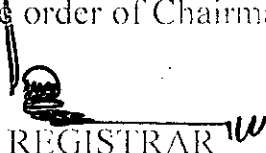


FORM OF ORDER SHEET

Court of _____

Case No.- _____ 718/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 30/03/2023 | <p>The appeal of Mr. Atta Muhammad presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ .Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 718 /2023

ATTA MUHAMMAD

VS


POLICE DEPTT:

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| 3 | Order dated 24.08.2022 | A | 5. |
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| 7 | Impugned order | E | 11. |
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| 9 | Wakalat nama | | 13. |

APPELLANT

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL No. 718 /2023

Mr. Atta Muhammad, ASI No. 96/MR, Incharge Platoon No.7,
SSU (CEPEC), Peshawar.....APPELLANT

VERSUS

- 1- The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
 - 2- The Commandant, SSU (CEPEC) Khyber Pakhtunkhwa, Peshawar.
 - 3- The Deputy Commandant, SSU (CEPEC) Khyber Pakhtunkhwa, Peshawar.
 - 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
-RESPONDENTS

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 11.11.2022 WHEREBY MINOR PENALTY OF STOPPAGE OF ONE ANNUAL INCREMENT HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this service appeal, the impugned order dated 11.11.2022 may very kindly be set aside and the respondents be directed to release the annual increment of the appellant. Any other relief which this august Tribunal deems fit may also be awarded in the favor of appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

1. That appellant is an employee of the respondent department and is serving as Incharge Platoon No.1 SSU (CPEC) Peshawar presently posted at Upper Kohistan quite efficiently and up to the entire satisfaction of his superiors.
2. That appellant while performing his duty as Incharge, SSU (CPEC), Peshawar was transferred to Upper Kohistan vide order dated 24-08-2022 that in pursuance of the above mentioned order the appellant reported to SSU (CPEC) Upper Kohistan along with his platoon and started performing his duty with all zeal and zest. (Copy of the order is attached as annexure "A").

3. That just after the lapse of round about fourteen days, the appellant along with his platoon was transferred from upper Kohistan to Peshawar vide order dated 09-09-2022. That in compliance of the above mentioned order the appellant alongwith his platoon reported to SSU (CPEC) Headquarter Peshawar. **(Copy of the order dated 09-09-2022 is attached as annexure "B")**.
4. That the appellant while performing his duty at SSU (CPEC), Peshawar, the respondent No.2 issued charge sheet alongwith statement of allegations on 06.10.2022 with the allegations of non-compliance of the orders of high ups i.e. SP and DSP SSU (CPEC) Hazara Region. That the appellant submitted his detailed reply of the charge sheet and statement of allegation and denied all the allegations leveled against him. **(Copies of the charge sheet, statement of allegations and reply are attached as annexure "C" and "D")**.
5. That astonishingly, the respondent No.2 issued the impugned order dated 11.02.2022 whereby the minor penalty of stoppage of annual increment has been imposed upon the appellant on the basis of baseless allegations. **(Copy of the impugned order is attached as annexure "E")**.
6. That appellant feeling aggrieved from the impugned order dated 11.11.2002 preferred departmental appeal before the appellant authority but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. (Copy departmental appeal is attached as annexure "F").

GROUND:

- A- That the impugned order dated 11.11.2022 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondent department acted in arbitrary and mala fide manner while issuing the impugned order dated 11.11.2022 which is not tenable in the eye of law and the same is liable to be set aside.
- D- That the appellant in compliance of the orders of his high ups and as per order dated 09.09.2022 the appellant alongwith his platoon reported to the SSU (CPEC) Headquarter, Peshawar but inspite of that the respondent department punished the appellant without any lawful justification.

E- That the impugned order dated 11.11.2022 is violative of the principle of natural justice.

F- That the impugned order dated 11.11.2022 is also violative of the Fundamental Rule-29; therefore, the same is not tenable and liable to be set aside.

G- That no chance of personal hearing/defence has been provided to the appellant, hence the impugned order dated 11.11.2022 is violative of the principle of "Audi Alteram partem".

H- That the appellant seeks permission to advance any other ground at the time of hearing.

It is, therefore, most humbly prayed that the appeal of appellant may be accepted as prayed for.

Dated: 30.03.2023.

APPELLANT

ATTA MUHAMMAD

THROUGH:

MIR ZAMAN SAFI

&

ABDULLAH KHAN KHATTAK
ADVOCATES

CERTIFICATE:

It is, certified that no other earlier appeal was filed between the parties.

DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2023

ATTA MUHAMMAD

VS

POLICE DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



MIR ZAMAN SAFI
Advocate
High Court, Peshawar




OFFICE OF THE COMMANDANT
SPECIAL SECURITY UNIT (CPEC)
KHYBER PAKHTUNKHWA POLICE,
PESHAWAR



No. 5866-70 /EC/HQrs/SSU, dated Peshawar the 24/08/2022
Ph: 091-9211067, Fax: 091-9213165, Email: ssu.cpec@gmail.com

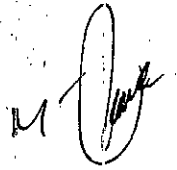
ORDER

SI Atta Muhammad of Platoon No.13 is hereby transfer and post as Platoon In charge of
Platoon No. 07 Upper Kohistan with immediate effect.


ZAIB ULLAH KHAN) PSP
Deputy Commandant SSU (CPEC)
Khyber Pakhtunkhwa.

Copy of the above forwarded for information to the:-

1. SP Admin & Minority SSU Khyber Pakhtunkhwa, Peshawar.
2. SP North & Mardan Region SSU Khyber Pakhtunkhwa.
3. PSO to Commandant SSU Khyber Pakhtunkhwa, Peshawar.
4. Reader to Deputy Commandant SSU Khyber Pakhtunkhwa, Peshawar.





**COMMANDANT
SPECIAL SECURITY UNIT (SSU)
KHYBER PAKHTUNKHWA POLICE**



CENTRAL POLICE OFFICES, S.A.Q ROAD, PESHAWAR CANTT (PH: 091-9214056)

No. 6609-6620 OASI

dated Peshawar the 09/09/2022

B-6


ORDER

As approved by the competent authority the following Platoons of SSU (CPEC) are hereby transferred/posted as tabulated below with immediate effect.

| S.NO | FROM | TO |
|------|-----------------------------|------------------------|
| 1. | P 7, Upper Kohistan | Peshawar |
| 2. | P 38, Haripur | Upper Kohistan |
| 3. | P 25, Swat | Haripur |
| 4. | P 14, Mansehra | Mardan |
| 5. | P 15, Mardan | Mansehra |
| 6. | P 18, Mansehra | Mardan |
| 7. | P 17, Mardan | Mansehra |
| 8. | P 19, Abbottabad | Mardan |
| 9. | P 35, Shangla | Abbottabad |
| 10. | P 22, Mansehra | Swat |
| 11. | P 23, Swat | Mansehra |
| 12. | P 26, Mansehra | Swat |
| 13. | P 24, Swat | Mansehra |
| 14. | P 27, Upper Kohistan | Bunncr |
| 15. | P 28, Bunncr | Battagram |
| 16. | P 43, Battagram | Upper Kohistan |
| 17. | P 39, Upper Kohistan | Mansehra |
| 18. | P 44, Mansehra | Upper Kohistan |
| 19. | P 32, Dir Upper | Rashakai Economic Zone |
| 20. | P 34 Rashakai Economic Zone | Dir Upper |
| 21. | P 40, Mansehra | Upper Kohistan |
| 22. | P 41, Upper Kohistan | Mansehra |
| 23. | P 42, Mansehra | Upper Kohistan |
| 24. | P 45, Upper Kohistan | Mansehra |
| 25. | P 51, Haripur | Bannu |
| 26. | P 57, D1 Khan | Hariour |


OB No. 578

Dated 09/09/2022


(ZAIB ULLAH KHAN)^{PSP}
Deputy Commandant SSU (CPEC)
Khyber Pakhtunkhwa,
Peshawar.

Copy for information to the:

1. Regional Police Officers, Hazara, Malakand, Mardan & Bannu.
2. All concerned District Police Officers.
3. SP Admin & Minority Wing SSU (CPEC), Khyber Pakhtunkhwa, Peshawar.
4. SP North SSU (CPEC), Hazara Region.
5. SP Central SSU (CPEC), Mardan Region
6. PSO to Commandant SSU (CPEC), Khyber Pakhtunkhwa, Peshawar.
7. Reader to Dy: Commandant SSU (CPEC), Khyber Pakhtunkhwa, Peshawar.
8. DSP Admin & DSP HQs: SSU (CPEC).
9. All concerned Regional DSPs SSU (CPEC).
10. LO HQs: & Concerned Company Commanders SSU (CPEC), with the directions to relive the platoons and directed to report at new place of posting.
11. MTO SSU (CPEC), to arrange transportations.



CHARGE SHEET

C-7

1. Whereas I, Mohammad Zafar Ali PSP, Commandant SSU (CPEC), Peshawar, am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against SI Atta Muhammad.

