnly affirm and declare that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.

DEPONENT

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Annex B



OFFICE OF THE DISTRICT POLICE OFFICER BAFFAGRAM

Fax # 0997-311616 E-Malt barpolles (Tyshao com

ORDER

On 23.04.2024 at about 03:45 hours some unknown person

persons opened fire on Constable Amjad Hussain No.18/Ex-Serviceman while he was on sentry duty at Kass Pull check post. The constable embraced Shahadat on the spot. The accused got escaped after the occurrence and took away the SMG from martyred constable. In this regard a case vide FIR No.138, dated 23.04.2024 u/a 677 ATA, 302 PPC was registered in PS City Battagram.

As per Daily Diary Report of Police Station Hattagram vide No. 36 dated, 23 04.2024 Fifth Militar Ribling No. 592 was found about from his official duty / Check Post which made the check post a soft and easy target for the accused and the incident took place.

Keeping in view the security situation and his absence from dury which caused to the above incident I, Qamar Hayat PSP, District Police Officer, Hattagram as a competent authority hereby award LHC Abdul Khaliq No. 592 Major penalty of Dismissal from Service with immediate effect.

Announced.

(QAMAK HAYA Misip District Rolles Officer Battagram.

OR No.

Dated 23-04. D

HATTER COUNTY

A thunait fragar (adiase) Except the Secretary

Regional Police Officer Abbottabad;

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGI

- Reference is made to impugned dismissal from service order l. dated 23/04/2024 of the appellant is attached herewith.
- That at the time of occurrence the appellant was present at the 2. check post but when the criminal started and discriminate firing on Constable Amjad Hussain No.18/Ex-Serviceman the appellant was remain present at the spot and trying his best encounter at the criminals. As for as the allegation was taken away the SMG of the martyred Constable is concerned baseless against the law as well as fact besides, the appellant was present at the spot. Copy of Murasla dated 23/04/2024 is annexed herewith.
- That the appellant authority without issuing statement of 3. allegation, explanation and providing opportunity of personal hearing without any proper regular inquiry dismissed the appellant from service vide impugned order refer in Para No.1 above.
- That the appellant during tenure of service. Served that 4. department with complete devotion, due diligence and left no stone unturned in the smooth function of department. It is further submitted that there is no complaint regarding inefficiency exist as the appellant is law abiding employee and

serve the department like that of punctual officer. Hence, the impugned order is liable to set aside.

- 5. That the dismissal from service of appellant from service is the result of Audi Altrum Paltrum and without affording the opportunity of personal appearance for defending this case before the competent authority. Therefore, impugned order dated 23/04/2024 is liable to be set-aside.
- 6. That as per law and Rules, proper inquiry has not been conducted and without inquiry, the appellant has been dismissal from service which is against the principle of natural justice, good governance and fair play.
- 7. That the appellant belongs to a poor segment of society and hardly shoulders his responsibilities towards his dependant family members.

In view of the above, it is prayed that impugned dismissal order dated 23/04/2024 may graciously be ordered to be set-aside.

Dated: 08/05/2024

ABDUL KHALIQ)

LHC No.592 13202-0734164-9



OFFICE OF THE REGIONAL POLICE OFFICER HAZARA REGION, ABBOTTABAD

4 0992-9310021-22

10992-9310023 r.rpobazara@gmail.com

DATED: 27/06/2024

ORDER

This order will dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkawa Police Rules, 1975 submitted by Ex-LHC Abdul Khaliq No. 592 of District Battagram against the order of punishment i.e. dismissal from service awarded by DPO, Battagram vide OB No.26 dated 23-04-2024.

"Brief facts leading to the punishment are that the appellant while posted at Kass Pull check post Battagram absented himself from official duty without any leave/permission. On 23.04.2024 at about 03:45 hours some unknown person/persons opehed fire on Constable Amjad Hussain No.18/Ex-Serviceman while he was on sentry duty at Kass Pull check post. The constable embraced Shahadat on the spot. The accused got escaped after the occurrence and took away the SMG of martyred constable. In this regard a case vide FIR No.138, dated 23.04.2024 u/s 6/7 ATA, 302 PPC was registered in PS City Battagram."

