



10.02.2023

Learned counsel for the appellant present. Mr. Uzair Azam Khan, Additional General alongwith Gulzad Khan, SI (Legal) for the respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Granted. To come up for arguments before the 18.05.2023 before the D.B.


(FAREEHA PAUL)
Member (E)


(ROZINA REHMAN)
Member (J)

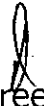
SCANNED
KPST
Peshawar


26.09.2022

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment as she has not prepared the brief. Adjourned. To come up for arguments on 12.12.2022 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

12.12.2022

Counsel for the appellant present.

Mr. Muhammad Jan, District Attorney alongwith Gulzad Khan, Inspector (Legal) for the respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Last opportunity is granted. To come up for arguments on 10.02.2023 before the D.B.

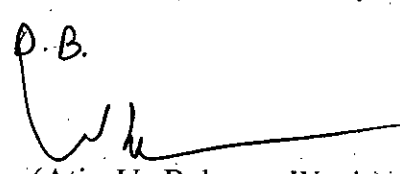

(FAREEHA PAUL)
Member(E)


(ROZINA REHMAN)
Member (J)

SCANNED
KPST
Peshawar

20.01.2022


Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Wajid S.I (Legal) for respondents present and submitted reply/comments which are placed on file. To come up for rejoinder if any, and arguments on 25.05.2022. before D.B.



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

25th May, 2022

Counsel for the appellant present. Mr. Noor Zaman, District Attorney for the respondents present.

Counsel for the appellant requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 20.07.2022 before D.B.


(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman


20.07.2022

Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Former made a request for adjournment as she has not prepared the brief of the case. Adjourned. To come up for arguments on 26.09.2022 before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

01.12.2021

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

Learned counsel for the appellant while opening the case for preliminary hearing, argued that the appellant is aggrieved of the impugned order dated 21.09.2020 whereby major penalty of dismissal from service was awarded to him. The appellant preferred departmental appeal to the appellate authority. However, the same was also filed vide appellate order dated 03.12.2020 whereafter the appellant submitted the instant service appeal in the Service Tribunal on 24.12.2020. It was further contended that the appellant was nominated in FIR No. 447 dated 02.04.2020 under Section-302-324-458-148-149 PPC at Police Station Matra Peshawar. The appellant was facing criminal trial and without waiting for the culmination of judicial proceedings against him, the respondent-department dismissed the appellant from service. Moreover, no regular enquiry has been conducted and no opportunity of personal hearing before passing the impugned order, was afforded to the appellant. Necessary requirements in the prescribed manner have not been fulfilled and as such the impugned order dated 21.09.2020 and appellate order dated 24.12.2020 are not tenable, may be set aside.

The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 20.01.2022 before S.B.

Appellant Deposited
Security & Process Fee

6/12/21

(Mian Muhammad)
Member(E)

116

31.08 .2021

Counsel for the appellant present.

Learned counsel for the appellant sought time for further preparation of arguments. Adjourned. To come up for preliminary hearing before the S.B on 14.10.2021.


(MIAN MUHAMMAD)
MEMBER (E)

14.10.2021

Learned counsel for the appellant present.

Learned counsel for the appellant requests for adjournment on the ground that she has not prepared the brief. Granted. To come up for preliminary hearing before the S.B on 01.12.2021.

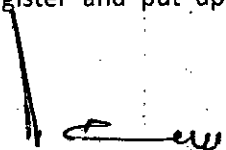

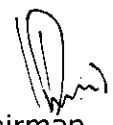


(MIAN MUHAMMAD)
MEMBER (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 16417 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/12/2020	<p>The appeal of Syed Suleman Shah presented today by Roeeda Khan 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-	01.02.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/02/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	18.05.2021	<p>Counsel for the appellant present.</p> <p>Requests for adjournment in order to further prepare the brief and also bring on record certain documents relevant for the appeal in hand. Adjourned to 18.05.2021 before S.B. The requisite record shall be submitted in office before next date of hearing.</p> <p style="text-align: right;"> Chairman</p>
		<p>Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 31.08.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 16477 /2020

Syed Suleman Shah

VERSUS

Deputy Inspector General of Police CTD Khyber

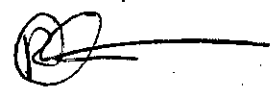
Pakhtunkhwa Peshawar & Others

INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-6
2.	Affidavit.		7
3.	Addresses of parties		8
4.	Condonation of delay		9-10
5.	Copy of suspension order	"A"	(11)
6.	Copy of show cause notice and reply	"B & C"	12 to 13
7.	Copy of charge sheet and reply and letter	"D, E & F"	14 to 17
8.	Copy of dismissal order	"G"	18
9.	Copies of departmental appeal and rejection order	"H & I"	19 to 22
10.	Wakalatnama		


APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

Dated: 24/12/2020

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Syed Suleman Shah No.1551 Ex-Constable CTD
Police KPK Peshawar.

