

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 713/2019

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS FAREEHA PAUL ... MEMBER(E)

Sherzada, Ex-Head Constable No. 1569, Elite Force, Khyber Pakhtunkhwa, Peshawar. (*Appellant*)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar. (*Respondents*)

Mr. Taimur Ali Khan,
Advocate

... For appellant

Mr. Fazal Shah Mohmand,
Addl. Advocate General

... For respondents

Date of Institution.....28.05.2019
Date of Hearing.....23.05.2023
Date of Decision..... 23.05.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against three orders, one dated 16.01.2019, whereby major penalty of removal from service was imposed upon the appellant, second dated 26.02.2019 whereby his departmental appeal was rejected and third dated 07.05.2019, whereby his revision petition was rejected. It has been prayed that on acceptance of the appeal, the impugned orders might be set aside and the appellant might be reinstated into service with all back and



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consequential benefits alongwith any other remedy which the Tribunal deemed fit and appropriate.

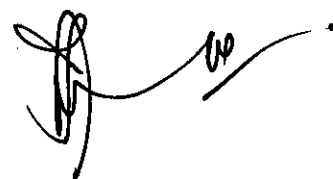
2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant joined the police force in the year 1998 as Constable and after completion of due trainings, he was promoted to the rank of Head Constable and transferred to Elite Force, Khyber Pakhtunkhwa. While serving in the respondent department he was falsely implicated in a criminal case vide FIR No. 354 dated 17.09.2016 u/s 436/427/381/411 PPC, P.S Kohsar Islamabad and arrested on the same day. On the basis of the said FIR, inquiry was conducted against him in which no proper chance of association was provided to him as he was in jail at that time. He was released on bail on 19.12.2016 and reported for duty but he was informed that he had been dismissed from service vide order dated 23.11.2016. Feeling aggrieved, he filed departmental appeal and revision petition but both were rejected on 22.02.2017 and 23.05.2017, respectively. He filed service appeal No. 711/2017 before the Service Tribunal which was finally decided on 19.10.2018 and the impugned order dated 23.11.2016 was set aside and the appellant was reinstated in service. The respondents were directed to conduct denovo inquiry strictly in accordance with rules. In compliance of judgment dated 19.10.2018, the appellant was reinstated into service. Charge sheet alongwith statement of allegations was served upon him which was duly replied by him and he denied the allegations leveled against him. Denovo inquiry was conducted and on the recommendations of the enquiry officer, major punishment of removal from service was imposed upon the



appellant vide order dated 16.01.2019. Feeling aggrieved, he filed departmental appeal which was rejected on 26.02.2019. Then he filed revision petition before the PPO under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 which was also rejected on 07.05.2019; hence the present appeal on 28.05.2019.

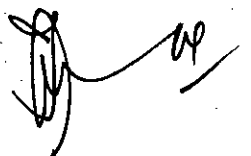
3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant after presenting the case in detail argued that the impugned orders were against the law, facts and norms of justice. According to him, the denovo enquiry was not conducted according to the prescribed procedure as no proper opportunity of defence was provided to him; neither statements of witnesses were recorded in the presence of the appellant nor he was given opportunity to cross examine them. He further argued that during the denovo enquiry, only the appellant was called by the inquiry officer, whereas the complainant, who was an ex-IGP, was not called. He further argued that as the criminal case was pending before the competent court of law when the inquiry was conducted, therefore under CSR-194-A, the respondent department should have suspended the appellant till the conclusion of criminal case but without conclusion of criminal case, he was removed from service. He requested that the appeal might be accepted as prayed for.



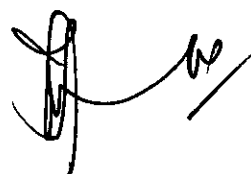
5. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was involved in a criminal case u/s 436/427/381/411 and was arrested by the local police of P.S Kohsar, Islamabad. His guilt was established by the CCTV footage as on the day of occurrence, he was found inside the house of the complainant. He further argued that the appellant was released on bail on the basis of compromise with the complainant which further confirmed the guilt of the appellant. He contended that a proper enquiry was conducted and on the recommendations of the enquiry officer, the appellant was removed from service. He requested that the appeal might be dismissed.

6. After hearing the arguments and going through the record presented before us, it is evident that the appellant, while serving in the respondent/ department, was involved in a criminal case under Sections 436/427/381/411 PPC P.S Kohsar, Islamabad. The FIR dated 17.09.2016 was registered on the request of Nawab Akbar Khan Hoti, Ex-I.G of Police, Khyber Pakhtunkhwa. The appellant was arrested on the same day when the FIR was registered. The department initiated an inquiry against him and as a result he was dismissed from service, about which he allegedly came to know when he was released on bail. After exhausting the right of departmental appeal and revision petition, he filed a service appeal before this Tribunal, which was accepted with the directions to the respondents to reinstate the appellant and conduct denovo inquiry strictly in accordance with rules. In pursuance of the judgment of the Service Tribunal dated 19.10.2018, a denovo inquiry was ordered and charge sheet and statement of allegations were issued on



02.01.2019. In response to the charge sheet the appellant responded with the request to postpone the proceedings of inquiry till the final outcome of proceedings of criminal court/Sessions Judge, Islamabad, which was not accepted and the Deputy Commandant Elite Force, Khyber Pakhtunkhwa upheld his major punishment of removal from service vide his order dated 16.01.2019. Departmental appeal of the appellant as well as his Revision Petition were also rejected by the Commandant Elite Force vide order dated 26.02.2019 and AIG/Establishment vide order dated 07.05.2019 respectively.

7. While going through the proceedings of denovo inquiry, we noted that it had not been conducted in the light of rules, as directed by the Service Tribunal in its judgment dated 19.10.2018. While conducting the denovo inquiry, the inquiry officer did not record any statement of the complainant i.e the ex-IGP, Mr. Akbar Khan Foti, as he was the material witness, without whose statement proper conclusion could not be arrived at. Further, no chance of cross examination was given to the appellant which is a clear violation of the rules. Another point, that was noted while going through the record, was that for conducting denovo inquiry, Mr. Waqar Ahmad, Acting SP/IIQrs, Elite Force, Peshawar was appointed as Inquiry Officer who submitted his report on 07.01.2019. The impugned order dated 26.02.2019, passed by the Commandant Elite Force, as against that, while disposing of the departmental appeal of the appellant, mentions denovo inquiry conducted by one Mr. Salim Riaz. A report dated 25.02.2019, forwarded to the Commandant Elite Force Khyber Pakhtunkhwa, with reference to his



letter dated 13.02.2019, by Salim Riaz, is available on record. According to that report, the Inquiry Officer, Mr. Salim Riaz, went through certain papers that were sent to him. He collected the service record of the appellant. He further sent two competent police officials of Elite Force to Islamabad for collecting evidence, summoned the appellant and recorded his fresh statement. All this procedure adopted by the Inquiry Officer indicates that he totally depended on already available documents and never bothered to go to the scene of actual happening to collect the evidence himself. Moreover, he only recorded the statement of the appellant, without giving him any opportunity to cross examine the witnesses, mentioned in the denovo inquiry as well as the complainant. These shortcomings make this inquiry faulty and ironically the Commandant Elite Force has based his order on the same Inquiry report.

8. Above all, FIR had already been registered and the case was subjudice in the court of law, therefore, it was in the fitness of the matter to place the official under suspension till the outcome of proceedings in the court of Judicial Magistrate, Islamabad. Learned counsel for the appellant produced an order dated 17.11.2022 passed by the Judicial Magistrate in case FIR No. 354/16 dated 17.09.2016 vide which the appellant has been acquitted of the charges leveled against him. The detailed judgment provides that during the course of hearing the complainant of the FIR, Mr. Akbar Khan Hoti, appeared before the Honourable Judicial Magistrate and submitted a compromise deed signed by him and the accused (appellant in the present service appeal) alongwith a statement recorded overleaf the compromise




deed, wherein he categorically stated that he had forgiven all accused persons namely Sherzada and three others in the name of Allah and that he did not want to pursue the case any further and that he had no objection on the acquittal of the accused persons from that case. It is an undisputed fact that every acquittal is an honourable acquittal.

9. The above mentioned facts make this entire process faulty. It seems that the respondents have not taken the directions of this Tribunal given in its judgment dated 19.10.2018 seriously and conducted a denovo inquiry and later a re-inquiry, in a slipshod manner, without taking into consideration the requirements of the rules, was shown to have been conducted.

10. In view of the foregoing, this service appeal is allowed with the directions to the respondents to conduct the inquiry strictly according to the rules by providing a fair opportunity to the appellant to present his case and cross examine the witnesses and the complainant in order to arrive at an informed decision. The process is to be completed within 60 days of the receipt of copy of this judgment. The date of receipt of judgment be acknowledged. Costs shall follow the event. Consign.

11. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 23th day of May, 2023.*


(FAREEHA PAUL)
Member (E)



(KALIM ARSHAD KHAN)
CHAIRMAN

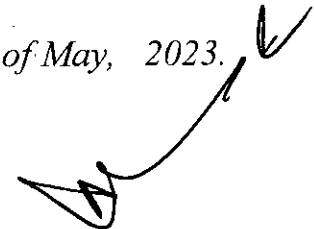
S.A No. 713/2019

23rd May, 2023 01 Mr. Taimur Ali Khan, Advocate for the appellant present. Mr. Fazal Shah Mohmand, Addl. Advocate General for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 07 pages, this service appeal is allowed with the directions to the respondents to conduct the inquiry strictly according to the rules by providing a fair opportunity to the appellant to present his case and cross examine the witnesses and the complainant in order to arrive at an informed decision. The process is to be completed within 60 days of the receipt of copy of this judgment. The date of receipt of judgment be acknowledged. Costs shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 23th day of May, 2023.*


(FAREEHA PAUL)
Member (E)


(KALIM ARSHAD KHAN)
CHAIRMAN

Fazle Subhan PS

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18.01.2023

Proper D.B is not available, therefore the case is adjourned to 31.01.2023 for the same as before.


Reader


31.01.2023

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

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The appeal in hand is fixed for order, however Mr. Mian Muhammad, learned Member (Executive) has been transferred, therefore, to come up for re-arguments on 20.02.2023 before the D.B.


(FAREEHA PAUL)
Member(E)



(SALAH-UD-DIN)
Member (J)

20.02.2023

Appellant present in person. Naseer Ud Din Shah, Learned Assistant Advocate General for the respondents present.

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Mrs. Rozina Rehman, Learned Member (Judicial) is on leave, therefore, case is adjourned for the same on 23.05.2023 before D.B.

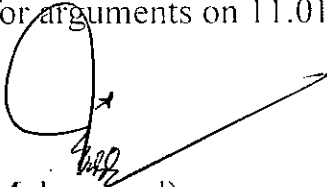

(Muhammad Akbar Khan)
Member (E)

23.11.2022

Mr. Taimur Ali Khan, Advocate for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated that as the appellant has been acquitted in the concerned criminal case, therefore, he wants to submit an application for placing on file the concerned judgement, however attested copy of the same has not yet been received by the appellant, therefore, an adjournment may be granted. Adjourned. To come up for arguments on 11.01.2023 before D.B.

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(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

11.01.2023

Appellant alongwith his counsel present. Mian Niaz Muhammad, DSP (Legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

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Arguments heard. To come up for order on 18.01.2023 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

14th Oct., 2022

Because of strike of the Bar, this matter is adjourned to 28.10.2022. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)
Member (E)

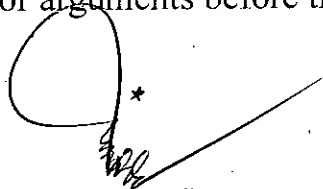


(Kalim Arshad Khan)
Chairman

28.10.2022

Nemo for the appellant. Main Niaz Muhammad, DSP alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for arguments before the D.B on 23.11.2022.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

Noted for
COACEP
14.10
4.11.22
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02.11.2021

Counsel for the appellant present. Mr. Javidullah,
Asstt. AG for the respondents present.

The learned Member (Judicial) is on leave,
therefore, case is adjourned. To come up for arguments
on 03.02.2022 before the D.B.


Chairman

7-2-2022


Due to retirement of the
Honorable Chairman the case is adjourned
to come up for the same as before
on 30-05-2022


Reader

30th May, 2022

Learned counsel for the appellant present. Mr.
Naseerud Din Shah, Asstt. AG alongwith Mian Niaz
Muhammad, Inspector (Legal) for the respondents present.


Learned counsel for the appellant seeks adjournment
in order to properly assist the Court. Adjourned. To come
up for arguments on 03.08.2022 before the D.B.


(Mian Muhammad)
Member(E)


(Kalim Arshad Khan)
Chairman

3-8-2022

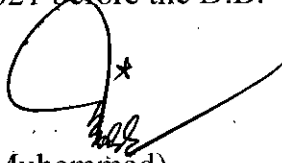
Proper DB not available the case
is adjourned to 14-10-2022.

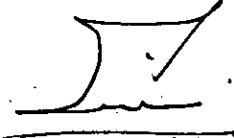

Reader

27.05.2021

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mian Niaz Muhammad, DSP (Legal) for the respondents present.

