

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL , PESHAWAR**

In Re:

Service Appeal No. 1862/2022

Khyber Pakhtunkhwa  
Service Tribunal  
Date: 4967  
Dated: 20/4/2023

Qamar Zada

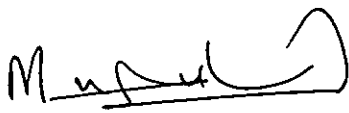
.....Appellant

Versus

Inspector General of Police KPK and others..... Respondents

**INDEX**

S.No	Description of Documents	Annex	Pages
1.	Written Reply		1-3
2.	Affidavit		4
3.	Copy of Authority letter		5
4.	Copies of Charge Sheet	A	6
5.	Copy of Summary Allegations	B	7
6.	Copy of Enquiry Report	C	8
7.	Copy of Travel History & Local Elders of Village	D & E	9-10
8.	Copy of Final Show Cause Notice	F	11
9.	Copy of Dismissal order	G	12

  
ADSP Legal MianNiazMuhamad,  
Elite Force, Peshawar



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In Re:

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QamarZada

.....Appellant

Versus

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PARAWISE COMMENTS OF BEHALF RESPONDENTS NO 01, 02, 03 & 04

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

1. That the appeal is not based on facts.
2. That the appeal is barred by law and limitation.
3. That the appeal is not maintainable in its present form.
4. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
5. That the appellant is estopped to file the instant appeal by his own conduct.
6. That the appellant has come to this Hon'ble Tribunal with unclean hands.
7. That the appellant has got no cause of action and locus standi to file the instant service appeal.

On Facts:

1. Pertains to record.
2. Incorrect, the appellant absent himself from lawful duty w.e.f 05.12.2019 till to date without prior permission of high ups. In this connection he was departmentally proceeded against and issued charge sheet with summary of allegation dated 14.02.2018 and the enquiry was entrusted to SP RRF Mr. Shafi Ullah Khan (**Copy of charge sheet & Summary of allegation are attached as Annexure 'A' & 'B'**). The enquiry officer conducted enquiry in accordance with procedure and rules (**Copy of Enquiry Report is attached as Annexure 'C'**). As the delinquent official proceed abroad at the time of enquiry evident from his travel history and local elders of his village (**Copy of Travel History & Local Elders of Village are attached as Annexure 'D' & 'E'**), he did not bother to appear or submit his reply. After confirmation of his traveling abroad, exparte

②

action was recommended by the enquiry officer (Enclosed as Annexure 'C'). Therefore, final show cause notice was issued to the delinquent official on 12.03.2018. The competent authority, on the recommendation of enquiry officer, awarded major punishment of dismissal from service on 12.10.2018 (**Copy of Final Show Cause Notice & Dismissal order are attached as Annexure 'F' & 'G'**).

- 3. Incorrect, as already explained in para No. 2
- 4. Correct to the extent that the Revision Petition filed on the grounds of time limitation i.e. time barred by 4 years hence rejected (Copy of Revision Petition is Annexure H).
- 5. Incorrect, appellant has got no cause of the appeal, therefore the instant appeal may kindly be dismissed on the following grounds.

GROUNDS:

- A. Incorrect, appellant has treated according to law, rules and regulations, no discrimination as been done with the appellant.
- B. Incorrect, as already explained in the preceding paras.
- C. Pertains to record.
- D. Incorrect, as already explained in para 2.
- E. Incorrect, as already explained in preceding para.
- F. Incorrect, at that time appellant was in abroad.
- G. Incorrect, as already explained.
- H. Incorrect, as already explained.
- I. Incorrect, as explained in para No. 2.
- J. Incorrect, as already explained in the above mentioned paras.
- K. Pertains to record.
- L. Incorrect, as already explained.
- M. Incorrect, appellant was already been dealt according to law and Constitution of Islamic Republic of Pakistan, 1973.
- N. Incorrect, as already explained.
- O. Incorrect, as already explained in preceding paras.
- P. Incorrect, as already explained in preceding paras.
- Q. That respondents may also be allowed to raise other grounds at the time of arguments.

PRAYER:

Keeping in view of the above stated facts, it is humbly prayed that the service appeal is based on fallacious may kindly be dismissed with cost please.

