

05.09.2022

Due to leave of the Worthy Chairman, the Bench is incomplete. Case to come up for the same on 15.11.2022 before the D.B.


Reader

15th Nov. 2022 Counsel for the appellant present.

Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

Former requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 10.01.2023 before the D.B.

SCANNED
KPST
Peshawar


(FAREEHA PAUL)
Member(E)


(ROZINA REHMAN)
Member (J)

10.01.2023

Appellant in person present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

SCANNED
KPST
Peshawar


Learned Member Executive (Miss Fareeha Paul) left the court at 11.00 A.M in order to attend a meeting in the Law Department, Government of Khyber Pakhtunkhwa, therefore, this case is adjourned to 03.04.2023 for arguments before the D.B.


(Rozina Rehman)
Member(J)

26.01.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Raziq H.C for respondents present.

Reply/comments on behalf of respondents are still awaited. Representative of respondents requested for time to furnish reply/comments. Granted. To come up for reply/comments before the S.B on 17.02.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)

28.03.2022

None for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Ilyas, ASI for respondents Present.

Written reply/comments not submitted. Representative of the respondents seeks time to submit the same on the next date. Adjourned. To come up for written reply/comments on 17.06.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER(E)

17th June 2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Ahmad Jan, Inspector (Legal) for the respondents present.

Despite three opportunities given to the respondents, they have not submitted reply. The respondents are given last opportunity to submit reply within 07 days from today, failing which their right to file reply shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 05.09.2022. The case will not be adjourned on the ground of non-filing of reply/comments.



(Kalim Arshad Khan)
Chairman

26.11.2021

Counsel for the appellant present. Preliminary arguments have been heard.

Learned counsel for the appellant argued that the appellant is aggrieved of the impugned order dated 08.04.2021 whereby major penalty of dismissal from service was awarded to the appellant by respondent No.1. The appellant submitted departmental appeal against the impugned order, to the appellate authority on 07.05.2021. However, no decision could arrive on his departmental appeal where-after the instant service appeal was filed in the Service Tribunal on 21.09.2021. It was further contended that the appellant was involved in criminal case vide, FIR No. 163 dated 10.09.2020 registered under Section-302,353,186,324,7-ATA, 427,148,149. The appellant was granted bail on 05.10.2020 and request for cancellation of bail was rejected on 23.11.2020. The criminal proceedings are still under process and the appellant has been condemned departmentally without waiting for the conclusion of criminal proceedings against him by the competent court of law. The impugned order is therefore unfair, unjustified and illegal, is therefore liable to be set aside.

The appeal is admitted to regular hearing subject to all just legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 26.01.2022 before S.B.

Appellant Deposited

Security & Process Fee

31/12/21



(Mian Muhammad)
Member(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7473 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/09/2021	<p>The appeal of Mr. Shah Wali resubmitted today by Mr. Shah Faisal Ilyas Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>26/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Shah Wali son of Sadar Azam Post Office Bara District Khyber received today i.e. on 21.09.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/arked with annexures marks.
- 3- Annexures of the appeal may be attested.
- 4- Memorandum of appeal may be got signed by the appellant.
- 5- Affidavit may be got attested by the Oath Commissioner.
- 6- Certificate be given to the effect that appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.
- 7- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.

No. 1878 /S.T.

Dt. 21/09/2021

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shah Faisal Ilyas Adv. Pesh.

Respected Sir:-

All objection are clearly and file resubmitted

Thanks

~~Faisal~~

objection no. 7 is still stand.

Therefore, the appeal in hand is returned again to counsel of the appellant for completion and resubmission within 15 days.

No. 1904 /S.T.

Dt. 24/09/2021

REGISTRAR

Respected Sir:-

The scanned
document are not available these
for file resubmitted.

Thanks

Laisah

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. 7473/2021

Shah Wali(Appellant)

V E R S U S

District Police Officer, District Khyber, Khyber Pakhtunkhwa
and others.....(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-8
2.	Affidavit		9
3.	Addresses of the Parties		10
4.	Copy of F.I.R No. 163 dated 10/09/2020	A	1-12
5.	Copy of office order No. 2225-A dated 11/09/2020	B	13
6.	Copy of Charge Sheet, statement of allegation, and appellant's reply	C	14-17
7.	Copy of office order No. 1007/PSO-Khyber dated: 08/04/2021	D	18
8.	Copy of departmental appeal	E	19-27
9.	Copy of order dated: 05.10.2020 of Anti Terrorism Court-I, Peshawar	F	28-33
10.	Wakalat Nama		34

Appellant

Through



Shah Faisal Ilyas
Advocate High Court,
Peshawar.
Cell No. 0300-5850207

Dated: 22/09/2021

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2021.

Shah Wali S/o Sadar Azam R/o Malik Din Khel, Tehsil Bara,
District Khyber.....(Appellant)

V E R S U S

1. District Police Officer, District Khyber, Khyber Pakhtunkhwa.
2. Chief Capital Police Officer (CCPO) Peshawar.
3. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.....(Respondents)

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICE TRIBUNAL ACT
1974, AGAINST THE IMPUGNED ORDER
DATED 08/04/2021 PASSED BY THE
RESPONDENT No. 1, WHEREBY MAJOR
PUNISHMENT OF DISMISSAL FROM
SERVICE IS IMPOSED.**

Respectfully Sheweth:

Facts giving rise to the instant Service Appeal are as
under:

1. The Appellant was serving as constable in the Police
department Khyber Pakhtunkhwa district Khyber.

2. That the Respondent is the administering staff and authority responsible for supervision, operation and management of Police in District Khyber.
3. That appellant was performing his duty with zeal and dedication at Police Station Bara District Khyber as constable and was falsely charged in case FIR No. 163 dated: 10/09/2020 registered at Police Station Bara. (Copy of F.I.R No. 163 dated 10/09/2020 is attached as annexure "A").
4. That after lodging of FIR, when the appellant was not even charged in the above mentioned FIR the respondent suspended the appellant along with stoppage of pay with immediate effect vide office order No. 2225-A dated 11/09/2020. (Copy of office order No. 2225-A dated 11/09/2020 is attached as annexure "B").
5. That after suspension of appellant from service, formal enquiry was conducted against the appellant, whereby the appellant was charge sheeted. The appellant submitted his reply to the charge sheet and statement of allegation. (Copy of

Charge Sheet, statement of allegation, and appellant's reply are attached as annexure "C").

6. That the Enquiry Officer submitted his report before the respondent and the respondent No. 1 awarded major punishment of Dismissal from Service with immediate effect vide office order No. 1007/PSO-Khyber dated: 08/04/2021. (Copy of office order No. 1007/PSO-Khyber dated: 08/04/2021 is attached as annexure "D").
7. That dissatisfied from the order dated: 08/04/2021 of Respondent No. 1, the appellant filed Departmental Appeal/ Representation before the respondent No. 2, but till date no decision has been conveyed by the respondent No. 2. (Copy of departmental appeal is attached as annexure "E").
8. That having no other adequate, efficacious, alternate remedy, the appellant approaches this Hon'ble Tribunal for redressal of his grievances, inter-alia on the following grounds:

GROUND:

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A. That the appellant is a civil servant belonging to Police department and is aggrieved of the respondent's office order No. 1007/PSO Khyber dated: 08.04.2021 of major punishment i.e. dismissal from service with immediate effect.