Former requests for adjournment as his learned counsel is engaged before the Honourable Peshawar High Court today. Adjourned. To come up for arguments on 15.09.2021 before the D.B.



(Mian Muhammad)
Member (E)



(Salah Ud Din)
Member(J)

15.09.2021

Appellant alongwith his counsel Mr. Taimur Ali Khan, Advocate present. Mian Niaz Muhammad DSP alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned Additional Advocate General requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for arguments before the D.B on 02.11.2021.


(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH UD DIN)
MEMBER (JUDICIAL)

R

24.11.2020

Counsel for the appellant and Addl. AG alongwith Mian Niaz Muhammad, DSP for the respondents present.

The representative of respondents has brought ~~on~~ record pertaining to denovo enquiry, which is placed on file. The copy of departmental appeal and the revision petition submitted by the appellant have not been made available today. The appeal is adjourned to 16.02.2021 for arguments before the D.B. The respondents shall ensure the production of copies of appeal and the revision petition on or before next date of hearing.


(Mian Muhammad)
Member


Chairman


16.02.2021

Counsel for the appellant and Addl. AG alongwith Niaz Muhammad, DSP (Legal) for the respondents present.

Representative of respondents has submitted copies of departmental appeal/review petition, order dated 07.05.2019 whereby the revision petition under rule-11-A of the Khyber Pakhtunkhwa Police Rules, 1975 was rejected, departmental appeal against the order dated 16.01.2019, whereby, appellant was dismissed from service, order dated 26.02.2019 and denovo enquiry report dated 07.01.2019. Placed on record.

Learned AAG states that the departmental representative, appearing before the Tribunal today, is not in possession of the complete record on one hand and, on the other, is unable to assist the learned AAG in proper manner. Learned AAG intends to seek instructions from higher officer(s) before addressing his arguments.

The request seems to be proper and is, therefore, allowed. Adjourned to 27.05.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

18.06.2020

Nemo for the appellant. Mr. Muhammad Jan learned Deputy District Attorney alongwith Sheraz H.C for the respondents present.

On the last date, instant matter was adjourned through reader's note. The appellant/counsel shall therefore, be put on notice.

Adjourned to 07.09.2020 before D.B



Member

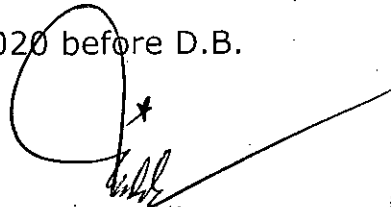


Chairman

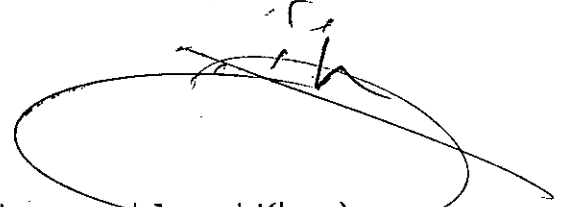
07.09.2020

Appellant is present alongwith Mr. Taimur Ali Khan, Advocate. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

At the very outset, learned Additional Advocate General submitted before the bench that the copies of departmental appeal as well as revision removed by the appellant to the higher authority have not been placed on record, therefore, he requested that unless and until the record^{is} completed he could not address his arguments at this stage. The learned counsel for the appellant submitted that the record with respect to de-novo inquiry is also not complete and it may also be requisitioned from the concerned department. Request so made is appropriate, therefore, appellant and respondents are directed to place on record copies of departmental appeal as well as revision and complete record with respect to de-novo inquiry up to the next date of hearing. File to come up for record and arguments on 24.11.2020 before D.B.



(Mian Muhammad)
Member (Executive)



(Muhammad Jamal Khan)
Member (Judicial)

27.11.2019

Counsel for the appellant and Addl. AG alongwith Niaz Muhammad, Inspector for the respondents present.

Respondents have not furnished reply/comments despite last opportunity. The appeal is, therefore, posted for hearing before D.B on 29.01.2020.

Chairman 

~~29.01.2020~~

~~Appellant in person and Addl. AG alongwith~~
~~Muhammad Rafique, Junior Clerk for the~~
~~respondents present.~~

~~of adjournment due to general~~
~~Representative of the respondents filed written~~
~~reply, which is placed on file. Copy whereof handed~~
~~over to appellant. To come up for rejoinder and~~
~~arguments on 30.03.2020 before the D.B.~~

~~Member~~

Member

~~Member~~

Member

30.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.06.2020 before D.B.


Reader

713/19

02.09.2019

Appellant in person and Addl. AG alongwith Akbar Hussain, ASI (Legal) for the respondents present.

Representative of the respondents requests for time to furnish written reply/comments. To come up for requisite reply/comments on 27.09.2019 before S.B.

Chairman

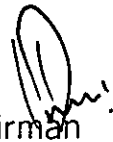


27.09.2019

Counsel for the appellant and Addl. AG alongwith Akbar Hussain, SI for the respondents present.

Representative of the respondents requests for further time for submission of written reply/comments. Adjourned to 23.10.2019 on which date the requisite reply shall positively be submitted.

Chairman



23.10.2019

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Sheraz H.C for the respondents present.

Representative of the respondents requests for time to furnish written reply/comments. Granted by way of last chance. To come up for written reply/comments on 27.11.2019 before S.B.

Chairman



03.07.2019

Counsel for the appellant Sher Zada present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Police Department as Head Constable. He was imposed major penalty of removal from service on the allegation that he was involved in case FIR No. 354 dated 17.09.2016 under section 381/411/436/427/201/34 PPC, Police Station Kohsar, Islamabad. It was further contended that the appellant filed service appeal which was partially accepted, the impugned order was set-aside and the respondent-department was directed to conduct de-novo inquiry vide detailed judgment dated 19.08.2018. It was further contended that the respondent-department again imposed major penalty of removal from service vide order dated 16.01.2019. It was further contended that the appellant filed departmental appeal but the same was regretted. It was further contended that the appellant also filed revision petition but the same was also rejected hence, the present service appeal. It was further contended that neither de-novo inquiry was conducted in accordance with the Police Rules, 1975 nor the same was conducted as per direction contained in the judgment therefore, the impugned order is illegal and liable to be set-aside.

The contentions raised by the learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 02.09.2019 before S.B.

Appellant's Deposited
Security & Process Fee


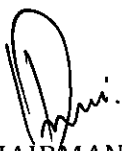
2/9/19


(Muhammad Amin Khan Kundi)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 713/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/05/2019	<p>The appeal of Mr. Sher Zada presented today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p> REGISTRAR 30/07/19</p>
2-	31/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/07/19</u></p> <p> CHAIRMAN</p>

The appeal of Mr. Sherzada Ex-head Constable No. 1569 Elite Force Peshawar received today i.e. on 28.05.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of departmental appeal and revision petition mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 1034 /S.T,

Dt. 29-5- /2019.

29/5/19.
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sir,

Copy of departmental appeal and revision petition
is not present with appeal and the same is
not attached with the memo of appeal.

Resubmitted after compliance.
30/05/2019. *De*

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 713 /2019

Sherzada

V/S

Police Deptt:

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05.	Copy of judgment dated 19.10.2018	G	12-15
06.	Copies of reinstatement order, charge sheet, statement of allegations and reply to charge sheet	H,I,J&K	16-19
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08.	Copies of order dated 26.02.2019 and order dated 07.05.2019	M&N	21-22
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APPELLANT

THROUGH:



**(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT**

&

**(ASAD MAHMOOD)
ADVOCATE HIGH COURT**

Room No. FR 8, 4th Flour,
Bilour plaza, Peshawar cantt:
Cell# 0333-9390916

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 713 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 813

Dated 28/5/2019

Sherzada, Ex-Head Constable, No.1569,
Elite Force, Khyber Pakhtunkhwa, Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Commandant Elite, ^{Force} Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commandant Elite, ^{Force} Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

Rules
APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 07.05.2019, WHEREBY THE REVISION OF THE APPELLANT UNDER POLICE 1975 AMENDED IN 2014 HAS BEEN REJECTED AND AGAINST THE ORDER DATED 26.02.2019, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AGAINST THE ORDER DATED 16.01.2019, WHEREBY THE MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT, FOR NO GOOD GROUND.

Filed to-day

Registrar

28/5/19

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 07.05.2019, 26.02.2019 AND 16.01.2019 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the police force in the year 1998 as Constable and completed all his due trainings and during the course of service the appellant was promoted to the rank of Head Constable and transferred to Elite Force Khyber Pakhtunkhwa.
2. That since his appointment the appellant performed his duty duties with zeal and devotion whatsoever assigned to him and no complaint whatsoever regarding his performance.
3. That the appellant, while serving in the respondent department was falsely implicated in a criminal case vide FIR No.354dated 17.09.2016 U/S 436/ 427/ 381/ 411 Ps Kohsar Islamabad. The appellant was arrested by the police on the same day. (Copy of FIR is attached as Annexure-A)
4. That on the basis of said FIR, irregular inquiry was conducted against the appellant in which no proper chance of association with inquiry proceeding was provided to the appellant as he was in jail during the inquiry proceeding. (Copy of inquiry report is attached as Annexure-B)
5. That the appellant was released on bail on 19.12.2016 and reported for duty, but he was informed that he was dismissed from service vide order dated 23.11.2016 on the basis of that irregular inquiry. The appellant filed departmental appeal and revision against his dismissal order, but both were rejected on 22.02.2017 and 23.05.2017 respectively. (Copies of bailout order dated 19.12.2016, order dated 23.11.2016, order dated 22.02.2017 and order dated 23.05.2017 are attached as Annexure-C,D,E&F)
6. That the appellant then filed service appeal No. 711/2017 in this august Service Tribunal which was finally decide on 19.10.2018. The august Service Tribunal accepted the appeal. The impugned order dated 23.11.2016 was set aside and the appellant was reinstated in service. The respondents were directed to conduct denovo inquiry strictly in accordance with rules. (Copy of judgment dated 19.10.2018 is attached as Annexure-G)
7. That in compliance of judgment dated 19.10.2018, the appellant was reinstated into service and charge sheet along with statement of allegations which was replied by the appellant in which he denied the allegation and clearly mentioned that baseless FIR was lodged against him and he did not commit any offense. (Copies of reinstatement order, charge sheet, statement of allegations and reply to charge sheet are attached as annexure-H,I,J&K)
8. That denovo inquiry was conducted against the appellant in which no chance of defence was provided to the appellant as neither statement

were recorded in the presence of the appellant nor gave him opportunity of cross examination, even the inquiry report was not provided to the appellant and on the basis of irregular inquiry, the respondent No.3 passed the order dated 16.01.2019, whereby the appellant was removed from service. (Copy of order dated 16.01.2019 is attached as Annexure-L)

9. That the appellant filed departmental appeal against the impugned order dated 16.01.2019 which rejected for no good ground on dated 26.02.2019, then the appellant filed revision to the PPO under Rule 11-A of Police Rules 1975 amended in 2014, which was also rejected on dated 07.05.2019, however the appellant did not keep the copy of departmental appeal and revision which may be requisite from the department. **(Copies of dated 26.02.2019 and order dated 07.05.2019 are attached as Annexure-M&N)**
10. That now the appellant come to this august tribunal on the following grounds amongst others.

FOUNDATIONS:

- A) That the impugned orders dated 07.05.2019, 26.02.2019 and 16.01.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That denovo inquiry was not conducted against the appellant according to the prescribed procedure as no proper opportunity of defence was provided to the appellant because neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination of the witnesses and the impugned orders are liable to be set aside on this ground alone.
- C) That the august Service Tribunal directed to the respondents to conduct denovo inquiry strictly in accordance with rules, but despite that direction the inquiry was not conducted with prescribed procedure and in accordance with rules, which is clear violation of the direction of this Honourable Tribunal as well law and rules.
- D) That in the denovo inquiry only appellant was called by the inquiry officer and the complainant, who was Ex-IGP was not called by the inquiry officer, then how it is possible to conduct the inquiry against the appellant in prescribed manner which means that the whole proceeding of the inquiry conducted against the appellant is violation of Article-10-A of the Constitution of Pakistan.
- E) That even the inquiry report was not provide to the appellant, which is against the law and rules.

- F) That show cause notice was not served to the appellant before imposing the major punishment of removal from service which is violation of law and rules.
- G) That criminal case is pending against the appellant and the respondent department should suspended the appellant till the conclusion of criminal case under CSR-194-A, but without waiting to the conclusion of criminal case the appellant was removed from service, which is violation of CSR-194-A.
- H) That as per Superior Court judgments, mere filling of FIR does not proves a person to be guilty of the commission of offence, rather he would be presumed innocent unless convicted by the court of competent jurisdiction.
- I) That the appellant has been condemned unheard and has not been treated according to law and rules.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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



APPELLANT
Sherzada

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT



(7)

(8)

B (6)
D. M. A. D.

Subject:

ENQUIRY AGAINST HC SHER ZADA
CHARGED IN CASE FIR NO. DATED PS:
KOHISAR ISLAMABAD.

Memo:

It is submitted that the subject departmental enquiry against the HC Sher Zada, was entrusted to the undersigned on the following allegations:-

SUMMARY OF ALLEGATIONS

01.

