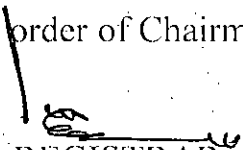


FORM OF ORDER SHEET

Court of _____

Case No. - 1762 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/12/2022	<p>The appeal of Mr. Qamar Zada presented today by Uzma Syed Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR-</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1862/2022

Qamar Zada

V/S

Police Deptt:

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-7
2.	Condonation of delay.	----	08-09
3.	Copy impugned order	-A-	10
4.	copy of letter	-B-	11
5.	Copy of appellate order	-C-	12
6.	Copy OF REVIEW	-D-	13
7.	Copy of rejection order	-E-	14
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Qamar Zada

APPELLANT

Qamar Zada

THROUGH:

Uzma Sved
(UZMA SVED)

&

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)

ADVOCATES, PESHAWAR

APPEAL NO. 1862/2022

Qamar Zada Ex-Constable no.6038 unit no.28
RRF, KP, Peshawar.

.....(Appellant)

VERSUS

1. The Registrar For inspector General of Police, KP. Peshawar.
2. The Commandant Elite Force, KP, Peshawar.
3. The Deputy Commandant Elite Force, KP, Peshawar.
4. The Deputy Commandant RRF, KP, Peshawar.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 06/11/2018 WHEREBY, THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND AGAINST THE REJECTION ORDER DATED 15/09/2022 WHEREBY THE DEPTT: APPEAL OF THE APPELLANT HAS BEEN REJECTED AND AGAINST THE REJECTION ORDER DATED 06/11/2022 RECEIVED BY THE APPELLANT ON 24/11/2022 WHEREBY THE REVIEW PETITION UNDER 11-A HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDERs DATED 06-11-2018, 15/09/2022 and 06/11/2022 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY

WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND
APPOPRIATE THAT MAY ALSO BE AWARADED IN
FAVOUR OF APPELLANT.

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RESPECTFULLY SHEWETH:

FACTS:

Facts giving rise to the present service appeal are as under:

1. That the appellant was appointed as Constable in Police force in the year 2011 and the appellant was performed his duties with entire satisfaction of his superiors.
2. That the appellant's blood feud enmity was taken place with nearest relative for this appellant's and there was life threat to appellant, for this reason appellant didn't performed his duties so the absentia of the appellant was not willing full but due to above mentioned reasons.
3. That, thereafter, the appellant was departmentally proceeded, without charge sheet, statement of allegation, regular inquiry and even without showcause notice, the impugned order dated 06/11/2018 was passed against the appellant whereby the appellant was dismissed from service with retrospective effect which was not communicated to the appellant but the same was received by the appellant through his own efforts. The appellant been aggrieved from the impugned dismissal order preferred departmental appeal, The copy of departmental appeal is not available with the appellant may be b requisite from the department. The departmental appeal of the appellant was forwarded to the Commandant Elite Force for decision but the same was decided by the Deputy Commandant elite force which is incompetent appellate authority, vide order dated 15/09/2022 for no good ground. (Copy of impugned order, letter and appellate order are attached as Annexure-A, B & C).

- (3)
4. That thereafter, the appellant filed review petition but the same has been rejected vide order dated 06/11/2022 which was received by the appellant through own efforts on 24/11/2022, for no good grounds. (Copy of review petition and rejection order is attached as Annexure-D & E).
 5. That now the appellant come to this august Tribunal on the following grounds amongst others.

GROUND:

- A) That the appellant has not been treated in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan 1973 by the respondents and the appellant has been dismissed from his legal service without adopting legal Pre-requisite mandatory Legal procedure. The order passed in violating of mandatory provision of law, such order is void and illegal order according to superior court judgment reported as 2007 SCMR 834. Hence the impugned order is liable to be set aside.
- B) That the impugned order was retrospective order which was void in the eye of law and also void according to Superiors Court Judgment reported as 2002 SCMR 1129, 2006 PLC 221 and KPK Service Tribunal Judgment titled as Abdul Shakoor Vs Govt of KPK.
- C) That the appeal of the appellant was rejected on the ground that the appeal is time barred but according to superior court judgment reported as 2015 SCMR 795 there is no limitation was run against the void order.
- D) That neither charge sheet, statement of allegation, show cause notice was not served upon the appellant nor was inquiry conducted against the appellant, which was necessary and mandatory in law before imposing major punishment which is violation of law, rules and norms of justice.
- E) That the appellant has not been treated according to law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- F) That no chance of personal hearing was provided to the appellant and as such the appellant has been condemned unheard throughout.

