

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 1539-P/2022.

Dur Marjan..... (Appellant)

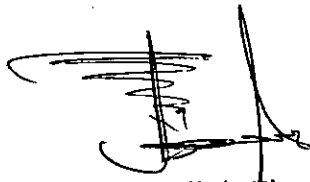
Versus

Govt: of Khyber Pakhtunkhwa and others..... (Respondents)

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DEPONENT



Razaqat Ullah Khan

SI LEGAL KHYBER

CNIC No.17201-3533074-3

0348-5007134

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 1539-P/2022.

Dur Marjan..... (Appellant)

Versus

Govt: of Khyber Pakhtunkhwa and others..... (Respondents)

Khyber Pakhtunkhwa
Services Tribunal
Diary No. 2396
Dated 2/11/22

PARAWISE COMMENTS BY RESPONDENTS NO.1,2 & 3.

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTION:-

- a) That the Appellant has got no cause of action to file present Appeal.
- b) That the Appeal is not based on facts.
- c) That the Appeal is not maintainable in the present form.
- d) That the Appeal is bad for non-joinder and miss-joinder of necessary parties.
- e) That the Appellant has not come to this Honorable Tribunal with clean hands
- f) That the Appellant is estopped by his own conduct to file the Appeal.
- g) That the appeal is barred by law and limitation.

FACTS:-

1. Pertain to appellant personal information.
2. Pertain to appellant service record.
3. Incorrect, appellant while posted at Police station Bara was proceeded against departmentally on the charges of his involvement in criminal case vide FIR No.93 dated 06.06.2020 U/S 302 PPC Police Station Bara. Moreover, he was issued charge Sheet, Summary of allegation and showcase notice by DPO Khyber, and DSP/HQrs was appointed as inquiry officer to dig out the Conduct of the accused official. The inquiry officer, after conducting proper inquiry, recommended an appellant for major punishment, hence dismissed from service. **(Annexure-A Charge Sheet**

**Annexure-B Summary of allegation Annexure-C Showcase Notice
Annexure-D Enquiry report Annexure-E dismissal order dated 8/4/2021).**

4. Incorrect, as already explained in Para NO. 03, moreover, being a member of the discipline Force, involvement in a murder case is a gross misconduct and liable to be dismissed from service.
5. Incorrect, appellant was dismissed due to involvement in Criminal Case i.e. U/S 302 PPC, not on account from absentia from service.
6. Pertain to record, need no comments.
7. Incorrect, however, major punishment of dismissal from service has been converted into reinstatement in service and his period of absence has been treated as leave without pay. Therefore, there has no right to file the Case/Appeal in the court of law. **(Annexure-F reinstatement order passed by CCPO Peshawar).**
8. As already explained in Para NO. 07.
9. Correct, revision petition of appellant was time barred, hence, turned down.
10. Incorrect, as already explained in the proceeding paras, however, the appellant has got no case of appeal; therefore, the instant appeal may kindly be dismissed on the following grounds.

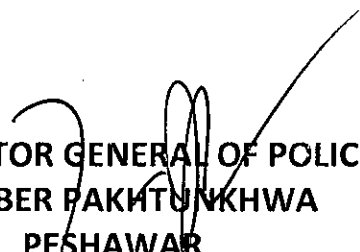
GROUND:-


- A. Incorrect, as already explained in the preceding paras, respondents are doing every act in the ambit of law, no injustice or illegality has been done with the appellant.
- B. Incorrect, as already explained in the proceeding paras.
- C. Incorrect, appellant has already been dealt with according to law, rules in regulation no injustice has been done with the appellant.
- D. Incorrect, as already explained in Para No. 07.
- E. Incorrect, as already explained in the proceeding, Para appellant has no right to file the instant appeal for back benefit because major punishment dismissal from service has already been converted in to reinstatement.


F. Respondents may be allowed to raise other grounds at the time of arguments.

PRAYER:-

Keeping in view of the above stated facts, it is humbly prayed that the service appeal as based on wrong grounds may kindly be dismissed with costs please.


**INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR**
(Respondent No. 1)


**CAPITAL CITY POLICE OFFICER
PESHAWAR**
(Respondent No.2)


**DISTRICT POLICE OFFICER
KHYBER**
(Respondent No. 3)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 1539-P/2022.

Dur Marjan..... (Appellant)

Versus

Govt: of Khyber Pakhtunkhwa and others..... (Respondents)

AFFIDAVIT.

