


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)

28.03.2022

Counsel 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

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

23.11.2021


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

Learned counsel for the appellant argued that the instant service appeal has been filed against the impugned order dated 08.04.2021 whereby the appellant was dismissed from service. He submitted departmental appeal which was not responded within the stipulated statutory period, hence, the instant service appeal before the Service Tribunal on 21.09.2021.

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 the respondents for submission of written reply/comments. To come up for written reply/comments on 26.01.2022 before S.B.

Appellant Deposited
Security & Process Fee


05/12/21


(Mian Muhammad)
Member(E)

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)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7469 /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. Muhibullah Khan 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>23/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Mohibullah Khan SI son of Raza Khan 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/marked 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. 1877 /S.T,

Dt. 21/09 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shah Faisal Ilyas Adv. Pesh.

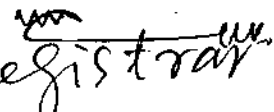
Respected Sir
All objections are
clarify and file resubmitted

8 Thanks

~~Faisal~~
Objection no. 7 is still stand.
Therefore, the present appeal is
returned to the counsel for the
appellant for completion and
resubmission within 15 days.

no. 1903 /S.T

dt. 24/09 /2021


Registrar

Respected Sir:- The searched document
are not available with APPellate there
for file resubmitted.

Thanks

Faisale

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. 7469/2021

Mohib Ullah Khan(Appellant)

V E R S U S

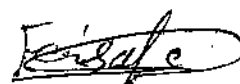
District Police Officer, District Khyber, Khyber Pakhtunkhwa
and others.....(Respondents)

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	11-12
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	14-15
7.	Copy of office order No. 1010/PSO-Khyber dated: 08/04/2021	D	16-17
8.	Copy of departmental appeal	E	18-22
9.	Copy of order dated: 05.10.2020 of Anti Terrorism Court-I, Peshawar	F	23-28
10.	Wakalat Nama		29

Appellant

Through



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

Dated: 22/09/2021

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

Service Appeal No. _____/2021

Mohib Ullah Khan, SI, S/O Raza Khan R/o Cast. Malik Din
Khel, Soor Dhand, Khajori, P.O. 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.**

PRAYER IN SERVICE APPEAL:

*On acceptance of this appeal, the impugned
order dated 08/04/2021 may graciously be set*

aside and direct the respondents to reinstate the appellant with all back benefits.

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

Respectfully Sheweth:

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

1. The Appellant was serving as Sub Inspector (S.I) 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. 1010/PSO-Khyber dated: 08/04/2021. (Copy of office order No.

4

1010/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:

- A. That the appellant is a civil servant belonging to Police department and is aggrieved of the respondent's office order No. 1010/PSO Khyber dated: 08.04.2021 of major punishment i.e. dismissal from service with immediate effect.

- B. That appellant has not been directly charged in case FIR rather implicated after four days of alleged occurrence. It is pertinent to mention here that the appellant was charged on 14.09.2020 while the appellant 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.
- C. That bail application of the appellant is accepted by the Anti Terrorism Court-II Peshawar where the prosecution could not established a prima facie case against the appellant and the court established that it is a case of further inquiry. (Copy of order dated 05.10.2020 of ATC-II, Peshawar is attached as annexure "F").
- D. That father of appellant passed away and for the Charity (Khairat) of deceased father of appellant was taking away rice etc to appellant's home while on the way to appellant's home, appellant received a call from SHO Akbar Khan stated that our police

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

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 rights, 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 prescribed law.

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

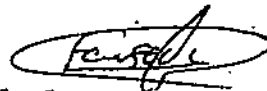
8

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



Shah Faisal Ilyas
Advocate High Court,
Peshawar.

Dated: 22/09/2021

9

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. _____/2021

Mohib Ullah Khan(Appellant)

V E R S U S

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

AFFIDAVIT

I, Mohib Ullah Khan, SI, S/O Raza Khan R/o Cast Malik
Din Khel, Soor Dhand, Khajori, P.O. 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.



