

18.03.2022

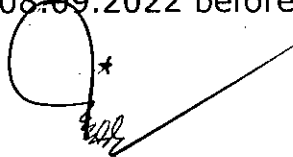
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 22.06.2022 for the same as before.


Reader.

22.06.2022

Clerk of learned counsel for the appellant present. Mr. Ahmad Jan, S.I (Legal) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Reply on behalf of respondents No. 1 & 2 submitted, which is placed on file and copy of the same is handed over to clerk of learned counsel for the appellant, who requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for rejoinder, if any, as well as arguments on 08.09.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

Order

08.09.2022

Taimur Ali Khan Advocate learned counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

At the very outset learned counsel for appellant requested for withdrawal of the instant service appeal as the grievance of the appellant has been redressed. In this respect, his statement was recorded on the margin of order sheet and his signature was obtained thereon.

In view of the above, instant appeal stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
08.09.2022


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

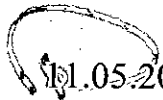
As the grievance of the appellant has been redressed, therefore, the appeal in hand may be dismissed as withdrawn. *Dr.*

03.02.2021

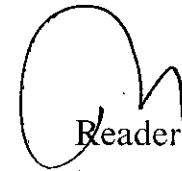
Counsel for appellant and Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Muhammad Raziq, Reader and Mr. Sajid, Superintendent, for respondents present.

Written reply on behalf of respondents not submitted despite last chance, hence, the appeal is posted to D.B for arguments on 11.05.2021.


CHAIRMAN

 11.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 31.08.2021 for the same as before.


Reader

31.08.2021

Due to summer vacations, the case is adjourned to 31.12.2021 for the same as before.


READER

Due to winter vacation
the case is adjourned to 18/3/22
for the same as before.



26.10.2020

Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General for respondents present. Sajid Superintendent for respondent No.3 present. Nemo for respondents No.1 & 2.

Representative of respondent No.3 made a request adjournment to submit reply. Notice be issued respondents No.1 & 2 for submission of written reply/comments for 10.12.2020 before S.B.



(Rozina Rehman)
Member (J)

10.12.2020

Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General Sajid Superintendent and Muhammad Raziq Reader for respondents present.

Written reply was not submitted. Representatives of respondents request for time to furnish written reply/comments. Last chance is given. To come up for written reply/comments on 03.02.2021 before S.B.



(Rozina Rehman)
Member (J)

09.07.2020

Counsel for the appellant present.

Learned counsel referred to the order dated 27.12.2019 passed by respondent No. 2 and stated that the punishment of forfeiture of two years approved service and also disallowing the back benefits, passed against the appellant was solely based on the findings of enquiry officer. On the other hand, the enquiry officer (SSP Peshawar) had recommended in unambiguous terms that allegations levelled against the appellant could not be established.

In view of the available record and arguments of learned counsel, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 08.09.2020 before S.B.

Appellant Deposited
Security Process Fee

09/07/20

09/07/20

Chairman

08.09.2020

Counsel for the appellant and Addl. AG for the respondents present.

Learned Addl. AG requests for time to procure reply/comments from the respondents. Adjourned to 26.10.2020 on which date the requisite reply/comments shall be positively submitted.


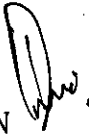
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 5627 /2020

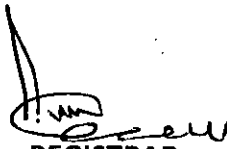
1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/06/2020	<p>The appeal of Mr. Farhad Ali resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/07/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Farhad Ali submitted today i.e. 04.05.2020 by Mr. Taimoor Ali Khan, Advocate is incomplete on the following score which is returned to his counsel for completion and resubmission within 15 days.

- 1- The appeal is not signed by appellant which may be done.
- 2- Annexures of the appeal are not flagged which may be flagged.
- 3- Annexures of the appeal are not attested which may be attested.
- 4- Copy of departmental appeal mentioned in Para-06 in the facts is not attached with the appeal which may be attached..
- 5- Five more copies of appeal alongwith annexures i.e. complete in all respect may also be submitted with the appeal.


No. 1092 /S.T,

Dt. 5-5- /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

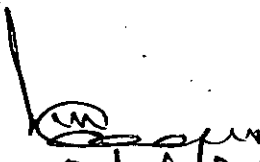
Mr. Taimoor Ali Khan, Advocate Peshawar.

Respected Sir,
Please allowed 15 days more for
submission of case


1/6/2020
(15) days time further extend.

Respected Sir

- 1- Removed
- 2- Removed
- 3- Removed
- 4- Copy is attached at page-15
- 5- Removed


01/06/2020
Resubmitted after
compliance on 10/6/2020

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. **5695** 2020

Farhad Ali

V/S

Police Deptt:

INDEX

S.No.	Documents	Annexure	Page
1.	Memo of Appeal	-----	01-04
2.	Copies of charge sheet and dismissal order dated 21.04.2017	A&B	05-06
3.	Copy of judgment dated 30.07.2019	C	07-09
4.	Copy of order dated 22.10.2019	D	10
5.	Copy of inquiry report	E	11-13
6.	Copy of order dated 27.12.2019	F	14
7.	Copy of departmental appeal	G	15
8.	Vakalat nama	-----	16

APPELLANT

THROUGH:




TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)



ASAD MAHMOOD
(ADVOCATE HIGH COURT)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO.  2020

5695/20

Khyber Pakhtunkhwa
Service Tribunal

Diary No. **3283**

Dated **4-5-2020**

Farhad Ali, Constable No.4590,
Police Lines, Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. The secretary Finance, Khyber Pakhtunkhwa, Peshawar

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 27.12.2019, WHEREBY THE APPELLANT WAS REINSTATED INTO SERVICE, BUT AWARDED THE PUNISHMENT OF FORFEITURE OF 02 YEARS APPROVED SERVICE AND ALSO NOT GRANTED BACK BENEFITS FOR THE PERIOD HE REMAINED OUT OF SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.12.2019 MAY KINDLY BE MODIFIED TO THE EXTENT THAT THE FORFEITURE OF 02 YEARS APPROVED SERVICE OF THE APPELLANT MAY BE RESTORED AND BACK BENEFITS MAY ALSO BE GRANTED TO THE APPELLANT FOR THE PERIOD HE REMAINED OUT OF SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS AS THE ALLEGATIONS LEVELED AGAINST THE APPELLANT COULD NOT BE ESTABLISHED BY THE INQUIRY OFFICER DURING THE DENOVO INQUIRY. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

Re-submitted to - Gay
and filed.


