

644/2019 , *Ibtikhar Ali vs Govt*

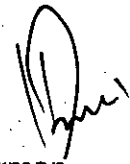
09.08.2019

Counsel for the appellant present.

Learned counsel states that the appellant will apply to the competent authority for award of Compassionate Allowance under the provisions of Section 19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973. He, therefore, requests for withdrawal of instant appeal to seek the aforesaid remedy.

Factually, the appellant has rendered about 18 years of service before his dismissal from service; therefore, the respondents are expected to consider the request of appellant, when made, leniently and on sympathetic grounds.

Appeal disposed of accordingly. File be consigned to the record room.



Chairman

ANNOUNCED

09.08.2019

26.06.2019

Learned counsel for the appellant present. Heard.

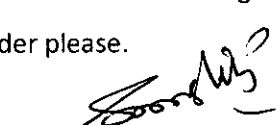

The appellant (Ex-Constable) was dismissed from service vide order dated 23.07.2002. The appellant availed all the forums including the august Supreme Court of Pakistan by filing Civil Petition No.573-P of 2004 but to no avail. Now the appellant has again filed the present service appeal with the prayer of the conversion of punishment dismissal from service to compulsory retirement. Learned counsel for the appellant was confronted with the situation that when the earlier service appeal bearing No.806/2002 filed by the appellant has already been dismissed vide judgment dated 05.05.2004 and the Civil Petition there against was also dismissed by the august Supreme Court of Pakistan how the present service appeal is maintainable. Learned counsel for the appellant seeks adjournment for further assistance. Adjourn. To come up for preliminary hearing on 09.08.2019 before S.B.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No.- 644/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/05/2019	<p>The appeal of Mr. Iftikhar Ali presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	20/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/06/19</u></p> <p> CHAIRMAN</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. 644 /2019

Iftikhar Ali

versus

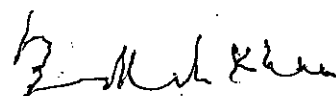
CCPO & Others

**I N D E X**

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-3
2.	FIR dated 26-03-2002	"A"	4-5
3.	Show Cause Notice, 08-04-2002	"B"	6
4.	Reply to Show Cause Notice	"C"	7-8
5.	Charge Sheet dated 06-05-2002	"D"	9-10
6.	Reply to Charge Sheet, 10-05-2002	"E"	11-12
7.	Final Show Cause Notice	"F"	13
8.	Reply to FSN dated 17-07-2002	"G"	14-15
9.	Dismissal order dated 23-07-2002	"H"	16-17
10.	Representation	"I"	18-21
11.	Rejection order dated 31-08-2002	"J"	22
12.	Service Appeal No. 805/2002	"K"	23-28
13.	Judgment dated 05-05-2004	"L"	29-34
14.	Judgment of the apex court	"M"	35-38
15.	Departmental appeal, 11-03-2019	"N"	39-41
16.	Rejection order dated 02-04-2019	"O"	42

Appellant

Through



Saadullah Khan Marwat  
Advocate.  
21-A Nasir Mansion,  
Shoba Bazaar, Peshawar.  
Ph: 0300-5872676  
0311-9266609

Dated: 13-05-2019

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. 644 /2019

Iftikhar Ali,  
R/O Praang Majugee,  
Charsadda.Ex-Constable  
No.2511, Police Station Badhber,  
Peshawar. .... Appellant

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 775

Dated 16/5/2019

**VERSUS**

1. Senior Superintendent of Police,  
Peshawar
2. Capital City Police Officer,  
Peshawar.
3. Inspector General of Police,  
KP, Peshawar. .... Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST OFFICE ORDER NO. 667-70 DATED 23-  
07-2002 OF THE SENIOR SUPERINTENDENT OF  
POLICE, PESHAWAR WHEREBY APPELLANT WAS  
DISMISSED FROM SERVICE OR OFFICE ORDER NO  
DATED 31-08-2002 OF R. NO. 02 WHEREBY  
DEPARTMENTAL APPEAL OF APPELLANT WAS  
REJECTED OR OFFICE ORDER NO. S/998 DATED  
02-04-2019 OF R. NO. 03 WHEREBY REQUEST FOR  
CONVERSION INTO COMPULSORY RETIREMENT  
WAS REJECTED:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**Respectfully Sheweth:**

1. That appellant joined police department on 04-04-1984 as Constable and served various Police Stations without any complaint.

Filed by  
Registrar  
16/5/19

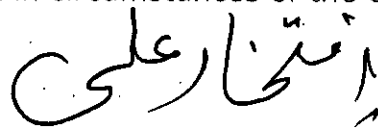
2. That appellant along with SHO Bakhtiyar Alam was on petrol duty on 26-03-2002 along with other police party. FIR of the incident was lodged by Hidayatullah Khan ASI, Police Station Badhber Peshawar. (Copy as annex "A")
3. That on the eventful day the police party was proceeding on Mashugagar road at 21:30 PM fire shots were made at the vehicle and as a result SHO Bakhtiyar Alam cried not to make any fire. He was hit and sustained injuries from criminals. The said SHO was rushed to hospital but succumbed to the injuries.
4. That Investigation into the matter was initiated and appellant was served with Show Cause Notice by showing cowardice which was replied by denying the allegations. (Copies as annex "B" & "C")
5. That appellant was served with Charge Sheet on 06-05-2002 which was replied on 10-05-2002 and denied the allegations. (Copies as annex "D" & "E")
6. That enquiry into the matter was initiated but the same was not conducted as per the mandate of law and thereafter served appellant with Final Show Cause Notice which was replied on 17-07-2002 in the aforesaid manner. (Copies as annex "F" & "G")
7. That on 23-07-2002, appellant was dismissed from service by Senior Superintendent of Police Peshawar. (Copy as annex "H")
8. That appellant filed appeal before R. No. 02 for reinstatement in service which was rejected on 31-08-2002. (Copies as annex "I" & "J")
9. That on 14-09-2002, appellant filed appeal before the hon'ble Service Tribunal for reinstatement in service which was dismissed on 05-05-2004. (Copies as annex "K" & "L")
10. That thereafter appellant filed CPLA before the Supreme Court of Pakistan for reinstatement in service which was dismissed on 17-06-2005. (Copy as annex "M")
11. That appellant rendered more than 18 years service but no benefits of the same was awarded to him, so at this stage he requests for pensionary benefits after converting dismissal order into compulsory retirement from service. For the purpose, appellant submitted appeal before R. No. 03 on 11-03-2019 which was rejected on 22-04-2019 which copy was received from the office on 06-05-2019. (Copies as annex "N" & "O")

Hence, this appeal, inter alia on the following grounds:-

**GROUND**

- a. That admittedly no enquiry as per the mandate of law was conducted, no statement of any witness was recorded nor appellant was afforded opportunity of cross examination, so the impugned orders were of no legal effect.
  - b. That appellant rendered more than 18 years service to the department but no benefit of the same in shape of pension was given to him.
  - c. That award of pension to anyone is profit to a servant but the whole family has share in the same.
  - d. That by not granting pension to appellant, not only he was deprived from pensionary benefits but whole of the family for no legal reason.
  - e. That pension is a vested right which cannot be taken in any manner but the whole family of appellant was deprived having equal share in pensionary benefits.
12. That appellant, at this stage, does not seek reinstatement in service but for grant of pensionary benefits.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 23-07-2002 and 31-08-2002 and 02-04-2019 be modified and the same be converted into compulsory retirement from service and appellant / family be awarded pension with all admissible benefits, with such other relief as may be deemed proper and just in circumstances of the case.

