

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**AT CAMP COURT, D.I.KHAN**

Service Appeal No. 516/2019

Date of Institution ... 01.04.2019  
Date of Decision ... 15.12.2021

Amjad Ali son of Abdul Jabbar caste Kundi resident of Village  
Pai, Tehsil & District Tank Ex-Constable No.7210/FRP.

... (Appellant)

**VERSUS**

Provincial Police Officer (IGP), Khyber Pakhtunkhwa, Peshawar  
and three others.

... (Respondents)

Inam Ullah Khan Kundi,  
Advocate

... For appellant.

Muhammad Adeel Butt,  
Additional Advocate General

... For respondents.

Ahmad Sultan Tareen  
Rozina Rehman

... Chairmann  
... Member (J)

**JUDGMENT**

Rozina Rehman, Member(J): The appellant has invoked the  
jurisdiction of this Tribunal through above titled appeal with the prayer  
as copied below:

"In wake of submission made above, appellant humbly  
request that the impugned order No. OB-605 dated  
18.06.2010 issued by the respondent No.4 may please  
be set aside and the appellant may graciously be  
reinstated with all back benefits w.e.f 28.03.2009."

2. Brief facts of the case are that appellant was appointed as  
Constable. He was charged in case F.I.R No.195 dated 28.03.2009

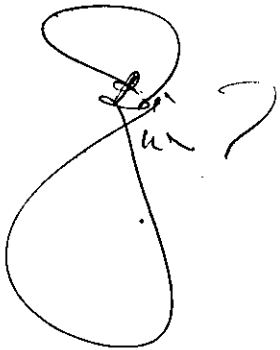
U/S 302 PPC. Appellant was arrested. He was served with a charge sheet and was proceeded against departmentally but case was kept pending till final decision of the criminal case by competent court of Law. After the conclusion of trial, appellant was convicted and sentenced to life imprisonment and ultimately was removed from service on 18.06.2010. Feeling aggrieved, he filed an appeal against conviction before the august Peshawar High Court which was accepted and appellant was acquitted on 05.11.2018. He then preferred departmental appeal on 04.12.2018 which was not responded to, hence, the present service appeal.

3. We have heard Inam Ullah Khan Kundi Advocate learned counsel for appellant and Muhammad Adeel Butt, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Inam Ullah Khan Kundi Advocate learned counsel for appellant in support of appeal contended with vehemence that the impugned removal order is against law and facts as the appellant was not treated according to law. He further argued that appellant was acquitted by competent court of Law and that every acquittal is honorable but instead of giving benefit of acquittal to the appellant, his appeal was not considered. Lastly, he submitted that appellant was removed from service just on the basis of his involvement in a criminal case and that the only stigma on the person of appellant is no more, therefore, he may kindly be reinstated in service. Reliance was placed on judgments of this Tribunal passed in Service Appeals No.616/2017, 1380/2014, 1025/2017 and 768/2018.

5. Conversely, learned A.A.G submitted that appellant involved himself in a criminal case, therefore, he was properly proceeded against departmentally and he submitted his reply to the charge sheet according to law. Proper inquiry was initiated and the appellant was given proper opportunity of defense. He contended that he was awarded major penalty of removal from service after observance of all codal formalities and that the punishment does commensurate with the gravity of misconduct of appellant.

6. From the record it is evident that plea which the respondents have tried to establish against the appellant through parawise comments and arguments at the bar, is mainly linked with his involvement in the criminal case. It has been asserted on behalf of respondents that appellant being member of disciplined force earned bad name to the Department and that the departmental and criminal proceedings are of distinct nature and can work side by side and decision of the criminal court, if any, is not binding in the departmental proceedings. As per record, F.I.R No.195 was registered against appellant Amjid Ali on 28.03.2009 U/S 302 PPC at Police Station Tank. He was convicted U/S 302 (b) PPC and sentenced to life imprisonment, where-after, he was removed from service on 18.06.2010. He preferred criminal appeal No.63/D in the Peshawar High Court, D.I.Khan Bench and vide judgment dated 05.11.2018 of the august Peshawar High Court, appellant was acquitted of the charges leveled against him. He filed departmental appeal on 04.12.2018 just after earning his acquittal but his departmental appeal was not responded to. The registration of FIR No.195 dated 28.03.2009 was taken as ground for disciplinary action against the appellant. When the criminal case taken as a ground for disciplinary