- 5
- G) That the impugned orders dated 06/11/2018, 15/09/2022 and 06/11/2022 are against the law, facts, norms of justice and void-ab-initio as has been passed with retrospective effect and material on record, therefore not tenable and liable to be set aside.
- H) That the impugned order was retrospective order which was void in the eye of law and according to Superior Court Judgment reported as 2002 SCMR, 1129 and 2006 PLC 221.
- I) That there is no order in black and white form to dispense with the regular inquiry which is violation of law and rules and without proper inquiry the appellant was dismissed from the service vide order dated 06/11/2018 without given personal hearing with retrospective effect which is necessary and mandatory in law and rules before imposing major penalty. So the whole procedure conducted has nullity in the eye of law. So the impugned order is liable to be set aside.
- J) That the appellant's blood feud enmity was taken place with nearest relative for this appellant's and there is life threat to appellant but the deptt failed to follow this process and therefore it is requested the case may be remanded to deptt to conduct denovo enquiry by providing full opportunity to the appellant to meet the end of justice.
- K) That according to superior court and this Hon'ble Tribunal judgment any order passed without following mandatory provisions of laws is void ab initio.
- L) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- M) That impugned order was based on willful absence, so, for the willful absence procedure is provided in *Rule 9 of the E&D rule 2011*, which is so much crystal clear. The authority before imposing major penalty also violates the procedure of Rule 8-A. So the impugned order is defected in eye of law.
- N) That according to Federal Shariyat court Judgment cited as *PLD 1989 FSC 39* the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- O) That the show cause is the demand of natural justice before taking adverse action and also necessary for fair trial and also necessary

(6)

in light of injunction of Quran and Sunnah but show cause was not served to the appellant (show cause given to the appellant but with the impugned order) which is malafide on the part of the deptt. So, fair trail denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as *1997 PLD page 617* stated that every action against natural justice treated to be void and unlawfully order. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel according to superior court judgment cited as 2017 PLD 173 and 1990 PLC cs 727.

- P) That the departmental appeal of the appellant was rejected by the incompetent authority which amounts to corrum non judice. Which cannot be sustain in the eyes of law.
- Q) That the appellant seeks permission to advance others 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.

Qamar Zada

APPELLANT

Qamar Zada

THROUGH:

Uzma Syed
(UZMA SYED)

&

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATES, PESHAWAR

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

Qamar Zada
DEPONENT

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay to meet the ends of justice.

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APPELLANT
Qamar Zada

THROUGH:

13
(UZMA SYED)
&

(SYED NOMAN ALI BUKHARI)
ADVOCATES, PESHAWAR

AFFIDAVIT

• It is affirmed and declared that the contents of appeal and application are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

Qamar Zada
DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.



Uzma Sved

**(UZMA SVED)
ADVOCATE HIGH COURT**

APPEAL NO. _____/2022

Qamar Zada

V/S

Police Deptt:

.....
**APPLICATION FOR CONDONATION
OF DELAY IN THE INSTANT APPEAL**

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honourable Tribunal in which no date has been fixed.
2. That the impugned order was passed with retrospective effect which was not admissible and void order according to Supreme Court Judgment reported as 2007 PLD (CS) 52(F) & 1985, SCMR, 1178.
3. That according to Superior Court Judgment there is no limitation run against the void order. So there is in interest of justice the limitation may be condoned.
4. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.
5. That, the appeal of the appellant on merit is good enough to be decided on merits.

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

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APPEAL NO. _____/2022

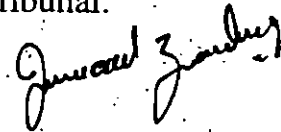
Qamar Zada

V/S

Police Deptt:

AFFIDAVIT

I, Qamar Zada, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.



DEPONENT

Qamar Zada



Office of the Deputy Commandant
RRF Khyber Pakhtunkhwa Peshawar



No. 310-44 /RRF.

Peshawar.

Dated the 06 /11/2018.

ORDER

Final decision to dispose of the departmental proceedings initiated against Constable Qamar Zada No. 6038 Unit No.28 RRF, vide this office No. 104-08/RRF dated 14.02.2018. Allegations leveled against him..

1. He remained absent from lawful duty w.e. from 05.12.2017 till to date,
2. In response to Final Show Cause Notice, he submitted his written reply which was examined and found unsatisfactory. Thus the allegations leveled against him stand proved.
3. Proper departmental proceedings were initiated against him and Mrs. Shah Ullah A/DSP RRF Peshawar Region was appointed as Enquiry Officer. During the course of enquiry, the E.O found him guilty of the charges, the said Constable is still vanish from duty & went to Qatar without any prior permission from the department. The Inquiry Officer recommended him for the award of "major punishment".
4. Final Show Cause Notice was served upon him vide this office No. 104-69/RRF dated 12.03.2018.
5. The undersigned being Competent authority and awards him the major punishment of "dismissal from service" from the day of absence.


 DEPUTY COMMANDANT
 RRF Khyber Pakhtunkhwa, Peshawar

No. 310-44 /RRF dated Peshawar, the: 06/11/2018.