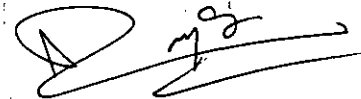


Appellant

Through



Saadullah Khan Marwat



Amjad Nawaz  
Advocates.

Dated.10.05.2019





سرکار اہل خانہ اور فوری سہیل راجہ اصلاح دیا جائے ہے۔ ہرگز گزارش ہے۔

میں نے  
میں نے  
میں نے

SI PS BB

26/3/2002

سرکار  
الاسی مشن

Aliya  
/m

دستخط

عہدہ

اطلاع کے نیچے اطلاع دہندہ کا دستخط ہوگا۔ یا اس کی مہر یا نشان لگایا جائے گا۔ اور افسر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الفیاب سرخ روشنائی سے بالقابل نام پر ایک نلزم یا مشتر علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں موزوں ہوں۔ لکھنا چاہئے۔

نوٹ

B

6

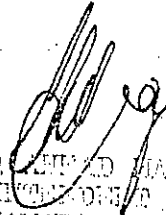
SHOW CAUSE NOTICE.

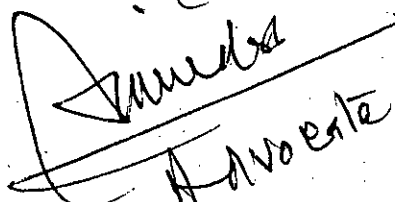
WHEREAS You Constable Iftikhar Ali N251 while posted to Police Station Badaber, were present at the spot, when the SHO Badaber were checked Mashogager Road. After checking un-known criminals started indiscriminate firing on the Police Jeep, as a result the SHO was received serious injuries and expired. You and the Constables did nothing to retaliate. You with the Constables even did not bother to fire a single shot showing the cowardice, you displayed at the critical moment, which amounts to gross mis-conduct on your part and render you liable for major punishment under Police Rules-1975.

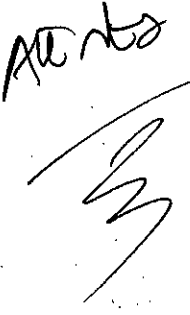
Now, therefore, I DR. ISMUTIAQ AHMAD KHAN, Senior Superintendent of Police, Peshawar in exercise of the power invested on me under Rules-5(3) (a&b) of the MPFP, Police Rules-1975, call upon you to explain as to why the proposed punishment should not be awarded to you.

Your reply should reach to the undersigned within 7-days of the receipt of this notice otherwise ex-parte action will be initiated against you.

Your reply are also at liberty to appear before the undersigned for personal hearing.

  
(DR: ISMUTIAQ AHMAD KHAN)  
SENIOR SUPERINTENDENT OF POLICE,  
PESHAWAR (opt)

  
Advocate

  
Agents



*Handwritten signature*

*Handwritten signature*  
*Handwritten signature*

F.C.I. FTKM AMI No. 2511

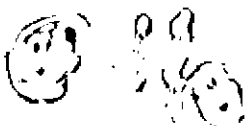
Yours sincerely

Dated /04/2002

Submitted.

me of the charge.

obliged to obey their directions, I request to exonerate  
have been spoiled, and we were under their command and  
and the situation was so critical that more lives could  
be saved but in fact the life of S.H.O. was in danger  
we have not committed any negligence or  
were made to trace the exhibits but in vain  
contingents also reached the spot. Respective reports



D

9

CHARGE SHEET.

WHEREAS, I am satisfied that a formal enquiry as contemplated by Police Rules-1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for major/minor penalty as defined Police Rules 6(1) of the aforesaid rules.

Now, therefore, as required by Police Rules 6(I) of the said Rules, I MR: ISHTIYAS AHMAD MARWAT, Senior Superintendent of Police, Peshawar hereby charge you F.C. Iftikhar Ali No. 2511 of Police Station Badaber on the basis of the statement of allegation attached to this charge sheet.

And I hereby direct you further under Rules 6(I) of the aforesaid Rules to put of a written defence within 7-days of the receipt of this Charge Sheet as to why the proposed action should not be taken against you and also stating at same time whether desire to be heard in person.

And in case your reply is not received within the specified period it shall be presumed that you have no defence to offer and ex-parte action will be initiated against you.

J. Shah  
(Advocate)

13/9/02

Accepted  
[Signature]

(MR: ISHTIYAS AHMAD MARWAT)  
Senior Superintendent of Police  
Peshawar (opt)

10

*[Handwritten scribbles]*

SUMMARY OF ALLEGATION:

You Constable Iftikhar Ali <sup>No. 2511</sup> while posted to P.S. Badaber, were present on the spot, when the SHO Badaber were checked Mashogager Road. After checking un-known criminals started indiscriminate firing on the Police Jeep, as a result the SHO was received serious injuries and expired. You and Constable did not nothing to retaliate. You with the Constable even did not bother to fire a single shot showing the cowardice, you displayed at the critical moment, which amounts to gross misconduct on your part.

Mr. Noor-ul-Huda, Superintendent of Police, Rural, Peshawar, is appointed as Enquiry Officer to conduct Enquiry and submit his report soon.

*F. Shes*  
*(Advocate)*  
*13/9/02*

*[Handwritten signature]*

(DR: ISHTIAQ AHMAD MARWAT)  
SENIOR SUPERINTENDENT OF POLICE  
PESHAWAR (opt)

*Accepted*  
*[Handwritten signature]*

E

16

BEFORE THE SENIOR SUPERINTENDENT OF POLICE (OPERATION)  
PESHAWAR.

Subject:- EXPLANATION TO CHARGE SHEET.

Sir,

With reference to the Charge Sheet and summary of allegations served upon me vide No.PA-21- of 6.5.2002. I beg to submit as under:-

That on the night of occurrence I alongwith H.C. Ziaul Haq No.626 and ASI Hidayat Ullah were on Mobile duty in Jeep No.4555-PRQ under the command of deceased S.I. Bakhtiar Alam (S.H.O). The jeep was driven by A.S.I. Hidayatullah. During the Course of patrolling on Badaber-Mashogagar Road, when we reached the road near the limits of village Mashogagar, all of a sudden a few armed persons appeared from the Kandar and Bushes and started indiscriminate firing on the Jeep.

I and my companion were sitting in rear seat whereas the S.H.O. was on front seat and A.S.I. was on steering of jeep. The S.H.O. received a fire arm injury. He said to the A.S.I. to drive the jeep from the spot immediately and avoid any encounter for the reasons that we were unsafe from all sides and that he needed immediate Medical treatment.

For this reason the A.S.I. drove the jeep from the spot towards Mashogager where arrangements for sending the S.H.O. to hospital were immediately made and messages were passed to Police Station and other Officers. The A.S.I. took the S.H.O. to hospital, whereas we two started towards the spot. In the meantime more police

Contd:....P/2..

*Advocate*  
*part 2*

450

contingents also reached the spot. Hectic efforts were made to trace the culprits but in vain.

We have not committed any negligence or cowardice. In fact the S.H.O. and thereafter the A.S.I. was in charge of the party and we were bound to act according to their command and directions. We were not authorised to act independantly according to rules. We have not shown any negligence or cowardice but have acted under the orders of our party in charge.

I am innocent and pray that the Charge may please be withdrawn. I also request that I may please be given an opportunity of personal hearing to explain my position.

Yours Sincerely,

F.C. IFTIKHAR ALI NO.2511.

Dated: 10/05/2002.

*Jamshed*  
Advocate,

*Att. to*  
*by*



F 13  
FINAL SHOW CAUSE NOTICE.