DEPONENT

10

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

Service Appeal No. _____/2021

Mohib Ullah Khan(Appellant)

V E R S U S

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

ADDRESSES OF THE PARTIES

APPELLANT:

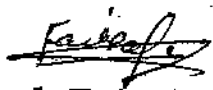
Mohib Ullah Khan, SI, S/O Raza Khan R/o Cast Malik Din
Khel, Soor Dhand, Khajori, P.O. Bara, District Khyber

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


Shah Faisal Ilyas
Advocate High Court,
Peshawar.

Dated: 22/09/2021

فارم نمبر ۲۳-۱۵ (۱)

ابتدائی اطلاعی رپورٹ

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

ضلع	سیارہ
تاریخ	14
وقت وقوع	10:29 وقت 1950
تاریخ وقت رپورٹ	10:30
نام و سکونت اطلاع دہندہ متقاضی	مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔
مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔	جائے وقوعہ حاصل تھا نہ سے اور دست
نام و سکونت لازم	نام و سکونت لازم
کارروائی جو تفتیش سے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	تھانہ سے روانگی کی تاریخ و وقت

ابتدائی اطلاع نیچے درج کردہ بطور سینٹیل رپورٹ

ابتدائی اطلاع کے مطابق پتہ 302-353-186-324-ATA-427-148-144 پر واقعہ ہو گیا ہے۔
 10:29 بجے اطلاع دہندہ نے اطلاع دی کہ پتہ 302-353-186-324-ATA-427-148-144 پر واقعہ ہو گیا ہے۔
 اطلاع دہندہ کے نام محمد علی احمد ہے۔
 اطلاع دہندہ نے اطلاع دی کہ پتہ 302-353-186-324-ATA-427-148-144 پر واقعہ ہو گیا ہے۔
 اطلاع دہندہ نے اطلاع دی کہ پتہ 302-353-186-324-ATA-427-148-144 پر واقعہ ہو گیا ہے۔

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

حالت نمبر 163

تاریخ و وقت رپورٹ	10/09/20 وقت 20:35 بجے چاکیدگی پر 10/09/20 وقت 20:50 بجے
نام و سکونت اطلاع دہندہ مستغیث	شیر حیدر خان SI انچارج چوکی تکیہ قرخیل
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 قرخیل جانب غرب بقاصلہ 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 قرخیل سے بدست کنستبل ابراہیم موصول ہو کر درج ذیل ہے، بخدمت SHO صاحب تھانہ باڑہ، میں معہ کنستبلان عبدالطیف، 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 پرائیوٹ میں موجود تھا کہ اس دوران ایک م موٹر کار فیلڈر 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 پرائیوٹ 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 نامعلوم کی فائرنگ سے کنستبل عبدالطیف شہید ہوا، اور کنستبلان محمد یونس، مسعود خان، عبدالرزاق ولد علی اکبر ساکن قرخیل زخمی ہوئے، اور موٹر کار پرائیوٹ نمبر 2-D نمبر 185 کو گولیاں لگنے سے نقصان پہنچا ہے زخمی کنستبلان عبدالرزاق کو فوری طور پر بغرض علاج معالجے HMC پشاور روانہ کئے گئے ہیں، شہید کنستبل عبدالطیف کا علیحدہ فرد صورت و نقشہ ضرر مرتب کر کے زخمات بمطابق فرد صورت حال، نقشہ ضرر پائے جا کر بغرض پوسٹارٹم زیر حفاظت کنستبل نسیم خان ڈوگرہ ہسپتال باڑہ بھجوا یا جاتا ہے، مراسلہ جرم بالا بغرض قائمی مقدمہ بدست کنستبل ابراہیم ارسال تھا نہ 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 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 اسپیکٹر انوسٹی گیشن بھجوا یا جاتا ہے، پرچہ بطور پیش رپورٹ گزارش ہے۔

13
OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER



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 F-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.

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, 7ATA 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.

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 inquiry.

15 A

(Copy of Order dated 05.10.2020 of Anti Terrorism Court-II, Peshawar is attached).

My father passed away and for the Charity (Khairat) of my deceased father I was taking away rice etc to my home while on the way to my home I received a call from SHO Akbar Khan stated that our police party have been injured by firing and asked me to return as I reached to the hospital I came to know that an incident took place and for the same incident I have been fraudulently implicated.