"Muhammad Hussain, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Head Constable Sher Zada has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police Rules (amended vide NWFP gazette, 27th January 1976"

SUMMARY OF ALLEGATIONS

2.

He was allegedly involved in case FIR No. 354, dated 17.09.2016 u/s 436/427/381/411 PPC Police Station Kohsar Islamabad.
For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr, Javed Iqbal SP/Elite Force Mardan Regaion, is appointed as Enquiry Officer.

PROCEEDING.

During enquiry the undersigned visited to Adyala Jail Rawalpindi and recorded his statement.

According to his statement "he was deputed with Ex-DG FIA Islamabad Nawab Akbar Khan Hoti and settled in Islamabad along with the family. As far as allegation regarding his presence in Islamabad is concern. On the eventfull day as per CDR data on 12.09.2016 he visited to Islamabad for the purpose of bringing his family to Mardan for Eid-ul-Azha

PTO

(7)

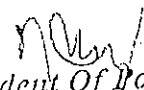
celebration.. The Ex-DG FIA falsely charged him in FIR owing to unknown reason. (7) (2)

During the course of enquiry the undersigned also recorded statements of IO of the case SI: Tariq Raouf Cheema. I also perused the case file and heard all other concern and concluded that :-

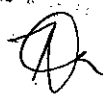
01. During interrogation IO of the case recovered rupees 97,000 on instance of the accused. Similarly kerosene oil and match etc used for the commission of offence have also been recovered.
02. Photage of CCTV Camera clearly shows inn/out of the accused to the said on the same day, hence he could not rebut his presence from Islamabad.

FINDING

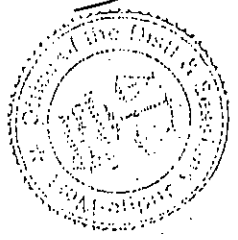
Viewing the above accused HC Sher Zada is found guilty in this case and recommended for suitable punishment


Superintendent Of Police
Elite Fore Mardan Region-I, Mardan.

Note: All the relevant documents are enclosed herewith..



(10) ② ⑧



Sher Zada Khan Vs The State

19.12.2016

Present: Learned counsel for the petitioner.
Learned counsel for the accused.
Learned counsel for the complainant.
Learned SPP for state and I.O along with record.

ORDER

Today an application for addition of section 201 PPC in the petition was filed by the petitioner and same is allowed section 201 PPC is added in the petition.

The petitioner Sher Zada Khan S/o Rahim-ud-Din, seeks post-arrest bail in case FIR No.354, dated 17.9.2016, registered under Section 381/411/436/427/201/34 PPC, Police Station Kohsar, Islamabad.

Today, complainant namely Nawabzada Muhammad Akbar Khan Hoti appeared before the Court, submitted decision of Jirga as Mark-A and got recorded his statement on separate paper to the effect that the matter has been settled between the parties to the extent of bail of the petitioner in view of Mark-A; that in the light of compromise Mark-A he has no objection on acceptance of bail petition of the petitioner/accused. Signature of the complainant has been taken on the margin of Mark-A as well as on his statement. Complainant has also been identified by his counsel and in this regard his signatures has also been obtained on the margin of his statement. Petitioner accused also recorded his statement to the effect that he will abide by the conditions mentioned in the Mark-A. His signature has been taken on the margin of his statement and he has also been identified by his counsel.

In view of the above, as the matter has been patched up between the parties and complainant has raised no objection on acceptance of instant petition, therefore, case of the petitioner has become one of further inquiry after statement of complainant and keeping the petitioner behind the bars would serve no useful purpose.

Accordingly, instant post-arrest bail petition is hereby conditionally accepted subject to his furnishing bail bonds in the sum of Rs.200,000/- with one local surety in the like amount to the satisfaction of learned trial court. Police record be returned to the

ATTESTED

Superintendent
(West) Islamabad

03 JAN 2017



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~~(X) [Signature]~~

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9

OFFICE OF THE DEPUTY COMMANDANT

Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

17101-10

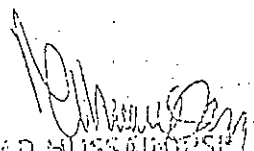
Date: 23/11/2016

ORDER

This order will dispose of the departmental proceedings against Head Constable Sher Zada No. 1569, of Elite Force, transferred from FRP/Khyber Pakhtunkhwa.

According to the complaint, he was allegedly involved in case FIR No. 354, dated 17.09.2016 u/s 436/427/381/411 PPC Police Station Kohsar Islamabad. In this regard, Charge Sheet and Summary of Allegations were issued to him by this office vide No. 15250-55/EF, dated 20.10.2016 and SP Elite Force Mardan was appointed as enquiry officer but the defaulter official failed to satisfy the enquiry officer, who recorded all the statements and submitted his findings to this office. The enquiry officer found him guilty in the matter and recommended him for suitable punishment on the grounds mentioned in the enquiry report including recovery of stolen amount and confirm presence of the defaulter official at the scene of crime Islamabad. Similarly, a Final Show Cause Notice was issued to him but his reply was found unsatisfactory.

Therefore, I, Muhammad Hussain, Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, keeping in view the above facts and recommendations of the enquiry officer impose major penalty of dismissal from service upon the defaulter official with immediate effect.


(MUHAMMAD HUSSAIN) SP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa
Peshawar.

One of the above is forwarded to the:-

1. Commandant, FRP Khyber Pakhtunkhwa Peshawar for information.
2. Superintendent of Police, Elite Force Headquarters.
3. Superintendent of Police, Elite Force Mardan.
4. Office Superintendent, Elite Force Khyber Pakhtunkhwa Peshawar.
5. Elite Force Khyber Pakhtunkhwa Peshawar.
6. Range Col, Elite Force Khyber Pakhtunkhwa Peshawar.
7. Assistant, Elite Force Khyber Pakhtunkhwa Peshawar.
8. Elite Force Khyber Pakhtunkhwa Peshawar.
9. DA, along with complete enquiry encls: 31 pages.
10. DM, Elite Force Khyber Pakhtunkhwa Peshawar.

R.K/PACD
DICE/EF
File



OFFICE OF THE DEPUTY COMMANDANT
ELITE FORCE KHYBER PAKHTUNKHWA PESHAWAR

17101-10

Dated 23.11.2016.

This order with dispose of the department proceedings against Head Constable Sher Zada No, 1569, of Elite Force, transferred from FRP/Khyber Pakhtunkhwa.

According to the complaint, he was allegedly involved in case FIR No. 354, dated 17.09.2016 u/s 436/427/391/411 PPC Police Station Kohsar Islamabad, in this regard, Charge Sheet and Summary of Allegations were issued to him by this office vide No. 15250-55/EF, dated 20.10.2016 and SP elite Force Mardan was appointed as enquiry officer but the defaulter official failed to satisfy the enquiry officer, who recorded all the statements and submitted his findings to this office. The enquiry officer found him guilty in the matter and recommended him for suitable punishment on the grounds mentioned in the enquiry report including recovery of stolen amount and confirm presence of the defaulter official at the scene of Crime/(sic) similarly, a final Show cause notice was issued to him but his reply was (sic) satisfactory.

Therefore, I Muhammad Hussain Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, keeping in view the above facts and recommendations of the enquiry officer impose major penalty of dismissal from service the defaulter official with immediate effect.

(MUHAMMAD HUSSAIN)
Deputy Commandant
Elite Force Khyber Pakhtunkhwa
Peshawar

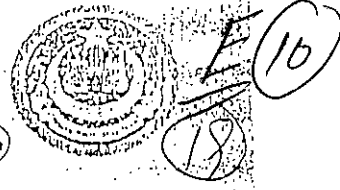
Copy of the above is forwarded to the:-

1. Commandant, FRP Khyber Pakhtunkhwa Peshawar for information.
2. Superintendent of Police, elite Force Headquarters.
3. Superintendent of Police, Elite Force Mardan.
4. Office Superintendent, Elite Force Khyber Pakhtunkhwa Peshawar.
5. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
6. Incharge Kol, Elite Force Khyber Pakhtunkhwa Peshawar
7. Commandant, Elite Force Khyber Pakhtunkhwa Peshawar.
8. _____ Elite Force Khyber Pakhtunkhwa Peshawar.
9. _____ along with complete enquiry enls: 31 pages.
10. OH, Elite Force Khyber Pakhtunkhwa Peshawar.





Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar



3697-3703/EF

Dated 22/02/2017

ORDER

This order will dispose of the appeal submitted by Ex-Head Constable Sher Zada No. 1569 against his dismissal order passed by Deputy Commandant Elite Force vide No. 17101-10/EF, dated 23.11.2016.

The brief facts of the case are that he was involved in case FIR No. 354, dated 17.09.2016 U/S 436-427-381-411-PPC, PS Kohsar, Islamabad. In this regard, proper departmental proceedings were initiated against him. He was given full opportunity of hearing but he failed to satisfy the Enquiry Officer, who found him guilty in the matter and recommended him for suitable punishment on the grounds of sufficient evidence of his involvement in the said case including recovery of stolen amount and his presence at the scene of crime. Subsequently, a Final Show Cause Notice was issued to him but his reply was found unsatisfactory. Resultantly, he was dismissed from service by the Deputy Commandant Elite Force. Now, he has preferred departmental appeal for re-instatement in service before the competent authority. Consequently, he was summoned and heard in person. Having gone through the record of enquiry, evidence therein and his statement during personal hearing, the undersigned is of the considered view that he had willfully caused damaged to the property. He could gain concession of the bail due to a compromise reached through a *Jirga* between the complainant and the accused. He clearly admitted to have committed the aforesaid act of causing damage and committed to make the losses.

Therefore, in view of the ample evidence, I, Syed Akhtar Ali Shah, (PSP), Addl: IGP Elite Force Khyber Pakhtunkhwa Peshawar being competent authority uphold his dismissal order and reject his appeal for re-instatement in service.

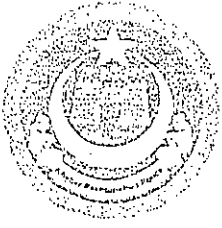
Order announced.

(SYED AKHTAR ALI SHAH) PSI
Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar

Copy of above is forwarded to the:-

1. Superintendent of Police, Elite Force, Mardan Region.
2. R/A Accountant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. SRC/FMC/OASI, Elite Force, Khyber Pakhtunkhwa, Peshawar.
4. Ex-Head Constable Sher Zada No. 1569 through SP Elite Force Mardan.

Handwritten notes: "In No. 3697-3703/EF appeal was rejected 27/2/17"



20
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/ 3173 /17, dated Peshawar the 23/05/2017.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Head Constable Sher Zada No. 1569. The appellant was dismissed from service by Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar vide order No. 17101-10/EF, dated 23.11.2016 on the allegation of involvement in case FIR No. 354 dated 17.09.2016 u/s 436/427/381/411 PPC Police Station Kohsar, Islamabad.

His appeal was rejected by Addl: IGP/Elite Force, Khyber Pakhtunkhwa, Peshawar vide order No. 3697-3703/EF, dated 22.02.2017.

Meeting of Appellate Board was held on 04.05.2017 wherein petitioner was heard in person. During hearing petitioner contended that he has been released on bail by the court due to affecting compromise.

Perusal of record revealed that petitioner while posted in Elite Force was dismissed from service vide order dated 23.11.2016 of Deputy Commandant Elite Force as he was involved in case FIR No. 354 dated 17.09.2016 u/s 436/427/381/411 PPC Police Station Kohsar, Islamabad.

Recovery of stolen property was allegedly made in the case. His departmental appeal was also rejected by Commandant, Elite Force vide order dated 22.02.2017.

Petitioner was heard at length by the Board but he failed to advance any fresh ground. His departmental appeal has already been rejected on merit. Therefore in the absence of any fresh ground, the Board decided that his appeal is rejected.

This order is issued with the approval by the Competent Authority.

(MASOOD AHMAD KHANIL)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. SI/3174-81/17.

Copy of the above is forwarded to the:

1. Addl: IGP/Elite Force, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry Cell, CPO.

Dr



**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 723

Dated 22/6/2017

Appeal No. 711 /2017

Sher Zada Ex. Head Constable No. 1569, Elite Force Khyber
Pakhtun Khwa Peshawar.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police/Commandant Elite Force,
Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Office Order dated 23.11.2016, whereby the appellant has been awarded the major penalty of Dismissal from Service, against which the Departmental Appeal dated 16.01.2017, has also been rejected vide order dated 22.02.2017, communicated to the appellant on 14.04.2017 and mercy petition was filed which was also dismissed on 23.05.2017.

Prayer in Appeal:

On acceptance of this appeal the impugned orders dated 23.11.2016 - 22.02.2017 and 23.05.2017, may please be set-aside and the appellant be reinstated into service with all back benefits.

Filed to-day

Registrar
3/7/17

Re-submitted to -day
and filed.

Registrar
7/7/17

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

[Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 711/2017

Date of Institution... 22.06.2017

Date of decision... 19.10.2018



Sherzada, Ex.Head Constable no. 1569, Elite Force, Khyber Pakhtunkhwa
Peshawar. ... (Appellant)

Versus

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and two others.
..... (Respondents)

Mr. Zartaj Anwar,
Advocate ... For appellant.