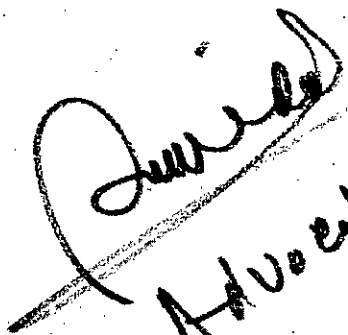
Where as I am satisfied on the recommendation of Departmental enquiry conducted by DSP/Saddar circle that you Constable Iftikhar Ali No.2511 while posted to PS Badaber, were present on the spot, when the SHO Badaber were checked Mashogagar road. After checking un-known criminals started indiscriminate firing on the Police Jeep, as a result the SHO was received serious injuries and expired. You and constable did ~~not~~ nothing to retaliate. You with the constable even did not bother to fire a single shot showing the cowardice, you displayed at the critical moment, which amounts to gross misconduct on your part.

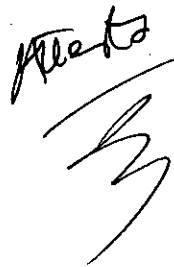
Now, therefore, I Dr. Ishtiaq Ahmed Marwat Senior Superintendent of Police, Peshawar in exercise of the power invested on me under rules-5(3) (A&B) of the NWFP, Police rules-1975, call upon you to explain as to why the proposed punishment should not be awarded to you.

Your reply should reach to the undersigned within 7-days of the receipt of this notice otherwise ex-party action will be initiated against you.

Your reply are also at liberty to appear before the undersigned for personal hearing.

  
( DR. ISHTIAQ AHMED MARWAT )  
SENIOR SUPERINTENDENT OF POLICE  
PESHAWAR.

  
Advocate



0190/PA  
-57-02

G1

14

9/5  
14

BEFORE THE SENIOR SUPERINTENDENT OF POLICE, PESHAWAR.

Subject :- Reply to final show cause notice.

Sir,

Kindly refer to the final show cause notice served upon me on 15.7.2002 bearing No.90/PA dated 5.7.2002. The reply is submitted as under :-

That on the night of occur, I alongwith H.C. Ziaul Haq No.626 and ASI. Hidayatullah were on mobile duty in jeep No.4555 PRQ under the command of deceased S.I. Bakhtiar Alam (S.H.O.) The jeep was being driven by ASI. Hidayatullah. During the course of patrolling on Badater Mashogagar Road, when we reached the road near the limits of Mashogagar, all of a sudden some armed persons started firing on the jeep from a kandar and bushes.

I and H.C. Ziaul Haq were sitting in the rear seat whereas the SHO. was on front seat and ASI was on steering of jeep. The SHO. received a fire arm injury and said to the ASI. to drive the jeep from the spot immediately and avoid any encounter for the reasons that we were unsafe from all sides and that he needed immediate medical treatment. For this reason the ASI. drove the jeep from the spot towards Mashogagar where arrangements for sending the SHO. to hospital were immediately made and messages were passed to P.S. and other Officers. The SHO. was taken to the hospital by the ASI. whereas we started towards the spot. In the mean time more police contingents also reached the spot. We made our efforts to trace out the culprits but in vain.

We have not committed any negligence or cowardice. It is an admitted fact that we did not fire a single shot for the reason that we were bound to comply with the order of the SHO. who was incharge of the party and the SHO. (decd. Bakhtiar Alam) asked us not to fire. He also directed to leave the spot immediately and to take him to the hospital. We were not authorised to act independantly according to rules. and have acted under the orders of our party incharge.

C/B

Qumde  
Advocate,

Advocate  
3

15

-2-

I am quite innocent. I have 18 years of spotless service in my credit and during my whole service I have performed my duties to entire satisfaction of my superiors. The show cause notice may kindly be filed/withdraw and I may be exonerated of the charge levelled against me.

I wish to be heard personally.

Yours obediently,

Dated: 17.7.2002.

F.C. Iftikhar Ali No.2511.

9/8  
Omer  
(Advocate)

Ali  
3

H 16

ORDER.

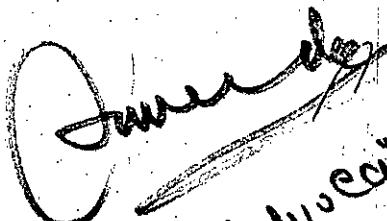
The following officers/officials were proceeded against departmentally on the grounds that on 26.3.2002 at 2100 hours, SI-Bakhtiar Alam Khan (late) the then SHO P.S. Badaber alongwith ASI-Hidayatullah, HC Zia-Haq No.626 and Constable Mikhhar Ali No.25H were on mobile gashit in a private vehicle (being used for Mobile duties) on Masho Gagar Road. The Police party headed by SHO Bakhtiar Alam Khan (deceased) when reached near village Masho Gagar some un-known criminals/ outlaws come out to the Road and started indiscriminate firing on the Police party, as a result of which the SHO was hit and received bullet injuries. He could not bear the burnt of injuries and took his last breath at the Hospital.

The ASI who was driving the vehicle and the Head Constable and Constable, who were sitting in the rear, did not retaliate inspite of that windscreens and rear glass of the vehicle were open/clear and thus the criminals took advantage of their cowardice succeeded in escaping from the scene. They did not bother to fire even a single shot.

Findings of the Enquiry officer received and perused. The charge of cowardice/ pusillanimous and dereliction on their part was found beyond any shadow of doubt.

However, they were given an opportunity and upon the findings of the Enquiry officer, they were issued Final Show Cause Notice to produce any cogent/ plausible reason in support of their dereliction and cowardice showed by them at the time of occurrence.

Their replies to the F.S.C.N. were received and found un-satisfactory, but to fulfill the legal formalities and to follow rules and regulations, they were also given an extra opportunity for personal hearing before the undersigned and thus they were heard in person. The defaulter officer/ officials again failed to prove their innocence in the matter by producing verbally/ written evidence.

  
(Advocate)

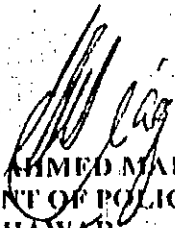


17

Keeping in view of the whole episode, great cowardice/ pusillanimous, laxity and dereliction being found on their part they are liable for major punishment, as they have tarnished the image of Police uniform in the eyes of general public.

Therefore, they are dismissed from service under Police Rules 1975 with immediate effect. Order announced.

1. ASI Hulavatullah - 451 - IHC
2. HC Zia-ul-Haq No. 626
3. Constable Ifilhar Ali No. 2511

  
(DR. ISHTIAQ AHMED MARWAT)  
SUPERINTENDENT OF POLICE, (OPT)  
PESHAWAR

OB/No. 2197

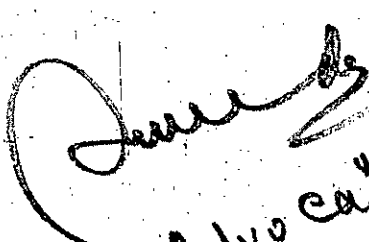
DT. 23-7-02

No. 667-70 /PA.

23-7-202

Copy to :-

1. SP/Rural.
2. EC.
3. PO.
4. CRC.
5. FMC.

  
Advocate, ✓

To

The Chief Capital Police/D.I.G,  
Peshawar.

Ex-Constable Iftikhar Ali No. 2511 Peshawar District  
son of Fazli Ali resident of Tangi District Charsadda.  
....Appellant.

VERSUS

S.P Peshawar.....Respondant.

APPEAL AGAINST THE ORDER VIDE NO.667-70  
DATED 23.7.2002, WHEREBY THE APPELLANT WAS  
DISMISSED FROM SERVICE.