Registrar

RESPECTFULLY SHEWTH:

FACTS:

1. That charge sheet was issued to the appellant on the basis of involvement in criminal case and was dismissed from service on that reason vide order dated 21.04.2017 against which the appellant filed departmental appeal which was also rejected on 26.05.2017. **(Copies of charge sheet and dismissal order dated 21.04.2017 are attached as Annexure-A&B)**
2. That the appellant has challenged the impugned orders in service appeal No. 675/1017 before this Honourable Service Tribunal. The august Service Tribunal finally heard the appeal on 30.07.2019 in which the august Service Tribunal set aside the impugned orders and reinstated the appellant into service for the purpose of denovo inquiry. The issue of back benefits shall be subject to the outcome of denovo inquiry strictly in accordance with law/rules. **(Copy of judgment dated 30.07.2019 is attached as Annexure-C)**
3. That in the compliance of judgment of this august Service Tribunal, the appellant was reinstated into service for the purpose of denovo inquiry vide order dated 22.10.2019. **(Copy of order dated 22.10.2019 is attached as annexure-D)**
4. That denovo inquiry was conducted against the appellant in which the inquiry officer gave his conclusion that the allegations leveled against the appellant could not be established. **(Copy of inquiry report is attached as Annexure-E)**
5. That although allegations leveled against the appellant was not established by the inquiry officer during the denovo inquiry, but the despite that respondent No.2 passed an order dated 27.12.2019 whereby the appellant was reinstated into service, but awarded the punishment of forfeiture of 02 years approved service and no back benefit was granted him for the period he remained out of service. **(copy of order dated 27.12.2019 is attached as annexure-F)**
6. That the appellant filed departmental appeal for restoration of forfeiture of his approved 02 years service and for grant of back benefits for the period he remained of service on 08.01.2020, which was not responded within the statutory period of ninety days. **(Copy of departmental appeal is attached as Annexure-G)**

7. That now the appellant has no other remedy except to file the instant appeal for redressal of his grievances in this august Service Tribunal on the following grounds amongst others.

GROUND:

- A) That not taking action on the departmental appeal of the appellant and order dated 27.12.2019 to the extent of punishment of forfeiture of 02 years approved service and not granting back benefits for the period the appellant remained out of service are against the law, facts, norms of justice and de-novo inquiry report conclusion, violation of judgment dated 30.07.2019, therefore not tenable and the order dated 27.12.2019 is liable to be modified to extent that the forfeiture of 02 years approved service of the appellant may be restored and back benefits may also be granted to the appellant for the period he remained out of service as the allegations leveled against the appellant could not be established by the inquiry officer during the denovo inquiry.
- B) That this august Service Tribunal mentioned in its judgment that the issue of back benefits shall be subject to the outcome of de-novo inquiry strictly in accordance with law/rules and the inquiry officer gave his conclusion in the inquiry report that the allegations leveled against the appellant could not be established, but despite that punishment of forfeiture of 02 years approved service has been imposed upon the appellant and also not granted back benefits for the period the appellant remained out of service which is violation of judgment dated 30.07.2019 of this Honourable Service Tribunal.
- C) That inquiry officer gave his conclusion in the de-novo inquiry report that the allegations leveled against the appellant could not be established, but respondent No.2, without giving any reason has imposed punishment of forfeiture of 02 years approved service upon the appellant and also not granted back benefits for the period the appellant remained out of service, which is against the norms of justice and fair play.
- D) That the allegations/charges were not established against the appellant and was exonerated, therefore there remain no ground to awarded punishment to the appellant and also deprive him from his back benefits for the period he remained out of service.

- E) That the appellant was dismissed from service on certain allegations which could not be established during the de novo inquiry proceeding, therefore the appellant should not be punished for no fault on his part by imposing punishment of forfeiture of 02 years approved service and also depriving him from his legal right of back benefits for the period he remained out of service.
- F) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Farhid Ali
APPELLANT
Farhid Ali

THROUGH:

Taimur Ali Khan
TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)
&
Asad Mahmood
ASAD MAHMOOD
(ADVOCATE HIGH COURT)

CHARGE SHEET

A 2 5 5

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Farhad No.2036 of Capital City Police Peshawar with the following irregularities.

"That you Constable Farhad No.2036 while posted at PS Gulbahar, Peshawar were involved in a criminal case vide FIR No.678 dated 29.07.2015 U/S 223/224-PPC PS Gulbahar. This amounts to gross misconduct on your part and against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

ATTESTED


ORDER

B (6)

This office order relates to the disposal of formal departmental enquiry against Constable Farhad No.2036 of Capital City Police Peshawar on the allegations that he while posted at PS Gulbahar, Peshawar was involved in criminal case vide FIR No.678 dated 29.07.2015 u/s 223/224/-PPC PS Gulbahar.

In this regard, he was placed under suspension & issued charge sheet and summary of allegations. SDPO Cantt was appointed as Enquiry Officer. He conducted the enquiry and submitted his report that a firm opinion cannot be given about his innocence/involvement in the said case. The E.O further recommended that enquiry may be kept pending till the final decision of court vide Enquiry Report No.2735/ST dated 13.11.2015.

Upon which, DSP Legal opinion was sought. He opined that "allegedly accused involved in target killing case has made good escape from the custody of accused constable Farhad, hence the E.O may fix responsibility if any, and submit decisive conclusion in the charges."

The enquiry paper was again sent to E.O for re-enquiry. He conduct enquiry into the matter & submitted his report/finding that a firm opinion cannot be given about his innocence/involvement in the said case & enquiry may be kept pending till the final decision of court vide Enquiry Report No.2735/ST dated 07.04.2017.

Upon the finding of Enquiry Officer, the opinion of DSP Legal was again sought. He opined that "he has gone through the enquiry file which reveals that the undersigned has formerly offered opinion in pursuance of which papers in hand were sent back to E.O for re-enquiry but instead the E.O reproduced the same findings and re-submitted the same. It is worth clarify that criminal case has no binding over the department proceedings. Therefore, his earlier opinion may be followed.

In view of the above discussion, DSP Legal opinion & other material available on record, the undersigned came to conclusion that the alleged official found guilty of involvement in criminal case. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect.

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[Signature]
**SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR**

OB. No. 1750 / Dated 21/4 /2017

No. 1976-82PA/SP/dated Peshawar the 21/4 /2017

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Office ✓
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

Handwritten marks: a stylized 'C' and a circled '7'.

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1.	2	3
<p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Service Appeal No. 675/2017</p> <p style="text-align: center;">Date of Institution 21.06.2017 Date of Decision 30.07.2019</p> <p>Mr. Farhad Ali Ex-Constable No.2036, Police Station Gulbahar, Peshawar.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none">1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.2. The Capital City Police Officer, Khyber Pakhtunkhwa, Peshawar.3. The SP Headquarters, Peshawar. <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Ahmad Hassan-----Member(E)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Riáz Paindakheil learned Assistant Advocate General present.</p> <ol style="list-style-type: none">2. The appellant (Ex-Constable) has filed the present appeal being aggrieved against the order dated 21.04.2017 whereby he was dismissed from service and against the order dated 26.05.2017 through which his departmental appeal against the punishment order dated 21.04.2017 was rejected/filed.3. Learned counsel for the appellant argued that the appellant joined the Police Force in the year 2006; that the appellant while posted		



30.07.2019

Handwritten signature and date: 30.7.2019

ATTESTED

Signature of the official
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

at Police Station Gulbahar Peshawar got involved in the criminal case vide FIR No.678 dated 29.07.2015 u/s 223/224-PPC Police Station Gulbahar; that one sided inquiry was conducted in which the appellant submitted his statement; that the appellant was neither served with charge sheet/statement of allegation nor any Show Cause Notice was issued to him and vide order dated 21.04.2017 major penalty of dismissal from service was imposed upon him; that the departmental appeal/representation of the appellant against the punishment order, was also rejected for no good grounds; that the impugned orders are against law, facts and norms of justice; that the appellant was condemned unheard and remained undefended during the departmental action.

