

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,  
PESHAWAR.

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,  
PESHAWAR.

Appeal No. 1907/2022

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 5795

(Appellant)

Dated 2/6/2023

SIBGHAT ULLAH

VERSUS

IGP etc.

(Respondents)

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SAI  
DEPONENT

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,  
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**Appeal No. 1907/2022**

SIBGHAT ULLAH

(Appellant)

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**PARA WISE REPLY/COMMENTS OF RESPONDENTS NO.1 to 3**

Respectfully Sheweth

The respondents respectfully submit as under: -

**PRELIMINARY OBJECTIONS.**

1. That the Appellant has got no cause of action.
2. That the Appeal is not maintainable under the law.
3. That the Appeal is barred by law & limitation.
4. That the Appellant has not been discriminated in any way.
5. That the Appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the Appellant has approached the Honorable Tribunal with unclean hands.
7. That the Appellant has got no cause of action and locus-standi to file the instant Appeal.
8. That the Appellant has been estopped by his own conduct.

**ON FACTS**

1. Correct to the extent, that the Appellant was appointed as a Clerk in 1989, rest of the para pertains to record hence need no comments.
2. Incorrect, the Appellant committed a gross illegality/irregularity. Therefore, was charge sheeted based upon statement of allegation.
3. Incorrect, the Appellant on the mere legal opinion of Inspector (legal) of DPO Office Bannu released the salary of one Sher Akbar along with back benefits without any cogent reason, malafide intention and ulterior motive.
4. Incorrect, after inquiry proceedings, all codal formalities were completed by Enquiry Officer. The charges leveled against the delinquent officer were proved and according to Police Rules 1975, final show cause was issued.
5. Incorrect, after establishment of charges the impugned order dated 16.05.2022 was issued which is not against the Rules and violation of E&D Rules 2011 and FR 29.
6. The Appellant preferred departmental Appeal which was rejected vide order dated 25.11.2022 being devoid of merit.

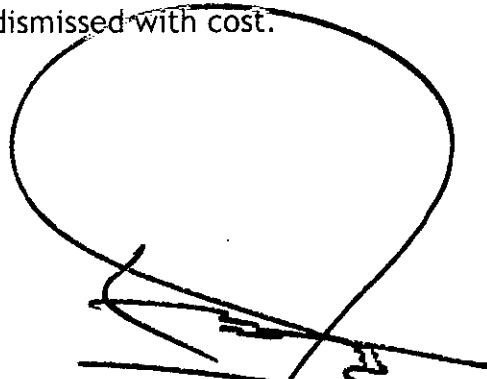
**GROUND:**

- A. Incorrect, the impugned order dated 16.05.2022 and 25.11.2022 was not against the Law/Rules/Facts, norms of Justice and material on record, therefore, not liable to be set aside.
- B. Incorrect the legal opinion of Inspector Legal was twisted by the Appellant and not only the salary was released but back benefits were also granted with malafide intention causing loss to public exchequer.
- C. Incorrect the reply of the Appellant was not plausible, therefore was not considered.

- D. Pertains to record, however it is evident from the record that legal opinion was to the effect that the matter be taken up with District Account Officer to ascertain the reason of stoppage of salary. In spite of the clear opinion the Appellant made the bill and also released the salary.
- E. Incorrect, all codal formalities were adopted by E.O during proceedings.
- F. Incorrect, the major punishment was awarded according to Police Rules, 1975.
- G. Incorrect, the Police Rules, 1975 is applicable on ministerial staff as well as Operation Staff.
- H. Incorrect no principles of natural Justice have ruthlessly been violated in exercise of the power.
- I. Incorrect, the Appellant was treated according to Law and no fundamental right was violated.
- J. Incorrect, the competent authority did not violate the principle of Audi alteram partem and the penalty was imposed not in Sheer violation of provisions but according to the laid down laws specified for the purpose.
- K. Incorrect, the Appellant was not condemned unheard and was treated according to law.
- L. Incorrect, reply has already been given in the above Para.
- M. Detail reply has already been given in the above Para.
- N. The respondent department may kindly be given opportunity to advance other ground and material in time of arguments.

**PRAYER:**

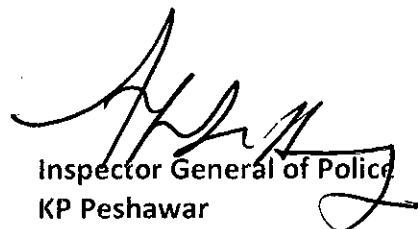
In view of the above Para wise comments, it is most humbly prayed that the Petition of the Petitioner may kindly be dismissed with cost.