PRAYER:-BY ACCEPTANCE OF THIS APPEAL THE IMPUGNED  
DISMISSAL ORDER BE SET ASIDE AND THE APPELLANT  
BE RE-INSTATED IN SERVICE.

Respected Sir,

1. That I joined Police Department on 4.4.1984  
as constable and was lastly posted to Police Station  
Badaber .
2. That while on Gasht a Call was received from  
the DSP Sadder Circle that the Guard on Mashogagar  
Road be checked.
3. That we alongwith SHO Bakhtiar Alam were  
driving a private Jeep which was seized in connection  
with some case and was case property and being driven  
by Hidayatullah Khan ASI because there was no other  
driver for that patrol duty.
4. That Mr. Bakhtiar Alam Khan was sitting  
in the front seat and we the two constable I Iftikhar  
Ali and HC Zia-ul-Haq were sitting in the rear body  
seat.



1-2-1

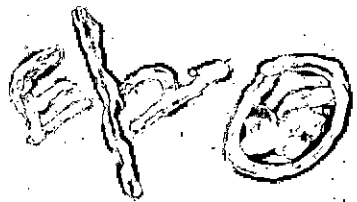
5. That while proceeding on Mashogager Road at about 2130 when we reached the check post the Guard was checked and thereafter, proceeded towards village Mashogager. After covering a distance of about one hundred yards, we heard fire shots. The vehicle was moving, and when the deceased cried " DO NOT MAKE FIRE WE ARE POLICE" then we came to know that fire has been made at the vehicle and that the deceased SHO had received injury also.

6. That I could not see the criminals as they had made firing from the left side and we were in the back seat of the jeep which faces right right side and that is the only seat. The criminals had disappeared when the vehicle was stopped. Bakhtiar Alam was rushed to the Hospital, and I remained on the spot.

7. That during investigation every thing was explained on the spot. The entire position was explained. As the incident was splashed in the news papers, and probably to sprout the badly mauld image of the police, due to these press reporting I and the other constable were issued with show cause notice charging us for display of cowardice. (Copy enclosed as annexure 'A').

*Amir*  
 (Advocate)

8. That proper reply was given but it w I was followed by a charge sheet and an order of departmental inquiry to be conducted by SP Rural Noor-ul-Khuda and finally I was dismissed from service, vide order mentioned above. Copies enclosed as annexure 'B' & 'C'.



9. That the order of dismissal is against the law, and facts on the grounds below:-

GROUND

- i) That the vehicle was ambushed by the criminals. We were in the back seat facing Right, because of the position of the seat, and could not see the criminals at all during the firing which lasted only for seconds.
- ii) That there was no chance to retaliate because the criminals had disappeared when the vehicle was stopped and it was pitched dark.
- iii) That no proper inquiry was held, the police Official on Mashogager check post at a distance of one hundred yards were not even examined. Moreover the inquiry was to be conducted by S.P Rural as decided in the charge sheet but it was unofficially handed over to Mr. Waqif Khan DSP, on whose direction we were on Mashogager Road, and who had crossed the same road minutes earlier, and as such was not supposed to be an impartial inquiry Officer.
- iv) That the firing by the criminals was a matter of seconds, sudden, unexpected, and there was no time at all, to the police party, so much so that Mr. Bakhtiar Alam Khan who had a Kalashnikov Rifles in his hand could not fire though sitting in the front seat. The inquiry officer did not bother to see the spot, nor he provided us a chance to explain to him the situation we were faced with.

*Muhammad*  
*(Advocate)*





v) That the inquiry proceedings was simply a cover to award us punishment. No proper reasonable opportunity was provided to me to explain the position on the spot and the circumstances under which the incident had taken place.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned order of dismissal may very graciously be set aside and I may be re-instated in service with back benefits.

Yours obediently

Dated:- \_\_\_\_\_

( NO.2511 IFTIKHAR ALI EX-CONSTABLE  
OF BADABER POLICE.

*[Handwritten Signature]*  
( Advocate )

*[Handwritten Signature]*

J 22

O R D E R

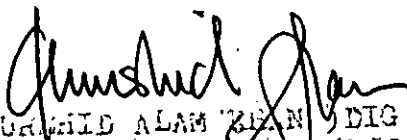


This is an order on the appeal of Ex-Constable Irtikhar Ali No.2511 of Capital City Police Peshawar against the order of dismissal from service passed by the SSP/Operation-Peshawar:

The charges against him was that he while posted at P.S. Badaber was on routine patrolling duty with SHO on Masho-fagar road. The SHO was on front seat and constable was present on the rear seat of the vehicle. Suddenly some unknown criminals appeared and started indiscriminate firing on the Police Jeep as a result of which the SHO hit on back and expired. The Constable did nothing in this regard and accused fled away.

Ex-Constable Irtikhar Ali No.2511 was served with a Show Cause Notice and on the receipt of un-satisfactory reply proper departmental proceeding was initiated against him. Enquiry Officer after going through the matter submitted his finding and recommended all the Police party for major punishment.

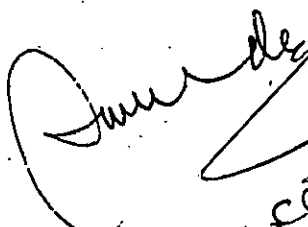
I have gone through the case file and appeal. The punishment awarded to him is commensurate with the charges levelled against him and there is no ground/justification to interfere with the orders passed by the SSP/Operation, which is upheld and appeal is rejected.

  
( MUHAMMAD ALI KHAN ) DIG  
CHIEF CAPITAL CITY POLICE,  
P E S H A W A R


No. 367779 / O.R.C.I dated Peshawar, the 3/18 /2002.

Copy is sent to :-

- 1) The Sr: Superintendent of Police (Operation) Peshawar.
- 2) P.F.O. with papers.
- 3) Ex-Constable Irtikhar Ali S/o Fazli Ali r/o Nusratzaai Pansil Tangi district Charsadda.

  
Advocate,

8255

Attest  


K

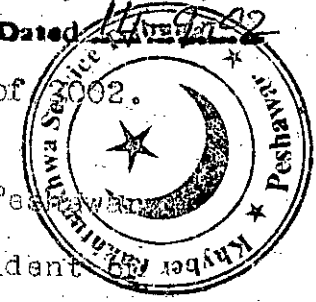
23

Before the Chairman, NWFP, Service Tribunal, Peshawar.

N.W.F. Province  
Service Tribunal

Diary No. 1013

Dated 14/9/02



Service Tribunal Appeal No. 805 of 2002.

Ex-Constable Iftikhar Ali No.2511 of Peshawar District Police, son of Fazli Ali resident Tangi, District Charsadda. ... APPELLANT.

Versus

- 1-. Senior Superintendent of Police, Peshawar.
- 2-. Chief Capital Police/Deputy Inspector General of Police, Peshawar.
- 3-. Inspector General of Police, NWFP, Peshawar.

... RESPONDENTS.

Filed to-day

*[Signature]*

14.9.02

APPEAL against the Order No.667-70 dated 23.7.2002 passed by Respondent No.1 whereby the appellant was dismissed from service and also against the order dated 31.8.2002 passed by Respondent No.2, whereby his appeal was rejected.

\*\*\*

PRAYER: By acceptance of this appeal the impugned orders be set aside and the appellant be re-instated in service.

RESPECTFULLY SHEWETH:

- 1-. That the appellant joined Police Department on 4.4.84 as Constable and remained posted

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

to various Police Stations on general duty.

