

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4554

Dated 28/3/23

Service appeal No. 929/2022

Ishtiaq Khan No.4934 (Ex-HC Elite Force).....Appellant

Versus

Inspector General of Police KPK and others Respondents

I N D E X

S#	Description of Documents	Annex	Pages
1.	Para wise Comments		1 2
2.	Affidavit		3 4
3.	Annexure "A"	A	4 5 6
4.	Copy of Authority letter		7 ①



ADSP Legal Mian Niaz Muhammad,

Elite Force, Peshawar

Mob No.0300-5899631

CNIC: 17301-1519386-1

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

In, Re:

Service Appeal No. 929/2022

Ishiaq Khan No. 4934 (Ex-FC Elite Force)Appellant

Versus

Inspector General of Police KPK and othersRespondent

PARAWISE COMMENTS OF BEHALF

RESPONDENTS NO. 1 TO 5

FACTS:-


S #	Para of the Facts	Reply of the Facts with Annexure
1.	That the appellant has rendered 18 years of service in the Police Department.	Pertains to record.
2.	That the appellant served the department with due diligence & devotion and left no stone unturned in smooth and transparent function of the department. Resultantly, the entire service record of the service is neat and clean.	Subject to proof, however on the ground of misconduct he was dismissed from service.
3.	That appellant applied earned leave for 04 months which was properly granted w.e.f 26.07.2021 to 26.11.2021.	As per information report of Acting Superintendent of Police Elite Force / RRF Hazara Region vide No. 776/EFH dated 24.08.2021, he has remained absent from lawful duty without any leave or prior permission w.e.f 26.07.2021 to till date. Being a member of discipline force, his act is highly objectionable and against the norms of discipline force, which is gross misconduct on his part.
4.	That after expiry of 04 months leave, the appellant further applied extension of earned leave but respondent department instead of granted of earned leave dismissed the appellant from service vide impugned dismissal from service order No. 13-19 R.R.F dated 03.01.2021.	Incorrect. Further leave was not granted to the appellant on his application and he should come to join his duty availing sanction leave but he went abroad which is evident from travel history of the appellant and was remain willfully absent from duty and was dismissed from service dated 03.01.2022 on the basis of absence after fulfilling all codal formalities. (Travelling history & inquiry report are attached as Annexure 'A' & 'B').
5.	That feeling aggrieved, the appellant filed departmental appeal but department did not respond to the appeal of the appellant.	Pertains to Record.


GROUND:-


S. #	Para of the Grounds	Reply of the Grounds with Annexure
a)	That, the appellant has been dismissed from service w.e.f 03.01.2022 and leave period w.e.f 28.07.2021 to 28.11.2021 has been declared leave without pay which is perverse, discriminatory, malafide, against the law and the impugned order is liable to be set-aside.	Incorrect, the appellant was dismissed from service on willful absence after fulfilling all codal formalities which is liable to be maintain.
b)	That the respondent's department carried out ex-parte proceedings. As a result no show cause notice, statement of allegations and opportunity of personal hearing has been provided to the appellant. Hence, the impugned dismissal from service order dated 03.01.2022 is the result of audi alteram partem therefore. The impugned dismissal from service order dated 03.01.2022 is not maintainable in the eyes of law.	Incorrect. Proper departmental proceedings were carried out against the appellant, as he was issued proper charge sheet show cause notice summary of allegation as he was abroad, therefore, it were received by his brother is evident from reports namely Hakeem Khan LHC No. 1003.
c)	That the impugned dismissal from service order is against the norms of justice, coram non judice, without following the prescribed procedure which is sine-qua-non for dismissed from service. Therefore, the impugned dismissal from service order dated 03.01.2022 of the appellant is liable to be set-aside.	Incorrect the impugned order is accordance with law and rules therefore, liable to be maintain.
d)	That the matter related to the term and condition of service, therefore this Hon'ble Tribunal has jurisdiction to entertain the appeal of the appellant under article 212 of the Constitution of Islamic Republic of Pakistan 1973.	Subject to proof.
e)	That the service appeal is well within the period of limitation.	Pertains to record.