Regional Police Officer,  
Bannu, Region Bannu  
(Respondent No.3)



Add: Inspector general KP  
Peshawar  
(Respondent No.2)



Inspector General of Police  
KP Peshawar  
(Respondent No.1)

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(Appellant)

VERSUS

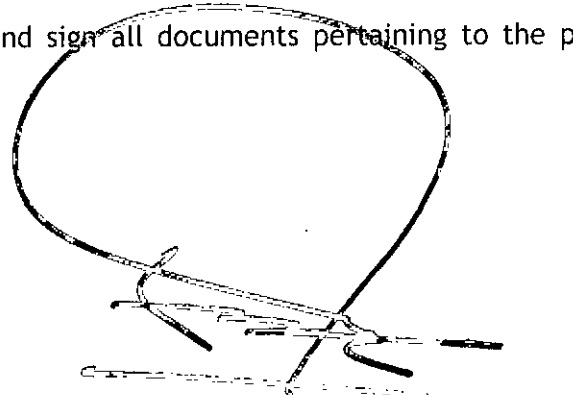
IGP etc.

(Respondents)


AUTHORITY LETTER.

Mr. Muhammad Farooq Khan DSP Legal Bannu, is hereby authorized to appear before Honourable Tribunal on behalf of the undersigned in the above cited Appeal.


He is authorized to submit and sign all documents pertaining to the present Appeal.



Regional Police Officer,  
Bannu, Region Bannu  
(Respondent No.3)



Add: Inspector general, KP  
Peshawar  
(Respondent No.2)



Inspector General of Police  
KP Peshawar  
(Respondent No.1)

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IGP etc.

(Respondents)

AFFIDAVIT.

I MR. Muhammad Farooq Khan DSP Legal Bannu, representative for Respondent Nos.1 to 3, do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by us are true and correct to the best of our knowledge and belief and that nothing has been concealed from this Honorable Tribunal.



*[Handwritten signature]*

02.06.2023

*[Handwritten signature]*  
DEPONENT

it is further stated on oath in this appeal.

The answering respondents have neither been  
placed ex-parte nor their <sup>defense</sup> has been struck off.

*[Handwritten signature]*

2-6-23

①

A 7

CHARGE SHEET

Ashfaq Amwar (PSP), Regional Police Officer, Bannu as competent authority  
Charge you, Senior Clerk Sibtullah, CPO Office Bannu as follows:-

Sher Akbar was appointed as... On 04.2011, he was appointed as... On 04.2011 on contract basis... Office record, Sher Akbar... Extension from 2011 to 2017. The DC Office... contracted period... months & 14 days, Inspector Legal... with malafide intention and some... 2020, despite the fact that Sher Akbar... lawfully and illegally favored Sher... and thus, Sher Akbar Khan made... favor of Pay Officer and Inspector... Sher Akbar Khan has not been... forwarded to CPO Peshawar... has not even forwarded and filtered through... of KP Kausdar Absorption into (KP Police)... proper departmental action against the responsible... Pay Officer Sibtullah, and the entry of Sher Akbar Khan in Police Department.

You appear to be guilty of misconduct under the Khyber Pakhtunkhwa... (Efficiency and Disciplinary) Rules, 2011 vide Notification No.SO(REG-... September, 20... while exercising powers delegated vide Khyber... No.8511-8615/E-V, dated 28.12.2015 (amended vide CPO... No.740-4850/E-V, dated 29.08.2017) and have rendered yourself... specified in the said rules.

You are directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense, if any, should reach to the Enquiry Officer within the specified period, and if you have no defense to put in and in that case ex-parte action shall be taken against you.

You are directed to attend the enquiry to be heard in person.

Statement of allegation...  
*Abstract to be put  
Copy  
PSP/legat.*

*[Signature]*  
Regional Police Officer,  
Bannu Region,  
Bannu  
4/11/22

(b) (8)

STATEMENT OF ALLEGATIONS

Syed Ashfaq Anwar (PSP) is a former Police Officer, Bannu Region, Bannu District. He was appointed as the then Pay Officer DPO Office Bannu. He is alleged to have committed the following misconduct in violation of the Efficiency and Disciplinary Rules, 2011 while exercising his duties as Pay Officer, Bannu District: No.8511-8615/E-V, dated 15.09.2011 and Notification No.4740-4850/E-V, dated 15.09.2011.