4. As against that learned AAG while resisting the present service appeal, argued that two (02) accused involved in heinous offences escaped from the custody of the appellant due to his negligence and resultantly not only criminal case was registered against the appellant but he was also proceeded departmentally; that the punishment was awarded to the appellant after observing the legal requirements.

5. Arguments heard: File perused.

6. Allegation/charge against the appellant as mentioned in the appellate order dated 26.05.2017 is that ASP-Gulbahar (Imran Ahmad Malik) vide his letter vide No.3071/ST dated 31.07.2015 reported that accused Ishaq s/o Umar r/o Wali Abad and Munib Zeb s/o Muhammad Aurangzeb r/o Mohallah Baqir Shah who were involved in target killing/snatching cases were escaped from his custody on

REVISED

30.7.2019

ATTY GENERAL

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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19.07.2015 and due to his misconduct a criminal case vide FIR No.678 dated 29.07.2015 u/s 223/224 PPC was registered at PS Gulbahar against him.

7. Departmental action was taken against the appellant, however learned AAG remained unable to show that charge sheet was served upon the appellant. Similarly no Show Cause Notice was issued to the appellant prior to awarding him major punishment of dismissal from service.

8. The inquiry officers in their inquiry reports have not given concrete findings and recommendations against the appellant.

9. In the light of above discussion the impugned orders are set aside and the appellant is reinstated in service for the purpose of de-novo inquiry. The issue of back of back benefits shall be subject to the outcome of de-novo inquiry strictly in accordance with law/rules. The present service appeal is accepted in the above noted terms. Parties are left to bear their own costs. File be consigned to the record room.

[Signature]

(Ahmad Hassan)
Member

[Signature]

(Muhammad Hamid Mughal)
Member

ATTESTED

ANNOUNCED.
30.07.2019

Date of Presentation of Appeal 26-8-19

Number of Pages 1200

Copying fee 16-00

Urgent 4-00

Total 20-00

Name of Clerk *[Signature]*

Date of Receipt 26-8-19

Date of Delivery 26-8-19

Certified to be true copy

[Signature]
Secretary
Khyber Pakhtunkhwa
Service Tribunal
Peshawar




OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR
Phone No. 091-9210641
Fax: No. 091-9212597

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ORDER

As per the Judgment of Hon'able Khyber Pakhtunkhwa Services Tribunal, Peshawar order dated 30.07.2019 passed in Service Appeal No. 675/2017 dully approved by the CPO authorities vide AIG/Legal letter No. 4687/Legal, dated 30.09.2019 and opinion of DSP/Legal Peshawar. The impugned order issued vide OB No. 1750 dated 21.04.2017 by SP/Hqrs: Peshawar in respect of Ex-Constable Farhad Ali No. 2036 of Capital City Police Peshawar is set aside and the appellant is reinstated in service for the purpose of de-novo enquiry with immediate effect. The issue of back benefits shall be subject to the outcome of de-novo enquiry strictly in accordance with law/rules.

The original enquiry file along with the copy of judgment is forwarded to the Deputy Inspector General of Police, Internal Accountability Branch CPO Peshawar for de-novo enquiry.


SP/HQrs:
For Capital City Police Officer,
Peshawar 23-10-19

OB No. 3199

Dated 22/10/2019

No. 28/15-22 /CRC, dated Peshawar the 23/10/2019.

Copy of above is forwarded for information and necessary action to the:-

1. Capital City Police Officer, Peshawar
2. DIG/Internal Accountability Branch CPO Peshawar (along with E/File & copy of Court order)
3. AIG/Legal CPO Peshawar with above cited reference.
4. DSP/Legal, Capital City Police Peshawar
5. Budget Officer, Capital City Police Peshawar
6. Assistant Director, I.T, Capital City Police Peshawar
7. PO, OASI & FMC
8. Official Concerned.

ATTESTED


E
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DE-NOVO ENQUIRY AGAINST EX-CONSTABLE FARHAD ALI NO.2036.

Brief Facts:-

Ex-Constable Farhad Ali No.2036, while posted at Police Station Gulbahar was involved in criminal case FIR No. 678 dated 29.07.2015 u/s 223/224-PPC PS Gulbahar. Allegedly accused persons Muhammad Munib and Ishaq were in custody of local police of PS Gulbahar in heinous crime that were taken out from lock-up for the purpose of investigation/interrogation in the custody of alleged Constable. Both the accused managed to escape from his custody.

With reference to the above allegations, he was placed under suspension vide order No. 3390-98/PA/SP/Hqrs, dated 26.08.2015 and issued him Charge Sheet/Summary of allegation. Inquiry was conducted against him and he was dismissed by the competent authority vide order No. 1976-82/PA/SP, dated 21.04.2017. His departmental appeal against his dismissal was rejected by the appellat authority.

In the criminal case the accused Ex-Constable got bail from the court of law in the ^{Case} and after completion of investigation, the matter was sent up for trial to the Court of Learned JMIC-I, Peshawar, on 10.03.2017. During the course of trial, accused petitioner Farhad Ali submitted application u/s 249-A-Cr.PC for his acquittal but the same was dismissed on the grounds that co-accused namely Muhammad Ishaq was absent.

On 26.02.2018, the co-accused Muhammad Ishaq was proceeded against u/s 512-Cr.PC. The accused petitioner knocked the door of AD&SJ-X, Peshawar, wherein during the course of trial, the Court summoned PWs and case property but the prosecution failed to do so. Therefore, the accused facing trial moved application for his acquittal u/s 249-A Cr.PC.

As mentioned in the Court verdict, there was nothing on the record against him and the petitioner was suffering from mental agony due to false and frivolous litigation initiated against him and on 14.12.2018, accused Ex-Constable was acquitted from the court of law.

Similarly, the dismissed constable also filed Service Appeal in Khyber Pakhrunkhwa Service Tribunal, Peshawar on 21.06.2017 and after a period of 02-years, the Service Tribunal issued verdict in his favour and he was re-instated in service for the purpose of de-novo enquiry.

Attested
[Signature]

CPO Peshawar sent the same file vide reference No. 3270-73/CPO/IAB, dated 28.10.2019 to the W/CCPO and the undersigned was nominated as Enquiry Officer to conduct de-novo proceedings.