Mr. Kabirullah Khattak,
Additional Advocate General ... For respondents.

MR. AHMAD HASSAN, ... MEMBER(E)
MR. HUSSAIN SHAH, ... MEMBER(E)

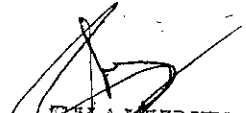
JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for
the parties heard and record perused.

FACTS

2. Brief facts of the case are that disciplinary proceedings were initiated against the appellant and upon culmination major penalty of dismissal from service was imposed on him vide impugned order dated 23.11.2016. He filed departmental appeal on 16.01.2017 which was rejected on 22.02.2017, communicated to the appellant on 14.04.2017. Thereafter he filed review petition, which was also dismissed on 23.05.2017, hence, the instant service appeal on 22.06.2017.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa



ARGUMENTS

3. The learned counsel for the appellant argued that he was falsely implicated in a criminal case vide FIR no. 354 dated 17.09.2016 under Section 436/427/381/411 PS, Kohsar Islamabad. He was arrested by the police on the same day. On the basis of FIR, departmental proceedings were initiated against him and thereafter major penalty of dismissal from service was imposed on him vide impugned order dated 23.11.2016 which was not communicated to him. Upon his request the impugned order was provided to him on 13.01.2017 against which he filed departmental appeal on 16.01.2017 which was rejected on 22.02.2017 but communicated to the appellant on 14.04.2017. Charge sheet and statement of allegations were not served on the appellant, rather ex-parte proceedings were conducted against the appellant, ^{with} which he was never associated. No opportunity of cross examination and personal hearing was afforded to the appellant.

4. On the other hand, the learned Additional Advocate General argued that the appellant was involved in a criminal case FIR no. 354 dated 17.09.2016 under Section 436/427/381/411 PS, Kohsar Islamabad. As per enquiry report recovery of stolen property of Rs. 97000/- was made at the instance of the appellant. The CCTV Camera footage also showed his presence in Islamabad. As charges leveled against him were proved beyond any shadow of doubt, so penalty was rightly awarded to him.

CONCLUSION.

5. As per record FIR was registered against the appellant on 17.09.2016 and was also arrested by the Police on the same day. Impugned order was passed on 23.11.2016, while departmental appeal was filed on 16.01.2017. Plea of the respondents that departmental appeal was time barred could not be substantiated

ATTESTED



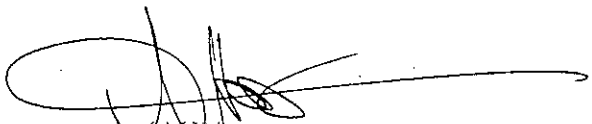
EXAMINER

Kh. J. Baloch

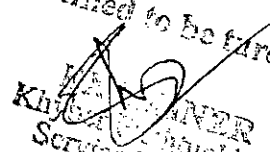
through documentary evidence. As the appellant was in jail so after release on bail on 19.12.2016, he obtained a copy of the impugned order on 13.01.2017 and filed departmental appeal on 16.01.2017. Respondents failed to submit any proof about service of charge sheet and statements of allegations on the appellant in jail. Assertion of the Enquiry Officer about recording his statement in jail was not supported by any evidence. Enquiry report was full of shortcomings. Statements of witnesses were not recorded during the proceedings nor opportunity of cross examination was afforded to him. No opportunity of personal hearing to the appellant provided before awarding punishment. The respondents also failed to provide any proof about service of show cause notice on the appellant. Prima-facie proceedings were conducted at the back of the appellant. As numerous shortcomings have been highlighted in the enquiry proceedings so it can be safely inferred that the appellant was condemned unheard. These are sufficient for vitiating the entire proceedings. Adequate justification is available for de-novo inquiry strictly in accordance with laid down procedure/rules.

6. As a sequel to above, the appeal is accepted, the impugned order dated 23.11.2016 is set-aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo inquiry strictly in accordance with rules and conclude it within a period of ninety days *from the date of receipt of this Judgment*. The issue of back benefits shall be subject to the outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.


(HUSSAIN SHAH)
Member


(ARMAD HASSAN)
Member

ANNOUNCED
19.10.2018

Certified to be true copy

Khairatullah
Secretary Tribunal,
Peshawar

Date of Presentation of Application 19-10-18
Number of Words 1600
Copying Fee 10-00
Urgent -
Total 10-00
Name of Copyist [Signature]
Date of Completion 25-10-18
Date of Delivery of Copy 25-10-18

از دست آوردن ۲ HQ

نمبر ۱۹۰۲

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H 16

عبدالصمد خان صاحب وقتے درج ذیل ایک نوٹس ۰۲/۰۱/۱۹۰۲ء کے ساتھ ساتھ ایک سالہ مدت کے لیے
 زیادہ ۱۵۶۹/۲۴ بمطابق فیصلہ سے شروع ہونے والے عدالت کے KPK اپیل نمبر
 711/2017 و فیصلہ ۱۶/۱۸ بجوایے آرڈر فیصلہ ۶۰/EF — ۱۵۶۹/۱۸ اور ۱۹/۱۸
 کو لکھنے پر درج ذیل عدالت میں طے پانے کے لیے درخواستیں مقررہ مدت
 تک پیش کی گئی ہیں اور ان کے خلاف کوئی نوٹس درج نہیں کیا گیا ہے
 تاہم ان کی تہہ کے ساتھ ساتھ ساتھ براہِ خط کو ارسال ہونے کے

۱۲
آف
ٹاپی

جناب عالی!
 لعل انوار
 لعل

Moharar Elite Force
 K.P.K. Peshawar

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H 16

ATTACHED
 ۱۱

J & (18)

SUMMARY OF ALLEGATIONS

I, Muhammad Hussain, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Head Constable Sher Zada has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette, 27th January 1976).

SUMMARY OF ALLEGATIONS

He was allegedly involved in case FIR No. 354, dated 17.09.2016 U/S 436/427/381/411 PPC Police Station Kohsar Islamabad.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Waqar Ahmad Acting SP/HQrs; Elite Force Peshawar, is appointed as Enquiry Officer to conduct denovo departmental enquiry against the defaulter as per directions of the Honorable Court.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.

4. The accused shall join the proceedings on the date, time, and place fixed by the Enquiry Officer.

(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

No. 42-47 /EF, dated Peshawar the 02/01/2018.

Copy of the above is forwarded to the:-

1. Acting SP/HQrs: Elite Force Peshawar.
2. RI/Elite Force Khyber Pakhtunkhwa Peshawar.
3. SRC/FMC/OHC, Elite Force Khyber Pakhtunkhwa Peshawar.
4. HC Sher Zada of Elite Force through reader Acting SP/HQrs: Elite Force Peshawar.

(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

K (19)

To

The Honourable,
Superintendent of Police,
Head Quarter Peshawar.

Subject: REPLY TO THE CHARGE SHEER NO.42-47/EF, DATED 02-01-2019.

R/Sir,

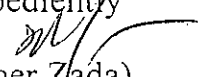
Applicant humbly submitted as under:-

1. That I am innocent, I am falsely charge in the FIR. I have not committed any offense.
2. That mere loading of an FIR is no offense under the law.
3. That it is well establish principle of jurisprudence that accused is presumed to be innocent, so continuance of this inquiry means that the very maxim which is infact establishes law defeated.
4. That the accuse is favourite child of Law.
5. That interest of justice demands that the instant inquiry may please be postponed till the decision of the competent criminal court/Session judge, Islamabad.

It is therefore requested that instant inquiry may please be postponed till the decision of criminal court in FIR.

Dated: 05-01-2019

Your's obediently


(Sher Zada)

Head Constable No.1593





Office of the Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



420

No. 233-38 /EF


ORDER

Dated: 16/01/2019

In light of report of the enquiry officer, Ex-Head Constable Sher Zada No. 1569 of this unit is found guilty on the charges leveled against him, hence the enquiry officer recommended him for major punishment.

Therefore, I, Muhammad Hussain, (PSP), Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar, being competent authority, keeping in view the facts and recommendation of the enquiry officer uphold his major punishment of removal from service.

Order announced!


(MUHAMMAD HUSSAIN) P.S.P.
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar
7/13/19

No. /EF

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

1. AIG/ Complaint & Enquiry, Khyber Pakhtunkhwa Peshawar wr to his office letter No. 250/E&I, dated 15.01.2019.
2. Superintendent of Police, Elite Force, HQs: Peshawar.
3. Accountant, of Elite Force Pakhtunkhwa Peshawar.
4. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
5. SRC/OHC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar. 39 pages



Office of the Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



M
= (21)

No. _____ /EF

Dated: 26/02/2019

ORDER

This order will dispose of the appeal submitted by Ex-Head Constable Sher Zada No. 1569 against his removal order passed by Deputy Commandant Elite Force vide No. 833-39/EF, dated 16.01.2019.

The defaulter Ex-HC appealed to the Commandant Elite Force wherein he recommended him for re-denovo departmental enquiry and SP/HQrs: Elite Force, Peshawar, Mr. Saleem Riaz was appointed enquiry officer. During the course of enquiry proceedings the enquiry officer found him guilty in the charges and provided all the documental proofs as he was involved in the case reported vide FIR No. 354, dated 17.09.2016, u/s 436/427/381/411, PPC, PS Kohsar, Islamabad. The matter was decided through DRC Mardan and he paid amounting to Rs. 50,00,000/- to the complainant of the case. The enquiry officer again recommended him to uphold his dismissal order and his appeal for reinstatement in Police service be rejected in the better interest of department as he earns a bad name for the Force.

Keeping in view the recommendations of all the enquires officers, documental proofs of the recovery memos and his personal hearing, he could not provide any cogent reason for his innocence, therefore, his appeal for reinstatement in service is filed and rejected.

Order announced!

-Sd-

Commandant

Elite Force Khyber Pakhtunkhwa Peshawar

No. 8227-33 /EF

Copy to the:-

1. Superintendent of Police, Elite Force, HQrs: Peshawar.
2. Accountant, of Elite Force Pakhtunkhwa Peshawar.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. SRC/OHC/FMC; Elite Force Khyber Pakhtunkhwa Peshawar.
5. Ex-HC SHER Zada No. 1569 through reader SP Elite Force/HQrs: Peshawar

(MUHAMMAD HUSSAIN) P.S.P.

Deputy Commandant

Elite Force, Khyber Pakhtunkhwa, Peshawar

A



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

N 22

No. S- 1577

19 dated Peshawar the 07.05.2019

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule 19 (amended 2011) submitted by Ex-IC Sher Zada No. 1569

Brief facts of the case are that the petitioner was dismissed from service by Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar vide order No. 1701-10/E.F. dated 23.11.2016 on the allegation of involvement in case FIR No. 361 dated 17.09.2016 reg. 43(a)/27381/111 PPC, Police Station Kodran, Islamabad. His appeal was rejected by Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar vide order No. 302-10/E.F. dated 12.02.2017. He preferred revision petition to Worthy IGP, Khyber Pakhtunkhwa which was discussed at the Appellate Board meeting 01.05.2017 and rejected by Competent Authority vide CPO order No. 871/2017 dated 23.05.2017. He approached Service Tribunal Peshawar vide service appeal No. 111/2017. Service Tribunal, Peshawar reinstated him in service and directed to conduct de-novo inquiry vide judgment dated 19.10.2018. De-novo inquiry was conducted and he was again removed from service by Deputy Commandant, Elite Force, Khyber Pakhtunkhwa Peshawar vide order No. 833-39/E.F. dated 16.01.2019. His appeal was rejected after re-de-novo enquiry by Commandant, Elite Force, KP vide order No. 3226-33/E.F. dated 26.02.2019.

Meeting of Appellate Board was held on 08.04.2019 wherein petitioner was heard in person. During hearing petitioner contended that he was falsely charged in the case and the recovery shown by local police is fabricated.

Petitioner was posted as driver with IX-IGP Nawab Akbar Khan Heli. He remained posted with the IGP for 20 years. He stated that on the day of occurrence, he was in Mandan and the security guards deployed at the house were present. However, none of them appears in his favour for the statement. He was reinstated in service by Service Tribunal on 19.10.2018 but after de-novo enquiry, he was again removed from service. His appeal was again rejected. The FIR registered against him on 17.09.2016 is under trial in the court. His entire case is sub-judice to the court. However, departmental proceedings are separate from criminal proceedings. During his entire service he has neither good entry nor bad entry at his credit. In the instant case, his involvement cannot be ruled out. Therefore, as recommended by the Board his petition is hereby rejected.

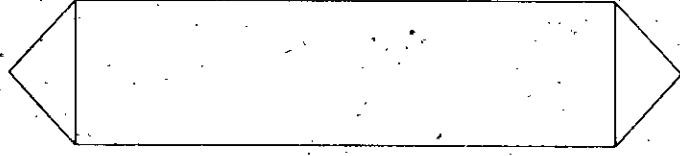
This order is issued with the approval by the Competent Authority.

(SADIQ BAEQUM) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

No. S- 1578-84 19.