- 2-. That on 26.3.2002, when he was posted to Police Station Badaber and on Mobile Patrol duty a call was received from the Deputy Superintendent of Police, Saddar Circle, Peshawar that the Guard on Mashogagar Road be checked.
- 3-. That he alongwith S.H.O. Bakhtiar Alam was on Patrol Duty in a case property Jeep which was seized in connection with some case. Mr. Bakhtiar Alam Khan was sitting in the front seat and the appellant with Ziaul Haq, Head Constable No.2511 was sitting in the rear body seat.
- 4-. That while proceeding on Mashogagar Road at about 21.30 New Time (22.30) when the Police Party reached the Check Post the Guard was checked and thereafter, proceeded towards village Mashogagar. After covering a distance of about one hundred yards, fire shots were heard aimed at the vehicle which was moving. At the same time Mr. Bakhtiar Alam Khan was heard crying "Do not make fire we are Police". The vehicle was stopped at some distance and it was found that Bakhtiar Alam Khan had received injury.
- 5-. That the appellant could not see the criminals

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

as they had made firing from the left side and he was in the back seat of the Jeep which faced right side and that is the only seat in the rear body. The criminals had dis-appeared when the vehicle was stopped. Bakhtiar Alan Khan was rushed to the Hospital, and the appellants remained on the spot.

- 6-. That during investigation every thing was explained on the spot. The entire position was explained. As the incident was splashed in the Newspapers, and probably to support the badly mauled image of the police, due to these press reporting the appellants and the two other members were issued with show cause notices charging for display of cowardice. (Copy as Annexure-"A").
- 7-. That proper reply was given but it was followed by a charge sheet and an order of departmental inquiry to be conducted by Superintendent of Police, Rural, Norul Haq Khuda and finally the appellants was dismissed from service vide order mentioned above. Copies enclosed as Annexures-"B", "C" and "D".
- 8-. That the order of dismissal was against the law, ~~facts~~ and facts, therefore, an appeal was submitted before Respondent No.2 which was dismissed vide order dated 31.8.2002. Copies

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED

enclosed as Annexures-"E" and "F".

9-. That both the impugned orders are against the facts, law and principles of justice on the grounds inter-alia as follows;

G R O U N D S.

i)-. That charge of Displaying cowardice is totally groundless and incorrect rather false. The vehicle was ambushed by the criminals the appellat was in the back seat facing right because of the position of the seat, and could not see the criminals at all during the firing which lasted only for seconds. There is no omission or any commission on the part of appellat to even remotely indicative of cowardice.

ii) That there was no chance to retaliate because the criminals had ~~dis~~ dis-appeared when the vehicle was stopped and it was pitched dark.

iii) That the firing by the criminals was a matter of seconds, sudden, unexpected, and there was no time ~~at~~ at all, to the police party, so much so that Mr. Bakhtiar Alam Khan who had a Kalashankive Rifle in his hand could not fire though sitting in the front seat.

iv) That no properly inquiry was held, the police

EXAMINER  
Kyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED

official on Mashogagar check post at a distance of one hundred yards were not even examined. Moreover, the inquiry was to be conducted by Superintendent of Police Rural, as decided in the charge sheet but it was un-officially handed over to ~~Mr. Waqif Khan~~ Mr. Waqif Khan, D.S.P. on whose direction the Police Party were on Mashogagar Road, and who had crossed the same road minutes earlier, and as such was not supposed to be impartial inquiry officer.

v). That Enquiry Officer did not bother to see the spot nor he took into consideration the situation the Police Party was faced with. This actual position stands clear from the site plan prepared during investigation. There was no time, ~~nor~~ no chance at all to either return the fires or to prevent the criminals from firing at the vehicle. The vehicle was ambushed suddenly by and gang from their position in the road side drain and dis-appeared when vehicle was stopped at the distance. Respondent No.1 too would have done nothing had he been one of the member of the party. The charge is not only incorrect but insulting. Copies of the site plan enclosed as Annexures-"G" and "H". *and file*

vi) That the inquiry proceedings was simply a cover

*[Signature]*  
**EXAMINER**  
 Kyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

**ATTESTED**

to award ~~punish~~ punishment. No proper reasonable opportunity was provided to explain the position on the spot and the circumstances under which the incident had taken place.

vii) That during the appellant service he had been performing his duties to the entire satisfaction of his superiors and using his God gifted qualities. The appellant can not be held responsible for incidents such like nature due to the Law and Order situation which is not his creation.

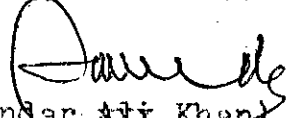
It is, therefore, humbly prayed that on acceptance of this appeal the impugned orders of dismissal may very graciously be set aside and the appellant be re-instated in service with all back benefits.

افتخار علی

APPELLANT.

(Iftikhar Ali),  
Constable No.2511.


Thr:

  
(Sikandar Ali Khan),  
Advocate, Peshawar.

Dt. 13.09.2002.

13/9/2002

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

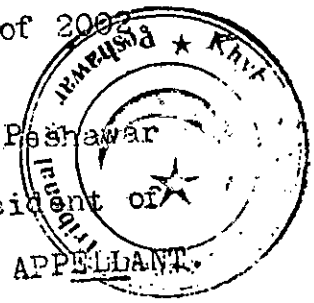


Before the Chairman, NWFP, Service Tribunal, Peshawar.

N.W.F. Province  
Service Tribunal  
Diary No. 1013  
Dated 14-9-02

Service Tribunal Appeal No. 805 of 2002

Ex-Constable Iftikhar Ali No.2511 of Peshawar  
District Police, son of Fazli Ali resident of  
Tangi, District Charsadda. ...



Versus

- 1-. Senior Superintendent of Police, Peshawar.
- 2-. Chief Capital Police/Deputy Inspector General of Police, Peshawar.
- 3-. Inspector General of Police, NWFP, Peshawar.

Filed to-day

*[Signature]*

... RESPONDENTS.

5.5.2004

Parties present: Vide our detailed judgment of today in Appeal No. 806/2002, Hidayatullah, this appeal is dismissed. No order as to costs. File be consigned to the record.

ANNOUNCED.

5.5.2004 .

**ATTESTED**

*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**Certified to be true copy**

*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 27-11-2018  
 Number of Words 400  
 Copying Fee 4/-  
 Urgent 2  
 Total 6  
 Name of Copyist [Signature]  
 Date of Completion of Copy 27-11-2018  
 Date of Delivery of Copy 27-11-2018

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

Appeal No. 806/2002

Date of institution - 14.9.2002

Date of decision - 5.5.2004



Hidayatullah, Ex-S.I. No. 451,  
Charsadda. . . . .

VERSUS

1. S.S.P. Peshawar.
2. Chief Capital Police/DIG of Police, Peshawar.
3. I.G.P. N.W.F.P. Peshawar. . . . . (RESPONDENTS)

Mr. Sikandar Khan Advocate. . . . . For appellant.  
 Mr. Zulfiqar Ali Govt. Pleader. . . . . For respondents.

MIAN SAHIB JAN . . . . . MEMBER.  
 MR. MUHAMMAD SHAUKAT . . . . . MEMBER.

**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

**ATTESTED**

JUDGMENT.

MIAN SAHIB JAN, MEMBER:- This judgment will dispose of the appeal filed by the appellant against the order dated 23.7.2002 whereby he was dismissed from service, praying that the impugned order may be set aside and he be re-instated in service with all back benefits.