Proceedings

Accordingly de-novo enquiry into the matter was conducted. During the course of enquiry Ex-Constable Farhad was called, heard in person and his statement was recorded wherein he disclosed that accused Muhammad Munib Zeb and Muhammad Ishaq were taken out for interrogation by him and were in his custody. They attacked and pushed him due to which he fell down and the arrested accused fled away. A case vide FIR No. 678 dated 29.07.2015 u/s 223/224-PPC PS Gulbahar was registered against him for his negligence. However during trial of the said case, he was acquitted from the court of law.

Inspector Qimat Gul Khan, the then SHO PS Gulbahar, was also heard in person and his statement was recorded who annexed the story narrated by Ex-Constable Farhad Ali however, further added that both the accused, Muhammad Ishaq and Muhammad Munib Zeb who escaped from the custody of Ex- Constable Farhad Ali had been arrested in heinous crime vide case FIR# 66 dated 10.07.2015 PS. CTD Peshawar. Accused Ishaq was re-arrested on the same day while accused Muhammad Munib Zeb was killed in Police encounter vide FIR# 679 dated 30.07.2015 u/s 399/400/401/324/353/427/15-AA PS Gulbahar. He further told that there was no misconduct on the part of alleged Constable as at the time of occurrence he was alone and the accused were rebellious in manner.

Sub Inspector Ahmad Rasheed Investigation Officer of case FIR# 678/2015, registered against Ex-Constable Farhad Ali was also summoned and heard in person. In his written statement he supported the narrative of Qimat Khan, the then SHO PS Gulbahar.

Conclusion:-

After perusal of the statements recorded during the course of enquiry, case file, court judgment/order in criminal case and judgment/order of Service Tribunal it is observed that:-

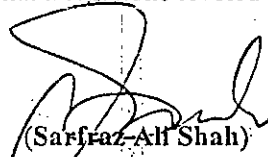
- > At the time of occurrence, Ex-Constable Farhad Ali was alone due to which the accused attacked and win over him. He was pushed by the accused due to which he fell down and they easily managed to flee away.
- > During the course of investigation, the Investigation Officer failed to prove the negligence of the dismissed constable.

ATTESTED



Both the Investigation Officer of the case and the then SHO PS Gulbahar opined that Ex-Constable Farhad Ali was not guilty and he had no ill-will in escape of accused from his custody.

Keeping in view of the above facts it is concluded that allegations leveled against Ex-Constable Farhad Ali could not establish.


(Sarfraz Ali Shah)
Senior Superintendent of Police,
Coordination, Peshawar.

Enclosures:-

- 1) Statement of Ex-Constable Farhad Ali No. 2036
- 2) Statement of Inspector Qimat Gul the then SHO Gulbahar
- 3) Statement of SI Ahmad Rashid Investigation Officer of the case FIR No. 678 dated 29.07.2015 u/s 223/224-PPC PS Gulbahar.
- 4) Copy of court judgment dated 14/12/2018

ATTESTED





OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

ORDER

This order will dispose of the Denovo departmental enquiry against Constable Farhad Ali No.4590, conducted in compliance of Judgement of Honorable Services Tribunal Khyber Pakhtunkhwa conveyed to this office vide AIG/Legal CPO Peshawar letter No.4687/Legal dated 30-09-2019

2- Brief facts of the case are that he while posted in PS Gulbahar Peshawar was involved in a criminal case vide FIR No.678 dated 29-07-2015 u/s 223/224/PPC PS Gulbahar. The charges leveled against him were stand proved during the course of enquiry; hence he was awarded the major penalty of dismissal from service by the competent authority. He then preferred an appeal to the appellat authority which was also filed/rejected. Feeling aggrieved he filed service appeal before the Honorable Services Tribunal Khyber Pakhtunkhwa. The honorable Court ordered that the impugned order are set aside and he may be reinstated in service for the purpose of denovo enquiry. The issue of back benefits shall be subject to the outcome of denovo enquiry strictly in accordance with law/ rules.

3- In pursuance of the direction of Addl Inspector General of Police Internal Accountability letter No.3270-73/CPO/IAB, dated 28-10-2019 inlight of the Honorable Court Judgement, the SSP/Coordination Peshawar was nominated to conduct denovo departmental enquiry against Constable Farhad Ali and outcome of the enquiry be intimated to their office. The enquiry officer after finalization of the enquiry submitted his findings recommended therein that the allegations leveled against Constable Farhad Ali could not be established.

4- He was called in OR and heard in person. During personal hearing he denied the allegations leveled against him in the charge sheet. After examining the enquiry file and in light of the recommendations of enquiry officer (SSP/ Coordination) who conducted denovo enquiry, constable Farhad Ali No.4590 is reinstated into service and awarded the punishment of forfeiture of 02 years approved service. No back benefit is granted for the period he remained out of service.

3806
27-12-19

(MUHAMMAD ALI KHAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 1836-43 /PA dated Peshawar the 27-12 - 2019

Copies for information and n/a to the:-

1. SSP/Coordination Peshawar.
2. SP/ HQrs Peshawar.
3. OASI/ CRC/OB Clerk/Pay Officer.
4. FMC with fauji missal of the official.
5. Official concerned.

ATTESTED

Seen

SSP-Coord
30/12/19

بخدمت جناب G صاحب خیبر پختونخوا پشاور

﴿رحم ایل﴾

15

عالی!

سائل حسب ذیل عرض رساں ہے۔

یہ کہ سائل کو مقدمہ عدلت نمبر 678 مورخہ 29.07.2015 بم 323/324 ٹھانہ گیبہار پشاور میں بالکل بے گناہ تھا مگر پھر بھی

افسران بالا نے سائل کو برخاست کیا جو کہ سائل کے ساتھ بہت زیادہ ظلم ہوا تھا۔

یہ کہ اس نا کردہ گناہ میں سائل نے تقریباً 5 سال تک مختلف عدالتوں کے دروازے کھٹکانے اور آخر کار مجھے نوکری پر بحال کیا

اور دوبارہ انکوٹری کرنے تکہ پولیس کو ہدایات جاری کیں۔

یہ کہ جناب SSP کو آرڈینیشن نے بالکل صاف شفاف انکوٹری کر کے سائل کو بے گناہ قرار دیا۔

یہ کہ جب سائل بے گناہ ثابت ہوا تو CCPO صاحب کو حسب الحکم OR میں پیش ہو کر اپنی بے گناہی و برائی مگر دفتر آرڈر

جاری ہو کر دیکھا تو اس میں سائل سے 2 سال کی نوکری کاٹی اور بلا تخواہ کر دیا۔ سائل کا بی غریب بندہ ہے سائل پر رحم کھا کر 2

سال کی نوکری اور بلا تخواہ آرڈر کو کنسل کرنے کے احکامات جاری کریں اور مشکور فرمائیں۔

سائل تاحیات دعا گو رہے گا۔

ضابطہ

درخواست دینے والوں کی
کوئی سے کوئی سرائیج
درخواست دینے والوں کی
مستند گزار سرائیج

31/12/14

کنشیل فرہادی نمبر 4590 متعینہ پولیس لائن پشاور

Forwarded by

Sir,

Forwarded
31/12/14

Dr. Sana Ullah
31/12/14

ATTESTED

A

Dy NO. 37/
dated: 08/01/2020

VAKALAT NAMA

NO. _____/2020

IN THE COURT OF KP Service Tribunal, Peshawar

Fahad Ali (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt (Respondent)
(Defendant)

I/We, Fahad Ali

Do hereby appoint and constitute **TAIMUR ALI KHAN, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2020

Fahad Ali
(CLIENT)

ACCEPTED

Asad Mahmood
Asad Mahmood
Advocate

Taimur Ali Khan
TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
17101-7395544-5

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar.
Cell: (0333-9390916)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.5695/2020.