2. And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, **Commandant, Special Security Unit (CPEC)**, Peshawar hereby charge SI Atta Muhammad under Rule 5 (4) of the Police Rules 1975.

I. That you SI Atta Muhammad was transferred to district Upper Kohistan as In Charge of platoon No. 07 on complain basis vide Dy: Commandant SSU (CPEC) order No. 5866-70/EC/HQrs/SSU, dated 24.08.2022 and when Platoon No. 07 was transferred to district Peshawar, you were verbally directed by SP & DSP Hazara region SSU that you will perform duty in Upper Kohistan till further order of High-Ups but you came to Peshawar alongwith Platoon No. 07.

II. That you have absented yourself from your lawful duties w.e.f. 29.09.2022 till date, received vide DD report No. 01, dated 29.09.2022 from Company Commander Upper Kohistan.

III. Being a responsible police official, you disobey the order of your seniors, thus this act is highly objectionable and renders you liable for disciplinary proceedings under the Police Rules 1975.

4. I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why action should not be taken against you and also stating at the same time whether you desire to be heard in person.

5. In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

M. Zafar Ali

M. Zafar Ali
MOHAMMAD ZAFAR ALI PSP


STATEMENT OF ALLEGATIONS

1. I, Mohammad Zafar Ali PSP, Commandant SSU (CPEC) as competent authority, am of the opinion that SI Atta Muhammad has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975. (8)

- I. That SI Atta Muhammad was transferred to district Upper Kohistan as In Charge of platoon No. 07 on complain basis vide Dy: Commandant SSU (CPEC) order No. 5866-70/EC/HQrs/SSU, dated 24.08.2022 and when Platoon No. 07 was transferred to district Peshawar, he was verbally directed by SP & DSP Hazara region SSU that he will perform duty in Upper Kohistan till further order of High-Ups but he came to Peshawar alongwith Platoon No. 07.
- II. That he has absented himself from his lawful duties w.e.f. 29.09.2022 till date, received vide DD report No. 01, dated 29.09.2022 from Company Commander Upper Kohistan.
- III. Being a responsible police official, he disobey the order of his seniors, thus this act is highly objectionable and renders him liable for disciplinary proceedings under the Police Rules 1975.


2. For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations Mr. Javaid Khan DSP HQrs: SSU (CPEC) is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

3. The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

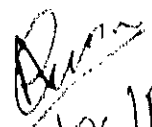

(MOHAMMAD ZAFAR ALI)^{PSP}
Commandant SSU (CPEC),
Khyber Pakhtunkhwa Peshawar.

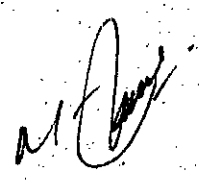
No. 7925 /R, dated Peshawar the 06 /10/2022 5-10-22

Copy to:-

1. The Inquiry Officer.
 2. The Concerned official.
- 

ادارہ تبدیل کرنا بولے وہ اس بات پر 22 جنوری 2022ء کو 50 لاکھ روپیہ کی رقم
اسی وجہ سے رقم قلمدان اس کے مالکان کو دینا چاہیے۔ اس میں سے کئی رقم
محمد حسین محمد بلکہ محمد کادوالی کا سرکاری پتہ محمد حسین صاحب اس کے
دیار ہے۔ اس سے پہلے وہ نے تیار ہونے لگا ہے۔ لہذا وہ اس کے مالکان کو رقم
جمع دینا چاہیے۔ اس کے لئے رقم کادوالی کے داخل دفتر فرمایا جائے۔


si/pc/p.07
06.09.2022





OFFICE OF THE COMMANDANT
SPECIAL SECURITY UNIT (SSU)
KHYBER PAKHTUNKHWA POLICE

CENTRAL POLICE OFFICES, SAQ ROAD, PESHAWAR EAST (P.F. 090-9211056)



S. 7108-12... R.

dated Peshawar the 11/11/2022.

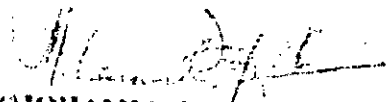
E-11

ORDER

1. This office order will dispose-off the departmental proceedings against ASI Atta Muhammad No. 96/MIR on the charges/allegations that he was transferred to Upper Kohistan as Incharge Platoon No. 07 on complaint basis vide Dy. Commandant SSU (CPEC) order No. 5866-70 EC/HQrs/SSU, dated 24.08.2022 but when Platoon No. 07 was transferred to District Peshawar, he was verbally directed by SP & DSP SSU (CPEC), Hazara Region that he will remain & perform duty in Upper Kohistan till further order of High-Ups but he came to Peshawar alongwith Platoon No. 07 and absented himself from his lawful duties w.e.f. 29.09.2022 till date, received vide DD report No. 04, dated 29.09.2022 from Company Commander Upper Kohistan.