Copy of the above is forwarded to the:

1. Commandant, Elite Force, Khyber Pakhtunkhwa Peshawar. One Service Roll, Two Service Books and three enquiry files (210-pages) of the above named Ex-IC received vide your office Memo No. 410/2019 dated 18.01.2019 is returned herewith for your office record.
2. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa Peshawar.
3. PSO to IGP, Khyber Pakhtunkhwa, CPO Peshawar
4. PA to Addl. IGP (HQs), Khyber Pakhtunkhwa, Peshawar
5. PA to DCP (HQs), Khyber Pakhtunkhwa, Peshawar
6. PA to AIG Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt. IX CPO Peshawar.



2، منجانب
عقبر زاده بنام

موزخه

مقدمه

دعوی

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام لیسٹ اور اسد محمد دارالعلوم
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت 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۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Attested
&
Accepted

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ماہ

المرقوم

العہد گواہ العہد

کے لئے منظور ہے۔

مقام

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 713 /2019.

SherZada(Appellant)

VERSUS

Inspector General of Police and others.....(Respondents)

SUBJECT: **COMMENTS ON BEHALF OF RESPONDENTS**

RESPECTIVELY SHEWETH:

PRELIMINARY OBJECTIONS:-

- a) The appeal is not based on facts.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for miss-joinder and non-joinder of necessary parties.
- d) The appellant is estopped to file the appeal by his own conduct.
- e) Appeal is bad by law and limitation.
- f) The appellant has not come to this Honorable Court with clean hands.
- g) The appellant has got no cause of action to file present Service Appeal.

FACTS

1. Correct to the extent of appellant's enlistment in Police Department as Constable however, the remaining Para is subject to proof.
2. Para No. 2 is subject to proof.
3. That the appellant was involved himself in Case FIR No. 354 dated 17.09.2016 u/s 436/427/381/411 PS Kohsar and was arrested by the Local Police of PS Kohsar, Islamabad. Furthermore, the guilt of appellant has been further established by the CCTV footage as on the day of incident/ offence, appellant was found inside home.
4. Incorrect. Proper FIR has been registered against the appellant. Appellant has been proceeded departmentally by deputing Inquiry Officer. All codal formalities have been completed and during course of inquiry, appellant was found guilty with the assistance of CCTV footage as on the day of incident/ offence, appellant was found inside home.
5. That the Bail petition of appellant has been confirmed by the Court of ADJ-III (West Islamabad) on 19.12.2016, due to compromise between the parties. The complainant in the above mentioned case has patch up the matter and raised no objection on acceptance of bail petition of appellant.

*Checked
m2
27/10/19*

Furthermore, compromise in criminal cases admits guilt of accused thereby, meaning that the appellant was involved in the said case. Being member of discipline force, appellant was guilty of misconduct and was proceeded departmentally which resulted in to dismissal from service after fulfilling all codal formalities.

6. Correct to the extent that appellant filed Service Appeal No. 711/2017 in Service Tribunal which was accepted by the Tribunal on 19.10.2018, with the direction to conduct de-novo enquiry strictly in accordance with law/ rules. Therefore, in compliance with the order of Tribunal De-novo Enquiry was conducted through SP/ Elite Force, HQrs: Peshawar in accordance with law/ rules. The appellant was afforded all the lawful opportunity of defence and he was held guilty in light of recommendation of enquiry. The enquiry officer recommended appellant again for major punishment i.e. dismissal from service.
7. As explained above at Para No. 6.
8. Incorrect. The De-novo proceedings were initiated by the enquiry officer purely on merit and in accordance with law/ rules. The appellant was awarded all the lawful opportunities of defence including cross examination of witnesses. The appellant was held guilty of the charges leveled against him in the said FIR. Therefore, a final show cause notice was issued by the Competent Authority.
9. That the departmental appeal filed by the appellant against the impugned orders were rejected on quite legal grounds by the Appellate Authority.
10. That the Service Appeal is not maintainable on the following Grounds.

GROUND:-

- A. Incorrect. That the orders issued by answering respondents are quite legal and as per law / rules. The allegations/ charges leveled against the appellant were proved beyond any shadow of doubt during course of departmental enquiry.
- B. Incorrect. That in compliance with this Tribunal Order dated 19.10.2018, De-novo enquiry in the matter was conducted by SP/ Elite Force HQrs: Peshawar in accordance with law/ rules and opportunity of personal hearing, defence, charge sheet, statement of allegations, show cause notice and final show cause notice have been served on the appellant to which the reply was found un-satisfactory. Therefore, the appellant was

again recommended by the enquiry officer for major punishment i.e. dismissal from service.

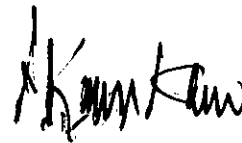
- C. Incorrect. As explained above at Para No. B of Grounds.
- D. Incorrect. Proper departmental inquiry was initiated against the appellant and no Article of Constitution of Islamic Republic of Pakistan 1973, has been violated by the answering respondents.
- E. Incorrect. Proper departmental inquiry was initiated against the appellant wherein, appellant was held guilty for the charges leveled against him by the complainant of above mentioned case.
- F. Incorrect.
- G. Incorrect. Departmental and criminal proceedings can run side by side.
- H. This Para is legal one hence, no comments.
- I. Incorrect. appellant has been provided ample opportunity of defence and he was held guilty of the charges during course of inquiry.
- J. That the respondents may also be allowed to raise additional grounds at the time of arguments.

PRAYER:-

In view of the above, it is humbly prayed that on acceptance of Para-wise comments, the instant Service Appeal may kindly be dismissed being meritless.



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



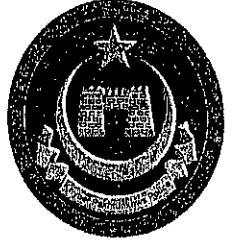
**Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 2)**



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



OFFICE OF THE SUPERINTENDENT OF POLICE,
HEADQUARTERS, ELITE FORCE, PESHAWAR.



No. 87 /R,SP/EF, HQrs

Date: 25 /02/2019.

To: The Commandant,
Elite Force, Khyber Pakhtunkhwa.

Subject: RE-ENQUIRY INTO THE DISMISSAL CASE OF EX-HC SHER ZADA
NO. 1569

Memo: Kindly refer to your office letter No.2500-2501/EF, dated 13.02.2019.

Respected Sir,

In pursuance of your kind order, the undersigned completed enquiry into the above cited case. Its step-wise detail is as under:

PROCEEDINGS:

I went through the whole papers received to me. I also collected the service record of the dismissed police official and studied it thoroughly; I sent two competent police officials of Elite Force — lines officer Abdul Baseer Khan and Inspector Legal Niaz Mohammad Khan to Islamabad with special directives for collecting evidences including the materials placed on case file and recording the fresh statements of the concerned police officials. I also summoned the dismissed police official — Sher Zada and heard him in detail. He was given ample opportunity to prove himself innocent, if he could. His fresh statement was also got recorded and the whole case file was gone through.

FRESH STATEMENT OF EX – HC SHER ZADA:

Apart from Rs.09 Lac and 70 thousand, I also paid Rs.50 Lac to the complainant of the case — Mr. Akbar Khan Hoti through the members of DRC Mardan for reaching an agreement with him to get bail in the case. I had sold my 05-Marla house in Islamabad for Rs.62 Lac for this payment. It is true that I had been recruited as Constable in Police department by the complainant — Mr. Akbar Khan Hoti. Though, I had not been undergone through even recruitment course, yet I was promoted as HC and then as ASI by Mr. Akbar Khan Hoti. However, before my dismissal I was demoted to the rank of HC. Mr. Akbar Khan Hoti also recruited my two brothers in law in Police department. It is true that on the day before the day of occurrence (Eid Qurban) after dropping my boss at evening in Mardan, I had left for Islamabad (the place of occurrence) in my personal motorcar without bringing it in the notice of my boss (the complainant). I remained in Jail for 03 months and was released on bail through an agreement after I paid the above mentioned amount to the complainant. The case is still under trial in the court and I have falsely been implicated in it.

BRIEF SERVICE RECORD OF SHER ZADA:

He was the co-villager of complainant. The complainant Mohammad Akbar Khan Hoti enlisted him in police department as Constable on temporary basis vide his order OB No. 522 dated 18.07.1998 (order copy attached). The order, inter alia, reads as under:

“He is enlisted merely on temporary basis and his service would be liable in to terminate any time without any notice under police rules 12 —21.”

He is educated up to middle class only. Constable Sher Zada was promoted to the rank of Head Constable (BPS -7) as a special case, vide letter Ends: No. 116-18 EC dated 06.01.2019 of Commandant FRP (Copy annexed).

HC Sher Zada was further promoted to the rank of ASI.(BPS - 09), vide letter Ends: No. 7833-36 dated 14.11.2011 issued from the office of Deputy Commandant, FRP.

Ironically, Sher Zada never underwent through even basic recruitment course. His enlistment and all out-of-turn promotion can also be challenged. However, it is useless at this juncture when he has already been dismissed from police service at the rank of Head Constable. (Copies of his service record are annexed).

FINDINGS:

Following are the substantial cogent evidences which prove Ex-HC Sher Zada guilty of the crime committed vide FIR No. 354, dated 17/09/2016, U/S 436/427/381/411/34 RPC, PS Kohisar, Islamabad.

1. *The complainant has charged accused Sher Zada in his supplementary statement for the crime committed vide the above mentioned FIR. (Reference attached).*
2. *During the course of investigation on 25/09/2016 Rs. 04 Lac and 70 thousand (out of total stolen amount Rs.50 Lac) were recovered in the first phase by the investigating officer SI Ameer Umer Khan on the pointation of accused Sher Zada (Recovery Memo and Site-Plan attached).*
3. *During the course of investigation on 03/10/2016 Rs.05 Lac were recovered by the investigating officer Tariq Rauf of CIA in the second phase on the pointation of accused Sher Zada. (Recovery memo attached).*
4. *During the course of investigating on 25/09/2016 a plastic bottle and a match box used in setting fire to the house has also been recovered by the investigation officer on the pointation of accused Sher Zada. (Recovery memo attached).*

5. *The car of accused Sher Zada used in the occurrence has also been recovered by the investigation officer on 23/09/2016. (Recovery memo attached).*
6. *The investigating officer Ameer Umer Khan, in his fresh statement, corroborated the recovery of Rs.470000/- from the custody of accused Sher Zada on his pointation (statement attached).*
7. *The investigating officer Tariq Rauf, in his fresh statement, seconded the recovery of Rs.500000/- from the custody of accused Sher Zada on his pointation. (Statement attached).*
8. *The marginal witnesses — HC Ghulam Mustafa No. 4507 and HC Skindar Ali No. 6677 also endorsed their previous statements. (fresh statement attached).*
9. *The total amount Rs. 09 Lac 70 thousand, recovered from the custody of accused Sher Zada on his pointation during the course of investigation, has also been returned to the owner/complainant by the court. (court order annexed).*
10. *The accused party has confessed their guilt before the Jirga members and returned the stolen amount Rs. 50 Lac to the complainant (stamp-paper attached). The Jirga members were the members of DRC Mardan. The stamp-paper bears the signatures of Jirga members, accused Sher Zada and complainant Nawab Zada Akbar Khan Hoti. It is noteworthy that through this agreement the accused Sher Zada succeeded to get bail in the case, which was impossible otherwise.*
11. *The CDR (Call Data Record) also shows the presence of accused Sher Zada in Islamabad (the place of occurrence) at time of occurrence which incriminates him. Accused Sher Zada also confessed in his statement that he had gone to Islamabad at that night secretly without the notice and permission of his boss/complainant. (CDR attached).*

12. The investigation-case file possesses more than sufficient evidences which incriminate accused Sher Zada. His name has been placed in column No. 03 (a column where the names of guilty accused are placed) of the Challan form by the investigation officer. (Copy attached).
13. Accused Sher Zada has also admitted his guilt before the Investigation officer in his statement recorded under section 161 CrPC. (copy appended) wherein he stated that he had been teased, insulted and mentally tortured by the complainant which coerced him for the crime.
14. Sher Zada is a habitual thief. He has also been found charged in case FIR No. 374, dated 02.10.2016, U/S 381A PPC, PS Industrial Area Islamabad. (copy appended).

CONCLUSION:

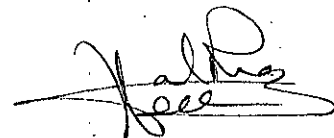
There are more than enough undeniable substantial cogent circumstantial and documentary proofs on the file in hand which incriminate Ex- HC Sher Zada in case FIR No. 354, dated 17.09.2016, registered U/S 436/427/381/411PPC in Police Station Kohisar, Islamabad. I totally agree with the transparency and impartiality of the previous enquiries conducted against the above named official. He has rightly been dismissed from the police services as there is no room for the thieves and criminals in the esteemed department. The appellant does not deserve any sympathy and mercy.

RECOMMENDATIONS:

Keeping the above mentioned facts and figures in view, it is humbly recommended that the dismissal order of Ex-HC Sher Zada may please be upheld and his appeal for re-instatement in police service may please be rejected in the better interest of department.

Seen & Filed

25/2



(SALIM RIAZ)
Superintendent of Police,
Headquarters, Elite Force, Peshawar.