Appellant

VERSUS

1. Deputy Inspector General of Police CTD Khyber
Pakhtunkhwa Peshawar.
2. Superintend of Police Head Quarters CTD Khyber
Pakhtunkhwa Peshawar.

Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE ORDER DATED 21/09/2020
WHEREBY THE APPELLANT HAS BEEN
AWARDED MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE AND AGAINST
WHICH THE APPELLANT FILED
DEPARTMENTAL APPEAL WITHIN ONE
MONTH OF THE COMMUNICATION OF
IMPUGNED ORDERS DATED 21/09/2020
WHICH HAS BEEN REJECTED BY THE
RESPONDENT DEPARTMENT ON 03/12/2020
ON NO GOOD GROUNDS.

(2)

Prayer:-

ON ACCEPTANCE OF THIS SERVICE
APPEAL BOTH THE IMPUGNED
ORDERS DATED 21/09/2020 & 03/12/2020
MAY KINDLY BE SET ASIDE AND THE
APPELLANT MAY KINDLY BE
REINSTATED IN SERVICE ALONG WITH
ALL BACK BENEFITS. ANY OTHER
REMEDY WHICH THIS AUGUST
TRIBUNAL DEEMS FIT THAT MAY
ALSO BE ONWARD TRIBUNAL DEEMS
FIT THAT MAY ALSO BE GRANTED IN
FAVOUR APPELLANT.

Respectfully Sheweth,

1. That the Appellant has been initially appointed as Constable in Police department.
2. That the appellant performed his duty regularly and with full devotion and no complaint whatsoever has been made against the appellant.
3. That while posted at District Police Office CTD Peshawar, a false and fabricated case FIR No.447 dated 02/04/2020 U/S 302/324/458/148/149/34 PPC at Police

(2)

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ON ACCEPTANCE OF THIS SERVICE
APPEAL BOTH THE IMPUGNED
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MAY KINDLY BE SET ASIDE AND THE
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ALL BACK BENEFITS. ANY OTHER
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charge sheet and reply and letter are attached as annexure "D, E & F").

7. That the Respondent Department without fulfilling codal formalities and without providing opportunity of defense to the appellant, dismissed the appellant from service on 21/09/2020 on the ground of involvement of the said false and fabricated criminal cases. (Copy of dismissal order is attached at annexure "G").

8. That the appellant submitted department appeal within one month from the date of communication of the impugned order dated 21.09.2020 which has been rejected on 03/12/2020 on no good grounds. (Copies of departmental appeal and rejection order are attached at annexure "H" & "I").

9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUNDS:-

A. That the impugned order 21/09/2020 is void and abinitio order because it has been passed without fulfilling codal formalities.

- B. That no regular inquiry has been conducted by the Respondent department and no chance of personal hearing has been provided to the appellant in this respect the appellant relied upon the judgment dated 2008 SCMR Page:1369.
- C. That no final show cause notice has been issued and communicated to the appellant by Respondent department before imposing the major penalty in this respect the appellant relied upon a judgment reported on 2009 PLC (CS) 176.
- D. It is a well settled maxim no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.
- E. That no opportunity of cross examination has been provided to the appellant.
- F. That the respondent department should be waited for the decision of the criminal cases above which is a clear cut violation of CSR 194-A.
- G. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this service appeal both the impugned orders dated 21/09/2020 & 03/12/2020 may kindly be set aside and the appellant may kindly be reinstated in service

(6)

along with all back benefits. Any other remedy which this august tribunal deems fit that may also be onward tribunal deems fit that may also be granted in favour appellant.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.



APPELLANT

Through



Roeeda Khan

Advocate, High Court

Peshawar.

Dated: 24/12/2020

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.


Advocate.