Farhad Ali Constable No. 4590 of CCP, Peshawar.....Appellant.

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

2. Capital City Police Officer, Peshawar.....Respondents.

Reply on behalf of Respondents No. 1,2&3.

Respectfully Sheweth!

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Honorable Tribunal.

FACTS:-

1. Correct to the extent that the appellant while posted at PS Gulbahar, Peshawar was involved in a criminal case Vide FIR No. 678 dated 29.07.2015 u/s 223/224 PPC PS Gulbahar. In this regard he was proceeded departmentally and charge sheet with summary of allegations was issued. SDPO/Cantt: was appointed as enquiry officer. On finalization the departmental proceedings, the competent authority awarded him major punishment of dismissal from service. The appellant then filed departmental appeal which after due consideration was filed/rejected with convincing reasons.
2. Correct to the extent that the appellant filed Service Appeal No.675/2017 before the Honorable Tribunal, which was accepted and remanded it back to the respondent department for conducting of de-novo enquiry.
3. Correct to the extent that in light of the honorable Tribunal judgment, the appellant was re-instated in service and de-novo proceedings was initiated against him.
4. Incorrect. After submission of findings report by the enquiry officer, the competent authority has minutely gone through the material on record and other connected paper including the defense/plea of appellant awarded appropriate punishment under law/rules, which commensurate with gravity of charges.
5. Incorrect. As per Apex Court judgment and law, the Competent Authority is not bound to follow the recommendation of the enquiry officer rather the Competent Authority should apply his own independent mind and to decide the issue in accordance with the

material available on record and collecting of other proof. The competent authority reinstate the appellant into service and awarded the punishment of forfeiture of 02 years approved service, and no back benefit is granted for the period he remained out of service.

6. Incorrect. The appellant filed departmental appeal which after due consideration the penalty of forfeiture of two years approved service was converted into forfeiture of two years approved service for three years and the period he remained out of service was treated as leave of kind due. (copy attached as annexure as "A")
7. That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.

GROUNDS:-

- A) Incorrect. His departmental appeal was decided and the penalty of forfeiture of two years approved service was converted into forfeiture of two years approved service for three years and the period he remained out of service was treated as leave of kind due. The appellant was treated as per law/rules.
- B) Incorrect. No violation of the judgment has been done by the respondent department. The issue of the back benefits was decided in his departmental appeal and the period that he remained out of service was treated as leave of the kind due.
- C) Incorrect. Para already explained in detailed in the above paras.
- D) Incorrect. Para already explained in detailed in the above paras.
- E) Incorrect. The punishment passed by the competent authority against appellant is lawful and as per law/rules.
- F) That respondent may also be allowed to advance any additional ground at the time of hearing of the appeal.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant being devoid of merits, legal footing may kindly be dismissed with costs please.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.5695/2020.

Farhad Ali Constable No. 4590 of CCP, Peshawar.....Appellant.

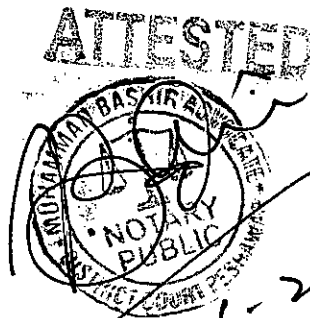
VERSUS


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.....Respondents.

AFFIDAVIT.

We respondents 01 and 02 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.



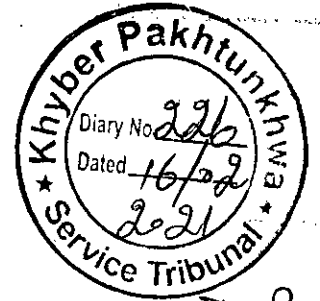

Capital City Police Officer,
Peshawar.

22-06-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.5687/2020

Put up to the court with
relevant appeal.



Farhad Ali

VS

Police Deptt:

DBg

17/2/2021
Reserve

SUBJECT: APPLICATION FOR PERMISSION TO ALLOW THE APPELLANT TO AMEND THE INSTANT APPEAL BY IMPUGNING THE ORDER DATED 21.01.2021, WHEREBY THE PENALTY OF FORFEITURE OF TWO YEARS APPROVED SERVICE WAS MODIFIED INTO FORFEITURE OF 2 YEARS APPROVED SERVICE FOR THREE YEARS AND THE PERIOD HE REMAINED OUT OF SERVICE WAS TREATED AS LEAVE OF KIND DUE ON HIS DEPARTMENTAL APPEAL.

RESPECTED SHEWITH:-

1. That the appellant has filed the instant appeal in this Honourable Tribunal against the order dated 27.12.2019, whereby the appellant was reinstated into service, but awarded the punishment of forfeiture of 2-years approved service and also not granted back benefits fro the period he remained out of service and against not taking action on the review petition within the statutory period 90 days.
2. That the instant appeal is pending before tis Honourable Tribunal however the respondent No.1 decide the departmental appeal of the appellant on 21.01.2021, whereby the penalty of forfeiture of two years approved service was modified into forfeiture of 2 years approved service for three years and the period he remained out of service was treated as leave of kind due. **(Copy of order dated 21.01.2021 is attached as Annexure-A)**
3. That as the penalty of the appellant was modified by deciding the departmental of the appellant on 21.01.202, therefore the appellant wants to challenge the order dated 21.01.2021 by amending the instant appeal before this Honourable Tribunal.
4. It will be in the interest of justice to allow the appellant to amend the instant appeal by challenging the order dated 21.01.2021 before this Honourable Tribunal.

It is therefore most humbly prayed that on acceptance of this application, the appellant may kindly be allowed to challenge the order dated 21.01.2021 before this Honourable Tribunal by amending the instant appeal.

