

BEFORE THE HONOABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Case No. 29/10

Dated 13/11/2022

Service Appeal No. 867/2022

Wajid Ali

..... Appellant

VERSUS

Govt of khyber pakhtunkhwa

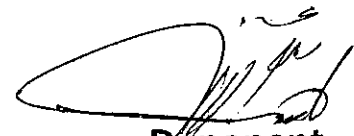
Through Secretary Home

& others.

..... Respondents

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Deponent

P-

**BEFORE THE HONOABLE KHYBER PAKHTUNKHWA
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VERSUS

Govt of khyber pakhtunkhwa

Through Secretary Home

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..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Sheweth:-

Preliminary Objection:-

- i. That the appellant has got no cause of action to file instant appeal.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appeal is bad for missjoinder and nonjoinder of necessary parties.
- iv. That the appellant is estopped to file the instant appeal for his own act.
- v. That the appeal is bad in eyes of law and not maintainable.
- vi. That the instant appeal is not maintainable as such the appellant has not been submitted any departmental appeal against the impugned order.
- vii. That the appeal is barred by law & limitation.

Facts:-

1. Incorrect. The appellant was appointed as levy sepoy by the erstwhile Political Agent on 01-02-1979.(Copy of appointment order is attached as annexure-A.)
2. Incorrect. The Son of the appellant was involved in criminal activities and road violations as per reports of the Assistant Political Agent lower Orakzai (Copy of special report by Assistant Political Agent is attached as annexure -B.)
3. Not relates to respondent No.1, hence no comments.
4. No comments, hence respondent No.4 will be in better position to explain.
5. Incorrect. Proper departmental proceedings were carried out as the appellant was terminated from his service by the erstwhile Political Agent on the special report (Inquiry) by Assistant Political Agent Lower Orakzai due to involvement in criminal activities and road violations (Copy of termination order and special report (inquiry) is attached as annexure- C & D.)
6. No comments. The respondent No.4 will be in better position to explain.
7. Not relates to respondent No.1, hence no comments.
8. Related with respondent No.4

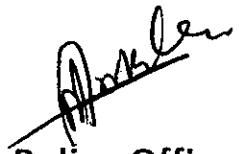
9. Not relates to respondent No. 1, hence no comments.
10. Incorrect. The appellant has not moved any application/appeal regarding his service in this office till date.
11. Incorrect. The reply is already explained in the above para.
12. This para need No comments.

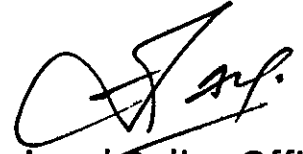
Grounds:-

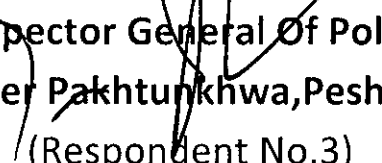
- a. Relates to respondents No.4, hence No comments.
- b. In correct.
- c. The appellant was terminated by erstwhile Political Agent District Orakzai, therefore the respondent No.4 will be in better position to explain.
- d. Pertains to record, hence no comments.
- e. In correct.
- f. Not relates to respondent No.1, hence no comments.
- g. Incorrect. It is already explained in para 5.
- h. Subject to record.
- i. Subject to proof.
- j. Relates to respondent No.4, hence no comments.
- k. Incorrect. As the appellant was terminated by erstwhile Political Agent on 23-11-2016 (before merger/absorption).Therefore the appellant is not entitled for pension benefits.
- l. Relates to respondent No.4
- m. Relates to respondent No.4
- n. Subject to proof.

Prayer;-

In view of the above it is prayed that the appeal contrary to facts, Law and rules devoid of merits and not maintainable may graciously be dismissed with cost.