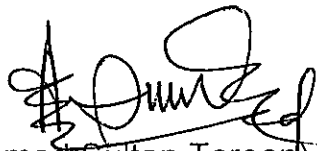


action against the appellant has failed, the said ground having worked for disciplinary action against the appellant and imposition of major penalty upon him has vanished. We, therefore, hold that imposition of major penalty of removal from service upon appellant remained no more tenable. In this respect, we have sought guidance from 1998 PLC (C.S) 179, 2003 SCMR 2015; PLD 2010 Supreme Court 695 and judgments of this Tribunal rendered in Service Appeals No.1380/2014, 1025/2017, 616/2017 and 768/2018.

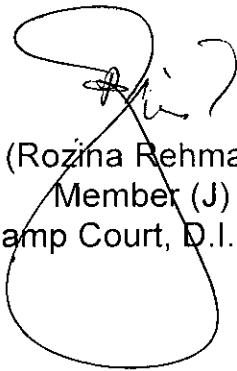
7. In view of the above factual and legal position, we set aside the impugned orders and direct that appellant be reinstated in service, however, absence and intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

15.12.2021



(Ahmad Sultan Tareen)  
Chairman  
Camp Court, D.I.Khan



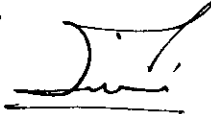
(Rozina Rehman)  
Member (J)  
Camp Court, D.I.Khan

516/19

26.11.2021

Nemo for the appellant. Mr. Noor Zaman Khattak,  
Addl. AG for the respondents present.

Notice for prosecution of the appeal be issued to  
appellant as well as his counsel and case to come up for  
arguments before the D.B on 15.12.2021 at Camp Court,  
D.I.Khan.



(Salah-ud-Din)  
Member(J)  
Camp Court, D.I.Khan.,



Chairman  
Camp Court, D.I.Khan

Order

15.12.2021

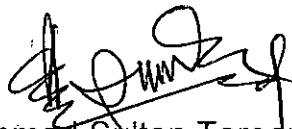
Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate  
General for respondents present. Arguments heard and record  
perused.

Vide our judgment of today of this Tribunal placed on  
file, we set aside the impugned orders and direct that  
appellant be reinstated in service, however, absence and  
intervening period shall be treated as leave without pay.  
Parties are left to bear their own costs. File be consigned to  
the record room.

ANNOUNCED.

15.12.2021



(Ahmad Sultan Tareen)  
Chairman  
Camp Court, D.I.Khan

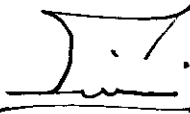


(Rozina Rehman)  
Member (J)  
Camp Court, D.I.Khan

23.11.2021

Clerk of learned counsel for the appellant present. Mr. Muhammad Zubair, Naib Court alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of learned counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments before the D.B on 26.11.2021 at Camp Court D.I.Khan.



(Salah-ud-Din)  
Member (J)  
Camp Court D.I.Khan



Chairman  
Camp Court D.I.Khan

26.11.2021

Nemo for the appellant. Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on <sup>15.12.2021</sup>~~27.01.2022~~ at Camp Court D.I.Khan.

(Salah-ud-Din)  
Member (J)  
Camp Court D.I.Khan

Chairman  
Camp Court D.I.Khan

*retyped on  
fresh page.*

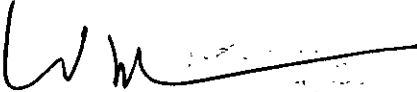
Due to COVID-19 therefore to  
come up for the same on 28/9/21


*On*  
Readn

28.09.2021

Learned counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present.

Learned counsel for the appellant sought adjournment being not prepared for arguments today. Adjourned. To come up for arguments before the D.B on 23.11.2021 at Camp Court D.I.Khan.

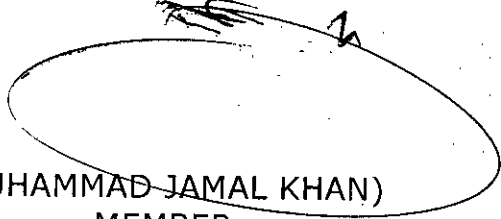
  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)  
CAMP COURT D.I.KHAN

  
(SALAH-UD-DIN),  
MEMBER (JUDICIAL)  
CAMP COURT D.I.KHAN

28.10.2020

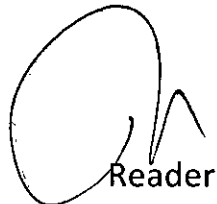
Nemo for appellant. Mr. Usman Ghani, District Attorney for respondents is present.

