

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 1417/2024.

Waleed Ahmad EX-FC.....Appellant.

VERSUS

Regional Police Officer, Mardan & Others.....Respondents.

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*Si/legat
Sweabi*

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 1417/2024.

Waleed Ahmad EX-FC.....Appellant.

VERSUS

Regional Police Officer, Mardan & Others.....Respondents.

Khyber Pakhtunkhwa
Service Tribunal

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No. 1 & 2.

Diary No. 17857

Respectfully Sheweth:

Dated 12-11-24

Preliminary Objections.

1. That the appellant has got no cause of action and locus standi to file instant appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is barred by law and & limitation.
4. That the appellant has not come to this Tribunal with clean hands.
5. That the instant appeal is not maintainable in its presents form.
6. That the appellant concealed material facts from this Hon'ble Tribunal.
7. That the appellant has been estopped by his own conduct to file the appeal.

REPLY ON FACTS.

1. Pertains to Service Record. However, every police officer is liable to perform duties with honesty and fidelity.
2. Pertains to service.
3. Incorrect as the appellant while posted at Police Lines, Swabi absented himself from lawful duties w. e. f 29.08.2023 to 01.09.2023, 15.09.2023 to 01.10.2023 and 08.10.2023 till date of his dismissal without any leave / prior permission of the competent authority. However, he was issued Charge Sheet on the above allegations and proper departmental enquiry was initiated against the appellant through DSP HQrs Swabi. After proper departmental enquiry appellant was awarded major punishment of dismissal from service by the competent authority as per law. (Copies of DDs, charge sheet & enquiry report are attached as annexure "A.B & C").
4. Incorrect departmental proceedings against appellant were initiated in accordance with law on account of his absence. Appellant was issued notice through SDPO Razarr to appear before the enquiry officer for recording his statement on 02.11.2023 where the same was returned with the report that the appellant has traveled overseas without sanction of leave or permission by the department. (Copies of Notice & report are attached as annexure "D").
5. Incorrect. The appellant was duly informed about his dismissal order and before passing the order he was issued Final Show Cause Notice to appellant with the directions to submit reply in stipulated time. The same was served through police Station Kalu Khan. (Copies of order, FSCN and report are attached as annexure "E, F")

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6. Correct to the extent that appellant filed departmental appeal before respondent No. 2 and the same was rejected in accordance with law vide order No. 2667/ES dated 12.08.2024. (Copy of order RPO is attached annexure "G").

7. **GROUND**S

- A. Incorrect, appellant did not seek sanction/permission of department, before he left abroad for higher education rather absented willfully from his official duties which amounts to gross misconduct on his part, being member of discipline Force.
- B. Incorrect the absence period is w.e.f 29.08.2023 to 01.09.2023, 15.09.2023 to 01.10.2023 and 08.10.2023 to 20.12.2023 which is more than three months and the punishment order is passed as per law.
- C. Incorrect all legal formalities were duly fulfilled in accordance with law.
- D. Incorrect, reply already given vide above para No. 6.
- E. Incorrect, after conclusion of departmental enquiry, the punishment was awarded to appellant keeping in view his lengthy period of absence in accordance with law.
- F. Not related hence, need no comments.
- G. Incorrect, as discussed above, proper departmental enquiry was conducted and for Final Show Cause Notice he was clearly directed to submit his reply but he did not bother. He has been proceeded as per law.

PRAYERS.

Keeping in view the above narrated facts, it is humbly prayed that the instant appeal, being devoid of merits, may very kindly be dismissed with costs, please.



(HAROON RASHID KHAN)PSP
District Police Officer, Swabi.
(Respondent No. 1)



(NAJEEB-Ur-REHMAN BAGVI)PSP
Regional Police Officer, Mardan.
(Respondent No. 2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 1417/2024.

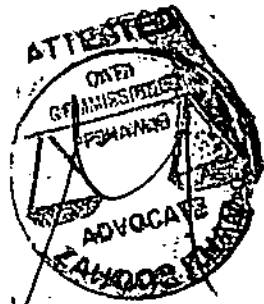
Waleed Ahmad EX-FC.....Appellant.

VERSUS

Regional Police Officer, Mardan & Others.....Respondents.

AFFIDAVIT:-

I the respondent No.1 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/ true to the best of my knowledge/ belief and nothing has been concealed from the honorable 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.



A handwritten signature in black ink, appearing to read "Haroon Rashid Khan".

(HAROON RASHID KHAN)PSP
District Police Officer, Swabi.
(Respondent No. 1)

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 1417/2024.

Waleed Ahmad EX-FC.....Appellant.

VERSUS

Regional Police Officer, Mardan & Others.....Respondents.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

& Others.....Respondents.