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

Muhibuallah

Constable
Police Station Bara,
District Khyber.

(Better Copy)

105 17

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER

ORDER

As per reports of SHO Police Station Bara that Constable Mohibullah S/o Raza Khan MDK involved in Case F.I.R # 163, dated 10/09/2020. U/s 302/ 353/ 186/ 324/ 7ATA PPC, Police Station Bara, Under Govt: Servant 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 as 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 inquiry 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 form 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.

DISTRICT POLICE OFFICER,
KHYBER

No. 1007/PSO Khyber, dated Khyber

08/04/2021

Copies to all concerned for further necessary action

Mag# 547/PA-KP

7-5-2021

DT 18

BEFORE THE CAPITAL CITY POLICE OFFICER, PESHAWAR

In re: departmental appeal No. _____/2021

Mohib Ullah Khan, S.I. s/o Raza Khan
R/o caste Malik Din Khel, Soor Dhand, Khajori,
P.O. 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,

- 1) That the appellant is a law abiding citizen of Pakistan and is entitled to all the rights enshrined in the Constitution. The appellant was serving as Sub Inspector in the police department Khyber Pakhtunkhwa District Khyber.
- 2) That the respondent is the administrating staff and authority responsible for supervision, operation and management of Police in District Khyber.

- 19
- 3) That the appellant was performing his duty with zeal and dedication at police station Bara, District Khyber as S.I. and was falsely charge in case FIR No.163 dated 10.09.2020 registered at police station Bara. (Copy of FIR No.163, dated 10.09.2020 at 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 11.09.2021 at Annex: "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 is Annexure "C", statement of allegation is Annex: "D" and reply of appellant is Annex: "E").
 - 6) That the inquiry office submitted his report before the respondent and the respondent awarded major punishment of dismissal from service with immediate effect vide office order No.1010/PSO Khyber dated 08.04.2021. (Copy office order No.1010/PSO Khyber dated 08.04.2021 is Annex: "F").
 - 7) 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:

GROUND:

- a. That the appellant is a civil servant belonging to Police Department and is aggrieved of the respondent's office order No.1010/PSO Khyber dated 08.04.2021 of major punishment i.e. dismissal from service with immediate effect.

BR 20

- b. That appellant has not been directly charged in case FIR rather implicated after four days of alleged occurrence. It is pertinent to mention here that the appellant was charged on 14.09.2020 while the appellant 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.
- c. That bail application of the appellant is accepted by the Anti Terrorism Court-II Peshawar where the prosecution could not established a prima facie case against the appellant and the court established that it is a case of further inquiry. (Copy of order dated 05.10.2020 of ATC-II, Peshawar is attached).
- d. That father of appellant passed away and for the Charity (khairat) of deceased father of appellant was taking away rice etc to appellant's home while on the way to appellant's home, appellant received a call from SHO Akbar Khan stated that our police party have been injured by firing and asked me to return as I reached to the hospital I came to know that an incident took place and for the same incident I have been fraudulently implicated.
- e. That no proper procedure has been adopted while passing the impugned order, hence liable to be set aside.
- f. That the impugned order is against law and facts, hence liable to be set aside.
- g. That it is worth to mention here 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.
- h. 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

12

The appellant has never been called to court, as shown by evidence in the minutes of court.

The fact that the appellant is also a respondent in the appeal is also apparent from the Constitution of the Islamic Republic of Pakistan, 1973. The appellant has been treated discriminatorily by the respondent and the appellant's appeal in this regard is a violation of his fundamental rights. The respondent is liable to be interested with an appeal of law laid down by the superior courts of Pakistan. Departmental authorities are bound to decide the questions of their jurisdiction with application of law, facts and equity. Justly and with regard to the appellant's appeal, the respondent has acted in a manner which is in violation of the law. The respondent has acted in a manner which is in violation of the law.

It is, therefore, respectfully prayed that on consideration of the facts and circumstances of the case, the respondent be ordered to pay the appellant's expenses of the appeal and the appellant be reinstated in service with all benefits, in order to meet the ends of justice.