2. Brief facts of the case as narrated in the memo of appeal are that the appellant joined Police Department on 20.5.75 as constable and with the passage of time, promoted to the rank of officiating ASI. He was posted to Police Station Badaber and while on Gasht a call was received from the DSP Saddar Circle that the Guard on Mashugagar Road be checked. The appellant alongwith SHO Badaber driving a Private Jeep which seized in connection with some case and was case property and the appellant was asked to act as a Driver. Mr. Bakhtiar

S.I. now deceased was sitting in the front seat and two constables namely H.C. Mianul Haq and F.C. Ikhtiar Ali were sitting in the rear body seat. While proceeding on Mashogagar Road at about 21.30 new time (2230) when the Police Mobile reached the check post, the guard was checked and thereafter, proceeded towards village Mashogagar as directed by the SHO. After covering a distance about one hundred yards, the vehicle was ambushed by a group of criminals of whom suddenly appeared from the left side of the Road from the Bushes and started firing at the Mobile Patrol Party, resulting injury to Bakhtiar Alam SHO. The jeep was also fired at with the result that 3 tyres were burst. The SHO asked the appellant to move ahead. He also shouted at the criminals asking them not to fire, we are Police. The appellant stopped the vehicle and came to know that the SHO has received another injury also. A private vehicle came on the road and on our request the SHO was rushed to the LRM Peshawar, leaving the constables on the spot but the SHO expired in the Hospital. A case was registered on the report of appellant. Due to the negative press reporting the appellant and the two companions were issued show cause notices charging them for "display of cowardice", which was replied by them. A charge/was issued and an order of departmental enquiry to be conducted by S.P. Rural Moorul Huda and finally the appellant was dismissed from service vide the impugned order.

3. The appellant has assailed the impugned orders on the grounds that the charge is totally incorrect, as the appellant was driving the vehicle and there was no opportunity for him to fire at the criminals. No proper enquiry was held. The enquiry was to be conducted by S.P. Rural but it was handed over to Mr. Waqif Khan, DSP, which is not an impartial Inquiry Officer. The inquiry proceedings were simply a cover to award the punishment. The final show cause notice was handed over to the appellant on the very date i.e. 23.7.2002 when the

ATTESTED

**KAMINER**  
 Khayr Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

dismissal order was passed, as such no chance was given to him to present his case before respondent No. 1. There is nothing to even remotely suggest any omission or commission of displaying cowardice.

4. The respondents have filed their written reply, contested the appeal and denied the claim of the appellant. Arguments of the learned counsel for the parties have been heard and record perused.

5. The perusal of record would show that a police party consisting of M/S Bakhtiar Alam SHO, Hidayatullah ASI, Ziaul Haq H.O and Iftikhar Ali was performing patrolling duty on a Jeep at the night of 26.3.2003, they were fired at by some criminals at 21.30 on Hashogagar Road. Mr. Bakhtiar Alam SHO sustained injururies and died in the Hospital. M/S Hidayatullah Ziaul Haq and Iftikhar who were members of the Patrol Squad were proceeded against under the Police Rules on the charges of displaying cowardice in the incident and dismissed from service vide order dated 23.7.2002. They submitted their departmental appeals which were rejected by the competent authority hence the present appeals before this Tribunal.

6. The learned counsel for the appellants argued that enquiry against the appellants was not held properly. The SSP had appointed S.P. Rural Mr. Noorul Huda as Enquiry Officer while the enquiry was held by the DSP Mr. Waqif Khan on the orders of the S.P. and not by the S.P. himself. The learned counsel for the appellant claimed that the appellant not showed any cowardice. There was pitch dark at 1230 hours at the time of occurrence and the criminals disappeared in the darkness immediately after firing and it was not possible to chase them or arrest them in such darkness. Moreover, the Head of the party then Bakhtiar Alam SHO was injured and it was necessary to take him to the Hospital so one appellant Mr. Hidayatullah ASI took him to Hospital while the other appellants M/S Ziaul Haq and Iftikhar Ali stayed behind at

ATTESTED

RAJAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

the spot and showed no cowardice. The learned counsel also contended that the appellants have unduly been involved in the disciplinary proceedings and given harsh punishment of dismissal from service while in other similar cases while the police officers/Police Patrol Parties were fired at by the criminals, no enquiries whatsoever, were held and no one punished. The learned counsel urged that the award of impugned punishment is against the law and justice and may be set aside.

7. The learned Government Pleader argued that a proper departmental enquiry was held against the appellants in the case and action has been taken against them according to the law and rules. The charges of cowardice/mis-conduct against the appellants have been proved therefore, there is no merit in the appeal. The learned Government Pleader urged that the appeal may be dismissed.

8. The Tribunal observes that the appellants were served with proper charge sheet and statement of allegations which were duly replied by them. An enquiry was held against them by the SP/DSF and no objection to the holding of enquiry by them was raised by any accused. Subsequently all the appellants were given show cause notice and opportunity of personal hearing. Thus they were afforded all the opportunities to defend themselves in accordance with the law. The charges of cowardice and mis-conduct were proved against them. The contention of the learned counsel for the appellants that there was pitch dark and the unknown criminals dis-appeared and could not be chased in darkness is not tenable. The FIR lodged by Hidayatullah ASI appellant on 25.4.2002 shows that the criminals appeared from the left side of the Road and one of them fired at the SRO and the other at the tyres of the vehicle which were punctured and then they ran away in the road side fields. Even one of them was recognized by Mr. Hidayatullah having light dark colour with long hairs of black and thick mustaches aged between 30-35 years. It

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

appears strange that when a criminal had fired at the SHO sitting with Mr. Hidayatullah ASI on the front seat and SHO was injured. Mr. Hidayatullah did not retaliate/challenged the criminal with the Kalashankove of SHO which was lying with him, when he had seen the criminal running after firing in the light of his vehicle. Similarly the H.O. and the constable, other appellants who were sitting in the rear of Jeep and were fully armed did not take notice of the firing by the criminals and bursting of tyres of their vehicles by the criminals as well as injury of the then SHO. All the three appellants were fully trained members of the disciplinary police force and were equiped with arms and torches at the patrol duty at night time to apprehend suspected criminals and it was their duty to challenge/chase/fire at and arrest the culprits but all the three displayed extreme cowardice and failed in performing their duty and committed grave mis-conduct. If they could not challenge and chase to apprehend the criminals who fired at the Police force and police vehicle how it can be expected that they will come to the aid of any other citizen.

In view of the above discussion, we see no reason/justification to interfere with the impugned orders. The appeal of the appellant is hereby dismissed.

This order will also dispose of the appeals of other two appellants of M/S Ziaul Haq and Iftikhar Ali, bearing Nos. 804/2002 and 805/2002 respectively, in the same manner as the learned counsel for all the appellants and respondents and the facts involved are common.

No order as to costs. File be consigned to the record.

ANNOUNCED.  
5.5.2004

**ATTESTED**

**Certified to be true copy**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

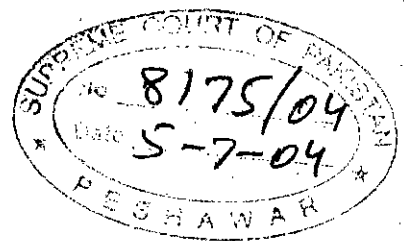
*Muhammad Shaukat*  
(MUHAMMAD SHAUKAT)  
MEMBER.

*M. Sahib Jan*  
(MIAN SAHIB JAN)  
MEMBER.

M

35

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)



Filed on 3rd July, 2004.  
by Fateh Muhammad Khan, HOK  
Three P.S.

*[Signature]*  
AR (Peshawar)  
3/7/04

573-P

C.P.L.A. NO. \_\_\_\_\_ /2004

Pl. examine and report.