POWER OF ATTORNEY.

We, the respondent No. 1&2 do hereby appoint Mr. Muhammad Fazil DSP as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.



**(HAROON RASHID KHAN)PSP
District Police Officer, Swabi.
(Respondent No. 1)**

***District Police Officer
Swabi***



**((NAJEEB-UR-REHMAN BAGVI)PSP
Regional Police Officer, Mardan.
(Respondent No. 2)**

***Regional Police Officer,
Mardan***

District Police Officer, Swabi.

PIO

ATTESTED

29-08-23

29-08-23

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SDPO LAHOR
6/9/23

29-08-23

29-08-23

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District Police Officer, Swabi.

PIO

ATTESTED

23-10-2023

DPO-SWABI

ISSUE SCN

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ATTESTED
PIO
District Police Officer, Swabi.

[Signature]

25-10-2023

Dated 24-10-2023.

DPO SWABI

To conduct with the
supply already marked
with the Affix No-108/ce/PA

N10

75-071C
06-11-2023

DIP A. Ram Farhan

DSP/HQ/Swabi
24-10-23

23/10/23
Lot 54

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1156/PA
06/11/23

~~23/10/23
DIP A. Ram Farhan
583/PA~~

مذکورہ کیلئے
پیشکش کی گئی ہے
میں سے
پیشکش کی گئی ہے
08/10/23
A/3

⑧



"B"

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OFFICE OF THE
DISTRICT POLICE OFFICER SWABI
PHONE# 0938-920050 FAX# 0938-920054
EMAIL: dpo_swabi@yahoo.com

CHARGE SHEET UNDER KPK POLICE RULES-1975

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4 (b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6 (1) of the aforesaid Rules I, Haroon Rashid Khan (T.ST/PSP), District Police Officer Swabi charge you Constable Waleed Iqbal No.951, the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and ex-parte action will be taken against you.

HAROON RASHID KHAN (T.ST/ PSP)
DISTRICT POLICE OFFICER,
SWABI

ATTESTED

PIO
District Police Officer, Swabi.



no B/I

10

OFFICE OF THE
DISTRICT POLICE OFFICER SWABI
PHONE# 0938-920050 FAX# 0938-920054
EMAIL: dpo_swabi@yahoo.com

SUMMARY OF ALLEGATIONS

I, Haroon Rashid Khan, District Police Officer, Swabi as competent authority am of the opinion that Constable Waleed Iqbal No.951 has rendered himself liable to be proceeded under rule 5 (2) of KPK Police Rules-1975. (Amendment 2014) for following mis-conduct:-

1. While posted at Police Lines Swabi, he absented himself from duty w.e.f. 29.08.2023 to 01.09.2023 and 15.09.2023 to 01.10.2023 without any leave/prior permission of the competent authority.
2. Above commission/omission falls under the purview of mis-conduct is punishable under Rules 4 a & b of Police Rules 1975 amended 2014.

For the purpose of scrutinizing the conduct of the said official Mr. Iqbal DSP Hqv. is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section 6 (I) (a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within (7) days, Constable Waleed Iqbal No.951 is directed to appear before the enquiry officer on the date, time and place fixed by the later (enquiry officer). A statement of charge sheet is attached herewith.

HAROON RASHID KHAN (T.ST/PSP)
DISTRICT POLICE OFFICER
SWABI

No. 168 /CC/PA

Dated: 24/10 /2023

ATTESTED.

PIO
District Police Officer, Swabi.

To: The District Police Officer,
Swabi.

No: 66 /H.Qrs: Swabi dated, 21 / 11 / 2023.

Subject: - DEPARTMENTAL ENQUIRY AGAINST CONSTABLE WALEED IQBAL No.951

Memo:

Kindly refer to your office Endorsement No. 168/CC/PA dated 24.10.2023 on the subject cited above.

SUMMARY OF ALLEGATION:-

It is alleged that Constable Waleed Iqbal No.951 has rendered himself liable to be proceeded against as he has committed the following acts/omission within the meaning of section 02 (iii) of KPK Police Rules-1975

1. While posted at Police lines Swabi, he absented himself from duty w.e.f 29.08.2023 to 01.09.2023 and 15.09.2023 to 01.10.2023 without any leave/prior permission of the competent authority.
2. Above commission/omission falls under the purview of in-efficiency and misconduct and is punishable under rules 4 a & b of Police Rules 1975 amended 2014.