Farhad Ali

APPELLANT
Farhad Ali

THROUGH:

(Signature)

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

&

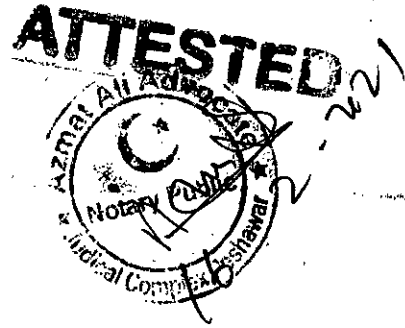
(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

(Signature)

DEPONENT





OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/ 156

20, dated Peshawar the 21/01/2020.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Constable Farhad Ali No. 4590. The petitioner was dismissed from service by SP/HQrs: Peshawar vide OB No. 1750, dated 21.04.2017 on the allegations of involvement in a criminal case vide FIR No. 678, dated 29.07.2015 u/s 223/224 PPC PS Gulbahar. His appeal was rejected by Capital City Police Officer, Peshawar vide order Endst. No. 859-64/PA, dated 26.05.2017. He preferred service appeal No. 675/2017 in Service Tribunal, Peshawar wherein he was re-instated for the purpose of de-novo enquiry vide judgment dated 30.07.2019. De-novo enquiry was conducted wherein he was re-instated in service and awarded punishment of forfeiture of two years approved service and no back benefit was granted for the period he remained out of service by Capital City Police Officer, Peshawar vide order Endst: No. 1836-43/PA, dated 27.12.2019.

Meeting of Appellate Board was held on 01.12.2020 wherein petitioner was heard in person. Petitioner denied the allegations leveled against him.

The petitioner has long service of 14 years, 15 months & 24 days at his credit. Keeping in view his long service, the Board decided that penalty of forfeiture of two years approved service is hereby modified into forfeiture of two years approved service for three years and the period he remained out of service to be treated as leave of kind due, if any on his credit.

Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI/ 157-62/20,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. One Service Roll and one Fauji Missal of the above named FC received vide your office Memo: No. 4608/CRC, dated 03.03.2020 is returned herewith for your office record.
2. Supdt: of Police, HQrs: Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(ZAHOOR BABAR AFRIDI) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

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

Service Appeal No.5687/2020

Farhad Ali

VS

Police Deptt:

SUBJECT: APPLICATION FOR PERMISSION TO ALLOW THE APPELLANT TO AMEND THE INSTANT APPEAL BY IMPUGNING THE ORDER DATED 21.01.2021, WHEREBY THE PENALTY OF FORFEITURE OF TWO YEARS APPROVED SERVICE WAS MODIFIED INTO FORFEITURE OF 2 YEARS APPROVED SERVICE FOR THREE YEARS AND THE PERIOD HE REMAINED OUT OF SERVICE WAS TREATED AS LEAVE OF KIND DUE ON HIS DEPARTMENTAL APPEAL.

RESPECTED SHEWITH:-

1. That the appellant has filed the instant appeal in this Honourable Tribunal against the order dated 27.12.2019, whereby the appellant was reinstated into service, but awarded the punishment of forfeiture of 2-years approved service and also not granted back benefits fro the period he remained out of service and against not taking action on the review petition within the statutory period 90 days.
2. That the instant appeal is pending before tis Honourable Tribunal however the respondent No.1 decide the departmental appeal of the appellant on 21.01.2021, whereby the penalty of forfeiture of two years approved service was modified into forfeiture of 2 years approved service for three years and the period he remained out of service was treated as leave of kind due. (Copy of order dated 21.01.2021 is attached as Annexure-A)
3. That as the penalty of the appellant was modified by deciding the departmental of the appellant on 21.01.202, therefore the appellant wants to challenge the order dated 21.01.2021 by amending the instant appeal before this Honourable Tribunal.
4. It will be in the interest of justice to allow the appellant to amend the instant appeal by challenging the order dated 21.01.2021 before this Honourable Tribunal.

It is therefore most humbly prayed that on acceptance of this application, the appellant may kindly be allowed to challenge the order dated 21.01.2021 before this Honourable Tribunal by amending the instant appeal.

Farhad Ali

APPELLANT
Farhad Ali

THROUGH:

Taimur Ali Khan

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Asad Mahmood

DEPONENT

ATTESTED





OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/ 156 /20, dated Peshawar the 21/01/2020.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Constable Farhad Ali No. 4590. The petitioner was dismissed from service by SP/HQrs: Peshawar vide OB No. 1750, dated 21.04.2017 on the allegations of involvement in a criminal case vide FIR No. 678, dated 29.07.2015 u/s 223/224 FPC PS Gulbahaar. His appeal was rejected by Capital City Police Officer, Peshawar vide order Endst: No. 359-64/PA, dated 26.05.2017. He preferred service appeal No. 675/2017 in Service Tribunal, Peshawar wherein he was re-instated for the purpose of de-novo enquiry vide judgment dated 30.07.2019. De-novo enquiry was conducted wherein he was re-instated in service and awarded punishment of forfeiture of two years approved service and no back benefit was granted for the period he remained out of service by Capital City Police Officer, Peshawar vide order Endst: No. 1836-43/PA, dated 27.12.2019.

Meeting of Appellate Board was held on 01.12.2020 wherein petitioner was heard in person. Petitioner denied the allegations leveled against him.

The petitioner has long service of 14 years, 15 months & 24 days at his credit. Keeping in view his long service, the Board decided that penalty of forfeiture of two years approved service is hereby modified into forfeiture of two years approved service for three years and the period he remained out of service to be treated as leave of kind due, if any on his credit.


Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar

No. SI/ 157-62 /20,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. One Service Roll and one Fauji Missal of the above named FC received vide your office Memo: No. 4608/CRC, dated 03.03.2020 is returned herewith for your office record.
2. Supdt: of Police, HQrs: Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.


(ZAHOOR BABAR AFRIDI) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.5687/2020

Farhad Ali

VS

Police Deptt:

SUBJECT: APPLICATION FOR PERMISSION TO ALLOW THE APPELLANT TO AMEND THE INSTANT APPEAL BY IMPUGNING THE ORDER DATED 21.01.2021, WHEREBY THE PENALTY OF FORFEITURE OF TWO YEARS APPROVED SERVICE WAS MODIFIED INTO FORFEITURE OF 2 YEARS APPROVED SERVICE FOR THREE YEARS AND THE PERIOD HE REMAINED OUT OF SERVICE WAS TREATED AS LEAVE OF KIND DUE ON HIS DEPARTMENTAL APPEAL.

RESPECTED SHEWITH:-

1. That the appellant has filed the instant appeal in this Honourable Tribunal against the order dated 27.12.2019, whereby the appellant was reinstated into service, but awarded the punishment of forfeiture of 2-years approved service and also not granted back benefits fro the period he remained out of service and against not taking action on the review petition within the statutory period 90 days.
2. That the instant appeal is pending before tis Honourable Tribunal however the respondent No.1 decide the departmental appeal of the appellant on 21.01.2021, whereby the penalty of forfeiture of two years approved service was modified into forfeiture of 2 years approved service for three years and the period he remained out of service was treated as leave of kind due. (Copy of order dated 21.01.2021 is attached as Annexure-A)
3. That as the penalty of the appellant was modified by deciding the departmental of the appellant on 21.01.202, therefore the appellant wants to challenge the order dated 21.01.2021 by amending the instant appeal before this Honourable Tribunal.
4. It will be in the interest of justice to allow the appellant to amend the instant appeal by challenging the order dated 21.01.2021 before this Honourable Tribunal.