Mr. Khadim

Iftikhar Ali No.2511,  
Ex-Constable,  
Son of Fazali Ali,  
Resident of Tangi,  
Tehsil and District, Charsadda.

Case file and paper  
books are legible.

.....(PETITIONER)

(VERSUS)

dated 5/7/04

*[Signature]*

*[Signature]*  
5.7.04

1. Senior Superintendent of Police, Peshawar.
2. Chief Capital Police/Deputy Inspector General of Police, Peshawar.
3. Inspector General of Police, NWFP, Peshawar.

Mr. Khadim

.....(RESPONDENTS)

CIVIL PETITION UNDER ARTICLE 212(3) OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973, AGAINST THE JUDGMENT AND ORDER DATED 5.5.2004 OF NWFP SERVICE TRIBUNAL, PESHAWAR, PASSED IN APPEAL NO.805/2002.

ATTESTED

*[Signature]*  
Court Associate  
Supreme Court of Pakistan  
Islamabad

482  
36

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

Present:

MR. JUSTICE SARDAR MUHAMMAD RAZA KHAN  
MR. JUSTICE NASIR-UL-MULK

CIVIL PETITIONS NO.571-P TO 573-P OF 2004.

(On appeal from the judgment dated 5.5.2004 passed by the NWFP Service Tribunal, Peshawar in Appeals No.804 to 806 of 2002)

Hidayatullah Ex-ASI No.451. ... Petitioner in CP 571-P of 2004.  
Zia-ul-Haq Ex-Constable. ... Petitioner in CP 572-P of 2004.  
Iftikhar Ali No.2511, Ex-Constable. ... Petitioner in CP 573-P of 2004.

Versus

1. Senior Superintendent of Police, Peshawar.
2. Chief Capital Police/Deputy Inspector General of Police, Peshawar.
3. Inspector General of Police, NWFP, Peshawar.  
... Respondents in all CPs.

For the petitioners  
in all CPs:

Mr. Fateh Muhammad Khan,  
ASC/AOR.

For the respondents  
in all CPs:

N.R.

Date of hearing:

17.6.2005.

JUDGMENT

SARDAR MUHAMMAD RAZA, J.- Arising under similar circumstances, the above three petitions are taken up together.

2. Hidayatullah, a former ASI, Zia-ul-Haq and Iftikhar Ali, the constables, seek leave to appeal against the judgment dated 5.5.2004 of the NWFP Service Tribunal whereby their appeals were dismissed and their dismissal from service maintained.

3. Facts of the case are that the petitioners along with SHO etc., attached to Police Station Badaber, were patrolling the area when D.S.P. Saddar circle directed them to check police guard on Mashogagar Road. They, while driving a private jeep

**ATTESTED**  
Court Associate  
Supreme Court of Pakistan  
Islamabad





headed towards Mashogagar Road. After checking the guard at 2230 hours, they proceeded towards village Mashogagar under the directions of the SHO. After covering a short distance they were suddenly confronted by some criminals appearing from the left side of the road. They started firing at mobile patrol party with which Bakhtiar Alam SHO got injured and subsequently succumbed to his injuries in the hospital in about two hours. Three tyres of the jeep also went flat. In the given circumstances the charge against the petitioners was that they displayed a cowardice of culpable nature. The inquiry officer as well as the learned Tribunal agreed with each other and thus their dismissal from service was not interfered with.

4. The Tribunal seems to have rightly appreciated the circumstances saying that it was a serious display of cowardice on part of the petitioners. After having gone through the record as well as the impugned judgment, we find ourselves in perfect agreement with the learned Tribunal and do believe that the petitioners behaved like sitting ducks and did not even make an attempt to fire at the assailants despite the fact that their firing resulted into the death of SHO and despite the fact that the assailants were so close and visible that even their features were described by the ASI in the FIR lodged about the occurrence. On such crucial occasions the thing that counts is the conduct of a person of disciplined force and not necessarily the end result. They, of course, were not expected to have had physically arrested all the culprits but at least, if they had resorted to a cross fire they might have either downed any of the assailants or injured them so as to be taken into custody.

**ATTESTED**

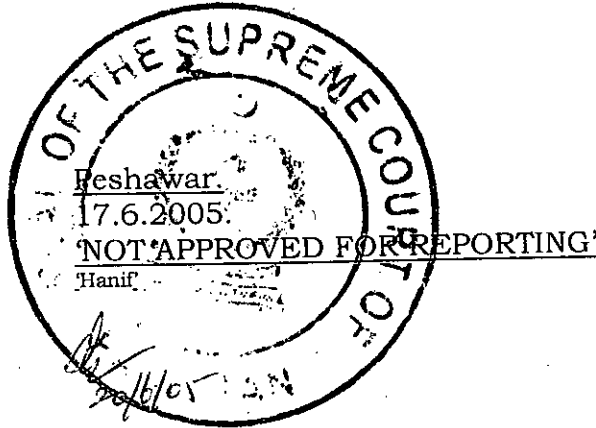
Court Associate  
Supreme Court of Pakistan  
Islamabad



5. The conduct exhibited on the spot was unbecoming of a member of a disciplined police force. No exception could be taken to the conclusion drawn by the Tribunal.

6. There being no substance in the petitions, these are hereby dismissed and leave to appeal refused.

Sd/-J  
Sd/-J  
Certified to be True Copy



Court Associate  
Supreme Court of Pakistan  
Islamabad

CR No: 29509/18 Civil/Criminal  
Date of Presentation: 29-11-18  
No of Words: 952  
No of Folios: 9  
Requisition Fee: 500  
Copy Fee in: 500  
Court Fee Stamp: 1000  
Date of Collection of Copy: 18/12/18  
Date of Service: 24-12-18  
Complaint No: 5  
Receipt No: (Signature)

To

The Provincial Police Officer,  
KP, Peshawar.

**APPEAL AGAINST OFFICE ORDER NO. 667-70 DATED  
23-07-2002 OF THE SUPERINTENDENT OF POLICE,  
PESHAWAR WHEREBY APPELLANT WAS DISMISSED  
FROM SERVICE.**

**Respectfully Sir;**

1. That appellant joined police department on 04-04-1984 as Constable and served various Police Stations without any complaint.
2. That appellant along with SHO Bakhtiyar Alam was on petrol duty on 26-03-2002 along with other police party. FIR of the incident was lodged by Hidayatullah Khan ASI, Police Station Badhber Peshawar.
3. That on the eventful day the police party was proceeding on Mashugagar road at 21:30 PM fire shots were made at the vehicle and as a result SHO Bakhtiyar Alam cried not to make any fire. He was hit and sustained injuries from criminals. The said SHO was rushed to hospital but succumbed to the injuries.
4. That Investigation into the matter was initiated and appellant was served with Show Cause Notice by showing cowardice which was replied by denying the allegations.
5. That appellant was served with Charge Sheet on 06-05-2002 which was replied on 10-05-2002 and denied the allegation.
6. That enquiry into the matter was initiated but the same was not conducted as per the mandate of law and thereafter served appellant with Final Show Cause Notice which was replied on 17-07-2002 in the aforesaid manner.

*Handwritten signature*

40

7. That on 23-07-2002, appellant was dismissed from service by Superintendent of Police Peshawar.
8. That appellant filed appeal before CCPO / DIG Peshawar for reinstatement in service which was rejected on 31-08-2002.
9. That on 14-09-2002, appellant filed appeal before the hon'ble Service Tribunal for reinstatement in service which was dismissed on 05-05-2004.
10. That thereafter appellant filed CPLA before the Supreme Court of Pakistan for reinstatement in service which was dismissed on 17-06-2005.
11. That appellant rendered more than 18 years service but no benefits of the same was awarded to appellant, so at this stage he requests for pensionary benefits after converting dismissal order into compulsory retirement from service.