SUMMARY OF ALLEGATIONS

Sher Akbar Khan was appointed as a Police Officer on 27.05.1977. On 08.04.2011, he was appointed as a Pay Officer vide Order No.357/APA dated 27.05.1977. On 15.04.2011 on contract as a Police Officer vide Order No.408-17 dated 15.04.2011. As per Office record, Sher Akbar Khan has been extended his contract each time for three years i.e. first extension from 2011 to 2014, second extension from 2014 to 2017. The DC Office Bannu has given extension to him after the expiry of his contracted period before. After the expiry of 02 years, 09 months & 14 days, Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah with malafide intention and some ulterior motives both known to them, started his salary on 02.02.2022, despite the fact that Sher Akbar Khan was no more a government servant. Thus, they both unlawfully and illegally favored Sher Akbar Khan to receive the arrears of the period mentioned above and thus, Sher Akbar Khan made himself a part of police (through the back door) with the unlawful favor of Pay Officer and Inspector Legal. It is opined "Sher Akbar Khan was entitled to get salary". Sher Akbar Khan has not been absorbed in police. His name has been sent neither by DC's Office nor forwarded to CPO Peshawar by DPO Office for absorption. Moreover, his name has not been forwarded and filtered through by the scrutiny committee within the meaning of Rule-3 of KP Khasadar Absorption into (KP Police) Rules 2019. Therefore, it is requested to initiate proper departmental action against the responsible persons-the then Inspector Legal Muhammad Farooq Khan and the then Pay Officer Sibghat Ullah, who were involved in the unlawful entry of Sher Akbar Khan in Police Department.

1. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations SP/Investigation and SDPO Rural-II Circle Bannu are appointed as Enquiry Committee members.
2. The Enquiry Committee members shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within the targeted days after the receipt of this order.
3. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Committee members.

Regional Police Officer,  
Bannu Region,  
Bannu

Attested  
No 490-93 REG. DATE - 07-02-2022

Copies to:-

1. The District Police Officer, Bannu for information w/r to his office Memo: No.225 dated 12.01.2022.
2. The Addl. SP, Bannu for information w/r to his office Memo: No.04/ASP dated 10.01.2022.
3. The Enquiry Committee for necessary action with the direction to complete the enquiry within stipulated period and submit findings.

بحوالہ چارج شیٹ مجاریہ جناب RPO۔ ب میں مرسہ نمبر، EC، 93-490 درجہ 2222  
 کہ شیر اکبر خان نے ایک قطہ تحریری درخواست 2019-2-24 جناب ای پی اوص صاحب بنوں کو بغیر  
 درخواست جناب ڈی پی اوص صاحب نے من۔ ایس ڈی مورخہ 2019-2-26 کو روک کر دیا۔ بعد میں  
 اوص صاحب نے مورخہ 2020-01-08 کو بنوں بغرض میں رائے اسی فیصد کو مینسٹر روک کیا۔  
 کرتے ہوئے۔ ایک تحریری نوٹ ایف میں رائے جناب ای پی اوص صاحب کو بغرض مزید کارروائی پیش کیا۔ جس سے  
 گئے۔ کہ درخواست کنندہ شیر اکبر خان سمجھتا ہے کہ اس کے پاس ایس ڈی سے اس کے لئے کوئی حق بنتا ہے۔ جو کہ  
 حسب ضابطہ منظور کیا۔ تو من پے آفیسر نے مورخہ 2020-2-12 کو اسے روک کر دیا۔ جناب RPO۔  
 کرتے ہوئے شیر اکبر کیلئے پے بل تیار کر کے۔ جناب ای پی اوص صاحب نے اسے روک کر دیا۔ من اس کے پاس  
 دینے کا کوئی اختیار نہیں ہے۔ من اس کے لئے پے بل دے دینا اس کے لئے کوئی اختیار نہیں ہے۔ اس لئے  
 اکاؤنٹ آفیس بنوں نے اس بل پر کوئی اعتراض نہیں کیا ہے۔

Attested  
 AI

رابطہ پے شیر اکبر خان کوٹلیس بنوں



سوانح نامہ پنجاب انکوائری کمیشن رپورٹ

آپ پر اندازہ ہے کہ آپ نے شہر کراچی میں کبھی ایسا کوئی واقعہ دیکھا ہے کہ وہاں پر ایسا کوئی واقعہ ہو گیا ہو؟

12. شیراز کے نئے کس سکین اور گریڈ میں تھے؟

13. کیا اسکی سرورس ریکارڈ میں اس سکین اور رپورٹ میں کسی قسم کی تبدیلی ہوئی تھی؟

14. شیراز کے لئے جو بل تم نے بنائی تھی وہ کتنی تھی؟ اس دن فارمیو سروسز تحریری فارم کی کاپی آپ پر بھیجی گئی تھی۔

15. آرتھوڈونٹیا کے دوران سرورس دن اور رپورٹ کے ریکارڈ پر موجودگی ذمہ دار کے دور میں کیا تم نے وہ کاپی ہے جو تم نے

16. نیپوٹیس نے اپنی قانونی رائے میں تحریر کیا ہے کہ سب سے زیادہ قیمت دی جاوے کہ وہ ڈسٹرکٹ کاونٹ سنس سے کنفرم کرے۔ شیراز کے لئے اس سلسلے میں کون سے ادارے سے بیٹریو تھا؟