PRAYER:

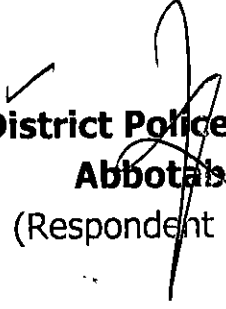
Keeping in view of the above stated facts, it is humbly prayed that the service appeal being not maintainable under the Constitution, may kindly be dismissed with cost, please.


**Inspector General of Police,
Khyber Pakhtunkhwa Peshawar**
(Respondent No. 1)


**Addl: IGP Commandant,
Elite Force Khyber Pakhtunkhwa
Peshawar**
(Respondent No. 2)

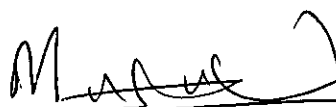

**Regional Police Officer
Hazara Region**
(Respondent No.03)


**Deputy Commandant
Elite Force/RRF, Khyber Pakhtunkhwa
Peshawar**
(Respondent No.04)


**District Police Officer
Abbotabad**
(Respondent No.05)

AFFIDAVIT

I Mian Niaz Muhammad (DSP Legal) Elite Force, Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm that the contents of this para wise comments **on behalf of respondents No. 1, 2, 3 & 4** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

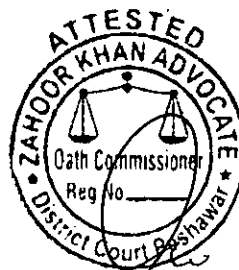


DEPONENT

CNIC: 17301-1519386-1

Cell # 0300-5899631

Identified by:



28.03.23

OFFICE OF THE SUPERINTENDENT OF
ELITE FORCE/RRF HAZARA REGION

No. 1212 /EFH

Dated 01/11 / 2021

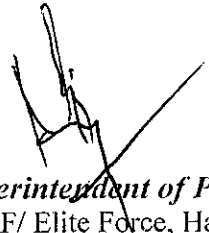
To: **The Director IBMS FIA,
Head Quarters Islamabad.**

Subject: **TRAVEL HISTORY.**

Kindly with refer to above cited subject.

It is submitted that Head Constable Ishtiaq Khan s/o Zareen Khan CNIC No. 13101-6677970-5 is a permanent Govt servant in Elite Force Khyber Pakhtunkhwa Police. Official is absent from duty w.e.from 28-07-2021 to till date. He is alleged to went abroad without permission from department. For the reason departmental enquiry is underway against him in the office of the undersigned. Travel history of the official is required in the enquiry.

It is therefore requested that his travel history may please be provided for enquiry proceeding please.


**Superintendent of Police,
RRF/ Elite Force, Hazara
Region Abbottabad**

No. 1212-13 /EF dated: Abbottabad the 01/11 /2021.

Copy for information to the:

1. Deputy Commandant Rapid Response Force Khyber Pakhtunkhwa Peshawar.



(8)

(16)

(5)

OFFICE OF THE DIRECTOR / IBMS
FEDERAL INVESTIGATION AGENCY HEADQUARTERS
ISLAMABAD

Tel: 051-9107219 Fax: 051-9262376

No. FIA/IBMS/Police/Query/ 13/9/21

Dated: 01 Nov 2021

SUBJECT: TRAVEL HISTORY ✓

Please refer to your letter No 1212/EFH dated 01-11-2021 and Dir/Diary No 59
01-11-2021 regarding travel information of following Passport.

CNIC No: 1310166779705

2. As per PISCES / IBMS database, travel history on above mentioned particular is FOUND in System. R11 form is attached for ready reference.
3. This is a system generated Information based upon given particular.

(Syed Sibtul Hasnain)
Assistant Director/Repo
FIA (HQ), Islamabad

Superintendent Of Police
RRF/Elite Force, Hazara
Region Abbottabad.