B. That the appellant is not directly charged in FIR rather implicated after four days of alleged occurrence. It is pertinent to mentioned here that the appellant was charged after 4 days delay i.e. on 14.09.2020, in the above FIR, which shows malafide on the part. of prosecution and astonishingly the appellant was arrested 3 days prior i.e. on 11.09.2020 without being charged.

C. That similarly the bail application of the appellant is accepted by the Anti-Terrorism Court-II, Peshawar, where the prosecution could not establish a prima facie involvement with the alleged commission of offence of the appellant and the court established that it is a case of further enquiry vide order dated:

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05.10.2020. (Copy of order dated: 05.10.2020 of Anti Terrorism Court-I, Peshawar is attached as annexure "F").

D. That trial in the above mentioned FIR has been commenced and the involvement of appellant in the alleged commission of offence has not yet been proved/decided, while on the basis of mere allegations no one including appellant can be awarded major punishment. On the other hand in tentative assessment during bail stage the prosecution could not established a prima facie case against the appellant.

E. That it is worth noticing that after issuance of show cause notice to the appellant, it was mandatory under the law that. the opportunity of personal hearing shall be given but the respondent has not offered the said opportunity, which is against the law and fundamental rights of the appellant.

F. That appellant has been rendering meritorious services having illustrious career, spreading over many years and have earned respect from his seniors in various | moments, similarly the integrity

H. That authority is to be exercised according to rational reasons which means that there be finding of primary facts based on good evidence, decisions about facts be made for reasons which serve the purpose of statute in an intelligent and reasonable manner. Actions which do not meet these threshold requirements are considered arbitrary and mis-use of power. It is further submitted that the object of good governance cannot be achieved without application of mind. Such objectives cannot be

G. That the impugned action is violative of law laid down by the apex courts wherein it has been categorically held that dismissal from the service is a major punishment, therefore, major punishment shall be based not only on relevant law and rules but also to be based on some tangible material relating to merit and eligibility which could be lawfully taken note of. It is the duty of competent Authority to consider all the material to find out the actual facts of the case.

of the appellant - has never been called into question by anyone in the entire department.

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achieved by exercising discretionary | powers unreasonably, arbitrarily and without application of mind. Rather it can be achieved by following rules of justness, fairness and openness in consonance with command of Constitution.

I. That the impugned action of the official Respondent is also repugnant to the Constitution of the Islamic Republic of Pakistan 1973 as the appellant has been treated discriminately by the Respondent and similarly appellant has been deprived of his lawful right, hence the impugned action of the Respondent is liable to be interfered with on the basis of law laid down by the Superior courts of Pakistan. Departmental Authorities are bound to decide the grievance of their subordinates with application of independent judicial mind, fairly, justly and with reasons and those reasons must be communicated to the concerned, whereas in the instant matter the Respondent has acted in sheer violation of natural justice and prescribe law.

J. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

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It is therefore, respectfully prayed that, on acceptance of this appeal, the impugned order dated 08/04/2021 may graciously be set aside and direct the respondents to reinstated the appellant with all back benefits.

Any other relief which deems appropriate fit may also be given/ granted.

Appellant

Through

Dated: 22/09/2021

Shah Faisal Ilyas
Advocate High Court,
Peshawar.

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2021

Shah Wali(Appellant)

V E R S U S

District Police Officer, District Khyber, Khyber Pakhtunkhwa
and others.....(Respondents)

AFFIDAVIT

I, Shah Wali S/o Sadar Azam R/o Malik Din Khel, Tehsil
Bara, District Khyber, solemnly affirm and declare on oath,
that the contents of the **Service Appeal** are true and correct to
the best of my knowledge and belief and nothing has been
concealed from this Hon'ble Tribunal.

D E P O N E N T

/0

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2021

Shah Wali(Appellant)

V E R S U S

District Police Officer, District Khyber, Khyber Pakhtunkhwa
and others.....(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT:

Shah Wali S/o Sadar Azam R/o Malik Din Khel, Tehsil Bara,
District Khyber.

RESPONDENTS:

1. District Police Officer, District Khyber, Khyber Pakhtunkhwa.
2. Chief Capital Police Officer (CCPO) Peshawar.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

Appellant

Through

Dated: 22/09/2021

Shah Faisal Ilyas
Advocate High Court,
Peshawar.



نام نمبر

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع سبب جرم قابل دست اندازی پولیس رپورٹ شدہ زبردستی 15/9/2011ء کو ضابطہ نوعداری

(8)

Mohib Ullah Khan
Foushiza
Advocate High Court

ملع

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تاریخ وقت رپورٹ	15/9/2011
نام حکومت اطلاع دہندہ	مقامی حکومت
مختصر کیفیت جرم (محدود) حال اگر کچھ لیا گیا ہو	15/9/2011
جائے وقوعہ یا متعلقہ مقامات اور دست	کراچی
نام حکومت ملزم	DR 302-353-186-324-NATA-427-148-149
کلیدی جوتیش کے متعلق کی گئی اگر اطلاع درج کرتے ہیں تو تفصیلاً بتاؤ اور بیان کریں	کراچی
قائمہ سے رہاگی کی تاریخ و وقت	کراچی

ابتدائی اطلاع نیچے درج آکر دی گئی ہے۔

ایک شخص جو کہ ایک غیر ملکی سے ایک عرصے کے لیے رہا گیا ہے۔ اس شخص کے نام محمد علی ہے۔ اس شخص نے ایک عرصے کے لیے ایک عمارت میں مقیم رہا ہے۔ اس عمارت کے نام NH475 ہے۔ اس عمارت کے مالک محمد علی ہیں۔ اس شخص نے ایک عرصے کے لیے ایک عمارت میں مقیم رہا ہے۔ اس عمارت کے نام NH475 ہے۔ اس عمارت کے مالک محمد علی ہیں۔ اس شخص نے ایک عرصے کے لیے ایک عمارت میں مقیم رہا ہے۔ اس عمارت کے نام NH475 ہے۔ اس عمارت کے مالک محمد علی ہیں۔

اس شخص نے ایک عرصے کے لیے ایک عمارت میں مقیم رہا ہے۔ اس عمارت کے نام NH475 ہے۔ اس عمارت کے مالک محمد علی ہیں۔ اس شخص نے ایک عرصے کے لیے ایک عمارت میں مقیم رہا ہے۔ اس عمارت کے نام NH475 ہے۔ اس عمارت کے مالک محمد علی ہیں۔

اس شخص نے ایک عرصے کے لیے ایک عمارت میں مقیم رہا ہے۔ اس عمارت کے نام NH475 ہے۔ اس عمارت کے مالک محمد علی ہیں۔ اس شخص نے ایک عرصے کے لیے ایک عمارت میں مقیم رہا ہے۔ اس عمارت کے نام NH475 ہے۔ اس عمارت کے مالک محمد علی ہیں۔