I, Razaqat Ullah Khan SI Legal Khyber, do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of District Police Officer Khyber are correct to the best of my knowledge and belief. Nothing has been concealed from this Honorable Court.

DEPONENT



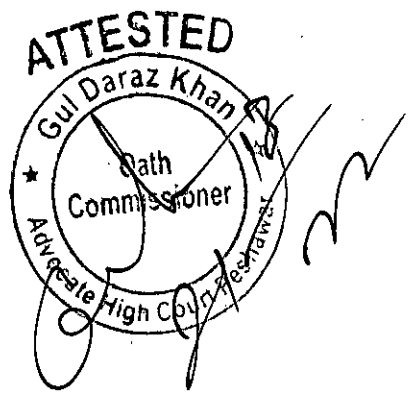
Razaqat Ullah Khan

SI LEGAL KHYBER

CNIC No.17201-3533074-3

0348-5007134

ATTESTED
★ Gul Daraz Khan
Oath
Commissioner
Advocate High Court Peshawar



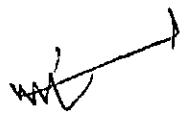


OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER



AUTHORITY LETTER

I, Imran Khan, District Police Officer, Khyber hereby Authorize Rifaqat Ullah Khan SI Legal of District Khyber to attend all the cases and submission of Para Wise comments pertaining to this Office in Peshawar High Court, Khyber Pakhtunkhwa Service Tribunal and Lower Courts on behalf of the undersigned.


(IMRAN KHAN) PSP
DISTRICT POLICE OFFICER,
KHYBER.

Annexure (A)

7

**OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER**



CHARGE SHEET U/S 6(1) (A) POLICE RULES 1975

You FC Dor Marjan s/o Gulwas Khan of PS Bara while on duty at PS Bara district Police Khyber is hereby charged for committing the following omission/commissions:-

"That you are involved in Case FIR No. 93, dated 08/06/2020, u/s 302-PPC, PS Bara. This is a gross misconduct on your part liable to be dismissed from service."

You mentioned above are hereby called upon to submit your written defense against the above charges before the Enquiry Officer.

Your reply should reach the Enquiry Officer within seven (3) days from the date of receipt of this charge Sheet, failing which ex-parte action shall be taken against you.

Summary of allegations is enclosed herewith.

**DISTRICT POLICE OFFICER,
KHYBER**

Annexure 8

**OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER**



**SUMMARY/STATEMENT OF ALLEGATION U/S 6(1) (A) POLICE
RULES 1975.**

You FC Dor Marjan of PS Bara have committed the following:-

"That you are involved in Case FIR No. 93, dated 08/06/2020, u/s 302-PPC, PS Bara. This is a gross misconduct on your part liable to be dismissed from service."

Your this act falls within the purview of misconduct as contained u/s 2 (iii) of NWFP (now Khyber Pakhtunkhwa) Police Rules 1975.

**DISTRICT POLICE OFFICER,
KHYBER**

Arrears (C) 9

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER



NO. 1474-A /Showcause/PSO/Khyber,
Dated: 10/06/2020.

SHOW CAUSE NOTICE

Whereas you FC Dor Mar Jan s/o Gulwas Khan of District Police Khyber Police Stations Bara committed the following gross misconduct on your part:

"That you are involved Case FIR No. 93, dated 08/06/2020, u/s 302PPC, PS Bara which a gross misconduct on your part.

If this allegation is proved against you, proper departmental proceedings will be initiated against you which may result in Dismissal from Service as per Police Rules (1975/04-b-iii).

Now I, District Police Officer, Khyber, being the competent authority, call upon you to Show Cause within 03 days of the receipt of this Notice as to why you should not be dealt with departmentally under Police Rules (1975/04-b-iii). Also intimate that whether you desire to be heard in person.

If you failed in submitting any reply an ex-parte action shall be taken against you.

(DISTRICT POLICE OFFICER)
KHYBER

Annexure (D) 90

"ENQUIRY REPORT"

Respected Sir,


It was reported by sources that FC Dor Marjan s/o Gul Was Khan BZK of PS Bara is involved in a case FIR No. 93 U/S 302PPC dated 08.06.2020 PS Bara.