①

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Syed Suleman Shah

Versus

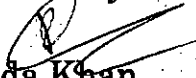
Deputy Inspector General of Police CTD KPK Peshawar &
Others

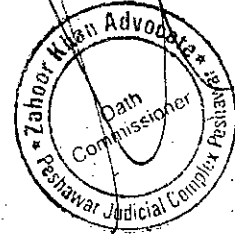
AFFIDAVIT

I, Syed Suleman Shah No.1551 Ex-Constable CTD Police
KPK Peshawar, do hereby solemnly affirm and declare that all
the contents of the **instant appeal** are true and correct to the best
of my knowledge and belief and nothing has been concealed or
withheld from this Hon'ble Court.

②
DEPONENT

Identified by:


Roeeeda Khan
Advocate High Court
Peshawar.



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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Syed Suleman Shah

VERSUS

Deputy Inspector General of Police CTD Khyber
Pakhtunkhwa Peshawar & Others

ADDRESSES OF PARTIES

PETITIONER.


Syed Suleman Shah No.1551 Ex-Constable CTD
Police KPK Peshawar

ADDRESSES OF RESPONDENTS

1. Deputy Inspector General of Police CTD Khyber
Pakhtunkhwa Peshawar.
2. Superintend of Police Head Quarters CTD Khyber
Pakhtunkhwa Peshawar


APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

Dated: 24/12/2020

9

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Syed Suleman Shah

VERSUS

Deputy Inspector General of Police CTD Khyber
Pakhtunkhwa Peshawar & Others

APPLICATION FOR CONDONATION OF DELAY (IF
ANY)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
2. That the appellant filed departmental appeal within one month from the date of communication of the impugned order dated 21.09.2020.

Grounds:

- A. That the impugned orders are void order and no limitation run against the void orders.

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B. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities and there are many judgment of the superior court as well as specific provision of law that limitation has been counted from the date of communication.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.


Appellant

Through

Date : 24.12.2020


Roeeda Khan

Advocate, High Court
Peshawar.

(A) 111



OFFICE OF THE,
DEPUTY INSPECTOR GENERAL OF POLICE,
COUNTER TERRORISM DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR.

ORDER

Due to involvement in Case FIR No 447 dated 02.04.2020 vis
302/324/458/460/148//149 PPC PS Mathra Peshawar, Constable Suleman Shah No 1551 of this Unit is
hereby placed under suspension with immediate effect and till further orders.

OB No 111 /CTD
Date 06/04/2020

SP/HQrs:

For Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.

No 3601-09 /EC/CTD

Dated Peshawar the 06/04/2020

Copy of above is forwarded for information and necessary action to all
concerned in CTD Khyber Pakhtunkhwa.

'B'

12

FC Syed Suliman Shah No. 1551
CTD, Hqrs Peshawar.


No. 3887 /CTD
Dated 23/04/2020.

SHOW CAUSE NOTICE

Whereas, You FC Syed Suliman Shah No. 1551 of this Unit have committed the following commissions/omissions on your part that:-

1. You have been reported to be Involved in Criminal Case Vide FIR No. 447 dated 02-04-2020 u/s 302/324/458/148/149 PPC PS Mathra Peshawar.
2. You have intentionally and deliberately absented himself from your lawful duties vide DD no.
3. All this speaks highly adverse on your part and it's against Police Rules, 1975 read with Amendments 2014.

Now, I Superintendent of Police, CTD Hqrs, Peshawar call upon you to show cause within 07 days of the receipt of this Notice as to why departmental action should not be taken against you under Police Rules, 1975 read with Amendments 2014.


Superintendent of Police, Hqrs ,
CTD, Khyber Pakhtunkhwa,
Peshawar.



مجلس شہری شہکار سوسائٹی میں 1887 عرصہ 23/4/2020 عرصہ جاری جواب
مجلس صاحبان نے شہکار سوسائٹی اور عرصہ میں مزید بھیجے کہ مندرجہ
بابت شہکار سوسائٹی کے عرصہ 23/06/2020 CID شدوار سوسائٹی اور میں
مجلس میں جواب تفصیل جواب میں ہے۔