Yours faithfully,

Mohib Ullah Khan
(S) Police Station Bara
District Khyber
C.M.C No 21201-9802146-1
Cell 033-260172

Date:

22

(Copy of Order dated 05.10.2020 of Anti Terrorism Court-II, Peshawar is attached).

My father passed away and for the Charity (Khairat) of my deceased father I was taking away rice etc to my home while on the way to my home I received a call from SHO Akbar Khan stated that our police party have been injured by firing and asked me to return as I reached to the hospital I came to know that an incident took place and for the same incident I have been fraudulently implicated.

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

Muhibuallah

Constable,
Police Station Bara,
District Khyber.

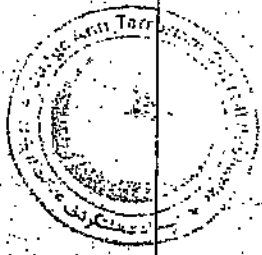
~~22~~ 23

[1] B.A #154/20 ATCT/P

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 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.

Am X
11B
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 along with Constables Abdul Latif, Muhammad Younas and Masaoob 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

[Handwritten signature]
JUDGE
Anti Terrorism Court
Peshawar

[Handwritten signature]
17-12-20

24

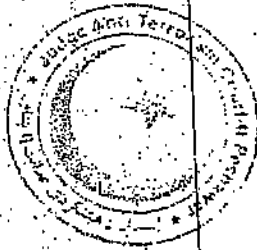
23

(11)

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



~~11~~
 District and Sessions Judge
 Peshawar

~~AB~~

17-12-20

24 25

at 1950 hours. Coupled with the fact that in the FIR no. ~~(X)~~ 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



~~Signature~~
17-12-20

Announced:-
5.10.2020

~~Signature~~
TARIQ YOUSAF ZAI
Judge, ATC-II, Peshawar

26

25

MIC
~~177~~

Order No.
23.11.2020



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 Saddar 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 P\$ 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

23/11/2020
JUDGE
Anti Terrorism Court-II
Faisalabad

27

26

[2]

14

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



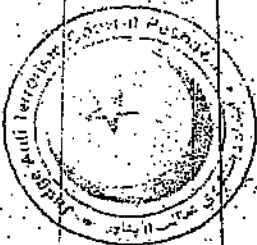
23/11/2021
 Peshawar
 2021
 11/11/2021

28

27

(18)

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. Moreover, the role attributed to the present accused/petitioner is also at par with that of co-accused Mohibullah etc who were granted bail vide order of this court dated 5.10.2020 therefore, under the rule of consistency, the present accused/petitioner is also entitled for the concession of bail. 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.



ARTIST

[Handwritten signature]
 27/11/2020

Announced:-
 23.11.2020

[Handwritten signature]
(TARIQ YOUSAF ZAI)
 Judge, ATC II, Peshawar
 Peshawar

22 29

WAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BC-09-1400

Service Appeal No. _____/2021

Mohib Ullah Khan

_____ (Appellant)

V E R S U S

District Police Officer & Others

_____ (Respondent)

I, Mohib Ullah Khan S/o Raza Khan 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 Ilyas

Advocate High Court,
Peshawar

Office: 17-B, Haroon Mension
Khyber Bazar, Peshawar City.

Cell: 0300-5850207


CLIENT

Mohib Ullah Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No. _____/2022
In
Service Appeal No.7469/2021



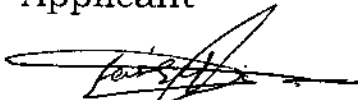
Muhib Ullah Khan Vs. District Police Officer etc.

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.

Applicant
Through 
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.