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع خیبر

تھانہ باڑہ

تاریخ وقت وقوعہ 10/09/2020 وقت 19:50 بجے

علت نمبر 163

تاریخ وقت رپورٹ	10/09/20 وقت 20:35 بجے چا کیدگی پرچہ 10/09/20 وقت 20:50 بجے
نام و سکونت اطلاع دہندہ مستغیث	شیر حیدر خان SI انچارج چوکی تکیہ قمر خیل
مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو	PPC 302, 353, 186, 324, 7ATA, 427, 148, 149
جائے وقوعہ فاصلہ تھانہ سے اور سمت	کچہ راستہ کراول پہاڑ قمر خیل جانب غرب بفاصلہ 7/8 کلومیٹر تھانہ
نام و سکونت ملزم	
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وجہ بیان کرو	مراسلہ موصول ہونے پر مقدمہ درج رجسٹر کیا جاتا ہے
تھانہ سے روانگی کی تاریخ و وقت	بطور پیش رپورٹ

(ابتدائی اطلاع نیچے درج کرو)

بوقت صدر مراسلہ منجانب شیر حیدر خان SI انچارج چوکی تکیہ قمر خیل سے بدست کنسٹیبل ابراہیم موصول ہو کر درج ذیل ہے، بخدمت SHO صاحب تھانہ باڑہ، میں معہ کنسٹیبلان عبداللطیف، محمد یونس، مسعود خان بسواری 2-D موٹر کار 185 پرائیویٹ بسلسلہ ناکہ بندی بوقت وقوعہ جائے وقوعہ پر پہنچ کر میں معہ نفری پولیس گاڑی پرائیویٹ میں موجود تھا کہ اس دوران ایک م موٹر کار فیلڈ نمبر NH475 برنگ سفید آتے ہوئے جس میں پانچ ملزمان مسلح بہ اسلحہ آتشیں موجود تھے آتے ہوئے پولیس پارٹی کو دیکھتے ہوئے پولیس پارٹی پر موٹر کار پرائیویٹ پر بہ ارادہ قتل فائرنگ کرتے ہوئے گاڑی کی لائٹ سے ملزمان بسواری موٹر کار نمبر NH475 برنگ سفید کی شناخت کر کے فرار ہوئے، نتیجہ کے طور پر ملزمان نام معلوم کی فائرنگ سے کنسٹیبل عبداللطیف شہید ہوا، اور کنسٹیبلان محمد یونس، مسعود خان، عبدالرزاق ولد علی اکبر ساکن قمر خیل زخمی ہوئے، اور موٹر کار پرائیویٹ نمبر 2-D نمبر 185 کو گولیاں لگنے سے نقصان پہنچا ہے زخمی کنسٹیبلان عبدالرزاق کو فوری طور پر بغرض علاج معالجے HMC پشاور روانہ کئے گئے ہیں، شہید کنسٹیبل عبداللطیف کا علیحدہ فرد صورت و نقشہ ضرر مرتب کر کے زخمت بر مطابق فرد صورت حال، نقشہ ضرر پائے جا کر بغرض پوسٹ مارٹم زیر حفاظت کنسٹیبل نسیم خان ڈوگرہ ہسپتال باڑہ بھجوا یا جاتا ہے، مراسلہ جرم بالا بغرض قانچی مقدمہ بدست کنسٹیبل ابراہیم ارسال تھانہ ہے، مجاز انوسٹی گیشن افسر کو مامور تفتیش کیا جائے دیگر نفری برائے امداد پہنچ چکی ہے، افسران بالا SHO صاحب کو بروقت اطلاع دی گئی ہے میں معہ نفری پولیس کے بغرض تلاش پتہ براری ملزمان روانہ علاقہ ہوں، دستخط انگریزی شیر حیدر خان SI انچارج چوکی تکیہ قمر خیل باڑہ 10/09/20 کارروائی تھانہ آمدہ مراسلہ حرف بہ حرف درج بالا ہو کر پرچہ جرم بالا رجسٹر کیا، نقل پرچہ معہ مراسلہ بغرض تفتیش عقب نثار خان انسپکٹر انوسٹی گیشن بھجوا یا جاتا ہے، پرچہ بطور پیش رپورٹ گزارش ہے۔

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OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER

Annex-B




ORDER

The following Lower subordinates of PS Bara are hereby placed under suspension with stoppage of Pay with immediate effect being involved in case FIR No 163 U/S 302,353,186,324,7ATA-427,148,149 PPC, PS Bara dated 10.09.2020.

1. Constable Muhibullah s/o Raza Khan MDK
2. Constable Shah Wali s/o Sadar Azam MDK

Charge sheet and summary of Allegations will be issued separately for further departmental action.


District Police Officer,
Khyber

No. 222 S-A /OHC-Khyber, dated 11/09/2020.

Copy of above is forwarded for information to the:-

1. Capital City Police Officer, Peshawar.
2. SDPO HQrs (Designate), Khyber.
3. All SHOs, District Khyber.
4. PSO to DPO Khyber for necessary action.
5. Accountant District Khyber for necessary action.

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Annex-c
3
KHYBER



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

You the following while on duty at Police Station Bara of district Khyber is hereby charged for committing the following omission/commissions:-

"You Constable Shah Wali while posted at PS Bara involved in FIR.No. 163, dated 10/09/2020, u/s 302/353/186/324/7ATA, registered Police Station Bara which is a gross misconduct on your part and criminal offence"

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

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

Summary of allegations is enclosed herewith.

**DISTRICT POLICE OFFICER,
KHYBER**

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~~13~~

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Annex-D



**SUMMARY/STATEMENT OF ALLEGATION U/S 6(1) (A) POLICE
RULES 1973**

You Constable Shah Wali have committed the following:-

**"You Constable Shahwali while posted at PH Dara involved in FIR No. 163,
dated 10/09/2020, u/s 302/353/186/324/7A/A, registered Police Station
Bara which is a gross misconduct on your part and criminal offence"**

Your this act falls within the purview of misconduct as contained
u/s 2 (iii) of NWFP (now Khyber Pakhtunkhwa) Police Rules 1973.

**DISTRICT POLICE OFFICER,
KHYBER**

16

Annex-E

~~16~~

To,

The District Police Officer
District Khyber.

Subject: Reply U/S 6 (1) (B) Police Rules 1975

Dear Sir,

This is in reference to your Charge Sheet U/S 6 (1) (A) Police Rules 1975 referred above regarding the involvement of answering accused in case FIR No. 163, dated: 10.09.2020, U/S 302,353,186,324,7-ATA registered at Police Station Bara.

That I have been performing my duty at Police Station Bara, District Khyber with zeal and dedication as constable.

That I have been falsely charged in the above case FIR, without any lawful justification.