ما علی
عرصہ 23/4/2020 کو روز قیمت سٹیشن شدوار سوسائٹی
میں رہنے والوں سرانجام دیں رہا گیا اور ڈیولپمنٹ میں نے لکھ سٹیشن
گورنر جلا گیا تقریباً بوقت 1900 بجے تک گورنر واقعہ شہکار
میں گیا۔ اسی روز ڈیولپمنٹ شدوار رہا گیا۔ نئے عمارت 7 ماہ عرصہ
23/04/2020 تک مقیم لکھنا دیکھ رہے رہا گیا۔ جیسا کہ سٹیشن نے ذکر
کیا کہ سارا دن ڈیولپمنٹ سرانجام دینے کے بعد نئے گورنر بوقت 1900 بجے
بہج گیا۔ اگلے دن جمع عرصہ 23/04/2020 کو سٹیشن کو صلح ہوا کہ میرے
فلاح مندرجہ بالا جھولے و فن گھرت FIR درج رہا میرے پاس ہے۔ یہ
میں اس وقت کے پاس میں تھے علیحدہ اور نہیں اس وقت شدوار
میں شہکار رہا گیا۔ بوقت ضرورت سٹیشن رہنے کے گناہیں ثابت کر
نے کے کو ایمل ایسٹیشن رہا گیا۔ یہاں یہ بات قابل ذکر ہے
کہ ڈیولپمنٹ سٹیشن کے ڈیولپمنٹ میں ڈیولپمنٹ سرانجام دیں رہے۔ مندرجہ
بارگاہ کے گورنر کو جس اس جھولے و فن گھرت واقعہ میں گھسٹا ہے
جس میں سٹیشن کا کوئی کردار نہیں ہے۔ مندرجہ بالا حقائق کو مدنظر رکھتے
ہوئے آپ صاحبان سے عاجزانہ گزارش ہے کہ سٹیشن کا سہاقتی
رہکار و دیگر کردار کو مدنظر رکھتے ہوئے شہکار سوسائٹی کو نئے سٹیشن
کے درجہ زخمی ہو گیا۔ حکم صادر فرمائیں شہکار سوسائٹی سٹیشن
صحت دعا کر رہا گیا۔

منعہ
مجلس شہکار سوسائٹی / CID / ISD / (CFU) / منیجر
26/6/2020



(15)

SUMMARY OF ALLEGATIONS

1). I, SUPERINTENDENT OF POLICE, HQrs: CTD KHYBER PAKHTUNKHWA, am of the opinion that Constable Syed Suleman No. 1551 of this Unit has rendered yourself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Disciplinary Rules, 1975 read with Amendments 2014.

STATEMENT OF ALLEGATIONS.

- i. You have been reported to be involved in Criminal Case vide FIR No. 447 dated 02-04-2020 U/S 302/324/458/148/149 PPC PS Mathra Peshawar.
- ii. You have intentionally and deliberately absented himself from your lawful duties vide DD No. 447 dated 02-04-2020.
- iii. All this speaks highly adverse on your part and it's against Police Rules 1975 with Amendments 2014.

2). For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, DSP/HQs Riaz Khan is appointed as Enquiry Officer, to conduct enquiry under the Rules

3). The Enquiry Officer, shall, in accordance with the provision of the Police Disciplinary Rules, 1975 read with Amendments 2014 provide reasonable opportunity of hearing to the above named defaulter Constable, record its findings and make within 15 days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.


No. ⁵⁶ 555-IEC/CTD

Dated Peshawar the

02/07/2020.

Copy of above is forwarded to the:-

- 1). Enquiry Officers of this Unit are directed to initiate departmental proceedings against the defaulter official under the Police Disciplinary Rules, 1975 read with Amendments 2014.
- 2). Constable Syed Suleman Shah No. 1551 to appear before the Enquiry Officer on the date time and place fixed by the Enquiry Officer for the purpose of enquiry proceedings.


Superintendent of Police HQrs:
CTD, Khyber Pakhtunkhwa,
Peshawar



بیان ازالہ کنندہ سید شاہزاد

جو اجراء شدہ رقم 8490 صرفہ 2010/07/30 تاریخ سے لگوا رہی ہے۔
CFD بند کوائز میں جو اجراء شدہ رقموں میں کہ درجہ 2010/07/30 تاریخ
شیت کے تحت کوئی بھی رقم نہیں درج ہے نہ وصول نہ اسی کے لئے
جواب میں ہے۔