Deputy Commandant  
RRF, Khyber Pakhtunkhwa,  
Peshawar

(Respondent No. 4)  
**DEPUTY COMMANDANT**  
Rapid Response Force  
Khyber Pakhtunkhwa Peshawar

Deputy Commandant,  
Elite Force, Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No. 3)

(15)  
Addl: Inspector General of Police  
Elite Force, Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No. 2)

The Registrar for  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No. 1)

4

**IN THE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL , PESHAWAR**

In Re:  
Service Appeal No. 1862/2022

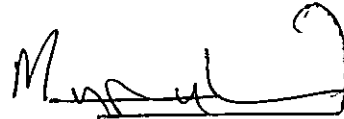
Qamar Zada .....Appellant

Versus

Inspector General of Police KPK and others..... Respondents

**AFFIDAVIT**

I Mian Niaz Muhammad (ADSP Legal) Elite Force, Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm that the contents of this **Written Reply on behalf of respondents** 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:



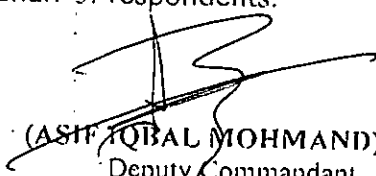
20/4/23



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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

5


**CHARGE SHEET**

Annex A

6

I, Deputy Commandant Rapid Response Force Khyber Pakhtunkhwa, Peshawar  
as competent authority; hereby charge you **Constable Qamar Zada No.6038 Unit  
No. 28** of RRF as follows;

1. You are Absent from duty without any leave or prior permission w.e. from  
05.12.2017 till to date.
2. You are habitual absentee.
3. Your indiscipline attitude is against the Rules Governing Police Force
4. Therefore, you are charged with misconduct under the Police rules 1975  
(Amended 2014) and have rendered yourself liable to the penalties specified in  
the said rules.
5. You are therefore, directed to submit your defense within 07 days of the receipt  
of this Charge sheet to the Enquiry Officer.
6. Your written defense, if any, should reach the Enquiry Officer within the  
specified period, failing which, it shall be presumed that you have no defense to  
put in and in that case ex-pert action shall be taken against you.
7. You are directed to intimate whether you desire to be heard in person.
8. A statement of allegation is enclosed.

  
**DEPUTY COMMANDANT**  
RRF Khyber Pakhtunkhwa Peshawar.

etc





SUMMARY OF ALLEGATIONS


Annex - B

7

I, Deputy Commandant Rapid Response Force, Khyber Pakhtunkhwa, Peshawar as competent authority; serve you with the Summary of allegation. Constable Qamar Zada No. 6038 Unit No. 28 of RRF has rendered yourself liable to be proceeded against as you have committed the following misconduct within the meaning of Police Rules, 1975 (Amended 2014)

SUMMARY OF ALLEGATIONS

1. You are Absent from duty without any leave or prior permission w.e. from 05.12.2017 till to date.
2. You are habitual absentee.
3. A/DSP Shahfi Ullah Khan : RRF Peshawar Region is hereby appointed enquiry officer. He is directed to conducted proper departmental enquiry and report within 25 days.

  
DEPUTY COMMANDANT  
RRF Khyber Pakhtunkhwa Peshawar.

No. 104 - 08 /RRF, dated Peshawar the: 13/02/2018.

Copy of the above is forwarded to the:-

1. A/SP HQrs: RRF, Khyber Pakhtunkhwa, Peshawar.
2. Accountant, Elite Force Khyber Pakhtunkhwa, Peshawar.
3. RI, Elite Force Khyber Pakhtunkhwa, Peshawar.
4. OHC, FMC, SRC, Elite Force Khyber Pakhtunkhwa, Peshawar.
5. Constable Qamar Zada No.6038 of RRF. Through DSP Reader RRF Peshawar Region.

etc









Office of Deputy Superintendent of Police  
RRF Peshawar Region.



No. 39 /R DSP/PR

Date 27/ 03 /2018.

**INQUIRY REPORT AGAINST CONSTABLE QAMAR ZADA**  
**NO.6038 UNIT NO. 28 RRF PESHAWAR.**

It is submitted that Constable Qamar Zada No. 6038 Unit No. 28 Rapid Response Force Peshawar absented himself from lawful duty w.e.from 05.12.2017 till to date.

In this regard, the Deputy Commandant Rapid Response Force Khyber Pakhtunkhwa Peshawar issued Charge Sheet and Summary of allegations vide letter No. 104-06/RRF, dated 14.02.2018. A final Show Cause notice was also issued vide letter No. 164-69/RRF, dated 12.03.2018 to him and the undersigned was appointed as enquiry officer.

Charge Sheet and Summary of allegations were served upon through Head Constable Muhammad Wakeel No. 2429 Unit No. 28 RRF Peshawar, with reply to the Charge Sheet, he submitted written statement, which is attached herewith.