DEPONENT

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'A'

To be filled by the Counsel/Applicant

Case Number	Service Appeal No. 7469/2021		
Case Title	Muhib Ullah v.s D.P.O Etc		
Date of Institution			
Bench	SB <input checked="" type="checkbox"/>	DB <input checked="" type="checkbox"/>	
Case Status	Fresh	Pending <input checked="" type="checkbox"/>	
Stage	Notice	Reply <input checked="" type="checkbox"/>	Argument
Urgency to clearly stated.	Short law point involve and case is ready in all respect		
Nature of the relief sought.	05.09.2022 Early disposal		
Next date of hearing	05.09.2022		
Alleged Target Date	within a week		
Counsel for	Petitioner <input checked="" type="checkbox"/>	Respondent	In person

Shah Faizal Ilyas

Signature of counsel/party

Shah Faizal Ilyas
Advocate Supreme Court
of Pakistan

Certified to be true Copy

Shah Faizal Ilyas

SHAH FAISAL ILYAS
Advocate Supreme Court

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing _____ -p/2021

In case No. 746/19 -p/2021

Mehib Ullah vs D.P.O and others

Presented by Shah Faizal ilgy ASC on behalf of Applicant. Entered in the relevant register.

Put up alongwith main case _____

Last date fixed	<u>17-6-2022</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	<u>Comments submitted by the Respondent</u>
Date(s) fixed in the similar matter by the Branch Incharge	<u>-</u>
Available dates Readers/Assistant Registrar branch	<u>NFA</u>

MU
13/7/22
Assistant Registrar

REGISTRAR

Regretted

13/7/2022

(11)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRINUNAL, PESHAWAR.

Service Appeal No. 7469-P/2021.

Muhib Ullah (Appellant)

Versus

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

INDEX

S.No.	DESCRIPTION OF DOCUMENTS	ANNEXURE	S. NO. OF PAGES
1.	Index	-	1
2.	Affidavit	-	2
3.	Authority Letter	-	3
4.	Para wise Comments	-	4 to 6
5.	FIR	A.	7
6.	Dismissal Order	B.	8
7.	Charge Sheet	C.	9
8.	Summary statement of allegation	D.	10
9.	Enquiry Report	E.	11
10.	Order No.1163-67/PA	F.	12
#	Total Pages	-	12

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. 7469-P/2021.

Muhib Ullah..... (Appellant)

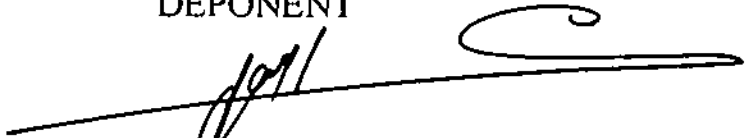
Versus

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

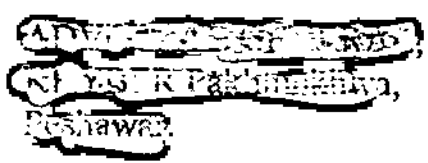
CNIC No #37405-1672536-7

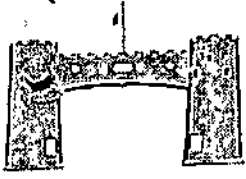
Mobile# 0300-5946190

ATTESTED

(Miss Rozina Qureshi)
Advocate
OATH COMMISSIONER
Judicial Complex Peshawar

21 - 06 - 2022





OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER



3

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 TRINUNAL, PESHAWAR.

Service Appeal No.7469-~~P~~/2021.

Muhib Ullah..... (Appellant)

Versus

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

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

RESPECTFULLY SHEWETH:

Diary No. 378
Dated 21-6-22

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, the 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

- (5)
- 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 Muhib Ullah 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. Consequently a charge sheet with summary of allegations was issued but in reply 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.(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. 1163-67/PA dated Peshawar the 18/04/2022 was issued from the office of Respondent No.2 in connection of Departmental Appeal filed by appellant. (As annexure F).
 8. Incorrect, the Appeal of the Appellant is not 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 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.