منجانب

صرفہ 2010/04/06 کو لگوا رہی ہے اس میں CFD بند کوائز میں
رہی ڈیول سرانجام دے رہا تھا اور ڈیول قلم سب سے لگوا رہی ہے جو
گیا تقریباً بوقت 19:00 بجے تک اس میں کچھ رقم شامل ہے
اسی روز جو رقم فیڈ ارونما ہوا۔ قدر مبالغہ 447 صرفہ 2010/04/06
تقریباً دو گھنٹہ میں تھا۔
جس کے ساتھ ڈیکریا کہ سارا دن ڈیول سرانجام دے رہا تھا اسے کچھ بوقت
19:00 بجے دیکھا گیا۔ اس کے بعد دن جمع صرفہ 2010/04/06 کو اس میں کوئی
میا کہ صرف طرف مندرجہ بالا جو رقموں میں کچھ رقم
میں نہیں رہی وہ رقم ختم کے بارے میں علم نہ تھا کہ اور نہیں
شک ہے کہ یہ ہے۔ یوں ضرورت اس میں رہی ہے کہ اس وقت
تک جو رقم مل گیا اس کے ساتھ۔ یہاں یہ بات قابل ذکر ہے جو رقم
تک نہیں مل سکی ڈیول سرانجام دے رہا ہے۔ نیز ادنیٰ پارٹی نے کچھ
بھی اس میں کچھ رقموں میں کچھ رقموں میں کچھ رقموں میں
کوئی چیز نہیں ہے۔

مندرجہ بالا صفائی کوئی رقم کچھ نہیں ہے اب وہاں سے
اس سے ہے کہ ساتھ ساتھ ریکارڈ کوئی رقم کچھ نہیں
ہو جاتا کچھ کوئی رقم کچھ کارروائی کے ذریعہ دفتر میں کچھ
ضرورتوں کے لئے اس کے ساتھ ساتھ دیکھو اس کے لئے
ہے جو اس کے لئے

سید شاہزاد
آئی ایم اے ٹی ایم اے سید شاہزاد
2010

(1F)

(17)



OFFICE OF THE,
DEPUTY INSPECTOR-GENERAL OF POLICE,
CTD, KHYBER PAKHTUNKHWA,
PESHAWAR.

No. 8490 /EC/CTD Dated Peshawar the 30/07/2020

To:- Superintendent of Jail
Khyber Pakhtunkhwa
Peshawar

SUBJECT: - CHARGE SHEET AND STATEMENT OF ALLEGATION.

MEMO:

Charge sheet and Summary of Allegation in duplicate against Constable Syed Suleman Shah No.1551 of this unit present in your custody in Peshawar jail in case FIR No.447 dated 02-04-2020 u/s 302/324/458/148/149 PPC PS Mathra District Peshawar.

It is therefore requested copy of the same may please be returned duly signed by the defaulter constable as a token of receipt for record please.

SP/HQrs:
For Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.



OFFICE OF THE
DEPUTY INSPECTOR GENERAL OF POLICE
COUNTER TERRORISM DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

ORDER

My this order of today on 21-09-2020 will dispose off departmental proceedings initiated against Constable Syed Suleman Shah No. 1551 of this Unit on the score of allegations that while he was posted in this Unit and was involved in criminal case vide FIR No. 147 dated 02-04-2020 U/S 302-324-458-148-149 PPC PS Mathra Peshawar.

He was charge sheeted and Mr. Riaz Khan DSP/HQrs CTD was nominated as inquiry officer to proceed him departmentally.

The enquiry officer completed the enquiry and recommended that the Constable Syed Suleman Shah No. 1551 CTD HQrs Peshawar may be awarded with major punishment i.e. Dismissal from Service. He was called to appear in person for personal hearing but he never appeared before the undersigned.

Now, I Shah Muntaz Khan Superintendent of Police HQrs CTD Khyber Pakhtunkhwa, Peshawar in exercise of the powers vested in me and Police Rules, 1975 read with amendment 2014 agreed with the recommendation of enquiry officer awarded him "MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE".

OB No 220/CTD
Dated 21/09/2020

Shah Muntaz Khan
Superintendent of Police HQrs
CTD, Khyber Pakhtunkhwa,
Peshawar.

No 11343-47/EC/CTD

Dated Peshawar the 21/09/2020

Copy of above is forwarded for information and necessary action to all concerned in CTD, Khyber Pakhtunkhwa, Peshawar.

To,

The Deputy Inspector General (DIG) of Police,
Counter Terrorism Department (CTD)
Khyber Pakhtunkhwa
Peshawar.

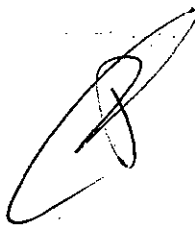
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Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 21/09/2020
VIDE NO. 11343-47 /EC/CTED AND OB NO. 220/CTD PASSED BY
SUPERINTENDENT OF POLICE HEAD QUARTER COUNTER TERRORISM
DEPARTMENT [CTD], KHYBER PESHAWAR, WHEREBY MAJOR
PUNISHMENT OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE
APPELLANT.**

Respected Sir,

My Humble Submission Are As Under.