Written reply on behalf of respondents is still awaited despite issuance of notice. Again notice be repeated to respondents for submission of written reply/comments on the next date of hearing positively. File to come up for written reply/comments on 22.12.2020 before S.B at Camp Court, D.I.Khan.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER  
CAMP COURT D.I.KHAN

22.12.2020


Due to Pandemic of Covid-19, the case is adjourned to 22.02.2021 for the same.

  
Reader

22.02.2021

Appellant in person and Mr. Noor Zaman Khattak, learned District Attorney alongwith *Muhammad Zubair H. Khan* for respondents is present.

Representative of respondents submitted reply/comments which is place on file. Copy of the same is handed over to the appellant. To come up for rejoinder if any, and arguments on 24.05.2021 before D.B at Camp Court, D.I Khan.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)  
Camp Court, D.I.Khan



25/3/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/4/2020 at Camp Court, D.I Khan

  
Reader

22/4/2020

Due to COVID-19 the case is adjourned. To come up for the same 23/9/2020 at Camp Court, D.I Khan

  
Reader

23.09.2020

Counsel for appellants present.

Mr. Usman Ghani learned District Attorney for respondents present.

Written reply on behalf of respondents is still awaited. Notice be issued to respondents to submit written reply/comments. To come up for written reply/comments on 28.10.2020 before S.B at Camp Court D.I Khan.



(Rozina Rehman)  
Member (J)  
Camp Court, D.I Khan

24.02.2020

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department present, therefore, notices be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned to 25.03.2020 for written reply/comments before S.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

25.11.2019


24.02.2020

Appellant Deposited  
Security & Process Fee

Appellant in person and submitted application for permission to deposit security and process fee. Application accepted. The Appellant is directed to deposit security and process fee written reply on behalf of respondents submitted to the representative of the department for 23.01.2020 before S.B at Camp Court D.I.Khan. The respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned to 25.03.2020 for written reply/comments before S.B at Camp Court D.I.Khan.

27.01.2020

Clerk to counsel (Muhammad Amin Khan Kundi) Member Ghani, District Attorney for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, notices be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned to 24.02.2020 for written reply/comments before S.B at Camp Court D.I.Khan.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

25.09.2019

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued inter-alia that vide order dated 18.06.2010 the appellant (Constable) was removed from service on the basis of his conviction and sentence in case FIR No.195 dated 28.03.2009 u/s 302 PPC Police Station Tank; That the appellant was acquitted in the above mentioned criminal case on the basis of compromise vide judgment dated 5.11.2018 of the Hon'ble Peshawar High Court D.I.Khan Bench passed in criminal appeal 63-B of 2010; that after earning acquittal, the appellant filed departmental appeal for his reinstatement in service but the same was not answered.

Points urged consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 25.11.2019 before S.B at Camp Court, D.I.Khan.

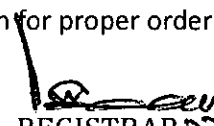




Member  
Camp Court, D.I.Khan

Form- A  
FORM OF ORDER SHEET

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

Case No. 516/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/04/2019	<p>The appeal of Mr. Amjid Ali received today by post through Mr. Inamaullah Khan Kundi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 22/4/19</p>
2-	8-8-2019	<p>This case is entrusted to touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>28.8.2019</u></p> <p> CHAIRMAN</p>
28.08.2019		<p>None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance and preliminary hearing for 25.09.2019 before S.B at Camp Court D.I.Khan.</p> <p> (Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan</p>

The appeal of Mr. Amir Ali son of Abdul Jabbar caste Kundi r/o village pai ex-Constable no. 7210/FRP received today i.e. on 29.03.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet and reply thereto are not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be attested.
- 3- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 653 /S.T,

Dt. 2-4- /2019

*Lawyer* 2/4/19.  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Inamaullah Khan Kundi Adv.  
High Court Dera Ismail Khan.

Respected Sir!  
Objections 1, 2, 3 are removed but  
only reply are not available because  
Sp FRP is not willing to give us  
copy of reply despite of application.  
for copy of reply. charge sheet is  
Annex E while application is  
Annex F.  
your humble  
Appellant through  
Counsel.