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 چاکیدگی 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 بقا صلا 7/8 کلومیٹر از 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 کنستبل ابراہیم موصول ہو کر درج ذیل ہے، بخدمت SHO صاحب تھانہ باڑہ، میں معہ کنستبلان عبدالطیف، محمد یونس، مسعود خان بسواری 2-D موٹر کار 185 پرائیوٹ بسلسلہ ناکہ بندی بوقت وقوعہ پر پہنچ کر میں معہ نفری پولیس گاڑی پرائیوٹ 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 پرائیوٹ 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 کنستبل عبدالطیف شہید ہوا، اور کنستبلان محمد یونس، مسعود خان، عبدالرزاق ولد علی اکبر ساکن قمر خیل زخمی ہوئے، اور موٹر کار پرائیوٹ نمبر 2-D نمبر 185 کو گولیاں لگنے سے نقصان پہنچا ہے زخمی کنستبلان عبدالرزاق کو فوری طور پر بغرض علاج معالجے HMC پشاور روانہ کئے گئے ہیں، شہید کنستبل عبدالطیف کا علیحدہ فرد صورت و نقشہ ضرر مرتب کر کے زخمت برطابق فرد صورت حال، نقشہ ضرر پائے جا کر بغرض پوسٹ مارٹم زیر حفاظت کنستبل نسیم خان ڈوگرہ ہسپتال باڑہ بھجوا یا جاتا ہے، مراسلہ جرم بالا بغرض قانچی مقدمہ بدست کنستبل ابراہیم ارسال تھانہ ہے، مجاز انوسٹی گیشن ایفیسر 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 مجرم بالا رجسٹر کیا، نقل پرچہ معہ مراسلہ بغرض تفتیش عقب ثار خان اسپیکر انوسٹی گیشن بھجوا یا جاتا ہے، پرچہ بطور پیش رپورٹ گزارش ہے۔

A Husted

REPORTERS
R

گورنمنٹ ہسپتال لاہور ہائیکورٹ کے فیصلے کی رو سے 228613 نمبر شدہ پروٹوکول کے تحت 20.06.2011ء کو (8) نمبر پر

Annex A

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع سنت جرم قابل دست اندازی پولیس رپورٹ شدہ پروٹوکول 153 نمبر ضابطہ نوعداری

(8)

Monir Ahmad Khan Toussiqat Advocate High Court	ملع	14
تاریخ وقت رپورٹ	15/9/2015	
نام و حکومت اطلاع دہندہ مستفیض		
مختصر کیفیت جرم (مصدقہ) حال اگر کچھ لیا گیا ہو۔		
جائے وقوعہ یا ملکہ قاتلانہ اور دست		
نام و حکومت ملزم		
ملکہ رائی جو تفتیش کے حلقے کی گئی اگر اطلاع دہندہ کے لئے ملکہ ترقف ہونا چاہئے بیان کرے		
قاتلانہ رو یا آگ کی تاریخ و وقت		

ابتدائی اطلاع نیچے درج کر دی گئی ہے۔

ایچ اے جی کے تعلق سے پولیس رپورٹ کے مطابق ملزم نے 185 نمبر کی گاڑی میں سوار ہو کر لاہور سے لاہور کے علاقے گلشاد آباد میں واقع ایک مکان پر حملہ کیا۔ اس دوران ایک پولیس افسر کی موت ہوئی اور ایک پولیس افسر زخمی ہوئے۔ ملزم نے پولیس افسر کی موت کو گواہی دے کر خود کو سزا دلانے کی کوشش کی۔

ملزم نے پولیس افسر کی موت کو گواہی دے کر خود کو سزا دلانے کی کوشش کی۔ ملزم نے پولیس افسر کی موت کو گواہی دے کر خود کو سزا دلانے کی کوشش کی۔

ملزم نے پولیس افسر کی موت کو گواہی دے کر خود کو سزا دلانے کی کوشش کی۔ ملزم نے پولیس افسر کی موت کو گواہی دے کر خود کو سزا دلانے کی کوشش کی۔

ملزم نے پولیس افسر کی موت کو گواہی دے کر خود کو سزا دلانے کی کوشش کی۔ ملزم نے پولیس افسر کی موت کو گواہی دے کر خود کو سزا دلانے کی کوشش کی۔

Attached
S.D.P.O.
QUARTERS
KHYBER

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER

Ang (B)
(8)

ORDER

As per reports of SHO Police Station Bara that Constable Mohibullah s/o Raza ullah MDK 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 reply regarding the allegations leveled against him consequently a Charge Sheet with Summary of Allegations was issued & DSP/Hqrs Khyber was appointed as Enquiry Officer vide this office No. 2665/Khyber, dated 02/11/2020.