District Police Officer,
Orakzai
(Respondent No.1)


Regional Police Officer,
Kohat
(Respondent No.2)


Inspector General Of Police
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.3)

BEFORE THE HONOABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

P-7

Service Appeal No. 867/2022

Wajid Ali Appellant

VERSUS

Govt of khyber pakhtunkhwa

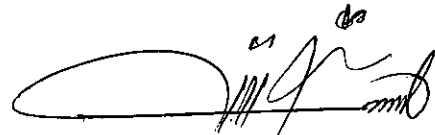
Through Secretary Home

& others.

.....Respondents

AFFIDAVIT

Ijad Ali (Focal person) District Orakzai Respondent (No.1) do here by solemnly affirm and declare on oath that the contents of parawise comments and enclosures are true and correct to the best of my knowledge/belief and nothing has been concealed from this Honorable Court.



Deponent

CNIC#21603-1853745-7

Mobile#03336200563



(23)
✓
Annex-A

ORDER.

The resignation tendered by levy sepoy Jabir Ali s/o Ahmad Jan Shah & levy sepoy Ghulam Hajar s/o Ali Hajar, Sopoya are hereby accepted with effect from 31-1-1979(A.H.).

Mr. Wajid Ali s/o Ahmad Jan Shah & Yaqut Ali s/o Ali Hajar, Sopoya are hereby appointed as levy sepoy in their places in the pay scale of Rs. 250-10-350 P.M, with effect from 1-2-1979. Their appointment are purely on temporary basis and subject to satisfactory performance of their duties and production of their health & age certificates from the Agency Surgeon, Orakzai Agency.

g/c *y*
POLITICAL AGENT,
ORAKZAI AGENCY CAMP HANGU.

OFFICE OF THE POLITICAL AGENT, ORAKZAI AGENCY CAMP HANGU.

No. 947-48 /PA/LK, Dated Hangu the 20 /2/79.

Copy forwarded for information & n/a to the:

- 1). Asstt: Political Agent, Orakzai.
- 2). Political Tehsildar, Lower Orakzai.
- 3). Sub-Major, Lower Orakzai Levy.

g/c *y*
POLITICAL AGENT,
ORAKZAI AGENCY CAMP HANGU.

(29)
A-1011

P. A - ①

Better Copy

ORDER

The resignation tendered by levy sepoy Jabir Ali s/o Ahmad Jan Shah is and levy sepoy Ghulam Najaf s/o Ali Najaf, sepoya are hereby accepted with effect from 31-01-1979(A.N.).

Mr.Wajid Ali s/o Ahmad Jan Shah and Yaqoot Ali s/o Ali Najaf, sepoya are hereby appointed as levy sepoys in their places in the pay scale of Rs.250-10-350pk, with effect from 01-02-1979 their appointment are purely on temporary bases and subject to satisfactory performance of their duties and production of their health and age certificates from the Agency Surgeon, Orakzai Agency.

-sd-

POLITICAL AGENT
ORAKZAI AGENCY CAMP HAGU

OFFICE OF THE POLITICAL AGENT, ORAKZAI AGENCY CAMP HANGU.

No.947-49 /PA/LK, Dated Hangu the 20/02/79.

Copy forwarded for information & n/a to the :-

- 1). Asstt: Political Agent, Orakzai.
- 2). Political Tehsildar , Lower Orakzai.
- 3). Sub:- Major, Lower Orakzai Levy.

- sd-

POLITICAL AGENT
ORAKZAI AGENCY CAMP HAGU

BETTER COPY

OFFICE OF THE ASSISTANT POLITICAL AGENT LOWER ORAKZAI

P-40

Case No.139

Dated 22-07-2016

State Versus
V/S

Tahzeeb Ali s/o Wajid Ali Sepoya and Muhammad Sadiq s/o Abdur Raziq

Dated of Institution 22-07-2016
Under Section 324/PPC/40/11 FCR

Subject ROAD VIOLATION

ORDER:

Prosecution story is that one Tazeeb Ali s/o Wajid Ali, Sepoya r/o Zera and Muhammad Sadiq s/o Abdul Raziq, Shalobar Qamber Khel r/o Daulat Musa were collecting extortion (Bhata) from the smugglers of Hashish at Daulat Musa hills Sepoya area. On 22-07-2016 they were demanding extortion (Bhata) from Akhtar Gul s/o Jabar Khan Kochi Muhajir r/o Zera Muhammad Jan s/o Bahadur Khan, Ismail s/o Khan r/o Zera Kochai Muhajir. They refused to pay (Bhata). In the meanwhile a scuffle took place between them. Tahzeeb Ali and Muhammad Sadiq opened fire on Akhtar Gul s/o Jabar Khan Kohcai, Muhammad Jan s/o Bahadur Khan Shalobar Qambar Khel, Ismail s/o Khan Kochai r/o Zera. As a result of which Muhammad Jan s/o Bahadur Khan and Ismail s/o Khan r/o Zera Kochai Muhajir died on the spot while Akhtar Gul s/o Jabar Khan received injury. The occurrence was taken place in T.T area at Daulat Musa hills. On receipt of information to inhabitation of Zera, they took out a Chigha party. The Chigha party rushed to the spot and when they reached to Bori Govt: road, accused Tahzeeb Ali and Muhammad Sadiq made confrontation with Chigha party and firing exchanged between them, as a result of which Din Muhammad from Chigha party and accused Muhammad Sadiq were injured. On 22-07-2016 both the accused (Tahzeeb Ali and Muhammad Sadiq) were arrested by Political Administration. Later on the case was referred to the council of elders. They submitted their verdict that the murder case had been occurred in T.T area while the injury had been taken place on Govt: road. Therefore, they recommended that both the accused may be convicted and suitable fine may be imposed on them.

After perusal of record available in the file and recommendation of Jirga verdict, I am the opinion that the accused mentioned above has fined Rs.200000/- and imprisonment 9 months 10 days under section 324/PPC. Benefits of 382-B is extended the accused.

Case file containing (pages) be consigned to record.
Certified that this judgment consists of 01 page duly signed by me.

-----Sd-----

ASSISTANT POLITICAL AGENT/ADMN
LOWER ORAKZAI

ANNOUNCED
09-05-2017

PP-5-00
BETTER COPY

OFFICE OF THE ASSISTANT POLITICAL AGENT LOWER ORAKZAI

No.1613/APA/L
Dated 22/07/2016

To: Political Agent
Orakzai Agency

Subject: **SPECIAL REPORT.**

Memo:

It has been reported that to-day on 22-07-2016 at about 01-00 PM, Ghadi Jan s/o Sadiq, Khaleel s/o Said Akbar both r/o Daulat Musa Shalobar Afridi and Tahzeeb Ali s/o Wajid r/o ZeraSepoya opened fired over on Akhtar Gul s/o Jabar Khan Kochi Muhajir r/o Zera, Muhammad Jan s/o Bahadur Khan r/o ZeraShenwari and Ismaiel s/o Khan r/o Zera Kochi Muhajir at Daulat Musa mountain. As a result of which Muhammad Jan s/o Bahadur Khan, Ismaiel s/o Khan r/o Zera Kochi Muhajir have been died on the sport, while Akhtar Gul s/o Jabar Khan got injured and shifted to Kohat hospital for treatment.

Moreover, soon after occurrence Tahzeeb Ali s/o Wajid Ali r/o Zera Tor Kanrai came to Ghadi Jan house and requested to Sadiq who is the father of Ghadi Jan, for help up till home. However, when they reached to "BORI" Govt: road, the "CHIGHA" party also came face to face and firing exchanged between Chigha party and Tahzeeb and Sadiq etc. As a result of which one Din Muhammad s/o Awal Khan (Chigha party) and Sadiq s/o Abdur Raziq, Shalobar Afridi got injuries and Sadiq has been arrested by Political Admn: and shifted to Kohat hospital for treatment. Motive behind the incident is stated to be demand for money (Bhatha Khuri).