That the answering accused is not directly charged in case FIR rather implicated after four days of alleged occurrence. It is pertinent to mention here that the accused was charged on 14.09.2020 while the accused was arrested three days before charged in the above FIR, which shows malafide on the part of prosecution that the accused was arrested on 11.09.2020 without being charged.

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That bail application of the accused is accepted by the Anti-Terrorism Court-II, Peshawar, where the prosecution could not establish a prima facie against the accused and the court established that it is a case of further enquiry.

(Copy of order dated:05.10.2020 of Anti-Terrorism Court-II, Peshawar is attached)

It is therefore very humbly prayed that on acceptance of this reply the order for enquiry under sub-section-3 & section 5 of police rules, 1975 may please be set aside, for further assistance the accused may please be allowed for personal hearing.

Shah Wali

Constable
Police Station Bara,
District Khyber.

18

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER



Annex-F
(Signature)

ORDER

As per reports of SHO Police Station Bara that Constable Shah Wali of PS Bara is involved in Case FIR # 163, dated 10/09/2020. U/s 302/353/186/324/7ATA PPC. Police Station Bara. Under Govt: Servants Service & Efficiency Rules 1975 the defaulter was issued a Show Cause Notice with the opportunity to be heard which was not availed.

In reply of the Show Cause notice the defaulter constable failed to submit any cogent reasons regarding the allegations leveled against him consequently a Charge Sheet with Summary of Allegations was issued & DSP/Hqrs Khyber was appointed as Enquiry Officer vide this office No. 2665/Khyber, dated 02/11/2020.

The Enquiry Officer in his finding report stated that the defaulter receive charge sheet and statement of allegations in reply of which he failed to satisfy the enquiry officer regarding his involvement in Case FIR No. 163. Furthermore, being a member of Discipline force. involvement in a murder case is a gross misconduct and liable to be dismissed from service.

Keeping in view the recommendations of the Enquiry Officer/available record the Constable Shahwali is hereby awarded major punishment of DISMISSAL FROM SERVICE with immediate effect.

(Signature)
DISTRICT POLICE OFFICER,
KHYBER

No. 1007 /PSO Khyber, dated Khyber

08 104 1202

Copies to all concerned for further necessary action.

Diary # 546/PA-CP

7-5-2021

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**before the Capital City Police Officer,
Peshawar.**

In Re: departmental Appeal No. _____/2021

Shah Wali S/o Sadar Azam

R/o Malik Din Khel, Tehsil Bara, District Khyber.

..... **Appellant**

Versus

The District Police Officer

District Khyber, Khyber Pakhtunkhwa.

..... **Respondent**

departmental Appeal under Section 11 of the
Police Rules, 1975 (Amendments-2014) NWFP
(now Khyber Pakhtunkhwa) along with all other
enabling laws against the impugned order dated
08.04.2021 passed by the Respondent, whereby
major punishment of dismissal from service with
immediate effect.

Respected Sir,

- That the appellant is a respectable citizen of Pakistan and is entitled to all the rights

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enshrined in the Constitution.
The Appellant was serving as
constable in the Police
department Khyber
Pakhtunkhwa district Khyber.

- That the Respondent is the administering staff and authority responsible for supervision, operation and management of Police in district Khyber.
- That appellant was performing his duty with zeal and dedication at Police Station Bara District Khyber as constable and was falsely charged in case FIR No. 163 dated: 10.09.2020, registered at Police Station Bara.

Copy of FIR No. 163, dated: 10.09.2020 at
Annex-A

- That after lodging of FIR, when the

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appellant was not even charged in the above mentioned FIR the respondent suspended the appellant along with stoppage of pay with immediate effect vide office order No. 2225-A dated: 11.09.2020.

Copy of office order No. 2225-A dated: 11.09.2020 at Annex-B

- That after suspension of appellant from service, formal enquiry was conducted against the appellant, whereby the appellant was charge sheeted. The appellant submitted his reply to the charge sheet and statement of allegation.

Copy of Charge Sheet at Annex-C

Copy of statement of allegation at Annex-D

Copy of appellant's reply at Annex-E

- That the Enquiry Officer submitted

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his report before the respondent and the respondent awarded major punishment of Dismissal from Service with immediate effect vide office order No. 1007/PSO-Khyber dated: 08.04.2021

Copy of office order No. 1007/PSO-Khyber dated: 08.04.2021 at Annex-F

- That feeling aggrieved and dissatisfied from the order dated: 08.04.2021 of Respondent, the appellant having no other efficacious remedy to avail except to approach this appellate authority, inter alia, on the following:

Grounds:

- That the appellant is a civil servant belonging to Police department and is aggrieved of the respondent's office order No. 1007/PSO Khyber dated: 08.04.2021 of



major punishment i.e. dismissal from service with immediate effect.

- That the appellant is not directly charged in FIR rather implicated after four days of alleged occurrence. It is pertinent to mentioned here that the appellant was charged after 4 days delay i.e. on 14.09.2020, in the above FIR, which shows malafide on the part of prosecution and astonishingly the appellant was arrested 3 days prior i.e. on 11.09.2020 without being charged.
- That similarly the bail application of the appellant is accepted by the Anti-Terrorism Court-II, Peshawar, where the prosecution could not establish a prima facie involvement with the alleged commission of offence of the appellant and the court established that it is a case of further enquiry vide order dated: 05.10.2020.

Copy of order dated: 05.10.2020 of Anti-terrorism Court-II, Peshawar at Annex-G



- That trial in the above mentioned FIR has been commenced and the involvement of appellant in the alleged commission of offence has not yet been proved/decided, while on the basis of mere allegations no one including appellant can be awarded major punishment. On the other hand in tentative assessment during bail stage the prosecution could not established a prima facie case against the appellant.
- That it is worth noticing that after issuance of show cause notice to the appellant, it was mandatory under the law that the opportunity of personal hearing shall be given but the respondent has not offered the said opportunity, which is against the law and fundamental rights of the appellant.
- That appellant has been rendering meritorious services having illustrious career, spreading over many years and have earned respect from his seniors in various moments, similarly the integrity of the appellant has never been called into question by anyone in the entire department.

That authority is to be exercised according to rational reasons which means that there be finding of primary facts based on good evidence, decisions about facts be made for reasons which serve the purpose of statute in an intelligent and reasonable manner. Actions which do not meet these threshold requirements are considered arbitrary and mis-use of power. It is further submitted that the object of good governance cannot be achieved without application of mind. Such objectives cannot be achieved by exercising discretionary powers unreasonably,

That the impugned action is violative of law laid down by the apex courts wherein it has been categorically held that dismissal from the service is a major punishment, therefore, major punishment shall be based not only on relevant law and rules but also to be based on some tangible material relating to merit and eligibility which could be lawfully taken note of. It is the duty of competent Authority to consider all the material to find out the actual facts of the case.





arbitrarily and without application of mind. Rather it can be achieved by following rules of justness, fairness and openness in consonance with command of Constitution.