The Enquiry Officer in his finding report stated that the defaulter receive charge sheet and statement of allegations but not appeared before the enquiry officer nor did submitted any reply which shows his attitude towards official rules & regulations. Furthermore, being a member of Discipline force, involvement in a murder case is a gross misconduct and liable to be dismissed from service.

Keeping in view the recommendations of the Enquiry Officer & available record and taking an ex-parte action, the Constable Mohibullah s/o Raza Ullah MDK is hereby awarded major punishment of DISMISSAL FROM SERVICE with immediate effect.

Damm

DISTRICT POLICE OFFICER,
KHYBER

No. 1010 /PSO Khyber, dated Khyber

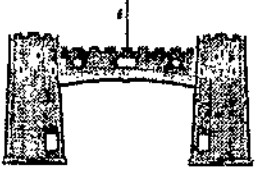
08 104 2020

Copies to all concerned for further necessary action.

Allesed

ATB
S.D.P.O
HEAD QUARTERS
KHYBER

o/c



**Office of the District Police Officer
Khyber**



Ana (C)
19

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 Muhib Ullah 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.**

~~AA~~
A Hested
~~AA~~
S.D.P.O
HEAD QUARTERS
KHYBER



Office of the District Police Officer
Khyber

And (C)

CHARGE SHEET / FIR (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 Mubillah ... MDK while posted at PS Bara involved in FIR No. 163, dated ... u/s 302/353/186/324/7ATA, registered Police Station ... gross misconduct on your part and criminal offence"

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

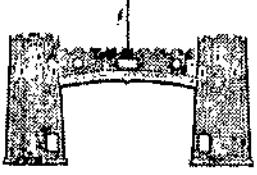
Your reply should be submitted by Officer within seven (3) days from the date of receipt of this charge sheet, failing which ex-parte action shall be taken against you.

Summary of allegations is as follows:-

**DISTRICT POLICE OFFICER,
KHYBER**

AHusted

~~Signature~~
S.D.P.O
HEAD QUARTERS
KHYBER



**Office of the District Police Officer
Khyber**



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

You Constable Muhib ullah have committed the following:-

“You Constable Muhib Ullah while posted at PS Bara involved in FIR No. 163, dated 10/09/2020, u/s 302/353/186/234/7ATA, 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 1975.

**DISTRICT POLICE OFFICER,
KHYBER.**

A Hestad
[Signature]
S.D.P.O
HEAD QUARTERS
KHYBER

Anaxave (D)
10

Office of the District Police Officer



SUMMARY/STATEMENT ON U/S 6(1) (A) POLICE

You Constable No. [redacted] committed the following:-

"You Constable Muhil Khan [redacted] at PS Bara involved in FIR No. 163, dated 12/09/2010, U/S 324/7ATA, registered Police Station Bara which is a gross [redacted] on your part and criminal offence"

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

DISTRICT POLICE OFFICER,
KHYBER

Attested

[Signature]
S.D.P.O
HEAD QUARTERS
KHYBER



DSP/HEAD QUARTERS KHYBER



Ans (E)
11

"ENQUIRY REPORT"

Case in Brief:

As per report of SHO PS Bara, Constable Mohibullah 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 2280, 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. 2666/Khyber, dated 02/11/2020 in reply of which he failed to submit any reply nor appeared before the inquiry officer.


Conclusion:

During the course of enquiry it was learned that the defaulter constable remained involved in criminal activities. The defaulter constable not bothered himself to receive charge sheet etc and despite several directions failed to appear before the inquiry officer which shows his attitude towards the official duty and rules and regulations. 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

Attested

S.D.P.O
HEAD QUARTERS
KHYBER



Ana (F) 12
OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Mohib Ullah s/o Raza Khan, who was awarded the major punishment of "Dismissal from service" under PR-1975 by District Police Officer Khyber vide No.1010/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. 1010/PSO, dated 08.04.2021 is hereby **rejected/filed**.

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

K-I
OAC/PA/PSO
No. 1163-67 /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
1298
20-4-22