*Inam Ullah Kundi*  
Advocate High Court  
18-04-2019

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 516/2019.**

**Amjid Ali (Ex-constable No. 7210 FRP) S/o Abdul Jabbar, caste Kundi R/c village Pai,  
Tehsil & District Tank .....Appellant.**

**VERSUS**

1. **Provincial Police Officer,**  
Khyber Pakhtunkhwa, Peshawar.
2. **Commandant,**  
Frontier Reserve Police,  
Khyber Pakhtunkhwa, Peshawar.
3. **Deputy Inspector General of Police,**  
DI Khan Range, DI Khan.
4. **Superintendent of Police,**  
DI Khan Range, DI Khan.....Respondents.

**Subject: Para wise reply by respondents**

**RESPECTFULLY SHEWETH.**

**PRELIMINARY OBJECTIONS**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is not maintainable in the present form.
3. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
4. That the appellant has no cause of action to file the instant appeal.
5. That the appellant has not come to this Honorable Tribunal with clean hands.
6. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
7. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

**WRITTEN REPLY ON BEHALF OF RESPONDENTS.**

**FACTS:-**

1. Correct to the extent that the appellant was employee of police department and was habitual absentee as per his service record and subsequently he committed a heinous criminal case of murder, in which he was arrested by the local police red handed on the spot.
2. Correct to the extent that being involved in a criminal case, the appellant was issued/served with Charge Sheet alongwith Summary of Allegations, to which his reply was found unsatisfactory. However, his case was kept pending by the competent authority till outcome of the criminal case.
3. Para No. 03 is admitted to the extent that the allegations were fully established against the appellant during court proceedings therefore, he was convicted for sentence of life imprisonment with Diyat by the court of law vide Judgment dated 22.04.2010.
4. Incorrect and denied. As the charges were proved against the appellant in the judicial proceedings to which he convicted in the criminal case, therefore, the appellant was removed from service, after fulfillment of all codal formalities, by the competent authority.

5. Incorrect and denied. The appellant was not honorably acquitted from the criminal case by the Honorable High Court, while he was acquitted on the basis of compromise between the parties, meaning thereby that he has admitted the charges.
6. Incorrect and denied. The appellant failed to prefer departmental appeal before the competent authority till yet. However it is pertinent to mention here that the instant appeal has badly barred by limitation as the order of his removal from service was passed on 18.06.2010 and after lapse of more than 10 years, now the appellant desired for reinstatement in service.
7. Incorrect and denied. The appellant has not come to this Honorable Tribunal with clean hands. He has wrongly assailed the legal order of respondents through unsound grounds.

**GROUND:-**


- a. Incorrect and denied. The orders of the competent authorities are legally justified based on facts and in accordance with law/rules.
- b. Incorrect and denied. The appellant was convicted in the criminal case by the court of law and thereafter, he managed compromise with the legal heirs of the deceased. In the light of compromise his appeal was accepted by the Honorable High Court, thus he admitted the commission of murder and was not honorably acquitted from the above criminal case.
- c. Incorrect and denied. As explained in the preceding Paras above, the appellant was not acquitted from the criminal case on merit basis, but due to compromise between the parties, otherwise the allegations of murder was fully established against the appellant without any shadow of doubt during trial before the court.
- d. Incorrect and denied. The Police is a disciplined force and their employees are obligated to secure the lives and properties of public, while the appellant being the member of disciplined force involved himself in a heinous criminal case of murder of a blameless citizen. Therefore, he has been found to be an irresponsible person in utter disregard the discipline of the force. Therefore, his act of committing murder and establishing of charges during investigation and trail in court of law is a established misconduct on the part of appellant.
- e. Incorrect and denied. As explained in the preceding Paras the appellant was involved himself in a heinous criminal case and the allegations were fully proved against him during trial in court of law vide judgment dated 22.04.2010. Moreover, when the appellant was convicted in the criminal case, thus he managed compromise with the legal heirs of the deceased. Hence, he is not entitled for reinstatement in service on account of his gross misconduct.
- f. Incorrect and denied. Proper departmental enquiry was conducted against the appellant, however the enquiry was kept pending by the competent authority till the final decision of criminal case and after conviction of the appellant in the subject criminal case, he was awarded major punishment of removal from service, in accordance with law/rules, which is commensurate with the gravity charges.