در بیان آراء سید زاده 1569 ایلٹ فرس
Hc

مذکورہ سید زاده 1569 نے آج فروری 15 2019 کو روتھ 8 ایلٹ فرس
Hc

سید کوادر علیہ السلام ریاض، البنگلہ لٹل ایلٹ فرس، حیان

بنیاد محمد، لائن افسر عبدالعزیز، ایلٹ فرس دوران دروہا
انگوائی، حیان کیا کہ مثل مقدم حین دیوانی ڈیکوریٹا جیل

9 لاکھ 70 بنا روئے کے علاوہ حین نے مذکورہ مقدم حیان ایلٹ فرس
ماہیا بندرین حیان DRc دوران جیل 5 لاکھ روئے ل

خانان آدھے ہیں۔ ان دلوں حین مقدم حیدر حیان ایلٹ فرس
حین تھا۔ حیان علامتے مذکورہ مقدم حیان ایلٹ فرس

کے لیے اسلام آباد حین جامع گورنمنٹ حیان ایلٹ فرس 6 لاکھ
روئے خریدنے چاہتا تھا۔ آج کل حین بیسوں سے شمال سویڈیا

حین اپنے لیے افراد کا واحد لینا بیوں۔ یہ دوست ہے کہ حیدر
اکبر بیوی صاحبہ نے 1998 حین جیل FRP حین علامتے بنیاد لکھ

سیما جیوی چاہتا تھا۔ حین نے کوئی دیکر لکھ بیوں کیا ہے کہ
بیوں نے جیل کے خریدنے کے لیے گورنمنٹ حیان ایلٹ فرس 7 لاکھ حین ترقی

اکبر بیوں صاحبہ نے حیدر ترقی کے لیے 4 لاکھ بنا کر حیدر 9 لاکھ حین ترقی
ماہم لوڈی سے حیدر بیچنے والے کے دیکر بیوں ہے۔ ایلٹ

صاحبہ نے حیدر بیچنے کے لیے بیوں کے حیان ایلٹ فرس حیان
کیا تھا۔ حیدر بیوں۔ حیدر دوبارہ لوڈی بیچا گیا حیان

1569 سید زاده
Hc
16101-6669511-3
0345-5515159

Attested
insp. legal
15-2-2019

Attested
L. Bute, Hc
15-2-19

Attested

PT
Hc

15-2-19

بروز و قوم ۱۳۹۱ کے ابتدائی گھنٹوں کا ہے جو کہ عید قربان کا دن
 ۱۶
 عرم ۱۲۹ کو متاثر و بلی میں جوڑ مار میں مدعا رقم امیر سولہ
 ۱۶
 صاحب اور اس کے افراد خانہ کو اسلام آباد سے تعلق رکھنے والے
 مردانہ سبھا کے لئے لڑائی میں لائے گئے لیکن والی اسلام آباد
 سبھا اس طرف سے میں اپنی جائیداد اسلام آباد چلا گیا
 ہوئے میں عید کے لئے اپنے بچوں کے لئے ٹھیک وغیرہ خریدنے کے
 میں داتا کرسیا ۱۱۳۱ کے اسلام آباد سبھا دو میں گئے۔
 کہ میں گڑا کر والی دریاں تو مینا ۱۲ کے عرم ۱۳۹۱
 ۱۶
 اپنے گھر سبھا اسلام آباد میں، میں امیر سولہ صاحب کے لئے
 واضح دے کہ عدم ہڈہ میں، میں تو مینا ۱۲ کے میں چیل میں دھای
 مدعا عدم ہڈہ میں سبھا گڑہ جیل کی لالہ دے آدائے جو کہ رقم
 برآمد شدہ رقم جیل ۱۲ لالہ دے مینا کے علاوہ تھے۔ اس طرح میں بر
 داخل خانہ جیل سے برعکس دھای سبھا جیل رقم میں سماعت کی جارہی

Attested
 ۱۵۶۹
 ۱۵-۲-۱۹

Attested Attested
 Co. BITEK
 INSP. Legal. E.F.
 15-2-019

Attested
 Inspector of Police
 15-2-19

CHARGE SHEET

I, Muhammad Hussain, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, hereby charge you Head Constable Sher Zada as follows;

You were allegedly involved in case FIR No. 354, dated 17.09.2016 U/S 436/427/381/411 PPC Police Station Kohsar Islamabad.

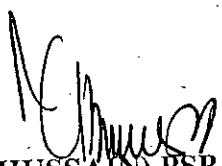
2. By reason of the above, you appear to be guilty of misconduct under the Police Rules (amended vide NWFP gazette, 27th January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are therefore, directed to submit your defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.

4. 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-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.


(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.
Am

SUMMARY OF ALLEGATIONS

I, Muhammad Hussain, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Head Constable Sher Zada has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette, 27th January 1976).

SUMMARY OF ALLEGATIONS

He was allegedly involved in case FIR No. 354, dated 17.09.2016 U/S 436/427/381/411 PPC Police Station Kohsar Islamabad.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Waqar Ahmad Acting SP/HQrs; Elite Force Peshawar, is appointed as Enquiry Officer to conduct denow-departmental enquiry against the defaulter as per directions of the Honorable Court.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.

4. The accused shall join the proceedings on the date, time, and place fixed by the Enquiry Officer.

(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

No. 42-47 /EF, dated Peshawar the 02/01/2019.

Copy of the above is forwarded to the:-

- ✓ Acting SP/HQrs: Elite Force Peshawar.
2. RI/Elite Force Khyber Pakhtunkhwa Peshawar.
3. SRC/FMC/OHC, Elite Force Khyber Pakhtunkhwa Peshawar.
4. HC Sher Zada of Elite Force through reader Acting SP/HQrs: Elite Force Peshawar.

Recd

Substantive of Police
HQRS Elite Force
Peshawar
02-1-19

(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

حیدرآباد چارٹرڈ پولیس ایسٹیشن پشاور

Sp
02-1-19

بیان اذان کو اب زادہ اکبر خان سے (سائنس ڈیپارٹمنٹ 22 مکان نمبر 22 ضلع اقبال) اسلام آباد

بیان چھاپنے میں قسم نمبر 354/16 سے درج 9-17 بجے 427-436 کے درمیان

کانگریسیوں اور مہری دروغیت یہ FIR دی ہے اور اس سے ہرگز متعلق ہے
مکمل حالات کا حکم علم نہ تھا جو میں آج کر رہا ہوں (شیرزادہ) نے ہمارے اپنے
سے عبدالمنان سے دیکر پتے پتے گوتے کٹیں رقم میں لاکھ دوپے

طوائف اسٹور (کنڈنگ) جو رہی گئے ہیں اور جو رہی گئے ہیں اور ہوتے غائب
کرنے کیلئے مہرے گو میں آج لگا دی جس کو دیکھ سے مہرے نما قسم کے کامیاب
صوفے، ہر دے AC اور گو کانٹینر قیدی سامان جیسا کہ چھیننے کو یہاں لگا کر

مہرے لاکھ روپے بتایا ہے جہاں سے مجھے آج ہی قوی یقین ہے کہ اپنے علاوہ
مہرے مان نے جو رہی شرہ رقم دیکر قیدی اشیاء وقوع کی رات ہی اپنے جہاں سے
مہرے اور اپنے ساتھ کے پاس کچھ رقم دیکر قیدی اشیاء چھینا رکھی ہے

ہے ان مہرے مان کو بھی گرفتار کر کے مہری نما سرور رقم دیکر اشیاء ہر امر
کو اس جہاں میں اب ہی شیرزادہ کے خلاف دعوہ داروں میں یہی میرا اور ہے
جوئے امروز 19 کو قہر دارانہ اسباب مہرے کو آئے سے بنا کر رقم اور دیگر اشیاء

(Handwritten signature)

نواب زاہد اکبر خان سے (دار فوجداری عبدالغفور خان ہوتی مکان نمبر 22

ضلع اقبال 3-1-19 اسلام آباد

NIC# 61101-88534353

Superintendent of Police
10183 Fine Point
Peshawar

To

The Honourable,
Superintendent of Police,
Head Quarter Peshawar.

Subject: REPLY TO THE CHARGE SHEER NO.42-47/EF, DATED 02-01-2019.

R/Sir,

Applicant humbly submitted as under:-

1. That I am innocent, I am falsely charge in the FIR. I have not committed any offense.
2. That mere loading of an FIR is no offense under the law.
3. That it is well establish principle of jurisprudence that accused is presumed to be innocent, so continuance of this inquiry means that the very maxim which is in fact establishes law defeated.
4. That the accuse is favourite child of Law.
5. That interest of justice demands that the instant inquiry may please be postponed till the decision of the competent criminal court/Session judge, Islamabad.

It is therefore requested that instant inquiry may please be postponed till the decision of criminal court in FIR.

Dated: 07-01-2019

Attested
[Signature]
Superintendent of Police
HQ Peshawar

[Signature]

Your's obediently

(Sher Zada)

Head Constable No.1593

الذکر علیہ
1569

1 - آئی ایف ایم سید الین د مقام ؟
1-1-1978

7.

2 - آئی ایف ایم ؟

7.

3 - کب سے آئی ایف ایم کو پروف ؟

7 - جب میں 10 سال کا تھا

4 - اولیہ سے کتنی پروف کیا ؟

7 - آئی ایف ایم

5 - کیا سید سے کبھی کوئی چیز ؟

7 - FRP سے

6 - کس سال کوئی پروف ؟

7 - 1998

8 - ایک پروف کو کبھی کیا اور کبھی نہیں

7 - ایک پروف کو کبھی کیا ؟

8 - کوئی پروف کبھی کیا اور کبھی نہیں

7 - کبھی نہیں

Attested
Supervisor of Police
1003/1/10/2019

2019-1-07

593 شہزادہ محمد شکیل

9 - اس کے بارے میں ایک ایسا کو - 2

7 - جی ایم - ان کے بارے میں

10 - کیا ہے؟

7 - 2016

11 - کیا ہے؟

7 - 5000/-

12 - اس کے بارے میں ایک ایسا کو - 2

7 - اس کے بارے میں ایک ایسا کو - 2

سنگھ، اور دیگر لوگوں کے بارے میں

13 - کیا ہے؟

7 - جی ایم

14 - کیا ہے؟

7 - 3

15 - کیا ہے؟

7 - جی ایم - 3

16 - The message

7 - کیا ہے؟

7 - 6500/-

17 - کیا ہے؟

7 - کیا ہے؟

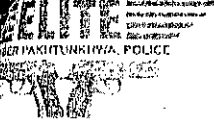
Attended

Signature

Supervisor of Police
Wazir Khan
P.O. No. 1

Signature

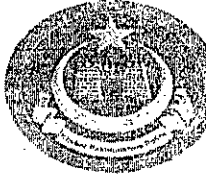
1593



OFFICE OF THE SUPERINTE
ELITE FORCE HEADQUAR



POLICE
PESHAWAR



No. 10 R/SP HQrs EF

Date 07/01/2019

DENOVO DEPARTMENTAL ENQUIRY AGAINST EX - HC
SHERZADA NO. 1569

It is submitted that Denovo Departmental enquiry against Ex - HC Sherzada No. 1569 was entrusted to the undersigned on the allegation that while he was deputed for duty with ex-DG FIA Nawabzada Muhammad Akbar Khan Hoti was allegedly involved in case FIR No. 354 dated:- 17/09/2016 under section 436/427/381/411 PPC Police station Kohsar Islamabad.

The summary of allegation and charge sheet vide NO. 42-47/EF dated:-2/01/2019 Peshawar issued by competent authority Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar were served upon alleged HC Sherzada on 02/01/2019.

The undersigned recorded the statements of investigation officer and witness of the subject case in the office of Mr. Ulfat Gaffar DSP/SDPO secretariat circle Islamabad.

The statement of investigation officer Tariq Rauf Sub Inspector presently posted as SHO Police Station Sabzi Mandi Islamabad revealed that on 29.09.2016. He was posted as Sub inspector in CIA Islamabad. The case FIR No. 354 Dated:- 17/09/2016 under section 436/427/381/411 PPC Police Station Kohsar Islamabad transferred from Police Station Kohsar for further investigation by CIA and entrusted to him. During the course of investigation accused HC Sherzada admitted for the offence of robbery and burning the house of complainant Nawab zada Muhammad Akbar Khan Hoti. The investigation officer recovered Rs.500000/- from accused Sherzada. He further added that accused Sherzada is guilty and complete challan against him have already been sent to court.