STATEMENT OF NEHAD s/o KHAN ZADA & F/O CONSTABLE WALEED IQBAL No.951

He confessed in his statement that Constable Waleed Iqbal No.951 is his son and he is gone abroad few days ago to Europe. He didn't know that when he will come back or not from Europe. (Statement & ASI report Attached)

PROCEEDINGS

The undersigned perused the relevant enquiry file and summoned the delinquent constable vide this office letter No. 589/Hqrs dated 02.11.2023 through SDPO Razzar Swabi to appear before the undersigned but his father Nehad s/o Khan Zada gave statement instead of Waleed Iqbal No.951. Whatsoever; ex-parte action is initiated.

ATTESTED

PIO

District Police Officer, Swabi.

C/1 (12)

FINDINGS:-

In view of the aforementioned proceedings the instant enquiry is hereby closed with the fact according to the statement of his father that Constable Waleed Iqbal No.951 is abroad without any permission of high-ups.


RECOMMENDATIONS:-

He is therefore, recommended for Ex-Parte Action, (Major Punishment) if agreed, please.

ATTESTED

PIO

District Police Officer, Swabi.


(Muhammad Iqbal Khan)
Deputy Superintendent of Police,
H.Qrs, Swabi.

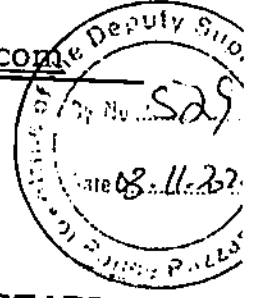


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(سیدان خان اس) 13
589
15-11

**OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
HEADQUARTER, SWABI.**

Phone No. 0938-280279, E-Mail: dsphqswabi@gmail.com



To: The SDPO, Razzar Swabi.

No: 589 /H.Qrs, dated Swabi, the 02 /11/2023.

Subject: **DEPARTMENTAL ENQUIRY AGAINST CONSTABLE
WALEED IQBAL NO.951**

Memo:

Please direct SHO PS Kalu Khan that inform **Constable Waleed Iqbal no.951** s/o Nihad r/o Mama khel kalu khan of PS Kalu Khan, posted to Police Lines Swabi absented himself from duty and his cell No. is 0311-9226897, to attend the office of the undersigned for recording his statement in the subject enquiry on 06.11.2023, please.

Atokil
For u la a report
DCP Kan

Deputy Superintendent of Police,
H.Qrs, Swabi

ATTESTED

PII

District Police Officer, Swabi

District Police Officer, Swabi.

ATTESTED

Signature of District Police Officer

SHO - P.S. - KIK
15-11-23

Signature

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ASi - P.S. - KIK

لاظہار

ASi - P.S. - KIK
15-11-23

Signature

تعمیراتی کاموں کے لیے
مقررہ فنڈز کی فراہمی کے لیے
مقررہ فنڈز کی فراہمی کے لیے
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مقررہ فنڈز

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Signature

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No. 6713-16PA,

Dated. 20/12/2023

ORDER

This order is aimed to dispose-off the departmental proceedings conducted against **Constable Waleed Ahmad No.951** of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office No.168/CC/PA dated 24.10.2023 on the following allegations.

While posted at Police Lines Swabi, he absented himself from duty w.e.f. 29.08.2023 to 01.09.2023, 15.09.2023 to 01.10.2023 and 08.10.2023 till date without any leave/prior permission of the competent authority.

He was issued charge sheet on the said allegations and enquiry proceedings were entrusted to **DSP HQrs Swabi** under Police Rules-1975 ammended-2014. The Enquiry Officer conducted departmental enquiry, collected evidence, recorded statements of all concerned and submitted his finding report, wherein the enquiry officer recommended the defaulter Constable for Major punishment. The undersigned thoroughly perused the findings of the Enquiry Officer and issued him Final Show Cause Notice. The Final Show Cause Notice was served upon him at his home address through local Police on 02.12.2023. He was clearly directed vide para No.05 of the Final Show Cause Notice to submit his reply within 07 days of its delivery, otherwise it will be presumed that he has no defence to offer and ex-parte action will be taken against him. He was due to respond by 09.12.2023 respectively, but he did not, which means that he has nothing to offer in his defence and deserves ex-parte action.


Keeping in view findings report of the Enquiry Officer and conduct of the defaulter Constable, the undersigned came to the conclusion that the charges levelled against him have been proved beyond the shadow of doubt.

In view of situation painted above, in exercise of powers vested upon undersigned, I, **Haroon Rashid Khan T.ST/PSP**, District Police Officer Swabi hereby, award Constable Waleed Ahmad No.951 Major Punishment of "**Dismissal from Service**" with immediate effect. The pay for the period of his absence is hereby deducted from his salary.