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

Service Appeal No.5687/2020

Farhad Ali

VS

Police Deptt:

SUBJECT: APPLICATION FOR PERMISSION TO ALLOW THE APPELLANT TO AMEND THE INSTANT APPEAL BY IMPUGNING THE ORDER DATED 21.01.2021, WHEREBY THE PENALTY OF FORFEITURE OF TWO YEARS APPROVED SERVICE WAS MODIFIED INTO FORFEITURE OF 2 YEARS APPROVED SERVICE FOR THREE YEARS AND THE PERIOD HE REMAINED OUT OF SERVICE WAS TREATED AS LEAVE OF KIND DUE ON HIS DEPARTMENTAL APPEAL.

RESPECTED SHEWITH:-

1. That the appellant has filed the instant appeal in this Honourable Tribunal against the order dated 27.12.2019, whereby the appellant was reinstated into service, but awarded the punishment of forfeiture of 2-years approved service and also not granted back benefits fro the period he remained out of service and against not taking action on the review petition within the statutory period 90 days.
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It is therefore most humbly prayed that on acceptance of this application, the appellant may kindly be allowed to challenge the order dated 21.01.2021 before this Honourable Tribunal by amending the instant appeal.

Fa. Farhad Ali

APPELLANT
Farhad Ali

THROUGH:

Taimur Ali Khan

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

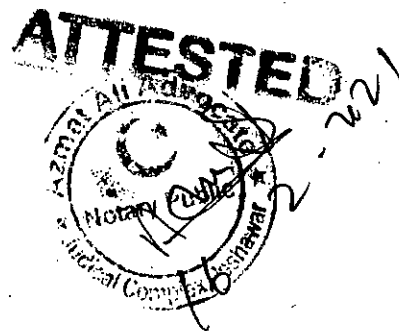
(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Farhad Ali

DEPONENT





OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/ 156 /20, dated Peshawar the 21/01/2020.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Constable Farhad Ali No. 4590. The petitioner was dismissed from service by SP/IOs: Peshawar vide OB No. 1750, dated 21.04.2017 on the allegations of involvement in a criminal case vide FIR No. 678, dated 29.07.2015 u/s 223/224 PPC PS Gulbahr. His appeal was rejected by Capital City Police Officer, Peshawar vide order Endst: No. 359-64/PA, dated 26.05.2017. He preferred service appeal No. 675/2017 in Service Tribunal, Peshawar wherein he was re-instated for the purpose of de-novo enquiry vide judgment dated 30.07.2019. De-novo enquiry was conducted wherein he was re-instated in service and awarded punishment of forfeiture of two years approved service and no back benefit was granted for the period he remained out of service by Capital City Police Officer, Peshawar vide order Endst: No. 1836-43/PA, dated 27.12.2019.

Meeting of Appellate Board was held on 01.12.2020 wherein petitioner was heard in person. Petitioner denied the allegations leveled against him.

The petitioner has long service of 14 years, 15 months & 24 days at his credit. Keeping in view his long service, the Board decided that penalty of forfeiture of two years approved service is hereby modified into forfeiture of two years approved service for three years and the period he remained out of service to be treated as leave of kind due, if any on his credit.

Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police.
HQrs: Khyber Pakhtunkhwa, Peshawar

No. SI/ 157-62 /20,

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3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(ZAHOOR BABAR AFRIDI) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

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

Service Appeal No.5687/2020

Farhad Ali

VS

Police Deptt:

SUBJECT: APPLICATION FOR PERMISSION TO ALLOW THE APPELLANT TO AMEND THE INSTANT APPEAL BY IMPUGNING THE ORDER DATED 21.01.2021, WHEREBY THE PENALTY OF FORFEITURE OF TWO YEARS APPROVED SERVICE WAS MODIFIED INTO FORFEITURE OF 2 YEARS APPROVED SERVICE FOR THREE YEARS AND THE PERIOD HE REMAINED OUT OF SERVICE WAS TREATED AS LEAVE OF KIND DUE ON HIS DEPARTMENTAL APPEAL.

RESPECTED SHEWITH:-

1. That the appellant has filed the instant appeal in this Honourable Tribunal against the order dated 27.12.2019, whereby the appellant was reinstated into service, but awarded the punishment of forfeiture of 2-years approved service and also not granted back benefits fro the period he remained out of service and against not taking action on the review petition within the statutory period 90 days.
2. That the instant appeal is pending before tis Honourable Tribunal however the respondent No.1 decide the departmental appeal of the appellant on 21.01.2021, whereby the penalty of forfeiture of two years approved service was modified into forfeiture of 2 years approved service for three years and the period he remained out of service was treated as leave of kind due. (Copy of order dated 21.01.2021 is attached as Annexure-A)
3. That as the penalty of the appellant was modified by deciding the departmental of the appellant on 21.01.202, therefore the appellant wants to challenge the order dated 21.01.2021 by amending the instant appeal before this Honourable Tribunal.
4. It will be in the interest of justice to allow the appellant to amend the instant appeal by challenging the order dated 21.01.2021 before this Honourable Tribunal.

It is therefore most humbly prayed that on acceptance of this application, the appellant may kindly be allowed to challenge the order dated 21.01.2021 before this Honourable Tribunal by amending the instant appeal.

Farhad Ali

APPELLANT
Farhad Ali

THROUGH:

(Signature)

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

(Signature)

DEPONENT

ATTESTED





OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI

156

20, dated Peshawar the 21/10/2020.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Constable Farhad Ali No. 4590. The petitioner was dismissed from service by SP/HQrs: Peshawar vide OB No. 1750, dated 21.04.2017 on the allegations of involvement in a criminal case vide FIR No. 678, dated 29.07.2015 u/s 223/224 PPC PS Gulbahar. His appeal was rejected by Capital City Police Officer, Peshawar vide order Endst. No. 359-64/PA, dated 26.05.2017. He preferred service appeal No. 675/2017 in Service Tribunal, Peshawar wherein he was re-instated for the purpose of de-novo enquiry vide judgment dated 30.07.2019. De-novo enquiry was conducted wherein he was re-instated in service and awarded punishment of forfeiture of two years approved service and no back benefit was granted for the period he remained out of service by Capital City Police Officer, Peshawar vide order Endst. No. 1836-43/PA, dated 27.12.2019.

Meeting of Appellate Board was held on 01.12.2020 wherein petitioner was heard in person. Petitioner denied the allegations leveled against him.