1. That the appellant namely Syed Suleman Shah No. 1551 was serving as constable in the police department at Counter Terrorism Department [CTD] Khyber Peshawar and has rendered unblemished service recorded.
2. That on 02/04/2020 the appellant was falsely charged in case vide F.I.R No. 447 u/s 302,324,458,148,149 /34 PPC, Police Station Mathra Peshawar, wherein the appellant was dismissed from service on 21/09/2020 by Superintendent of police Head Quarter (CTD) Khyber Pakhtunkhwa Peshawar. [Copy of dismissal order is attached].
3. That after falsely charging in criminal case, the appellant surrendered himself to police and now behind the bar / judicial lockup at central prison Peshawar.
4. That the appellant has not been convicted by court of law in criminal case and court proceedings against the appellant is pending in the court of Additional District and Session Judge Peshawar whereas case of the appellant is prima facie and hopefully will be decided in favour of the appellant.
5. That according to law and rules as well as averments of judgments of the superior courts the department cannot dismiss the appellant from service, while the department can suspend the appellant if the court of law has not been declared the appellant as convict. During the period behind the bar/ judicial lockup on suspension the appellant is entitled to pay monthly salary till conviction from the



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court of law. In this regard the appellant rely upon judgment of the Superior Court reported as 2019 PLC (CS) 255.

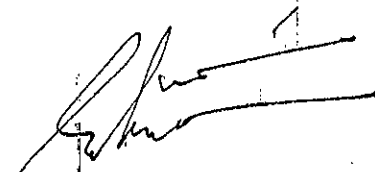
6. That the department committed illegality and irregularity referred to FR 54 and CSR 194-which read as:
"CSR 194-A: A Government Servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a Government Servant is not arrested or is released on bail, the competent authority may suspend him, by specific order, if the charge against him is connected with his position as Government Servant or is likely to embarrass him in the discharge of his duties or involve moral turpitude. During suspension period the Government servant shall be entitled to the subsistence grant as admissible under FR 53."
7. That the appellant was served charged sheeted/statement of allegations and as per dismissal order of the appellant dated 21/09/2020 an inquiry was conducted against the appellant, wherein DPS /HQrs Riaz Khan was nominated as inquiry officer.
8. That the inquiry officer proceeded an illegal inquiry against the appellant while the department was in knowledge about the appellant, who was in judicial lockup at central prison Peshawar and the department has not communicated charge sheet / statements of allegation and show cause notice to the appellant at central prison Peshawar, neither the inquiry officer visited central prison to record statement of the appellant behind the judicial lock up nor an opportunity of cross examination was provided to the appellant and one sided / ex- party departmental proceedings initiated against the appellant which is against the law, rules, judgment of the superior courts and also against the norms of natural justice.
9. That no opportunity of personal hearing was afforded to appellant, which is also the mandatory requirement of law and rules. The appellant was condemned unheard and accordingly the dismissal order dated 21/09/2020 is void, ab-initio, arbitrary and hence not sustainable.
10. That no fact finding or regular inquiry has been conducted against the appellant hence the whole proceedings are illegal, unlawful against the law and rules, void - initio and the dismissal order dated 21/09/2020 of the appellant is liable to be set aside.
11. That the right of fair trial is granted by Article 10 A of the constitution of Islamic republic of Pakistan 1973 but the same has ^{not} provided to the appellant, furthermore there is no evidence against the appellant.



(21)

12. That codal formalities regarding dismissal of the appellant has not been followed by the department in accordance with Law and Rules, while in case the appellant was in judicial lockup and behind the bar which is against the norms of natural justice.

It is, therefore, most humbly requested that the appellant may very kindly be re-instated in his service in the light of various judgments of the superior Courts as well as Honourable Tribunal mentioned above with all back benefits and the appellant departmental appeal may kindly be accepted in accordance with rules and judgments of the Honourable Courts as mentioned above. Any others relief which this deem fit if any may also be granted.