Submitted for information please.

SD

**ASSISTANT POLITICAL AGENT
LOWER ORAKZAI**

BETTER COPY

P-5-①

OFFICE OF THE ASSISTANT POLITICAL AGENT LOWER ORAKZAI

No.3033/APA/L
Dated 17/11/2016

To: Political Agent
Orakzai Agency

Subject: **TERMINATION OF LEVY HAV: WAJID ALI.**

Memo: In July, 2016, Tehzib Ali s/o Wajid Ali, Sepoya r/o Zera, Hadi s/o Sadiq, Shalobar Afridi and Khalil s/o Said Akbar Shalobar Afridi r/o Daulat Musa had installed a tent at village Daulat Musa hill Sepoya area for collecting "BHATA" from general public. During demanding "BHATA" from Muhammad Jan s/o Bahadur Khan Afridi, Ismail s/o Khan Kochai Afghan refugee, the accused party opened fire on them due to non-payment of "BHATA". As a result of which Muhammad Jan and Ismail died on the spot, while Akhtar Gul got injured. Accused Tehzib Ali and Sadiq (father of accused Hadi) were arrested. During inquiry it was found that Levy Hav: Wajid Ali and his other sons were also involved in the said case. Hav: Wajid Ali and his sons were summoned time and again but they did not turn-up.

On 02-08-2016 Levy Hav: Wajid Ali was called by the Political Tehsildar Lower Orakzai at Zera Check Post and directed him to surrender himself to the Political Administration but he refused. Hav: Hakim Ali Shah who was on duty, directed by the Political Tehsildar Lower to arrest Hav: Wajid Ali but he ran away and opened fire, but no loss of life occurred. Moreover, Levy Hav: Wajid Ali was summoned time and again and served notices upon him to surrender himself to Political Administration but he refused. Consequently, he was declared proclaimed offender by the office of Political Tehsildar Lower.

Levy Hav: Wajid Ali being a Government Servant did not obey the order of high ups and involved in the firing case on Political Tehsildar Lower and has also challenged the Government write.

Levy Hav: Wajid Ali of Sepoya tribe has violated rules and taken the law in his hand, therefore it is recommended that strict disciplinary action may be initiated against him and he may be terminated from service.

SD _____

**ASSISTANT POLITICAL AGENT
LOWER ORAKZAI**

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Annexure - D

Annex P

13

**OFFICE OF THE POLITICAL AGENT
ORAKZAI AGENCY AT HANGU**

NO. 231 /PA/LK


Dated 23 November, 2016

Ph 0975 616000 Fax 0975-650007

OFFICE ORDER

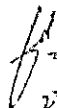
As reported by Assistant Political Agent, Lower Orakzai vide report No. 3033/APA/L dated 17-11-2016.

Mr. Wajid Ali has been found guilty of misconduct and involvement in criminal activities. He is booked for termination Under Schedule II Penalties (b, d, and g) of Federal Levy Service Rules 2013. Therefore he is hereby terminated from service under Schedule III of Federal Service Rules 2013.


POLITICAL AGENT,
ORAKZAI AGENCY

Copy forwarded to the :-

1. Assistant Political Agent, Lower Orakzai
2. Subedar Major, Orakzai Levy
3. Accountant PA's office for necessary action.


23/11/2016


POLITICAL AGENT,
ORAKZAI AGENCY

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SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 867/2022

Wajid Ali Appellant

VERSUS

Govt of khyber pakhtunkhwa
Through Secretary Home
& others.

..... Respondents

AUTHORITY LETTER

Ijad Ali (Focal person) District Orakzai is hereby authorized to institute parawise comments duly signed by respondent, in this Honorable Court on behalf of the respondent.



District Police Officer
Orakzai
(Respondent No. 1)