The petitioner has long service of 14 years, 15 months & 24 days at his credit. Keeping in view his long service, the Board decided that penalty of forfeiture of two years approved service is hereby modified into forfeiture of two years approved service for three years and the period he remained out of service to be treated as leave of kind due, if any on his credit.

Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar

No. SI 157-62/20,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. One Service Roll and one Fauji Missal of the above named FC received vide your office Memo: No. 4608/CRC, dated 03.03.2020 is returned herewith for your office record.
2. Supdt: of Police, HQrs: Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(ZAFUOR BABAR AFRIDI) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

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

Service Appeal No.5687/2020

Farhad Ali

VS

Police Deptt:

SUBJECT: APPLICATION FOR PERMISSION TO ALLOW THE APPELLANT TO AMEND THE INSTANT APPEAL BY IMPUGNING THE ORDER DATED 21.01.2021, WHEREBY THE PENALTY OF FORFEITURE OF TWO YEARS APPROVED SERVICE WAS MODIFIED INTO FORFEITURE OF 2 YEARS APPROVED SERVICE FOR THREE YEARS AND THE PERIOD HE REMAINED OUT OF SERVICE WAS TREATED AS LEAVE OF KIND DUE ON HIS DEPARTMENTAL APPEAL.

RESPECTED SHEWITH:-

1. That the appellant has filed the instant appeal in this Honourable Tribunal against the order dated 27.12.2019, whereby the appellant was reinstated into service, but awarded the punishment of forfeiture of 2-years approved service and also not granted back benefits fro the period he remained out of service and against not taking action on the review petition within the statutory period 90 days.
2. That the instant appeal is pending before tis Honourable Tribunal however the respondent No.1 decide the departmental appeal of the appellant on 21.01.2021, whereby the penalty of forfeiture of two years approved service was modified into forfeiture of 2 years approved service for three years and the period he remained out of service was treated as leave of kind due. (Copy of order dated 21.01.2021 is attached as Annexure-A)
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4. It will be in the interest of justice to allow the appellant to amend the instant appeal by challenging the order dated 21.01.2021 before this Honourable Tribunal.

It is therefore most humbly prayed that on acceptance of this application, the appellant may kindly be allowed to challenge the order dated 21.01.2021 before this Honourable Tribunal by amending the instant appeal.

(Signature)

APPELLANT
Farhad Ali

THROUGH:

(Signature)

ADVOCATE HIGH COURT
(TAMUR ALI KHAN)

&

ADVOCATE HIGH COURT
(ASAD MAHMOOD)

AFFIDAVIT

It is affirmed and declared that the contents of Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

(Signature)

DEPONENT

ATTESTED
(Signature)
NOTARY PUBLIC
10/11/2021



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI 156 /20, dated Peshawar the 21/01/2020.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Constable Farhad Ali No. 4590. The petitioner was dismissed from service by SP/HQrs: Peshawar vide OB No. 1750, dated 21.04.2017 on the allegations of involvement in a criminal case vide FIR No. 678, dated 29.07.2015 u/s 223/224 PPC PS Gulbahr. His appeal was rejected by Capital City Police Officer, Peshawar vide order Endst: No. 359-64/PA, dated 26.05.2017. He preferred service appeal No. 675/2017 in Service Tribunal, Peshawar wherein he was re-instated for the purpose of de-novo enquiry vide judgment dated 30.07.2019. De-novo enquiry was conducted wherein he was re-instated in service and awarded punishment of forfeiture of two years approved service and no back benefit was granted for the period he remained out of service by Capital City Police Officer, Peshawar vide order Endst: No. 1836-43/PA, dated 27.12.2019.

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The petitioner has long service of 14 years, 15 months & 24 days at his credit. Keeping in view his long service, the Board decided that penalty of forfeiture of two years approved service is hereby modified into forfeiture of two years approved service for three years and the period he remained out of service to be treated as leave of kind due, if any on his credit.

Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI 157-62 /20,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. One Service Roll and one Fauji Missal of the above named FC received vide your office Memo: No. 4608/CRC, dated 03.03.2020 is returned herewith for your office record.
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4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(ZAHOOR BABAR AFRIDI) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.5695/2020.

Farhad Ali Constable No. 4590 of CCP, Peshawar.....Appellant.

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.....Respondents.

Reply on behalf of Respondents No. 1,2&3.

Respectfully Sheweth!

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Honorable Tribunal.

FACTS:-

1. Correct to the extent that the appellant while posted at PS Gulbahar, Peshawar was involved in a criminal case Vide FIR No. 678 dated 29.07.2015 u/s 223/224 PPC PS Gulbahar. In this regard he was proceeded departmentally and charge sheet with summary of allegations was issued. SDPO/Cantt: was appointed as enquiry officer. On finalization the departmental proceedings, the competent authority awarded him major punishment of dismissal from service. The appellant then filed departmental appeal which after due consideration was filed/rejected with convincing reasons.
2. Correct to the extent that the appellant filed Service Appeal No.675/2017 before the Honorable Tribunal, which was accepted and remanded it back to the respondent department for conducting of de-novo enquiry.
3. Correct to the extent that in light of the honorable Tribunal judgment, the appellant was re-instated in service and de-novo proceedings was initiated against him.
4. Incorrect. After submission of findings report by the enquiry officer, the competent authority has minutely gone through the material on record and other connected paper including the defense/plea of appellant awarded appropriate punishment under law/rules, which commensurate with gravity of charges.
5. Incorrect. As per Apex Court judgment and law, the Competent Authority is not bound to follow the recommendation of the enquiry officer rather the Competent Authority should apply his own independent mind and to decide the issue in accordance with the

material available on record and collecting of other proof. The competent authority reinstate the appellant into service and awarded the punishment of forfeiture of 02 years approved service, and no back benefit is granted for the period he remained out of service.

6. Incorrect. The appellant filed departmental appeal which after due consideration the penalty of forfeiture of two years approved service was converted into forfeiture of two years approved service for three years and the period he remained out of service was treated as leave of kind due. (copy attached as annexure as "A")
7. That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.

GROUNDS:-

- A) Incorrect. His departmental appeal was decided and the penalty of forfeiture of two years approved service was converted into forfeiture of two years approved service for three years and the period he remained out of service was treated as leave of kind due. The appellant was treated as per law/rules.
- B) Incorrect. No violation of the judgment has been done by the respondent department. The issue of the back benefits was decided in his departmental appeal and the period that he remained out of service was treated as leave of the kind due.
- C) Incorrect. Para already explained in detailed in the above paras.
- D) Incorrect. Para already explained in detailed in the above paras.
- E) Incorrect. The punishment passed by the competent authority against appellant is lawful and as per law/rules.
- F) That respondent may also be allowed to advance any additional ground at the time of hearing of the appeal.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant being devoid of merits, legal footing may kindly be dismissed with costs please.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.5695/2020.

Farhad Ali Constable No. 4590 of CCP, Peshawar.....Appellant.


VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.....Respondents.

AFFIDAVIT.

We respondents 01 and 02 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.