[Syed Suleman Shah No. 1551]
Ex - constable CTD Police
Khyber Pakhtunkhwa Peshawar

SUPERINTENDENT
CENTRAL PRISON PESHAWAR





('I') (22) KS-11

**OFFICE OF THE,
DEPUTY INSPECTOR GENERAL OF POLICE,
COUNTER TERRORISM DEPARTMENT,
KHYBER PAKHTUNKHWA, PESHAWAR.**

ORDER

Ex-Constable Syed Suleman Shah No. 1551 while posted in CTD HQrs. Peshawar was involved in criminal case vide FIR No. 4-17 dated 02-04-2020, U.S. 302, 311-158-148-149 PPC PS Mathra Peshawar. He has been awarded major punishment, i.e. "Dismissal from service". The applicant submit his departmental appeal through the office of Superintendent of Central Prison Peshawar from Central Jail Peshawar before the Worthy Deputy Inspector General of Police CTD Khyber Pakhtunkhwa for consideration. However, there is no chance of his acquittal in the aforementioned case in near future. Hence the departmental appeal for re-instatement is hereby filled by competent authority.

SP/HQrs:




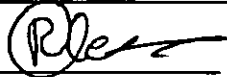
**For Deputy Inspector General of Police,
CTD, Khyber Pakhtunkhwa,
Peshawar.**

No 14985-⁸⁴ /EC/CTD


Dated Peshawar the 03 / 12 / 2020

Copy of above is forwarded for information and necessary action to the:-

1. Superintendent of Central Prison Peshawar w/r. to his office Memo. No. 13258/WI/ASH dated 17-10-2020.
2. Ex-Constable Syed Suleman Shah No. 1551.
3. Accountant, OASL, SRC CTD HQrs. Peshawar.

قیمت 50 روپے	69395			
ایڈویکٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر:				
رابطہ نمبر: 03330265900				

بعدالت جناب: محکمہ عدالت پشاور

منجانب: <u>حکومت</u>	دعوی:
	علت نمبر: <u>447</u>
	مورخہ: <u>2/4/2020</u>
	جرمنٹ: <u>302/324/458/46</u>
	تھانہ: <u>148 PPK</u>
باعث تحریر آنگہ	


مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام پشاور کے کوڈیکل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز ڈیکل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلاف دینے جو اب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اوزوکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے لے کر اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور ان کا ساختہ پرواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: پشاور بار ایسوسی ایشن

بد پشاور بد پشاور Power of Attorney in favour of پشاور بار ایسوسی ایشن (this case only)

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Accepted by  PESHAWAR BAR ASSOCIATION

تصدیق نائک
پشاور
پشاور بار ایسوسی ایشن

BEFORE THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 16417/2020.

Title: "Syed Suleman Shah V/S DIG CTD KP & SP HQrs
CTD KP"

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 16417/2020.

Syed Suleman SHah No. 1551 Ex- Constable CTD Police KPK Peshawar.

.....(Petitioner)

VERSUS

1. Deputy Inspector General of Police CTD Khyber Pakhtunkhwa Peshawar..
2. Superintendent of Police Head Quarters CTD Khyber Pakhtunkhwa Peshawar.

.....(Respondents)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 16417/2020.

Subject:- **COMMENTS ON BEHALF OF RESPONDENTS.**

Respectfully Sheweth

Preliminary Objections:-

- a) The appellant has no cause of action or locus standi.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- d) The appellant is estopped to file the appeal by his own conduct.
- e) The appeal is barred by law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Correct to the extent that appellant was enlisted/ appointed as constable in Police Department.
2. Pertains to record, hence needs no comments.
3. Incorrect, appellant was posted at CFU CTD HQrs and not at DPO Peshawar. Meanwhile, he was directly charged in Case FIR No. 447 dated 02.04.2020 u/s 302-324-458-460-148-149 PPC PS Mathra Peshawar. Accordingly, he was placed under suspension and show cause notice was served upon him on 23.04.2020. In response, he submitted an unsatisfactory reply due to which a charge sheet and summary of allegations were served upon him through Superintendent of Jail KP Peshawar, vide letter No. 449/ EC/CTD Dated 30.07.2020. He replied to the charge sheet but failed to convey high ups regarding his innocence in the entire episode. Inquiry officer concluded that due to willful absence and involvement in criminal case amounts to gross misconduct on his part and thus recommended him for major punishment i.e Dismissal from service. Moreover, he was called to appear before competent authority prior to his arrest but he didn't. Accordingly, he was dismissed from service. Later on, he sent a departmental appeal from Central Jail Peshawar through a covering letter from Superintendent of Central Prison Peshawar. The same appeal was thoroughly perused and was filed.
4. Reply to this para has already been explained in previous para.
5. Reply has already been explained in facts of para 3.