The appellant failed to advance any cogent reason in his defense. Consequently, DPO Battagram awarded him major punishment of dismissal from service during summary proceedings. Hence, the appellant submitted this present appeal.

After receiving his appeal, comments of DPO Battagram were sought and examined/perused. The undersigned called the appellant in Orderly Room and heard him in person and provided him reasonable opportunity of defend the charges leveled against him. However, he failed to advance any reasonable justification in his defense. Therefore, in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkawa Police Rules, 1975 the instant appeal is hereby rejected/filed with immediate effect.

Regional Police Officer Hazara Region, Abbottabad

No. 3474

/PA, dated Abbottabad the タア・6-

Court of Jupan Plaza Adiacute to

/2024.

Cc.

District Police Officer, Battagram for information and necessary action with reference to his office Memo No. 5356/Legal dated 12-06-2024. Service Roll and Fuji Missal of above name appellant is returned herewith for record.

P 13

Inspector General of Police Khyber Pakhtunkhwa Peshawar

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER OB NO.26, DATED 23/04/2024 REFERENCE MADE TO IMPUGNED DISMISSAL FROM SERVICE.

- 1. Reference is made to impugned dismissal from service order dated 23/04/2024 of the appellant is attached herewith.
- 2. That at the time of occurrence the appellant was present at the check post but when the criminal started and discriminate firing on Constable Amjad Hussain No.18/Ex-Serviceman the appellant was remain present at the spot and trying his best encounter at the criminals. As for as the allegation was taken away the SMG of the martyred Constable is concerned baseless against the law as well as fact besides, the appellant was present at the spot. Copy of Murasla dated 23/04/2024 is annexed herewith.
- 3. That the appellant authority without issuing statement of allegation, explanation and providing opportunity of personal hearing without any proper regular inquiry dismissed the appellant from service vide impugned order refer in Para No.1 above.
- 4. That the appellant during tenure of service. Served that department with complete devotion, due diligence and left no stone unturned in the smooth function of department. It is further submitted that there is no complaint regarding inefficiency exist as the appellant is law abiding employee and

serve the department like that of punctual officer. Hence, the impugned order is liable to set aside.

- 5. That the dismissal from service of appellant from service is the result of Audi Altrum Paltrum and without affording the opportunity of personal appearance for defending this case before the competent authority. Therefore, impugned order dated 23/04/2024 is liable to be set-aside.
- 6. That as per law and Rules, proper inquiry has not been conducted and without inquiry, the appellant has been dismissal from service which is against the principle of natural justice, good governance and fair play.
- 7. That the appellant belongs to a poor segment of society and hardly shoulders his responsibilities towards his dependant family members.

In view of the above, it is prayed that impugned dismissal order dated 23/04/2024 may graciously be ordered to be set-aside.

Dated: 10/07/2024

(ABDUL KHALIQ)

LHC No.592

CNIC No. 13202-0734164-9

Contact No. 0344-9134628

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Minary Courts party



OFFICE OF THE INSPECTOR GENERAL OF POLICE KUYBER PAKITUNKHWA PESIIAWAR.

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-LIIC Abdul Khaliq No. 592. The applicant was dismissed from service by DPO Battagram vide OB No. 26, dated 23.04.2024, on the allegation that the appellant while posted at Kass Pull check post Battagram absented himself from official duty without any leave/permission. On 23.04.2024 at about 03:45 hours some unknown person/persons opened fire on Constable Amjad Hussain No. 18/Ex-Serviceman while he was on sentry duty at Kass Puil check post. The constable embraced Shahadat on the spot. The accused got escaped after the occurrence and took away the SMG of martyred constable. In this regard, a case vide ITR No. 138, dated 23.04.2024 u/s 6/7 ATA, 302 PPC was registered in PS City Battagram.

The Appellate Authority i.e. RPO Hazara, rejected/filed his appeal vide Order findst: No. 3473/PA, dated 27.06-2024.