The statement of witness (Recovery memo) Mr. Sikandar Ali HC No.5677 presently posted at Police Station Sabzi Mandi Islamabad revealed that on 03.10.2016 he was posted in CIA. Sub-inspector/Investigation officer

میان ازلان علم و سیرت 4507 رقم CIA سٹاف علم ازلان

میان کتب اربعین CIA سٹاف میں لکھو، پھیر کر کتب اربعین میں لکھو

3 1/16 کو 1 - 51 سے کیا تو خورد خورد 354/16 رقم 9/17 کو 17

436 / 381 = 427 / 411

2 پروان کثیر و کتب اربعین سٹاف میں کثیر و کثیر سے اپنے ذاتی کتب میں

داخل ہو کر انور اہل خانہ B خورد خورد میں رہا ہے کثیر و کثیر سے اپنے ذاتی کتب میں

الجماعی کتب کو لکھنا میں لکھی ہوئی رقم کتب کو کثیر و کثیر سے اپنے ذاتی کتب میں

3 لکھو روٹی ہوئی (ازدہ رقم آپ کو دیا ہے لکھو روٹی ہوئی کثیر و کثیر سے اپنے ذاتی کتب میں

خورد خورد خورد میں لکھو کثیر و کثیر سے اپنے ذاتی کتب میں

~~میان ازلان علم و سیرت~~

میان ازلان علم و سیرت 4507 رقم CIA سٹاف علم ازلان

0314-5261414

Handwritten signature or mark

CHARGE SHEET

I, Muhammad Hussain, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, hereby charge you Head Constable Sher Zada as follows;

You were allegedly involved in case FIR No. 354, dated 17.09.2016 U/S 436/427/381/411 PPC Police Station Kohsar Islamabad.

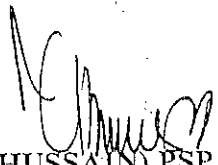
2. By reason of the above, you appear to be guilty of misconduct under the Police Rules (amended vide NWFP gazette, 27th January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are therefore, directed to submit your defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.

4. 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-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.


(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

Am

SUMMARY OF ALLEGATIONS

I, Muhammad Hussain, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Head Constable Sher Zada has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette, 27th January 1976).

SUMMARY OF ALLEGATIONS

He was allegedly involved in case FIR No. 354, dated 17.09.2016 U/S 436/427/381/411 PPC Police Station Kohsar Islamabad.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Waqar Ahmad Acting SP/HQrs; Elite Force Peshawar, is appointed as Enquiry Officer to conduct denow departmental enquiry against the defaulter as per directions of the Honorable Court.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.

4. The accused shall join the proceedings on the date, time, and place fixed by the Enquiry Officer.

(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

No. 42-47 /EF, dated Peshawar the 02/01/2019.

Copy of the above is forwarded to the:-

1. Acting SP/HQrs: Elite Force Peshawar.
2. RI/Elite Force Khyber Pakhtunkhwa Peshawar.
3. SRC/FMC/OHC, Elite Force Khyber Pakhtunkhwa Peshawar.
4. HC Sher Zada of Elite Force through reader Acting SP/HQrs: Elite Force Peshawar.

Recd

(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

Sub-Inspector of Police
Elite Force
Peshawar
02-1-19

میں نے اس کی کاپی ریڈر سپر وائزنگ اور آرکائیو میں رکھی ہے

Shafiq
02-1-19

To

The Honourable,
Superintendent of Police,
Head Quarter Peshawar.

Subject: REPLY TO THE CHARGE SHEER NO.42-47/EF, DATED 02-01-2019.

R/Sir,

Applicant humbly submitted as under:-

1. That I am innocent, I am falsely charge in the FIR. I have not committed any offense.
2. That mere loading of an FIR is no offense under the law.
3. That it is well establish principle of jurisprudence that accused is presumed to be innocent, so continuance of this inquiry means that the very maxim which is infact establishes law defeated.
4. That the accuse is favourite child of Law.
5. That interest of justice demands that the instant inquiry may please be postponed till the decision of the competent criminal court/Session judge, Islamabad.

It is therefore requested that instant inquiry may please be postponed till the decision of criminal court in FIR.

Dated: 07-01-2019

A. Sher Zada
Ul-Allah
Superintendent of Police
Head Quarter Peshawar

Sher Zada

Your's obediently

(Sher Zada)

Head Constable No.1593



(7)

(B)

B (6)

BRAMERD

Subject: ENQUIRY AGAINST HC SHER ZADA
CHARGED IN CASE FIR NO. DATED PS:
KOHSAR ISLAMABAD.

Memo:

It is submitted that the subject departmental enquiry against the HC Sher Zada, was entrusted to the undersigned on the following allegations:-

SUMMARY OF ALLEGATIONS

01.

"Muhammad Hussain, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Head Constable Sher Zada has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police Rules (amended vide NWFP gazette, 27th January 1976"

SUMMARY OF ALLEGATIONS

2.

He was allegedly involved in case FIR No. 354, dated 17.09.2016 u/s 436/427/381/411 PPC Police Station Kohsar Islamabad.

For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr, Javed Iqbal SP/Elite Force Mardan Region, is appointed as Enquiry Officer.

PROCEEDING:

During enquiry the undersigned visited to Adyala Jail Rawalpindi and recorded his statement.

According to his statement "he was deputed with Ex-DG FIA Islamabad Nawab Akbar Khan Hoti and settled in Islamabad along with the family. As far as allegation regarding his presence in Islamabad is concern. On the eventful day as per CDR data on 12.09.2016 he visited to Islamabad for the purpose of bringing his family to Mardan for Eid-ul-Azha

PTO

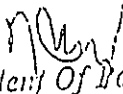
celebration.. The Ex-DG FIA falsely charged him in FIR owing to unknown reason.

During the course of enquiry the undersigned also recorded statements of IO of the case SI: Tariq Raouf Cheema. I also perused the case file and heard all other concern and concluded that -

01. During interrogation IO of the case recovered rupees 97,000 on instance of the accused. Similarly kerosene oil and match etc used for the commission of offence have also been recovered.
02. Footage of CCTV Camera clearly shows inn/out of the accused to the said on the same day, hence he could not rebut his presence from Islamabad.

FINDING

Viewing the above accused HC Sher Zada is found guilty in this case and recommended for suitable punishment


Superintendent Of Police
Elite Fore Mardan Region-I, Mardan.

Note: All the relevant documents are enclosed herewith..



Office of the Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



420

No. 233-38/EF

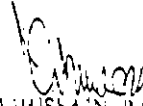
ORDER

Dated: 16.01.2019

In light of report of the enquiry officer, Ex-Metro Constable Sher Zaid No. 569 of this unit is found guilty on the charges leveled against him, hence the enquiry officer recommended him for major punishment.

Therefore, I, Muhammad Hussain, (PSP), Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar, being competent authority, accepting in view the facts and recommendation of the enquiry officer uphold his major punishment of removal from service.

Order announced!


MUHAMMAD HUSSAIN, P.S.P.
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar
13/1

No. _____/EF

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

1. AIG/ Complaint & Enquiry, Khyber Pakhtunkhwa Peshawar with his office letter No. 250/E&I, dated 16.01.2019.
2. Superintendent of Police, Elite Force, HQ's, Peshawar
3. Accountant, of Elite Force Pakhtunkhwa Peshawar
4. RI, Elite Force Khyber Pakhtunkhwa Peshawar
5. SRC/OHC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar 39 pages

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Zada in his presence and accused Sher Zada admitted the offence before the investigation officer.

The statement of 2nd witness (Recovery memo) Mr. Ghulam Mustafa HC No.4507 presently posted at CIA Islamabad revealed that on 03.10.2016 he was posted in CIA Islamabad and Sub-inspector/investigation officer Tariq Rauf was investigating the case FIR No.354 dated: 17.09.2016 of Police Station Kohsar Islamabad. Investigation officer recovered Rs.500000/- from the house of accused Sher Zada in his presence.

The statement of ASI Mr Asim Ghaffar presently posted at Police Station Kohsar Islamabad revealed that on 17.09.2016 on written application of complainant Nawab Zada Muhammad Akbar Khan Hoti residence of Khyaban Iqbal sector F-7/3 house No.22 Islamabad he lodged the FIR No.354 Under Section 436,427,381,411 PPC at Police Station Kohsar Islamabad and investigation was entrusted to Sub-inspector Ameer Umer of Police Station Kohsar Islamabad.

H6

Sub-Inspector Ameer Umer was on causal leave therefore his statement was not recorded and his departure report vide DD. No: 1/30 Dated: 2/1/2019 Police Station Kohsar Islamabad is (Attached).

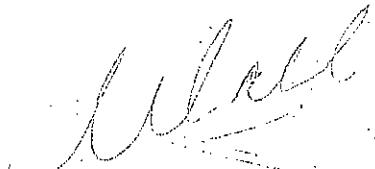
The statement of complainant Nawab Zada Mohammad Akbar Khan Hoti was also recorded who stated that on 13.09.2016 his house situated at Khayaban Iqbal House No.22 Sector F-7/3 Islamabad was robbed and burnt by accused HC Sher Zada along with his brother-in-law Mr. Abdul Anan and accused stolen cash Rs.50,00000/- and Gold ornaments including stud (kifling) and burnt the house which damaged different articles worth Rs.1,50,00000/-

The statement of alleged HC Sher Zada No.1569 was recorded and cross examined by 34 questions. His statement revealed that he is innocent but the undersigned is not satisfied by his statement.

07 No. photographs of burnt room produced by complainant are attached showing the damage of different articles.

Keeping in view all the statements and cross examination of alleged HC Sherzada No. 1569, the undersigned reached to the conclusion that local Police recovered an amount of Rs. 970000/- from the possession of accused during course of investigation. The C.D.R. of HC Sherzada shows his presence on the day of occurrence in the area, therefore his involvement is established and found guilty charges leveled against him. It is therefore recommended that alleged HC Sherzada No. 1569 left bad name to the Department and Elite Force may be awarded major punishment of (Removal from service).

Submitted Please.


(WAQAR AHMED)
SUPERINTENDANT OF POLICE,
Elite Force Headquarter Peshawar.

To,

The I.G.P,
Provincial Police Officer
Khyber Pakhtunkhwa.

**Subject: DEPARTMENTAL APPEAL ^{Review} AGAINST
ORDER DATED 23.11.2016, WHEREBY
APPELLANT HAS BEEN DISMISSED FROM
SERVICER, WHICH IS ILLEGAL AGAINST
LAW AND FACTS.**

Prayer

*On acceptance of this appeal order dated
23.11.2016 may please be set-aside and
appellant may please be reinstated in
service with all back benefits*

Sir,

The appellant humbly submits as under;-

1. That appellant was appointed as Constable vide order dated July, 1998.
2. That appellant successfully completed the prescribed Trainings.
3. That appellant performed his duty to the entire satisfaction of his superiors.
4. That due to performance, efficiency appellant, appellant was promoted upto

rank of A.S.I i.e. Assistant Sub-Inspector of Police.

5. That appellant has got 17 years unblemished record of service in past.
6. That an FIR No.354 dated 17.09.2016 was lodged against appellant, which is illegal and false.
7. That appellant remained in initially in illegal confinement and afterward in Judicial confinement and his total confinement is from 17.09.2016 till 20.12.2016.
8. That appellant is released from jail on bail on 12.12.2016.
9. That appellant has not been served with any charge sheet.
10. That appellant has neither been associated with the Inquiry nor any witness examined in front of appellant.
11. That appellant has not been given any opportunity of cross-examination.
12. That appellant has not been served with any final show cause notice.
13. That appellant received impugned dismissal order dated 23.11.2016 on 13.01.2017, after release on bail from jail on 20.12.2016, thus this Departmental Appeal is within time.

14. That appellant also filed petition before Hon'ble Peshawar High Court, Peshawar u/s 491 Cr.PC for illegal confinement, which speaks of illegal, hard treatment at the hands of prosecution.
15. That appellant has not been handed over the inquiry proceedings.
16. That appellant is jobless.
17. That dismissal order dated 23.11.2016 is illegal against law and facts on following grounds: _

GROUND

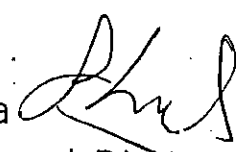
- A. Because appellant is incorrect and falsely charged.
- B. Because nothing has been recovered from the appellant and appellant has no concern at all with the alleged offence and recovery (if any) is shown by the police, which is fake and fabricated.
- C. Because during the investigation no incriminating material could be brought on record on the basis of which appellant could be connected with the alleged offence. The recovery shown by the local police is fabricated and self-created by the local police.
- D. Because the section 427 PPC is bailable and section 436, 381, 411 PPC are not attracted in the above mentioned case, hence the appellant is entitled for the concession of bail as the matter of right.

- E. Because the investigation has been completed and appellant is not more required by the police for the purpose of investigation.
- F. Because impugned penalty is too harsh and long 17 years' service of appellant has not been taken into consideration.
- G. Because the Inquiry Officer has conducted arbitrary, one side inquiry, which is whimsical.
- H. Because Inquiry Officer has not given his independent findings.
- I. Because Inquiry Officer has based his findings upon so-called fictitious recovery/ planted recovery upon appellant in the shape of money, which can be of any one to enrope appellant.
- J. Because Police Rules, 1975 is no more in the field and appellant need to be proceeded a per law as per KPK E&D Rules, 2011.

It is, therefore, humbly prayed that on acceptance of this appeal/ representation, order dated 23.11.2016 may please be set-aside and appellant may please be reinstated in service with all back benefits

Appellant

Dt 16/1/2017

Sher Zada 
S/o Rahim-ud-Din
R/o House No.22, Main Margallah
Road, Sector F-7/3, Islamabad,

Mob :- 0312 = 5515159



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 1577 /19, dated Peshawar the 07/05/2019.