From the perusal of Relevant papers ( appended herewith) it is a matter of axiom respondent constable Qamar Zada No. 6038 of RRF Peshawar has gone to abroad in Emirates country known Qatar for earning of livelihood without taking prior permission of his senior from police department. In this connection, written statement has recorded from the area councilor namely Anwar Ullah of Iaganay Buner bearing mobile No. 03139696666 wherein he disclosed that Qamar Zada is not present in the village but has gone to abroad. Moreover, the statement of brother of absentee Mian Said Jan S/o Muhammad Zameen has also been recorded wherein his brother also stated that he is abroad for earning livelihood.

Keeping in view, in such position of absence there is no distance for the constable in the department who is recommended and deserving for major punishment.

(SHAFI ULLAH KHAN)  
ADSP/RRF Peshawar Region.

CTC  
M. Wakeel

میت مسی میاں سید جان ولد محمد زین قوم افغان بزم

وہاٹیل نمبر 03113131858 - سناٹی مارڈ نمبر 1-383655-0383655-15101 ساکن پیناڈ

اقرار کرتے ہیں کہ دیتا ہوں کہ ٹیبل قمر ذادہ 6038 کو کہ میرا قبائلی ہے مورخہ 10/08 سے محنت مزدوری کی خاطر بیرونی ملک قطر گیا ہے کہ خود اور دیکھ لو وہیں کو خود نہیں ہے یہ میرا بیان ہے کہ وہ درست ہے میں نے شوکار نوٹس کا نقل بھی دھوکا دیا ہے

20/03/2018

میں مسی انور اللہ ولد گل ذادہ قوم افغان بزم 30 سال

وہاٹیل نمبر 6666666666666666 سناٹی مارڈ نمبر 3-6897786-15101 ساکن جوتڑ پیناڈ بزم

اقرار کرتے ہیں کہ دیتا ہوں کہ ٹیبل قمر ذادہ 6038 جو ایس کی نوٹری لکھو کر محنت مزدوری کی خاطر بیرونی ملک قطر گیا ہے کہ خود اور دیکھ شوکار نوٹس میں موجود نہیں ہے جس میں تصدیق کرتا ہوں

اللہ اعلم بالصواب

جناب عالی!

ٹیبل قمر ذادہ 6038 آر آر ایف یونٹ 28 سٹیٹ پولیس لائنی شماره شوکار نوٹس کے سلسلہ میں دیکھ پیناڈ جوتڑ جاکر یہ براری معلوم ہوئی کہ وہ خود اور گھر میں موجود نہیں ہے وہ محنت مزدوری کی خاطر مورخہ 10/08 کو بیرونی ملک قطر گیا ہے جس کی تصدیق علاقہ سان بال کیا گیا شوکار نوٹس مفصل رپورٹ واپسی اور سال خدمت سے رپورٹ ہوئی ہے

HC-RBFU-28 police line peshawar

20/03/2018

0097438236126

M. S. (Signature)

0092433936126  
2/16/15

میں مہدی محمد زین ولد شہ عالم ساکن پور ضلع بونیر قوم اویال  
 نمبر 6 سال موبائل نمبر 0315 9170633 شناختی کارڈ نمبر 7-0450335-04/04  
 اقرار کرتے ہیں کہ کینٹل رقم ذرا وہ 6038 جو کہ میرا بیٹا ہے اور وہ اس  
 سے محنت مزدوری کی خاطر بیرون ملک قلم لیا ہے گھر خود اور دیہہ خود میں  
 ایسے ہے یہ میرا بیان ہے جو کہ درست ہے میرے چارج شیٹ کے  
 نقل بھی وصول کیا محمد زین

2) میں مہدی مرین خان ولد خٹہ قوم افغان بمر 71 سال  
 موبائل نمبر 0311 9614138 شناختی کارڈ نمبر 8874/60-8101 ساکن محلہ سنارہ پور ضلع بونیر  
 اقرار کرتے ہیں کہ کینٹل رقم ذرا وہ نمبر 6038 ولد محمد زین ساکن پور ضلع بونیر  
 پولیس کے نوٹری پور محنت مزدوری کی خاطر بیرون ملک قلم لیا ہے گھر خود اور دیہہ  
 خود میں موجود ہیں یہ جسکا میں تصدیق کرتا ہوں۔ سرفراز خان  
 جناب عالی!