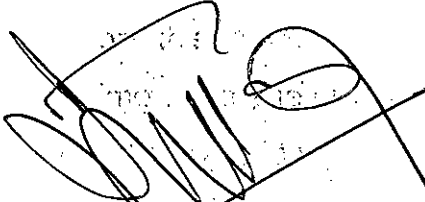


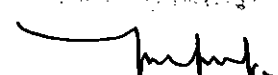
- g. Incorrect and denied. The appellant involved in a heinous criminal case, subsequently he was convicted on merit basis by the court of law. Moreover, it is settled proposition of law that law helps the diligent and not indolent.
- h. Incorrect and denied. As the appellant was convicted by the court of law in the criminal case therefore, the competent authority awarded him the major penalty of removal from service after fulfillment all the codal formalities as per law/rules.
- i. Incorrect and denied. After conviction in the criminal case, and receipt of judicial order, the appellant is not entitled to retain in service as per law. However, after fulfillment all the due codal formalities he was awarded major punishment of removal from service.
- j. Incorrect and denied. From perusal of service record of the appellant it transpire that he has less than three years service, but he was convicted in a criminal case by the court of law, which is a gross misconduct on his part. Therefore, he was awarded punishment i.e removal from service instead of dismissal from service.
- k. Incorrect and denied. All the codal formalities were observed while awarding punishment to appellant on receipt of judicial conviction order from court of law.
- l. Incorrect and denied. The instant appeal of the appellant is badly time barred about more than ten years which is not maintainable/sustainable in the eye of law.
- m. Incorrect and denied. The appeal is not maintainable before this forum as he has not moved departmental appeal to appellate authority in time under the provisions of Khyber Pakhtunkhwa, Service Tribunal Act 1974, being barred by law/limitation.
- n. The respondents may also be permitted to create additional grounds at the time of arguments.

**PRAYERS:-**

It is therefore, most humbly prayed that in the light of aforesaid facts/submission the service appeal may kindly be dismissed with costs please.

  
**Superintendent of Police FRP,**  
DI Khan Range, DI Khan  
(Respondent No. 4)

  
**Commandant FRP,**  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 2&3)

  
**Inspector General of Police,**  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 2686 /ST

Dated: 29/12 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

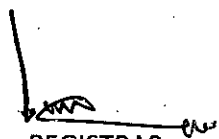
To

The Superintendent of Police FRP,  
Government of Khyber Pakhtunkhwa,  
D.I. Khan Range D.I. Khan.

Subject: JUDGMENT IN APPEAL NO. 516/2019 MR. AMJID ALI.

I am directed to forward herewith a certified copy of Judgement dated 15.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 516/2019.**

**Amjid Ali (Ex-constable No. 7210 FRP) S/o Abdul Jabbar, caste Kundi R/o village Pai,  
Tehsil & District Tank .....Appellant.**

**VERSUS**

1. **Provincial Police Officer,**  
Khyber Pakhtunkhwa, Peshawar.
2. **Commandant,**  
Frontier Reserve Police,  
Khyber Pakhtunkhwa, Peshawar.
3. **Deputy Inspector General of Police,**  
DI Khan Range, DI Khan.
4. **Superintendent of Police,**  
DI Khan Range, DI Khan.....Respondents.

**Subject: Para wise reply by respondents**

**RESPECTFULLY SHEWETH.**

**PRELIMINARY OBJECTIONS**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is not maintainable in the present form.
3. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
4. That the appellant has no cause of action to file the instant appeal.
5. That the appellant has not come to this Honorable Tribunal with clean hands.
6. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
7. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

**WRITTEN REPLY ON BEHALF OF RESPONDENTS.**

**FACTS:-**

1. Correct to the extent that the appellant was employee of police department and was habitual absentee as per his service record and subsequently he committed a heinous criminal case of murder, in which he was arrested by the local police red handed on the spot.
2. Correct to the extent that being involved in a criminal case, the appellant was issued/served with Charge Sheet alongwith Summary of Allegations, to which his reply was found unsatisfactory. However, his case was kept pending by the competent authority till outcome of the criminal case.
3. Para No. 03 is admitted to the extent that the allegations were fully established against the appellant during court proceedings therefore, he was convicted for sentence of life imprisonment with Diyat by the court of law vide Judgment dated 22.04.2010.
4. Incorrect and denied. As the charges were proved against the appellant in the judicial proceedings to which he convicted in the criminal case, therefore, the appellant was removed from service, after fulfillment of all codal formalities, by the competent authority.