17. اگرچہ شیراز کا جواب ہے کہ اس وقت اس کے لئے کوئی رپورٹ نہیں بنائی تھی اور کاونٹ سنس سے یہ

18. اگرچہ نیپوٹیس نے قانونی رائے میں یہ تحریر کیا ہے کہ اس کے لئے کوئی رپورٹ نہیں بنائی تھی اور کاونٹ سنس سے یہ

19. کیا شیراز کے سرورس بک بل بنانے سے پہلے اس بل بنانے کے دوران تمہیں حوالہ کی گئی تھی۔ اگر حوالہ ہوئی تھی تو کس بل سے اور کیا سرورس بک بل کیسے تھا کاونٹ سنس میں بھجوانا تھا

20. شیراز کے سرورس بک کس کے ذریعے کاونٹ سنس بھجوا یا تھا اور وہاں کس کو جوئے کیا تھا؟

21. کیا بل بناتے وقت آپ پر کسی کی طرف سے دباؤ کو نہیں تھا؟

Attest  
[Signature]



(10) D 12

FINDINGS REPORT IN R/O SENIOR  
THE THEN PAY OFFICER DPO OFFICE SIBGHAT ULLAH

The following departmental proceedings relates to the case of Sibghat Ullah of DPO Office, Bannu who has been served with arrest warrant issued upon summary of charges by competent authority (RPO Bannu) under Government Servants (Arrest and Disciplinary) Rules, 2011, where it has been alleged that the accused Senior Clerk, inter alia, had committed the following offences/commissions:

That in the year 2020, he (accused Police officer) reported as Pay Officer, Bannu had extended illegal and unlawful financial assistance to Sher Akbar Khan by preparing arrest bill for him for the years 2017 to 2020 in lieu of termination of his contract employment, in erstwhile FR Bannu District Office, DC, Bannu. Owing to his undue favour, Mr. Sher Akbar Khan neither prepared arrest bill himself for the year 2017 to 2020 as well as he was not a govt. exchequer but also made himself as a govt. employee.

On receipt of chargesheet based on summary of charges, issued vide RPO Office endst No. 493/83/2020 dated 12.12.2019, the accused was examined probed into the allegations. The report of the accused was received and placed on inquiry file, wherein it was noted that the accused had stated that Mr. Sher Akbar Khan had prepared the arrest bill for him on 24.12.2019 for preparation of which he had received a sanction marked to him and dated 12.12.2019. He had also sought an inspection legal for his legal opinion. On 22.12.2019, the report of Inspector legal and remarks of competent authority were received. The arrest bill which was sanctioned by competent authority was also sanctioned by District Account Office Bannu with no objection. The report of Inspector legal had opined that Sher Akbar was arrested in accordance with law, rules and policy, hence, he had acted and discharged his duty in accordance with the law, rules and policy. In the light of legal opinion of Inspector legal as well as remarks of competent authority.

On receipt of the arrest bill, drafted for Sher Akbar, the undersigned issued a sanction for the arrest bill, dated 24.12.2019, where, he was directed to ensure his appearance before the court. Thereby, he was directed to ensure his appearance before the court. He accordingly recorded his statement along with the copy of the arrest bill (copy numbers) but did not produce the copy of drafted bill for Sher Akbar by the accused Sr. Clerk. He was questioned about the procedure for copy of in-questioned drafted bill. He responded that the bill was not available on his record. When he was questioned as to whether he had received the bill from his predecessor while taking over the charge of his office, he responded that handing over/taking over charge of pay branch is limited to the cash book. When he was questioned as to whether it was rules or laws that the copy of cash book would be taken or it was a practice? on this he refused to report.

Attested  
[Signature]

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18

OFFICE OF THE DISTRICT JUDGE, BANNU

2022. accused Sr; Clerk submitted replies to questionnaires served upon him on 13.03.2022. His replies were perused and placed in inquiry file. wherein, he responded that he had handed over the bill, prepared for Sher Akber, to his predecessor Sr; Clerk Shabir (Sr; Assistant Pay officer).

CONCLUSION:

After going through pros and cons of the matter, it is concluded:

- 1. That accused Sr; Clerk Sibghat Khan has prepared and questioned bill for Sher Akber in the light of legal opinion of the competent authority and after recording the remarks of competent authority, it is clear.
- 2. That he was found incompetent and liable for the commission of any doubt.
- 3. That missing of drafted bill, prepared for Sher Akber, is beyond understanding and its copy could not be found in the bag. Therefore, separate searching inquiry is needed to ascertain the responsibility to this effect.

Submitted for kind perusal and order please.

*Attest*  
*[Signature]*

Z. A. (SSAN)  
Superintendent of Police,  
District Bannu,  
Bannu.