Order Announced

OB No. 1376

Dated: 20/12/2023


HAROON RASHID KHAN, (T.ST/PSP)
DISTRICT POLICE OFFICER
SWABI

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

Copies to the: -

1. Pay Officer.
2. Establishment Clerk.
3. I/C PAL
4. Fauji Missal Clerk.

ATTESTED

PIO
District Police Officer, Swabi.

✓ ✓ ✓ ✓

"F"

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FINAL SHOW CAUSE NOTICE

I. Haroon Rashid Khan, District Police Officer, Swabi as competent authority under Police Rules 1975, hereby serves upon you, **Constable Waleed Iqbal No.951**, as follow:

1. While posted at Police Lines Swabi, you absented yourself from duty w.e.f. 29.08.2023 to 01.09.2023, 15.09.2023 to 01.10.2023 and 08.10.2023 till date without any leave/prior permission of the competent authority.
2. The above commission/omission falls under the purview of mis-conduct and is punishable under Rules 4 a & b of Police Rules 1975 amended 2014.

In this connection you were charge sheeted and served with summary of allegations and DSP HQrs Swabi was appointed to conduct proper departmental enquiry. The enquiry officer held enquiry, collected evidence, recorded statements of all concerned and submitted his finding, wherein he recommended you Constable Waleed Iqbal No.951 for major punishment.

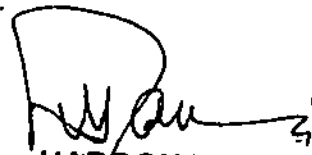
You are hereby directed to show cause of your irresponsible acts towards performing your professional responsibilities within 07 days, as to why you should not be punished in light of Police Rules 1975 (amendment 2014).

In case of none submission of your reply within 07 days of its delivery, in the normal course of circumstances, it shall be presumed that you have nothing to offer in defence and ex-parte action shall be taken against you.

ATTESTED

PIC

District Police Officer, Swabi.



HAROON RASHID KHAN (T.ST/ PSP)
DISTRICT POLICE OFFICER,
SWABI

F/1

(17)

بسم الله الرحمن الرحيم
الحمد لله رب العالمين
والصلاة والسلام على
سيدنا محمد وآله الطيبين
الطاهرين

4/12/2003

Received of Rs. 53468332516

[Signature]

4/12/2003
P. K. S.

پاکستان وکسٹریٹیو کمیشن

بسم الله الرحمن الرحيم
الحمد لله رب العالمين
والصلاة والسلام على
سيدنا محمد وآله الطيبين
الطاهرين

[Signature]
P. K. S.

ATTESTED

P.O. *[Signature]*
District Police Officer, Swabi.

"9"

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ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Waleed Ahmad No. 951 of Swabi District Police against the order of District Police Officer, Swabi, whereby he was awarded major punishment of dismissal from service vide OB No. 1376 dated 20.12.2023. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines Swabi, absented himself from duty with effect from 29.08.2023 to 01.09.2023, 15.09.2023 to 01.10.2023 and 08.10.2023 till date of his dismissal without any leave/prior permission of the competent authority

Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and the then Deputy Superintendent of Police, Headquarters, Swabi was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to the District Police Officer, Swabi, wherein he reported that the delinquent Officer was contacted time and again to appear before the enquiry Officer, but he failed and remained absent, which showed that he was no more interested in Police Service. He recommended the delinquent Officer for ex-parte action.

The District Police Officer, Swabi perused the findings and by agreeing with the recommendations of Enquiry Officer issued him Final Show Cause Notice, but the delinquent Officer neither submitted his reply nor assumed his duty till date of his dismissal

In the light of above, it clearly depicted that the delinquent Officer was not a willing worker and his retention in Police department will certainly be a liability for Government Exchequer, therefore, he was awarded major punishment of dismissal from service vide OB: No. 1376 dated 20.12.2023 by the District Police Officer, Swabi.

Feeling aggrieved from the order of the District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 07.08.2024.

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

ATTESTED

PIC

District Police Officer, Swabi.

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disciplined Police Officer. On perusal of previous service record of the appellant, it was noticed that he is habitual absentee and prior to this, the appellant had been earlier punished on various occasions on account of his misconduct. Hence, order passed by the competent authority does not warrant any interference. Besides the above, the appellant approached this forum at a belated stage by filing the instant appeal which is time barred for 03 months and 03 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 time barred 03 months and 03 days.

Order Announced.


(Najeeb-Ur-Rehman Bugvi) PSP
Regional Police Officer,
Mardan.

No. 2667 /ES, Dated Mardan the 12 / 08 /2024.

Copy forwarded to District Police, Swabi for information and necessary action w/r to his office Memo: No. 123/Legal dated 18:07.2024. His Service Record is returned herewith.

(*****)

ATTESTED.


PIO
District Police Officer, Swabi.