Copy for information and necessary action to the:-

1. Addl. ICP of Elite Force Khyber Pakhtunkhwa, Peshawar.
2. Dy. Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. SP HQs Elite Force Khyber Pakhtunkhwa, Peshawar.
4. A/DSP RRF Peshawar Region.
5. Accountant Elite Force, Khyber Pakhtunkhwa, Peshawar.
6. IC Elite Force, Khyber Pakhtunkhwa, Peshawar.
7. OHC, I/MC, SRC Elite Force, Khyber Pakhtunkhwa, Peshawar.
8. IC Qamar Zada No.6038 of RRF Unit No.28 through Reader to A/DSP RRF Peshawar Region.
9. IC A/C Elite Force / IC of the Elite Force Peshawar.



OFFICE OF THE
INSPECTOR GENERAL OF

KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 1832 /22, dated Peshawar the 04/08/2022.

To : The Commandant,
Elite Force,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPLICATION FOR RE-INSTATEMENT IN SERVICE.

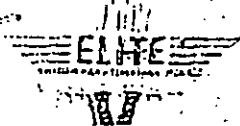
Memo:

Please refer to your office Memo: No. EF/SRC/S.Record:6421, dated
27.06.2022.

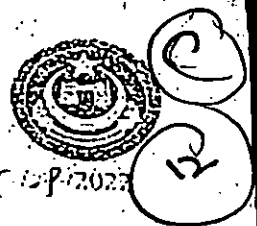
I am directed to refer the application submitted by Ex-Constable Qamar Zada
No. 6038 of RRF with the request to process it as per Rules being the 1st Appellate
Authority i.e Commandant, Elite Force, Khyber Pakhtunkhwa.

(NOOR AFGHAN)

Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.



Office of the Deputy Commandant,
Elite Force Khyber Pakhtunkhwa Peshawar



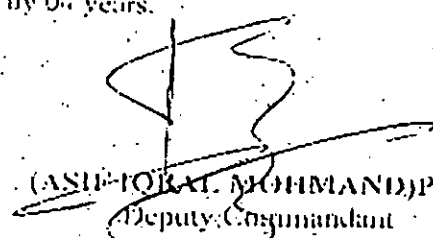
No. 9827-38 /EF

Date: 15/09/2022

ORDER

This order will dispose of an appeal preferred by Ex-FC Qaimur Zada No. 6038 of this unit against his order of dismissal awarded to him by Deputy Commandant RRF vide order Fudst: 342-49/RRF dated 06.11.2018.

This appeal was perused by the undersigned being head of the unit and hereby filed his appeal on the grounds of time limitation i.e. time barred by 04 years.


(ASIF IQBAL MOHMAND) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

Copy to the:

1. Deputy Commandant RRF Khyber Pakhtunkhwa Peshawar w/r to his letter No. 1639/RRF dated 01.09.2022.
2. Registrar CPO Peshawar w/r to his letter No. S/1832/22, dated 01.08.2022.
3. DSP/HQs: Elite Force Peshawar.
4. Accountant, Elite Force RRF Peshawar.
5. ~~QASD/SK-FAIC, Elite Force RRF Peshawar~~
6. FAIC, Elite Force, Peshawar alongwith Enquiry File Pages (20).
7. Ex-FC Qaimur Zada No. 6038 through reader DSP/HQs: Elite Force Peshawar.

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بسم اللہ الرحمن الرحیم
میں نے اپنے والدین کو جو رقم دی تھی وہ

میں نے اپنے والدین کو جو رقم دی تھی وہ
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342-49/RRF
06-11-2018

میں نے اپنے والدین کو جو رقم دی تھی وہ
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میں نے اپنے والدین کو جو رقم دی تھی وہ

15-09-2002

میں نے اپنے والدین کو جو رقم دی تھی وہ
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آن کا نام وصال کا ذکر ہے
28 سے پہلے اس کا انتقال ہوا تھا۔

0315-9499933

02/10/2002

والفہم



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 2680 /22, dated Peshawar the 6 /11 /2022.

To : The Deputy Commandant,
RRF Khyber Pakhtunkhwa
Peshawar.

Subject: REVISION PETITION.

Memo:

The Competent Authority has examined and filed the revision petition submitted by Ex- FC Qamar Zada No. 6038 of RRF against the punishment of dismissal from service awarded by Dy: Commandant RRF, Khyber Pakhtunkhwa vide Endst: 342/49 dated 06.11.2018, being badly time barred.

The applicant may please be informed accordingly

A. Jan

(AFSAR JAN)

Registrar,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

*in
dc 7/11/22*

*received
24-11-2022*

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بعدالت

KP Service Tribunal, Peshawar

2022 منجانب

صاحبزادہ بنام

دولہ لہو

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام Peshawar کیلئے عظمیٰ سید امین سید نصیر احمد اور ولایت

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ پہنچانے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے

سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔

کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم

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ماہ

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General Journal

العبد و العبد

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