کینٹل رقم ذرا وہ نمبر 6038 آر آر ایف یونٹ نمبر 28 سینہ قمانہ تانہ ارا ضلع سنارہ  
 چارج شیٹ سلسلہ میں دیے پور ضلع بونیر جا کر پتہ براری سے وصول کیا  
 مندرجہ ذیل خود اور گھر میں موجود ہیں یہ وہ محنت مزدوری کی خاطر مورخہ 10/08/18  
 کو بیرون ملک قلم لیا ہے جسکا تصدیق علاقہ ساف بال آیا گیا چارج شیٹ  
 میں مفصل طور پر واپسی ارسال شدہ ہے۔ محمد زین

HC-RRF-U-28-PS-Tata89  
 HC دین 4 نمبر 23/02/018  
 RRF یونٹ 28 قمانہ تانہ ارا  
 HC 6 نمبر 10/08/18  
 HC 26-2-018

etc  
محمد زین

Yanner - F

(11)

**FINAL SHOW CAUSE NOTICE**

I, Deputy Commandant Rapid Response Force Khyber Pakhtunkhwa Peshawar, as competent authority issue final show cause notice to you **Constable Qamar Zada No. 6038 Unit No. 28** of Rapid Response Force regarding your following misconduct.

1. You were absent from duty in block without any leave or prior permission w.e from 05.12.2017 till to date.
2. You're in block absence which adversely effects the operational capability of RRF Unit.28 stationed at Police Line Peshawar.
3. Your indiscipline attitude is against the Police Rules.
4. You were served upon charge sheet and summary of allegations vide No.104-08/RRF dated: 14/02/2018 which were collected by your family head and the statements were recorded but you are failed to reply and your this act is unlawful.

A/DSP/RRF Shafi Ullah, Peshawar Region, is hereby appointed enquiry officer. He is directed to conduct proper departmental enquiry and report within stipulated period.

**DEPUTY COMMANDANT**  
RRF Khyber Pakhtunkhwa, Peshawar.

No. 164-69 /RRF, Dated the Peshawar: 12 /03/2018.

Copy to:-

1. Deputy Commandant Elite Force, Khyber Pakhtunkhwa Peshawar.
2. Superintendent of Police, RRF Peshawar Region.
3. Accountant, Elite Force, Khyber Pakhtunkhwa Peshawar.
4. RI Elite Force, Khyber Pakhtunkhwa Peshawar.
5. CHC, FMC, SRC Elite Force, Khyber Pakhtunkhwa Peshawar.
6. **Constable Qamar Zada No.6038 Unit No.28**. Through Reader to A/DSP Peshawar Region.

CTC  
M. Y. J.

(11)



Office of the Deputy Commandant  
RRF Khyber Pakhtunkhwa Peshawar



No. 321-2A /RRF,

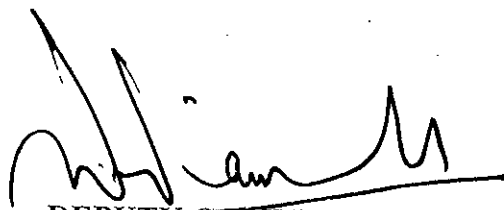
Peshawar,

Dated the: 12/10/2018.

ORDER

Final decision to dispose of the departmental proceedings initiated against **Constable Qamar Zada No. 6038 Unit No.28 RRF**, vide this office No. 104-08/RRF dated 14.02.2018. Allegations leveled against him.

1. He remained absent from lawful duty w.e.from 05.12.2017 till to date.
2. In response to Final Show Cause Notice, he submitted his written reply which was examined and found unsatisfactory. Thus, the allegations leveled against him stand proved.
3. Proper departmental proceedings were initiated against him and Mr. Shafi Ullah A/DSP RRF Peshawar Region was appointed as Enquiry Officer. During the course of enquiry, the E.O found him guilty of the charges and recommended him for the award of "major punishment".
4. Final Show Cause Notice was served upon him vide this office No. 164-69/RRF dated 12.03.2018.
5. The undersigned being Competent authority and awards him the major punishment of "**dismissal from service**" from the day of absence.

  
DEPUTY COMMANDANT  
RRF Khyber Pakhtunkhwa, Peshawar.

No.                      /RRF, dated Peshawar, the:            /10/2018.

Copy for information and necessary action to the:-

1. Addl: IGP of Elite Force Khyber Pakhtunkhwa, Peshawar.
2. Dy: Commandant Elit Force, Khyber Pakhtunkhwa, Peshawar.
3. SP HQrs: Elite Force Khyber Pakhtunkhwa, Peshawar.
4. A/DSP RRF Peshawar Region.
5. Accountant Elite Force, Khyber Pakhtunkhwa, Peshawar.
6. RI Elite Force, Khyber Pakhtunkhwa, Peshawar.
7. OHC, FMC, SRC Elite Force, Khyber Pakhtunkhwa, Peshawar.
8. FC Qamar Zada No.6038 of RRF Unit No.28 through Reader to A/DSP RRF Peshawar Region.