- That the impugned action of the official Respondent is also repugnant to the Constitution of the Islamic Republic of Pakistan 1973 as the appellant has been treated discriminately by the Respondent and similarly appellant has been deprived of his lawful right, hence the impugned action of the Respondent is liable to be interfered with on the basis of law laid down by the Superior courts of Pakistan. Departmental Authorities are bound to decide the grievance of their subordinates with application of independent judicial mind, fairly, justly and with reasons and those reasons must be communicated to the concerned, whereas in the instant matter the Respondent has acted in sheer violation of natural justice and prescribe law.

Prayer: It is therefore, respectfully prayed that, on acceptance of this appeal the Honourable appellate

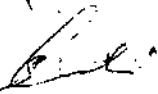
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(P)

authority may kindly direct.

- The impugned order dated: 08.04.2021 passed by Respondent may kindly be set aside.
- The appellant may kindly be reinstated with immediate effect with all back benefits of total absence /out of service period.

Appellant



Shah Wali

Constable
Police Station Bara,
District Khyber.

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Annex-9

B-A#154/20 ATCTP

Order No. 5
5.10.2020

1. My this single order is meant to dispose off all the four bail petitions Titled as "Muhibullah Vs State", "Irfan Vs State", "Shokat Vs State" and "Shah Wali Vs State" which are the outcome of one and the same case vide FIR no. 163 dated 10.9.2020 w/s 302/324/353/427/186/148/149 PPC read with section 7 of Anti-Terrorism Act, 1997 registered at PS Bara, District Khyber.

Annex B
10



2. After institution of the instant case, proper notice thereof was given to the State as well as complainant.

3. Brief facts of the Prosecution case as spelt out from the FIR are that One Sher Haider SI reported the matter that on the night of occurrence, he alongwith Constables Abdul Latif, Muhammad Younas and Masood Khan were present in vehicle no. 185, for the purpose of gasht/nakabandi, when they reached to the place of occurrence, in the meantime, a white Fielder motorcar bearing no. NH471, in which five unknown accused persons, duly armed with *Aslaha atisheen* were present who on seeing the police party, started indiscriminate firing. The police party also resorted to firing in exercise of their right of self defence. During

[Signature]
JUDGE
AND Terrorism Cell
Peshawar

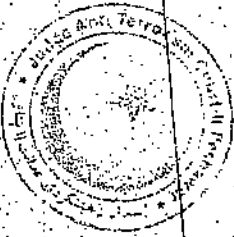
[Signature]
17-12-20

[2]

exchange of firing Constables Abdul Latif was hit and died on the spot. Whereas, constables Muhammad Younas, Masood Khan and Abdul Razik were got injured. The private motorcar no. 185 2D, which was in the possession of complainant was also hit and damaged. Hence, the case was registered against unknown accused persons.

3. Learned counsel for the accused/petitioners and learned PP for the state, assisted by private counsel for the complainant present. Arguments heard, file perused.

4. Perusal of record reveals that accused are not directly charged in the FIR rather they have been implicated in the instant case, after four days of the alleged occurrence by one injured PW namely Muhammad Younas on 14.9.2020. It is interesting to note that the accused were arrested on 11.9.2020, till then, they were not charged in the statement of any witness whomsoever for the commission of offence which shows the malafide on the part of Prosecution that the accused were arrested on 11.9.2020 without being charged in the instant case. Moreover, the alleged occurrence has taken place in perfect darkness



Handwritten signature and stamp of the High Court of Sindh, Hyderabad Bench.

Handwritten signature and date 17-12-23.

(12)

(12)

at 1950 hours. Coupled with the fact that in the FIR no general features of the accused i.e age, height, colour and complexion etc have been given. Beside that, after arrest of the accused, no identification parade has been conducted. Moreover, the injured PW namely Muhammad Younas has also not disclosed his source of information regarding involvement of other co-accused in the instant case, except Mohibullah SI who is alleged to have been identified. On the face of record, the case of accused/petitioners comes under the ambit of further enquiry within the meaning of subsection (2) of section 497 Cr.P.C. As such, the accused/petitioners are released on bail provided each of them furnishes bail bond in sum of Rupees three lacs Rs (3,00000/-) with two sureties each in the like amount and to satisfaction of this court. File be consigned to Record room after its completion and compilation



~~17-12-20~~
17-12-20

Announced:-
5.10.2020

(TARIQ YOUSAF ZAI)
Judge, A.J.C-II, Peshawar

~~28~~

Order No.
23.11.2020



23/11/2020
JANAB KHANA DIN
JANAB MOHIB ULLAH
JANAB SADDAR AZAM
JANAB IRFAN KHAN
JUDGE
~~Signature~~

1. Petitioners Khana Din s/o Ghulam Nabi and two others seek cancellation of bail of accused (I) Mohibullah s/o Raza khan, (II) Shah Wali s/o Sadder Azam, (III) Irfan s/o Khitab Gul FIR no. 163 dated 10.9.2020 u/s 302/ 324/ 353/ 427/ 186/ 148/ 149 PPC read with section 7 of Anti-Terrorism Act, 1997 registered at PS Bara, District Khyber.

2. Brief facts for the disposal of the instant petition are that accused named above are charged in the above mentioned case who were released on bail by this court, through single order dated 5.10.2020. The petitioners being the legal heirs of the victim has filed the instant petition for cancellation of bail on various grounds, the details of which are fully given in the petition which i do not deem it necessary to reiterate the same.

3. Learned counsel for the petitioners and learned counsel for the respondents/accused present. Arguments heard, file perused.

4. The perusal of record reveals that all the victims in the instant case are police officials, who at the relevant time of the occurrence, were on official duty under the Command of Sher Haider khan SI who soon after the occurrence, lodged the FIR against the

[2]

unknown accused persons. As far as the merit on which; the accused have been released on bail, is concerned, the same are fully given in the impugned order which do not need to be repeated. The pivotal point for consideration is that the accused were released on bail u/s 21-D of Anti-Terrorism Act, 1997 which is a special law. Needless to say that in section 21-D of ATA, no provision for cancellation of bail (like section 497(5) Cr.P.C), is available, on the strength of which, the court which has granted the bail itself can cancel the same. Therefore, I feel no hesitation to hold that this court has got no powers to review its own earlier order, being passed under section 21-D of Anti-Terrorism Act, 1997, Had the petitioner being aggrieved from the order of this court, the proper course and remedy left to them is to impugne the order of this court before the august Peshawar High Court Peshawar. Moreover, it is once again reiterated that the alleged occurrence had taken place in perfect darkness therefore no one was nominated in the FIR as an accused person. The malafide on the part of Prosecution is proved from the fact that the accused were arrested on 11.9.2020, till then they were not arrayed as an accused persons in



23/11/2020
 JUDGE
 ANTI-TERRORISM COURT-II PESHAWAR
 PESHAWAR HIGH COURT PESHAWAR

(22)

(15)