6. Reply to this para has been explained in facts of para 3.
7. Incorrect, all the codal formalities of departmental inquiry have been observed. He was given a chance of personal hearing but he failed to appear in person. Accordingly, major punishment was awarded to him.
8. Correct to the extent that he had sent department appeal in time but with no plausible grounds to prove himself innocent. As he was directly charged in a murder and attempt to murder case and was behind bars (jail), therefore, his departmental appeal was filed.
9. Incorrect, appellant has no right to file this instant service appeal as he was directly charged in above mentioned case FIR No. 447/2020.

GROUND:-

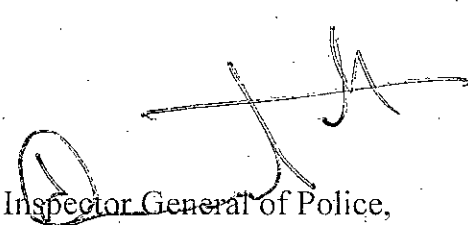
- a. Incorrect, all the orders passed by Police department against the appellant are legal, convincing, as per law and rules and needs to be stand as it is .
- b. Incorrect, proper departmental inquiry was carried out against the appellant. All the steps of departmental inquiry were followed. The appellant was in jail and thus had no chance of his acquittal at the time of inquiry and at departmental appeal stage regarding his acquittal in murder case. He was informed to appear in person prior his arrest but he failed to do so. Major punishment was awarded to him only because of his absence from duty and his involvement in a criminal case.
- c. Incorrect, Police is a disciplined force, involvement in murder and attempt to murder case is a very serious allegation on appellant. He was directly charged in FIR NO. 447/2020 PS Mathra Peshawar. He was in jail at the time of departmental appeal. Inquiry officer recommended him for awarding major punishment Moreover, he also remained absent from duty. He was informed again and again to appear before inquiry officer and competent authority but he failed to comply with.
- d. This para is legal. Moreover, appellant is only trying to divert the court's attention from the main issue i.e appellant was charged directly in case FIR No. 447/ 2020 PS Mathra. He was shown present at the crime scene at the


time of murder and attempt to murder case (Copy of FIR is enclosed for ready reference). He was arrested by the police and was in jail even then he was informed to appear in person before the inquiry officer and then competent authority but he failed to do so.

- e. Incorrect, he did not bother to appear before inquiry officer or any competent authority. Moreover, his involvement in murder and attempt to murder case is sufficient for initiating departmental proceedings against him.
- f. Incorrect, departmental proceedings cannot be interdependent on criminal proceedings. Inquiry officer is on liberty to carry departmental proceedings and submit his findings regarding the allegation leveled against appellant.
- g. Respondents also seek permission of the Hon'ble Tribunal to raise additional grounds at the time of arguments.

Prayer:

In view of the above comments on facts and grounds, it is humbly prayed that the instant petition along with interim relief being not maintainable under the law, may kindly be dismissed with costs.


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


Superintendent of Police,
HQrs, CTD KP.
(Respondent No. 2)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA.

Service Appeal No. 16417/2020.


Syed Suleman Shah.....(Appellant)


VERSUS

DIG CTD KP & SP HQrs CTD KP.....(Respondents)

AFFIDAVIT

We, the below mentioned respondents, do here by solemnly affirm and declare on oath that the contents of reply submitted are correct and true to the best of our knowledge and belief and that nothing has been concealed from this Honorable Court.


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


Superintendent of Police,
HQrs, CTD KP.
(Respondent No. 2)

یشارہ جو انجانے میں چھپ کر دریاں کے لہجے میں بہا گیا ہے کہ اسے لہجے میں غلطی عالم ۱۹۹۵ء میں کیا گیا
 ہے جس نے اس میں غلطیوں کو دہرایا اور اسے لہجے میں غلطیوں کا ایک نیا نسخہ پیش کیا جس میں
 اس کے اصل الفاظ اور ان کے معنی کو بھول کر لہجے میں غلطیوں کا ایک نیا نسخہ پیش کیا جس میں
 اس کے اصل الفاظ اور ان کے معنی کو بھول کر لہجے میں غلطیوں کا ایک نیا نسخہ پیش کیا جس میں
 اس کے اصل الفاظ اور ان کے معنی کو بھول کر لہجے میں غلطیوں کا ایک نیا نسخہ پیش کیا جس میں

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Copyng Agency (R.W)
 Legal Branch
 Capital City Police Peshawar

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