2. In this regard, proper departmental proceedings was initiated against him, as he was issued charge sheet vide Endst. No. 7925/PA, dated 06.10.2022 & Mr. Javaid Khan DSP HQrs: SSU (CPEC) was nominated as enquiry officer to conduct inquiry into the matter, who after fulfilling all Codal formalities submitted his findings report, wherein he reported that charge sheet alongwith summary of allegations were served upon him to which he replied that Platoon No. 07 was transferred to District Peshawar vide Dy. Commandant SSU (CPEC) order No. 6609-6620/OASI, dated 09.09.2022, being Incharge of Platoon No. 07 he came alongwith the said Platoon and made arrival at SSU HQrs. He further stated in his reply that neither verbally nor written directions were given to him by any senior but the EO was not satisfied with his reply & stated that he was verbally directed by SP & DSP SSU (CPEC), Hazara region to perform duty in Upper Kohistan till further order of High-Ups which is clear evident from DD report No. 04, dated 29.09.2022 entered in daily diary register by Inspector Abdur Rauf Company Commander SSU Upper Kohistan. Thus, the EO recommended him for major punishment.

3. Keeping in view of the above facts, as well as material available on the record and recommendation of the enquiry officer, the above named ASI is found guilty of the above mentioned charges leveled against him. Therefore, I, Commandant SSU (CPEC), being the competent authority in the exercise of powers vested to me under section 4(b) of Khyber Pakhtunkhwa, Police Rules 1975 (amended in 2014) hereby awarded him Minor Punishment of stoppage of one annual increment without cumulative effect for a period of (01) year and transferred to Upper Kohistan Platoon till further order.


(MOHAMMAD ZAFAR ALI)^{PSP}
COMMANDANT,
Special Security Unit (CPEC),
Khyber Pakhtunkhwa, Peshawar.

Copy of the above is forwarded for information to the:

- 1 SP North SSU (CPEC) at Mansehra.
- 2 SP Admin SSU (CPEC), Khyber Pakhtunkhwa Peshawar.
- 3 PSO to Commandant SSU (CPEC), Khyber Pakhtunkhwa Peshawar
- 4 Reader to Dy. Commandant SSU (CPEC), Khyber Pakhtunkhwa Peshawar
- 5 Accountant, SRC, EC and LO SSU (CPEC).

11-11-22



محمد مت جناب آلی جی پی صاحب جیبر پختونخواہ پشاور

جناب عالی!

(12) - F

گزارش کی جاتی ہے کہ سائل کا والد صاحب محکمہ پولیس میں یہ عمدہ ASI ضلع مردان میں تعینات تھا جو مورخہ 13/05/2004 کو ضلع مردان میں شہید ہو چکا ہے۔ جس کے بعد سائل مورخہ 02/08/2010 کو شہید کوٹہ کی پیش نظر بہ عمدہ PASI محکمہ پولیس میں بھرتی ہو چکا ہے سائل موجودہ وقت میں سی پیک SSU میں تعینات تھا اور سائل کو محکمانہ انکوائری کے پیش نظر پختونوالہ حکم نمبر 2408/12 مورخہ 11/11/2022 مجاہدہ کمانڈنٹ صاحب SSU پشاور نے سائل کو ضلع پر کوہستان تبدیل کرنے اور ایک انکریمنٹ ایک سائل تک Stop کیا ہے۔

استدعا ہے کہ سائل کے مستقبل گھریلو زندگی اور خاندان کے افراد کی پریشانی کو مد نظر رکھتے ہوئے سائل کے حال پر رحم فرما کر سائل کا Stop انکریمنٹ بحال کرنے کی حکم صدوری فرمائی جانے

العارض

30/11/2022

M. J. J.

تابع حکم واحکام عطا محمد ASI/96MR متعینہ ضلع آپر کوہستان سی پیک SSU

CONTACT NO 03452172029 CNIC NO 1610211597935

WAKALAT NAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

OF 2023

Atta Muhammad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Department

(RESPONDENT)
(DEFENDANT)

I/We *Atta Muhammad*

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, High Court, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /2023

Atta Muhammad
CLIENT

Mir Zaman Safi
ACCEPTED
MIR ZAMAN SAFI
ADVOCATE

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.

Mobile No.0333-9991564

0317-9743003