An enquiry was conducted through various sources regarding the above-mentioned allegations. During the course of enquiry, it was revealed that FC Dor Marjan is involved in the above-mentioned allegation. FC Dor Marjan failed to receive charge sheet and statement of allegation. He failed to appear before the inquiry officer which shows his attitude towards official rules and regulations. Therefore, an ex-parte action is recommended against him.

Recommendation:

Keeping in view the reports of various sources, his involvement in the above-mentioned case and his ignorance of the inquiry proceedings, it is recommended that major punishment may be awarded.

Submitted, please.


MUHAMMAD NAWAZ,
DSP HQRS, KHYBER

Ahmad (E) 10

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER



ORDER

As per reports of SHO Police Station Bara that Constable Dur Marjan s/o Gul Was Khan BZK involved in Case FIR # 93, dated 06/06/2020, U/s 302 PPC, Police Station Bara. Under Govt: Servants Service & Efficiency Rules 1975 the defaulter was issued a Show Cause Notice with the opportunity to be heard which was not availed.

In reply of the Show Cause notice the defaulter constable failed to submit any reply regarding the allegations leveled against him consequently a Charge Sheet with Summary of Allegations was issued & DSP/Hqrs Khyber was appointed as Enquiry Officer vide this office No. 1569/Khyber, dated 15/06/2020.

The Enquiry Officer in his finding report stated that the defaulter failed to receive charge sheet and statement of allegations and also not appeared before the enquiry officer which shows his attitude towards official rules & regulations. Furthermore, being a member of Discipline force, involvement in a murder case is a gross misconduct and liable to be dismissed from service. The defaulter is also declared as absconder/Proclaimed offender.

Keeping in view the recommendations of the Enquiry Officer & available record and taking an ex-parte action, the Constable Dur Marjan s/o Gul Was Khan BZK is hereby awarded a major punishment of **DISMISSAL FROM SERVICE** with immediate effect.



DISTRICT POLICE OFFICER,
KHYBER

No. 1009 /PSO Khyber, dated Khyber

08 104 12027

Copies to all concerned for further necessary action.

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 started firing, as a result whereof Ameer Muhammad, the former

Annexure (F) 12



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

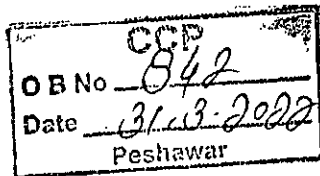
ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Dur Marjan s/o Gulwas Khan who was awarded the major punishment of "Dismissal from service" under PR-1975 by District Police Officer Khyber vide order No.1009/PSO, dated 08-04-2021.

2- Short facts leading to the instant appeal are that the appellant while posted at Police Station Bara District Khyber was proceeded against departmentally on the charges of his involvement in criminal case vide FIR No.93 dated 06.06.2020 u/s 302-PPC Police Station Bara District Khyber.

3- He was issued proper Charge Sheet and Summary of Allegations by District Police Officer Khyber. DSP/HQrs: District Khyber was appointed as inquiry officer to scrutinize the conduct of the accused official. The inquiry officer after conducting proper inquiry submitted his findings and recommended the accused official for major punishment. The competent authority in light of the findings of the inquiry officer awarded him the above major punishment.

4- He was heard in person in O.R and the relevant record along with his explanation perused. During personal hearing the appellant stated that he was falsely been implicated in the FIR and on that grounds the Honorable Court of Additional Session Judge-II Khyber acquitted him of the charges on 11.12.2021. Keeping in view his contention and other documentary proof, his appeal for reinstatement is hereby accepted. The punishment order of District Police Officer Khyber issued vide order No.1009/PSO Khyber, dated 08-04-2021 is hereby set aside. He is hereby reinstated in service and the period he remains out of service is treated as leave without pay. No benefit is granted for the intervening period.



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

No. 1079-83/PA dated Peshawar the 31 / 03 / 2022

Copies for information and necessary action to the :-

- ✓ 1. District Police Officer Khyber, along with complete inquiry file.
2. DSP/HQrs Khyber.
3. Accountant & OASI Khyber
1. Official concern.