5. Incorrect and denied. The appellant was not honorably acquitted from the criminal case by the Honorable High Court, while he was acquitted on the basis of compromise between the parties, meaning thereby that he has admitted the charges.
6. Incorrect and denied. The appellant failed to prefer departmental appeal before the competent authority till yet. However it is pertinent to mention here that the instant appeal has badly barred by limitation as the order of his removal from service was passed on 18.06.2010 and after lapse of more than 10 years, now the appellant desired for reinstatement in service.
7. Incorrect and denied. The appellant has not come to this Honorable Tribunal with clean hands. He has wrongly assailed the legal order of respondents through unsound grounds.


**GROUND:-**


- a. Incorrect and denied. The orders of the competent authorities are legally justified based on facts and in accordance with law/rules.
- b. Incorrect and denied. The appellant was convicted in the criminal case by the court of law and thereafter, he managed compromise with the legal heirs of the deceased. In the light of compromise his appeal was accepted by the Honorable High Court, thus he admitted the commission of murder and was not honorably acquitted from the above criminal case.
- c. Incorrect and denied. As explained in the preceding Paras above, the appellant was not acquitted from the criminal case on merit basis, but due to compromise between the parties, otherwise the allegations of murder was fully established against the appellant without any shadow of doubt during trial before the court.
- d. Incorrect and denied. The Police is a disciplined force and their employees are obligated to secure the lives and properties of public, while the appellant being the member of disciplined force involved himself in a heinous criminal case of murder of a blameless citizen. Therefore, he has been found to be an irresponsible person in utter disregard the discipline of the force. Therefore, his act of committing murder and establishing of charges during investigation and trial in court of law is a established misconduct on the part of appellant.
- e. Incorrect and denied. As explained in the preceding Paras the appellant was involved himself in a heinous criminal case and the allegations were fully proved against him during trial in court of law vide judgment dated 22.04.2010. Moreover, when the appellant was convicted in the criminal case, thus he managed compromise with the legal heirs of the deceased. Hence, he is not entitled for reinstatement in service on account of his gross misconduct.
- f. Incorrect and denied. Proper departmental enquiry was conducted against the appellant, however the enquiry was kept pending by the competent authority till the final decision of criminal case and after conviction of the appellant in the subject criminal case, he was awarded major punishment of removal from service, in accordance with law/rules, which is commensurate with the gravity charges.

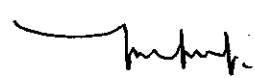
- g. Incorrect and denied. The appellant involved in a heinous criminal case, subsequently he was convicted on merit basis by the court of law. Moreover, it is settled proposition of law that law helps the diligent and not indolent.
- h. Incorrect and denied. As the appellant was convicted by the court of law in the criminal case therefore, the competent authority awarded him the major penalty of removal from service after fulfillment all the codal formalities as per law/rules.
- i. Incorrect and denied. After conviction in the criminal case, and receipt of judicial order, the appellant is not entitled to retain in service as per law. However, after fulfillment all the due codal formalities he was awarded major punishment of removal from service.
- j. Incorrect and denied. From perusal of service record of the appellant it transpire that he has less than three years service, but he was convicted in a criminal case by the court of law, which is a gross misconduct on his part. Therefore, he was awarded punishment i.e removal from service instead of dismissal from service.
- k. Incorrect and denied. All the codal formalities were observed while awarding punishment to appellant on receipt of judicial conviction order from court of law.
- l. Incorrect and denied. The instant appeal of the appellant is badly time barred about more than ten years which is not maintainable/sustainable in the eye of law.
- m. Incorrect and denied. The appeal is not maintainable before this forum as he has not moved departmental appeal to appellate authority in time under the provisions of Khyber Pakhtunkhwa, Service Tribunal Act 1974, being barred by law/limitation.
- n. The respondents may also be permitted to create additional grounds at the time of arguments.

**PRAYERS:-**

It is therefore, most humbly prayed that in the light of aforesaid facts/submission the service appeal may kindly be dismissed with costs please.

  
**Superintendent of Police FRP,**  
DI Khan Range, DI Khan  
(Respondent No. 4)

  
**Commandant FRP,**  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 2&3)

  
**Inspector General of Police,**  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)