FEDERAL INVESTIGATION AGENCY
 INTEGRATED BORDER MANAGEMENT SYSTEM
 FIAHQ G-9/4 PESHAWAR MOR, ISLAMABAD
 Fax No: 051-9262376, Tel No: 051-9107219
 R-11 (TRAVEL HISTORY)

TRAVEL HISTORY FOUND ON: 1310166779705
 Reported By: SP/RRF/Elite Force, Hazara Region
 Abbottabad
 Letter Number: 1212/EFH

Department: POLICE
 Request Date: 01-Nov-2021

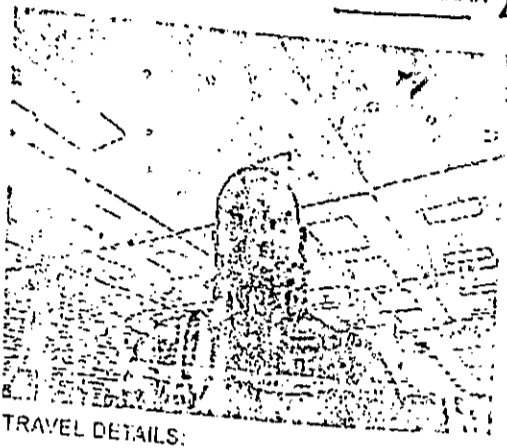
Diary No: 5974 & 01-11-2021
 Query Date: 01-Nov-2021

TRAVELER'S CNIC/NIC
 1310166779705

PERSONAL INFORMATION:

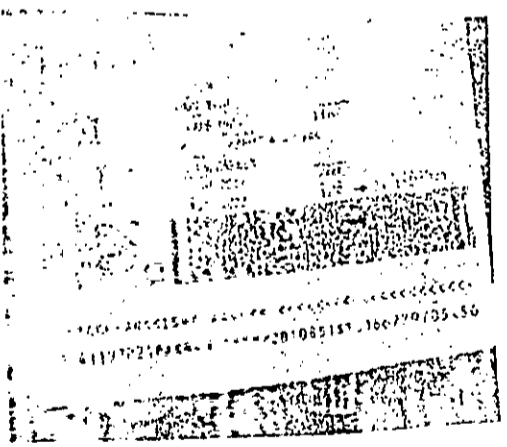
NAME: ISHTIAQ KHAN
 FATHER/HUSBAND NAME: ZAREEN KHAN

BIRTH DATE: 16-APR-1984
 NATIONALITY: Pakistan



TRAVEL DETAILS:

S.NO	TRAVEL DATE	FLIGHT NO	TRAVEL STATUS	PASSPORT NO	SITENAME	DESTINATION
1	07-Jan-17 10:19:11	EK613	departing	PF4119702	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	SAU - SAU ARABIA
2	7-Feb-17 8:00:29	EK612	arriving	PF4119702	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	OAT - OAT
3	04-Feb-20 7:44:47	PK285	departing	PF4119702	PESHAWAR INTERNATIONAL AIRPORT	OAT - OAT
4	04-May-21 9:55:55	EK612	arriving	PF4119702	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	OAT - OAT
5	01-Aug-21 21:47:02	PK287	departing	PF4119702	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	OAT - OAT

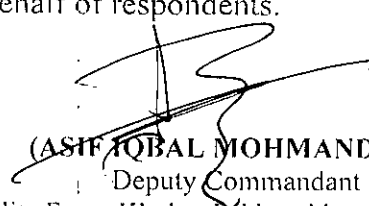


CHECKED BY:

(7)

AUTHORITY LETTER.

The undersigned is hereby authorized to nominate Mr. Mian Niaz Muhammad Acting DSP/Legal Elite Force to submit the replies and attend the Honorable High Court/Supreme Court on behalf of respondents.


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

DEPUTY COMMANDANT,
Elite Force Khyber Pakhtunkhwa
Peshawar