[3]

the instant case. It is on 14.9.2020 that some of the PWs, who after the arrest of the accused subsequently charged them in their statements. This fact alone brings the case of accused within the ambit of further enquiry within the meaning of Subsection (2) of section 497 Cr.P.C. It may be observed that the Principle laid down for grant of bail and for cancellation of bail are altogether different. Once bail is granted to an accused person then exceptional circumstances are required to recall the same. There is no such allegation against the accused that they after releasing on bail have either repeated the same kind of offence or have tempered with the prosecution evidence or have misused the concession of bail which are the prerequisite conditions for cancellation of bail and the same are fully lacking in the instant case. Moreover, State being a necessary party, has neither filed any BCA petition nor the State has been made as respondent. Therefore, in the given circumstances, this BCA being devoid of force, stand dismissed. File be consigned to Record room after its completion and compilation



Announced:-
23.11.2020

(TARIQ YOUSAF ZAI)
Judge, ATC-II, Peshawar.
Anti Terrorism Court
Peshawar

ANTI TERRORISM COURT
Peshawar Division Peshawar

27/11/2020

W A K A L A T N A M A**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BC-09-1400

Service Appeal No. _____/2021

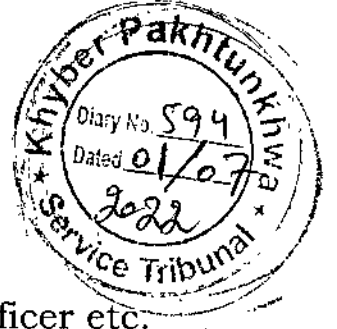
Shah Wali _____ (Appellant)**V E R S U S****District Police Officer & Others** _____ (Respondent)**I, Shah Wali S/o Sadar Azam R/o Malik Din Khel, Tehsil Bara,
District Khyber.****The above noted SERVICE APPEAL do hereby appoint and
constitute *Shah Faisal Ilyas Advocate High Court
and Federal Shariat Court of Pakistan* to appear. Plead, act,
compromise, withdraw or refer to arbitration to me/ us as my/
our Counsel in the above noted matter, I/ we also authorized
the said Counsel to file appeal, revision, review, application,
and make any miscellaneous application in Criminal/ Civil
matters or arising out of the matter and to withdraw and
receive in my/ our behalf all sums and amounts deposited on
my/ our account in the above noted matter.**

ATTESTED & ACCEPTED


Shah Faisal IlyasAdvocate High Court;
Peshawar
Office: 17-B, Haroon Mension
Khyber Bazar, Peshawar City.
Cell: 0300-5850207
CLIENT
Shah Wali

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No. _____/2022
In
Service Appeal No.7473/2021



Shah Wali Vs. District Police Officer etc.

APPLICATION FOR EARLY HEARING

Respectfully Sheweth:

1. That the above titled service appeal is pending adjudication before this Hon'ble Tribunal and is fixed for 05.09.2022.
2. That the comments and rejoinder are already placed on file and the case reached for final hearing.
3. That short law point is involved in the matter in hand because the applicant is acquitted by the learned trial court on the basis of set case dismissal from service.

It is, therefore, requested that the above titled appeal may kindly be fixed at an early date for just disposal.

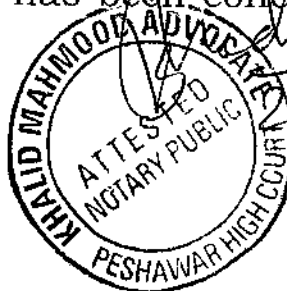
Through Applicant

Shah Faisal Ilyas
Advocate Supreme Court

Dated: 24.06.2022

AFFIDAVIT

It is stated on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



4-6-22
DEPONENT


KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

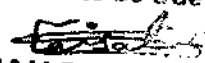
FORM 'A'

To be filled by the Counsel/Applicant

Case Number	Service Appeal No. 7473/2021		
Case Title	Shah wali v-s D.P.O etc		
Date of Institution			
Bench	SB <input checked="" type="checkbox"/>	DB <input type="checkbox"/>	
Case Status	Fresh <input type="checkbox"/>	Pending <input type="checkbox"/>	
Stage	Notice <input type="checkbox"/>	Reply <input type="checkbox"/>	Argument <input type="checkbox"/>
Urgency to clearly stated.	Short Short Last Point involve and case is ready in all respect		
Nature of the relief sought.	Early disposal		
Next date of hearing	05.09.2020		
Alleged Target Date	with in a week		
Counsel for	Petitioner <input checked="" type="checkbox"/>	Respondent <input type="checkbox"/>	In person <input type="checkbox"/>


Signature of counsel/party

Shah Faizal Ilyas

Certified to be true Copy

SHAH FAISAL ILYAS
Advocate Supreme Court

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing _____ -p/20 21

In case No. _____ -p/20 _____

Shah wali vs D.P.O and others

Presented by Shah Faizal Abbas on behalf of Appellant Entered in the relevant register.

Put up alongwith main case _____

Last date fixed	17.6.2022
Reason(S) for last adjournment, if any by the Branch Incharge.	Comments are submitted by The respondents
Date(s) fixed in the similar matter by the Branch Incharge	—
Available dates Readers/Assistant Registrar branch	NFA

Assistant Registrar

13/7/22

REGISTRAR

Registered

13/7/2022

1

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRINUNAL, PESHAWAR.**

7473
Service Appeal No. 7473-P/2021.

Shah Wali (Appellant)

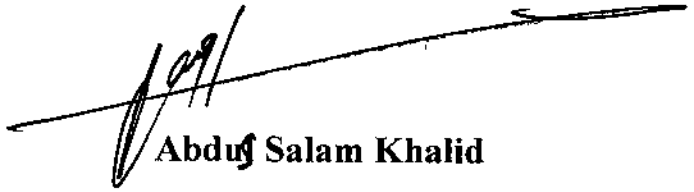
Versus

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

INDEX

S.No.	DESCRIPTION OF DOCUMENTS	ANNEXURE	S. NO. OF PAGES
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4.	Para wise Comments	-	4 to 6
5.	FIR	A.	7
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DEPONENT



Abdul Salam Khalid

SP Investigation

CNIC No #37405-1672536-7

Mobile# 0300-5946190

2

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRINUNAL, PESHAWAR.**

Service Appeal No. ⁷⁴⁷³~~7489~~-P/2021.

Shah Wali (Appellant)

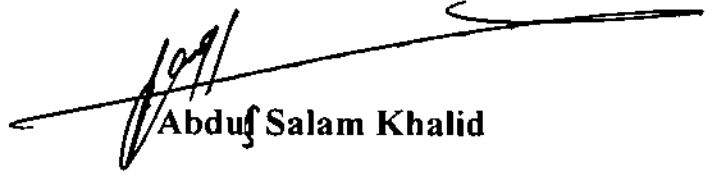
Versus

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

AFFIDAVIT.

I, Abdul Salam Khalid SP Investigation Khyber, do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of District Police Officer Khyber are correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Court.

DEPONENT



Abdul Salam Khalid


SP Investigation

CNIC No #37405-1672536-7

Mobile# 0300-5946190

~~ADVOCATE GENERAL~~

~~ADVOCATE GENERAL
KHYBER PAKHTUNKHWA
PESHAWAR~~


ATTESTED
(Miss Rozina Qureshi)
Advocate
OATH COMMISSIONER
Judicial Complex Peshawar

21 - 06 - 2022.



**OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER**



AUTHORITY LETTER

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

**(IMRAN KHAN) PSP
DISTRICT POLICE OFFICER,
KHYBER.**

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 7473-P /2021.

Shah Wali (Appellant)

Versus

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

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

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 379

Dated 21-6-2022

PRELIMINARY OBJECTION:-

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

FACTS:

- 1. Pertains to appellant service Record
- 2. Correct, however respondents are doing every act according to rules, regulations and in the ambit of law.
- 3. Incorrect, appellant while posted at PS Bara, involved in Case FIR No.163 dated 10/09/2020 u/s 302-353-186-324-7ATA, registered at Police Station Bara. Furthermore, being a member of Discipline force involvement in a murder Case is a gross misconduct, hence dismissed from Service on account of involvement in Criminal Case. (Annexure A, FIR and, B i.e. dismissal Order)
- 4. Incorrect, the act of delinquent officer/ Appellant falls within the ambit of gross misconduct and liable to be proceeded under police Rules 1975 however, Appellant was involved in Case FIR No.163 Dated 10/09/2020 u/s 302-353-186-7ATA PPC, Police Station Bara, under Govt: Servants Service and efficiency rules 1975, the appellant was issued Charge sheet and summary/statement of allegation with the opportunity to be heard which was not availed. Moreover, being a member of Discipline Force

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- involvement in a murder case is a gross misconduct, hence stoppage of pay occurred. (Annexure C Charge sheet D summary statement of allegation)
5. Incorrect, proper departmental proceeding initiated against the appellant constable Shah Wali and Muhammad Nawaz DSP hqrs Khyber was nominated as an Enquiry officer, the delinquent constable was issued Charge sheet and summary/statement of allegation but he failed to submit any cogent reasons regarding the allegations leveled against him. Furthermore, being a member of Discipline force involvement in a murder Case is a gross misconduct and liable to be dismissed from Service. (Annexure E enquiry report).
 6. Pertains to record of departmental proceedings, the enquiry officer submitted his findings report to Respondent No.1.
 7. Incorrect, order No. 1168-72/PA dated Peshawar the 18/04/2022 has issued from the office of Respondent No.2 in correction of Departmental Appeal filed by appellant. (As annexure F)
 8. Incorrect, the Appeal of the Appellant is and maintainable therefore, the instant Appeal may kindly be dismissed on the following grounds.

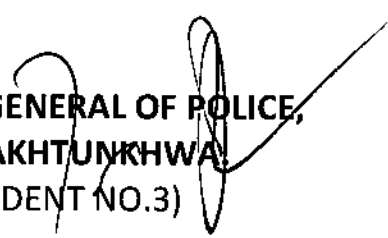
GROUND:

- A. Incorrect, appellant while posted at PS Bara, involved in Case FIR No.163 dated 10/09/2020 u/s 302-353-186-234-7ATA, registered at Police Station Bara. Furthermore, being a member of Discipline force involvement in a murder Case is a gross misconduct, hence dismissed from Service on account of involvement in Criminal Case.
- B. Incorrect, as already explained in the Preceding Paras.
- C. Pertains to record of court. Appellant has been given bail by the Anti-terrorism court, but appellant being a member of police department involvement in a criminal case is a heinous offence like murder and the Case is still pending in trial Court, and no acquittal has been made so far.
- D. Incorrect, as already explained in the preceding Paras. Appellant made a fake and mala-fide story for his innocence in the Criminal case.
- E. Incorrect. As already explained in Para 4 and 5.
- F. Incorrect, the dismissal order of appellant was passed in accordance with rules and regulations.
- G. Incorrect as already explained in Para 4 and 5.
- H. Pertains to petitioner service record.
- I. Incorrect, as already explained in the preceding Paras, no injustice or illegality has been done with the appellant.
- J. Respondents may be allowed to raise other grounds at the time of arguments.

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PRAYER:

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


**INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
(RESPONDENT NO.3)**


**CAPITAL CITY POLICE OFFICER,
PESHAWAR.
(RESPONDENT NO.2)**


**DISTRICT POLICE OFFICER,
KHYBER.
(RESPONDENT NO.1)**

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع خیبر

تھانہ باڑہ

تاریخ وقت وقوعہ 10/09/2020 وقت 19:50 بجے

علت نمبر 163

تاریخ وقت رپورٹ	10/09/20 وقت 20:35 بجے چاکیڈگی پرچہ 10/09/20 وقت 20:50 بجے
نام و سکونت اطلاع دہندہ مستغیث	شیر حیدر خان SI انچارج چوکی تکیہ قمر خیل
مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو	PPC 302, 353, 186, 324, 7ATA, 427, 148, 149
جائے وقوعہ فاصلہ تھانہ سے اور سمت	کچھ راستہ کراول پہاڑ قمر خیل جانب غرب بفاصلہ 7/8 کلومیٹر تھانہ
نام و سکونت ملزم	
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وجہ بیان کرو	مراسلہ موصول ہونے پر مقدمہ درج رجسٹر کیا جاتا ہے
تھانہ سے روانگی کی تاریخ و وقت	بطور پیش رپورٹ

(ابتدائی اطلاع نیچے درج کرو)

بوقت صدر مراسلہ منجانب شیر حیدر خان SI انچارج چوکی تکیہ قمر خیل سے بدست کنسٹیبل ابراہیم موصول ہو کر درج ذیل ہے، بخدمت SHO صاحب تھانہ باڑہ، میں معہ کنسٹیبلان عبداللطیف، محمد یونس، مسعود خان بسواری 2-D موٹر کار 185 پرائیوٹ بسلسلہ تا کہ بندی بوقت وقوعہ جائے وقوعہ پر پہنچ کر میں معہ نفری پولیس گاڑی پرائیویٹ میں موجود تھا کہ اس دوران ایک م وٹر کار فیلڈ نمبر NH475 برنگ سفید آتے ہوئے جس میں پانچ ملزمان مسلح بہ اسلحہ آتشیں موجود تھے آتے ہوئے پولیس پارٹی کو دیکھتے ہوئے پولیس پارٹی پر موٹر کار پرائیویٹ پر بہ ارادہ قتل فائرنگ کرتے ہوئے گاڑی کی لائٹ سے ملزمان بسواری موٹر کار نمبری NH475 برنگ سفید کی شناخت کر کے فرار ہوئے، نتیجہ کے طور پر ملزمان نامعلوم کی فائرنگ سے کنسٹیبل عبداللطیف شہید ہوا، اور کنسٹیبلان محمد یونس، مسعود خان، عبدالرزاق ولد علی اکبر ساکن قمر خیل زخمی ہوئے، اور موٹر کار پرائیویٹ نمبر 2-D نمبر 185 کو گولیاں لگنے سے نقصان پہنچا ہے زخمی کنسٹیبلان عبدالرزاق کو فوری طور پر بغرض علاج معالجے HMC پشاور روانہ کئے گئے ہیں، شہید کنسٹیبل عبداللطیف کا علیحدہ فرد صورت و نقشہ ضرر مرتب کر کے زخمت بر مطابق فرد صورت حال، نقشہ ضرر پائے جا کر بغرض پوٹھارٹم زیر حفاظت کنسٹیبل نسیم خان ڈوگرہ ہسپتال باڑہ بھجوا یا جاتا ہے، مراسلہ جرم بالا بغرض قائمی مقدمہ بدست کنسٹیبل ابراہیم ارسال تھانہ ہے، مجاز انوسٹی گیشن ایفسر کو مامور تفتیش کیا جائے دیگر نفری برائے امداد پہنچ چکی ہے، افسران بالا SHO صاحب کو بروقت اطلاع دی گئی ہے میں معہ نفری پولیس کے بغرض تلاش پتہ براری ملزمان روانہ علاقہ ہوں، دستخط انگریزی شیر حیدر خان SI انچارج چوکی تکیہ تھانہ باڑہ 10/09/20 کارروائی تھانہ آمدہ مراسلہ حرف بہ حرف درج بالا ہو کر پرچہ جرم بالا رجسٹر کیا، نقل پرچہ معہ مراسلہ بغرض تفتیش عقب ثار خان انسپکٹر انوسٹی گیشن بھجوا یا جاتا ہے، پرچہ بطور پیش رپورٹ گزارش ہے۔