Meeting of Appellate Board was held on 26.09.2024 wherein petitioner was heard in person. The petitioner contended that he was present at the check post at the time of the occurrence.

The petitioner was heard in person. The petitioner has long service of more than 09 years at his credit. In view of his long service and by taking a lenient view, The Board decided that his revision petition is hereby accepted by modifying his major punishment of dismissal from service into major punishment of reduction to Time Scale Constable. He is reinstated into service with immediate effect. The period he

Sd/awai, Kiian, Psp Additional Inspector General of Police, HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 2660-64 124, dated Peshawar, the 09

Copy of the above is forwarded to the:

1. Regional Police Officer, Hazara. Service Roll and Fauji Missal of the above named Ex-LHC received vide your office Memo: No. 4609/PA, dated 29.08.2024 is returned herewith for your office record. District Police Officer, Battagram.

AIG/Legal, Khyber Pakhtunkliwa, Pesliawar.

4. PA-to Addl: IGP/IIQrs: Khyber Pakhtunkhwa, Peshawar.

5. PA to DIG/IIQrs: Khyber Pakhtunkhwa, Peshawar

TMROZ KHAN) PSP

AlG/Establishment, For Inspector General of Police, Khyher Pakhlunkhwa. Peshawar.

OFFICE OF THE DISTRICT POLICE OFFICER, BATTAGRAM

Office: 0997-310036

Fax: 0997-311616

Email: batpolice@yahoo.com

In compliance with the order of Additional Inspector General of Police, Head Quarters, Khyber Pakhtunkhwa Peshawar Endst: No. S/2660-64/24 dated 09.10.2024. Ex-Constable Abdul Khaliq is hereby reinstated into service with immediate effect while his major punishment dismissed from service converted into reduction to time scale constable.

He is hereby allotted constabulary No. 592/BM

District P Battagram.

No 10397-4040ASI, dated

10/2024.

Copy of above is submitted to the:

- 1. Additional Inspector General of Police, Head quarters, Peshawar.
- 2. Regional Police Officer, Hazara Region, Abbottabad.
- 3. Assistant Inspector General of Police, Establishment, Khyber, Pakhtunkhwa, Peshawar.
- 4. District Account Officer, Battagram.
- 5. SRC, Battagram.
- 6. Pay Officer, Battagram.

District Police Officer, Battagram.

AC - 169 Before Reservice Ribules Abdulkhaia/ 16.16.P7.on TPPleant Schrie Apel, باعث فحريآ نكه مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جوانے دہی کل کاروائی متعلقہ آل مقام M. Asshad land i Atuand Toxahim Aluto کووکیل مقرر کرے اقر ارکرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کوکرنے راضی نامہ وتقرر ثالث و فیصلہ برحلف ووسینے اقبال وعویٰ اور بصورت ویکرڈ گری كرانے اجراء وصولی چیک رواپیہ وعرضی دعویٰ کی تصدیق اوراس پرد شخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمه مذکور کی کل یاکسی جزوی کاروائی کے لئے کسی اوروکیل یا مختارصا حب قانونی کوایے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا درصاحب مقررشدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساخة يرداخة مجهكومنظور وقبول موكار دوران مقدمه جوخر چدو مرجاً ندالتوائي مقدمه كےسب موكاس كے مستحق وكيل صاحب مول كرنيز بقايار قم وصول كرنے كا بھى اختيار موگا۔ اگركوئى بيشى مقام دور ه ير مويا حدے باہر ہوتو وکیل صاحب موصوف یابند ہوں گے کہ پیروی مقدمہ ندکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزوبقایا ہوتو وکیل صاحب موصوف مقدمہ کی پیروی کے یابندنہ ہول کے۔ نیز درخواست بمراد استحارت نالش بصیغه مفلسی کے دائر کرنے اوراس کی بیروی کا بھی صاحب موصوف کواختیار ہوگا۔ لہذاوکالت نامة تحریر کیا تا کے سندر ہے۔ n. Zbrahim Adv