Hence, this appeal, inter alia on the following grounds:-

**GROUND**

- a. That admittedly no enquiry as per the mandate of law was conducted, no statement of any witness was recorded nor appellant was afforded opportunity of cross examination, so the impugned orders were of no legal effect.
- b. That appellant rendered more than 18 years service to the department but no benefit of the same in shape of pension was given to him.
- c. That award of pension to anyone is profit to a servant but the whole family has share in the same.
- d. That by not granting pension to appellant, not only he was deprived from pensionary benefits but whole of the family for no legal reason.
- e. That pension is a vested right which cannot be taken in any manner but the whole family of appellant was deprived having equal share in pensionary benefits.

41  
f. That appellant, at this stage, does not seek reinstatement in service but for grant of pensionary benefits.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 23-07-2002 and 31-08-2002 be converted into compulsory retirement from service and appellant / family be awarded pension with all admissible benefits.

افتخار علی

Iftikhar Ali,  
R/O Praang Majugee,  
Charsadda.  
Ex-Constable No.2511,  
Police Station Badhber,  
Peshawar.  
Cell No.

0313-9620022

Dated 11-03-2019

Atto  
B



42

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

No. S/ 998 /19, dated Peshawar the 02/04/2019.

To: The Capital City Police Officer,  
Peshawar.

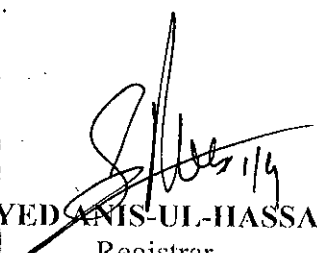
Subject: APPLICATION.

Memo:

The Competent Authority has examined the application of Ex-Constable Iftikhar Ali No. 2511 of CCP Peshawar for compulsory retirement and recorded the following remarks:-

"As the applicant has availed all legal forums and his appeal have been dismissed. Therefore, such application is not entertainable."

The applicant may please be informed accordingly.

  
(SYED ANIS-UL-HASSAN)  
Registrar,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

Cc.

Ex-FC Iftikhar Ali r/o Praang Majugee, District Charsadda.  
(0313-9620022/0313-9619068)

*Received today from the  
office of personal bond.*

*افتخار علی*

*6-5-19*

*11634  
19-4-19*

*4083/5B*

بعد الت جناب سرسٹریٹ ٹریبیونل صوبہ سرحد پشاور

مستجاب ایلٹ

بنام محکمہ لوکس

افتخار علی

دعوی اپیل

باعث شکریہ ایٹک

© ————— ©

مستجاب مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیسٹیم سید اداکس خان سرودتے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے باہمی نامہ و تقریر ثالثہ و فیصلہ برحلاف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست ہر قسم کی تعلیم اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور سوسٹی نیز دائر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مندرجہ کے کل یا اجزائی کاروائی کے واسطے اور وکیل یا نثار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پیرا اختہ مندرجہ قبول ہوگا و دوران مقدمہ میں جو فریہ و ہرجانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا دفر حسبہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام رورہ پر ہو یا مد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

المترقوم

العبد

العبد

العبد دوم

Handwritten signature

اداکس خان

سید اللہ خان مراد

ایڈووکیٹ

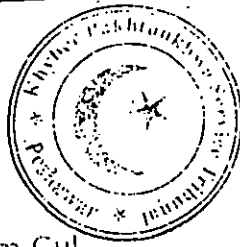
ایڈووکیٹ

حسن روپیہ تار

ایڈووکیٹ

Handwritten vertical text on the left margin

BEFORE KPK SERVICE TRIBUNAL PESHAWAR



S.A No. 22 / 2013

Mashroof Gul S/o Rasham Gul  
R/o Hisar Tang, Nizampur Nowshera ..... Appellant

Versus

1. Executive District Officer,  
Elementary & Secondary Education,  
Nowshera.
2. Director of Education, Elementary  
and Secondary Education, Peshawar.
3. Secretary, Elementary and  
Secondary Education, Peshawar.
4. District Accounts Officer, Nowshera. .... Respondents

W.P. No. 1490  
Dated 26-12-12

APPEAL AGAINST OFFICE ORDER  
NO.11504-5, DATED 10.07.1980 OF  
THE ENTRY MADE IN THE SERVICE  
BOOK WHEREBY APPELLANT WAS  
REMOVED FROM SERVICE W.E.F.  
THE DATE OF HIS ABSENCE FOR NO  
LEGAL REASON.

Handwritten signature and date 26/12/12

Respectfully Sheweth:

1. That appellant has in his credit the educational qualification of SSC & FA passed in the year, 1964 and 1966.
2. That on 26.10.1964, after observing the due codal formalities, appellant along with 148 was appointed as PTC teacher. His name was figured at S.No.76. (Copy as annex

ATTESTED

EXAMINER  
KPK Service Tribunal,  
Peshawar

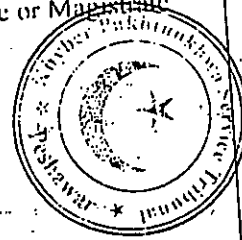
Ac



Date of  
order/  
proceedings  
2

Order or other proceedings with signature of Judge or Magistrate

3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR

Appeal No. 22/2013

Mashroof Gul Versus Executive District Officer, Elementary &  
Secondary Education, Nowshera & others.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

24.01.2017


Counsel for the appellant and Mr. Muhammad Jan,  
Government Pleader alongwith Hameedur Rahman, AD for  
respondents present.

2. Mr. Mashroof Gul son of Rasham Gul hereinafter referred to  
as the appellant has preferred the instant service appeal under  
Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974  
against order dated 10.07.1980 vide which he was removed from  
service and where-against his departmental appeal as well as  
representation were rejected and hence the instant service appeal on  
26.12.2016.

3. Arguments of the learned counsel for the appellant as well as  
learned Government Pleader heard and record perused.

4. The impugned order of removal from service of the appellant  
was passed in the year 1980 while the instant appeal was preferred  
by the appellant by the end of year 2012.

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

5. Learned counsel for the appellant failed to persuade us so far as time limitation for filing such appeal against impugned order of removal from service is concerned. As such we are constrained to hold that the appeal of the appellant to the extent of questioning the impugned order of removal is ~~time barred~~ <sup>time barred</sup>.

✓ (6) It was further argued that the appellant was entitled to compassionate allowance in view of Section 19 (3) of Civil Servants Act, 1973 which was not granted to him and which prayer of the appellant is not hit by time limitation, being money matter. Reliance was placed on 2001-SCMR-1977 (Supreme Court of Pakistan).

✓ (7) In view of the afore-stated provisions of the Civil Servants Act, 1973 read with case law referred to above we direct that the appellant shall apply to the relevant authority for consideration of the case of the appellant for compassionate allowance within the meaning of Section 19(3) of the Civil Servants Act and the competent authority shall decide such an application/ representation of the appellant promptly and preferably within 2 months. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

Announced *Sd/- M. Azim Khan Afridi,*  
24.01.2017  
Chairman

*Sd/- M. Asim's Nadir,*  
Member

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 06-02-2017  
Number of Words 1200  
Copying Fee 2/-  
Urgent 10/-  
Total 12/-  
Name of Copyist MAD  
Date of Completion of Copy 06-02-2017  
Date of Delivery of Copy 06-02-2017