Attended
S.D.P.O
HEAD QUARTERS
KHYBER

فارم نمبر ۲۳-۱۵

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۳ مجموعہ ضابطہ فوجداری

ضلع	سیارو
تاریخ وقوع	14
تاریخ وقت رپورٹ	163
نام و سکونت اطلاع دہندہ مستفیث	تاریخ وقت وقوع ۱۵/۹/۲۰۱۱
مختصر کیفیت جرم (معرّفہ) حال اگر کچھ لیا گیا ہو۔	۱۵/۹/۲۰۱۱
جائے وقوع حاصل تھا نہ دست اور دست	۱۵/۹/۲۰۱۱
نام و سکونت ملزم	۱۵/۹/۲۰۱۱
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو۔	۱۵/۹/۲۰۱۱
تھانہ سے روانگی کی تاریخ و وقت	۱۵/۹/۲۰۱۱

وقت وقوع ۱۵/۹/۲۰۱۱
وقت ۱۵/۹/۲۰۱۱
۱۵/۹/۲۰۱۱
۱۵/۹/۲۰۱۱
PR 302-353-186-324-۱۱۳۸-427-148-149

ابتدائی اطلاع نیچے درج کر دو۔ بطور سبب رپورٹ

نوٹ: صدر اس کے مطالب شہر خد خان کی ایجنسی کی جو کہ ایک دفعہ قریب سے ایک ایجنسی کے پاس سے اسے دیکھا گیا ہے۔
۵۸۰
۲-۵
NH 475
SHO

Accepted
S.D.P.O.
HEAD QUARTERS
KHYBER

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER



Amx (B)
(B)

ORDER

As per reports of SHO Police Station Bara that Constable Shah Wali of PS Bara is involved in Case FIR # 163, dated 10/09/2020, U/s 302/353/186/324/7ATA PPC, Police Station Bara. Under Govt: Servants Service & Efficiency Rules 1975 the defaulter was issued a Show Cause Notice with the opportunity to be heard which was not availed.

In reply of the Show Cause notice the defaulter constable failed to submit any cogent reasons regarding the allegations leveled against him consequently a Charge Sheet with Summary of Allegations was issued & DSP/Hqrs Khyber was appointed as Enquiry Officer vide this office No. 2665/Khyber, dated 02/11/2020.

The Enquiry Officer in his finding report stated that the defaulter receive charge sheet and statement of allegations in reply of which he failed to satisfy the enquiry officer regarding his involvement in Case FIR No. 163. Furthermore, being a member of Discipline force, involvement in a murder case is a gross misconduct and liable to be dismissed from service.

Keeping in view the recommendations of the Enquiry Officer/available record the Constable Shahwali is hereby awarded major punishment of DISMISSAL FROM SERVICE with immediate effect.

Amx

DISTRICT POLICE OFFICER,
KHYBER

No. 1007 /PSO Khyber, dated Khyber

08 104 2020

Copies to all concerned for further necessary action.

Attested
o/c
S.D.P.O
HEAD QUARTERS
KHYBER



DSP/HEAD QUARTERS KHYBER



AWA (E)
11

"ENQUIRY REPORT"

Case in Brief:

As per report of SHO PS Bara, Constable Shahwali of PS Bara is involved in Case FIR registered Vide No. 163. Dated 10/09/2020, u/s 302/353/186/324/7ATA at Police Station Bara.

Departmental Proceedings:

The defaulter constable was issued Show Cause vide this office 2279, dated 15/09/2021 which not received by the defaulter constable. Afterwards Charge Sheet with summary of allegations was served upon him vide this office No. 2665/Khyber, dated 02/11/2020 in reply of which he submitted a written statement was submitted wherein he denied the allegations.

Conclusion:

During the course of enquiry it was learned that the defaulter constable remained involved in criminal activities. The stance taken in his statement is not satisfactory as the case is still under investigation. Furthermore, involvement in criminal cases of Police Personnel shall not be tolerated.

Recommendation:

It is recommended that the defaulter constable may be awarded major punishment in order to get rid of criminals exists in the department.

Submitted, please.

MUHAMMAD NAWAZ,
DSP HQRs, Khyber

Attended

S.D.P.O.
HEAD QUARTERS
KHYBER



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Ana (12)

ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Shah Wali s/o Sadar Azam , who was awarded the major punishment of "Dismissal from service" under PR-1975 by District Police Officer Khyber vide No.1007/PSO Khyber, dated 08-04-2021.

2- Short facts leading to the instant appeal are that the appellant while posted at Police Station Bara District Khyber was proceeded against departmentally on the charges of his involvement in a criminal case vide FIR. No.163 dated 10.09.2020 u/s 302/353/186/324/7-ATA PPC Police station Bara.

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

4- He was heard in person in O.R and the relevant record along with his explanation perused. During personal hearing the appellant failed to submit any plausible explanation in his defence. Although the Court of ATC-II Peshawar has acquitted him of the allegations on the benefit of doubt, but on the other hand a Police Constable was martyred and the other was injured who charged him to be involved in the attack. His involvement in the criminal case cannot be ruled out, as pointed out by the inquiry officer. Therefore, keeping in view his involvement in criminal case, the appeal of the appellant for setting aside the punishment awarded to him by District Police Officer Khyber vide order No. 1007/PSO, dated 08.04.2021 is hereby **rejected/filed**

R-I
over / PO / Pw

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

No. 1168-72 /PA dated Peshawar the 18/04/2022

Copies for information and necessary action to the :-

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

Attested
S.D.P.O
HEAD QUARTERS
KHYBER

1299
20-4-22