ORDER


This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-IIC Sher Zada No. 1569.

Brief facts of the case are that the petitioner was dismissed from service by Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar vide order No. 17101-10/EF, dated 23.11.2016 on the allegation of involvement in case FIR No. 354 dated 17.09.2016 u/s 436/427/381/411 PPC Police Station Kohsar, Islamabad. His appeal was rejected by Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar vide order No. 3697-3703/EF, dated 22.02.2017. He preferred revision petition to Worthy IGP/Khyber Pakhtunkhwa which was discussed in the Appellate Board meeting 04.05.2017 and rejected by Competent Authority vide CPO order No. S/3173/17, dated 23.05.2017. He approached Service Tribunal Peshawar vide service appeal No. 711/2017. Service Tribunal, Peshawar reinstated him in service and directed to conduct de-novo inquiry vide judgment dated 19.10.2018. De-novo inquiry was conducted and he was again removed from service by Deputy Commandant, Elite Force, Khyber Pakhtunkhwa Peshawar vide order No. 833-39/EF, dated 16.01.2019. His appeal was rejected after re-denovo enquiry by Commandant, Elite Force, KP vide order No. 3226-33/EF, dated 26.02.2019.

Meeting of Appellate Board was held on 08.04.2019 wherein petitioner was heard in person. During hearing petitioner contended that he was falsely charged in the case and the recovery shown by local police is fabricated

Petitioner was posted as driver with Ex-IGP Nawab Akbar Khan Hoti. He remained posted with the IGP for 20 years. He stated that on the day of occurrence, he was in Mardan and the security guards deployed at the house were present. However, none of them appears in his favour for the statement. He was reinstated in service by Service Tribunal on 19.10.2018 but after de-novo enquiry, he was again removed from service. His appeal was again rejected. The FIR registered against him on 17.09.2016 is under trial in the court. His entire case is sub-judice to the court. However, departmental proceedings are separate from criminal proceedings. During his entire service he has neither good entry nor bad entry at his credit. In the instant case, his involvement cannot be ruled out. Therefore, as recommended by the Board his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.


(SADIQ BALOCH) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 1578-84/19,

Copy of the above is forwarded to the:

1. Commandant, Elite Force, Khyber Pakhtunkhwa Peshawar. One Service Roll, Two Service Books and three enquiry files (210-pages) of the above named Ex-HC received vide your office Memo: No. 4402/EF dated 18.03.2019 is returned herewith for your office record.
2. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

To,

The commandant,
Elite force Peshwar,
Khyber Pakhtunkhwa.

Subject:

**DEPARTMENTAL APPEAL AGAINST
ORDER DATED 16.01.2019, WHEREBY APPELLANT HAS BEEN
DISMISSED FROM SERVICE, WHICH IS ILLEGAL AGAINST LAW AND
FACTS.**

PRAYER

On acceptance of this appeal order dated 16.01.2019 may please be set-aside and the appellant may please be reinstated in the service with all back benefits.

Sir,

The appellant humbly submits as under:-

1. That appellant was appointed as constable vides order July 1998.
2. That appellant successfully completed the prescribed Trainings.
3. That appellant performed his duty to the entire satisfaction of his superiors.
4. That due to performance, efficiency of appellant was promoted up to the rank of A.S.I. i.e. Assistant sub-inspector of Police.
5. That appellant has got 17 years unblemished record of service in the past.
6. That an FIR no354 dated 17.09.2016 was lodged against appellant, which is illegal and false.

7. That appellant remained in initially in illegal confinement and afterward in the judicial confinement and his total confinement is from 17.09.2016 till 20.12.2016
8. That appellant is released from jail on bail on 12.12.2016.
9. That the appellant has not been served with any charge sheet nether any enquiry is conducted and has been dismissed from service.
10. That the honorable Khyber Pakhtunkhwa service Tribunal reinstate the appellant with all benefits after deciding the case on merits and facts.
11. That appellant has been dismissed again on dated 16.01.2019 after a vague and partial, a one sided inquiry has been conducted against the appellant in which even a single cause for such a major punishment have not been proved.
12. That appellant has neither been associated with the inquiry nor any witness examined in front of the appellant.
13. That appellant has not been given any opportunity of cross-examination.
14. That appellant has not been served with any final show cause notice.
15. That the impugned dismissal order issued on dated 16.01.2019 thus this departmental appeal is within time.
16. That appellant also filed petition before Hon'ble Peshawar High court, Peshawar u/s 491 Cr.PC for illegal confinement, which speak illegal hard treatment at the hands of prosecution.
17. That appellant has not been handed over the inquiry proceedings.
17. That appellant is jobless.
18. That dismissal order dated 19.01.2019 is against law and facts on the following grounds

Grounds

- A. Because appellant is incorrect and falsely charged.
- B. Because nothing has been recovered from the appellant and appellant has no concern at all with the alleged offence and recovery (if any) is shown by the police ; which is fake and fabricated.
- C. Because during the investigation n incriminating material could be brought on record on the basis of which appellant could connected with the alleged

offence. The recovery shown by the local police is fabricated and self-created by the local police.

- D. Because the section 427 PPC is bailable and section 436,481,411 PPC are not attracted in the above mentioned case, hence the appellant is entitled for the concession of bail as the matter of right.
- E. Because the investigation has been completed and appellant is not more required by the police for the purpose of investigation.
- F. Because impugned penalty is too harsh and long 17 years' service of the appellant has not been taken into consideration.
- G. Because the inquiry officer has conducted arbitrary, one sided inquiry which is whimsical.
- H. Because inquiry officer has not given his independent findings.
- I. Because inquiry officer has based his findings upon so-called fictitious recovery./ planted recovery upon appellant in the shape of money, which can be of any to enrobe appellant.
- J. Because police rules, 1975 is no longer in the field and appellant need to be preceded per law as per KPK E&D rules 2011.

It is therefore humbly prayed that on acceptance of this appeal/ representation, order dated 16.01.2019 may please be set-aside and appellant may please be reinstated in service with all back benefits.

Appellant

Sher Zada

S/o Rahim ud Din

H/o House No.22, Main Margallah

Road, Sector F-7/3 Islam Abad.

28/01/2019

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1569

Phul

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28-1-19





Office of the Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



No. _____/EF

Dated: 26/02/2019

ORDER

This order will dispose of the appeal submitted by Ex-Head Constable Sher Zada No. 1569 against his removal order passed by Deputy Commandant Elite Force vide No. 833-39/EF, dated 16.01.2019.

The defaulter Ex-HC appealed to the Commandant Elite Force wherein he recommended him for re-denovo departmental enquiry and SP/HQrs: Elite Force, Peshawar, Mr. Saleem Riaz was appointed enquiry officer. During the course of enquiry proceedings the enquiry officer found him guilty in the charges and provided all the documental proofs as he was involved in the case reported vide FIR No. 354, dated 17.09.2016, u/s 436/427/381/411, PPC, PS Kohsar, Islamabad. The matter was decided through DRC Mardan and he paid amounting to Rs. 50,00,000/- to the complainant of the case. The enquiry officer again recommended him to uphold his dismissal order and his appeal for reinstatement in Police service be rejected in the better interest of department as he earns a bad name for the Force.

Keeping in view the recommendations of all the enquires officers, documental proofs of the recovery memos and his personal hearing, he could not provide any cogent reason for his innocence, therefore, his appeal for reinstatement in service is filed and rejected.

Order announced!

-Sd-

Commandant

Elite Force Khyber Pakhtunkhwa Peshawar

No. 3227-33 /EF

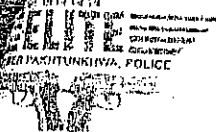
Copy to the:-

1. Superintendent of Police, Elite Force, HQrs: Peshawar.
2. Accountant, of Elite Force Pakhtunkhwa Peshawar.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. SRC/OHC/FMC; Elite Force Khyber Pakhtunkhwa Peshawar. 77 pages
5. Ex-HC SHer Zada No. 1569 through reader SP Elite Force/HQrs: Peshawar

(MUIHAMMAD HUSSAIN) P.S.P.

Deputy Commandant

Elite Force, Khyber Pakhtunkhwa, Peshawar



OFFICE OF THE SUPERINTE
ELITE FORCE HEADQUAR

POLICE
WAR



No. 10 R/SP HQrs EF

Date 07/01/2019

DENOVO DEPARTMENTAL ENQUIRY AGAINST EX - HC
SHERZADA NO. 1569

It is submitted that Denovo Departmental enquiry against Ex - HC Sherzada No. 1569 was entrusted to the undersigned on the allegation that while he was deputed for duty with ex-DG FIA Nawabzada Muhammad Akbar Khan Hoti was allegedly involved in case FIR No. 354 dated:- 17/09/2016 under section 436/427/381/411 PPC Police station Kohsar Islamabad.

The summary of allegation and charge sheet vide NO. 42-47/EF dated:-2/01/2019 Peshawar issued by competent authority Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar were served upon alleged HC Sherzada on 02/01/2019.

The undersigned recorded the statements of investigation officer and witness of the subject case in the office of Mr. Ulfat Gaffar DSP/SDPO secretariat circle Islamabad.

The statement of investigation officer Tariq Rauf Sub Inspector presently posted as SHO Police Station Sabzi Mandi Islamabad revealed that on 29.09.2016. He was posted as Sub inspector in CIA Islamabad. The case FIR No. 354 Dated:- 17/09/2016 under section 436/427/381/411 PPC Police Station Kohsar Islamabad transferred from Police Station Kohsar for further investigation by CIA and entrusted to him. During the course of investigation accused HC Sherzada admitted for the offence of robbery and burning the house of complainant Nawab zada Muhammad Akbar Khan Hoti. The investigation officer recovered Rs.500000/- from accused Sherzada. He further added that accused Sherzada is guilty and complete challan against him have already been sent to court.

The statement of witness (Recovery memo) Mr. Sikandar Ali HC No.5677 presently posted at Police Station Sabzi Mandi Islamabad revealed that on 03.10.2016 he was posted in CIA. Sub-inspector/Investigation officer

Zada in his presence and accused Sher Zada admitted the offence before the investigation officer.

The statement of 2nd witness (Recovery memo) Mr. Ghulam Mustafa HC No.4507 presently posted at CIA Islamabad revealed that on 03.10.2016 he was posted in CIA Islamabad and Sub-inspector/investigation officer Tariq Rauf was investigating the case FIR No.354 dated: 17.09.2016 of Police Station Kohsar Islamabad. Investigation officer recovered Rs.500000/- from the house of accused Sher Zada in his presence.

The statement of ASI Mr Asim Ghaffar presently posted at Police Station Kohsar Islamabad revealed that on 17.09.2016 on written application of complainant Nawab Zada Muhammad Akbar Khan Hoti residence of Khyaban Iqbal sector F-7/3 house No.22 Islamabad he lodged the FIR No.354 Under Section 436,427,381,411 PPC at Police Station Kohsar Islamabad and investigation was entrusted to Sub-inspector Ameer Umer of Police Station Kohsar Islamabad.

Sub Inspector Ameer Umer was on causal leave therefore his statement was not recorded and his departure report vide DD. No: 1/30 Dated: 2/1/2019 Police Station Kohsar Islamabad is (Attached).

The statement of complainant Nawab Zada Mohammad Akbar Khan Hoti was also recorded who stated that on 13.09.2016 his house situated at Khayaban Iqbal House No.22 Sector F-7/3 Islamabad was robbed and burnt by accused HC Sher Zada along with his brother-in-law Mr. Abdul Anan and accused stolen cash Rs.50,00000/- and Gold ornaments including stud (kifling) and burnt the house which damaged different articles worth Rs.1,50,00000/-

The statement of alleged HC Sher Zada No.1569 was recorded and cross examined by 34 questions. His statement revealed that he is innocent but the undersigned is not satisfied by his statement.

07 No. photographs of burnt room produced by complainant are attached showing the damage of different articles.

Keeping in view all the statements and cross examination of alleged HC Sherzada No. 1569, the undersigned reached to the conclusion that local Police recovered an amount of Rs. 970000/- from the possession of accused during course of investigation. The C.D.R. of HC Sherzada shows his presence on the day of occurrence in the area, therefore his involvement is established and found guilty charges leveled against him. It is therefore recommended that alleged HC Sherzada No. 1569 left bad name to the Department and Elite Force may be awarded major punishment of (Removal from service).

Submitted Please.



(WAQAR AHMED)
SUPERINTENDANT OF POLICE,
Elite Force Headquarter Peshawar.

S/C

LSA-1

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Faqir Muhammad Khokhar
Mr. Justice M. Javed Buttar

CAS 507/2348/03

Civil Petitions No. 500 & 501-P/2003
(On appeal from orders dated 14.6.2003 of
the NWFP Service Tribunal, Peshawar,
passed in Service Appeals No. 223 & 224/2002)

Habib Ahmed.. (in C.P. 500-P/03)
Fazal Raziq (C.P. 501-P/03)

Petitioners.

Versus.

Presiding Officer, Revenue Appellate Court
No.3 and others.

Respondents.

For the petitioners: Mr Khushdil Khan, ASC.
Mr Zahoor Qureshi, AGR.

For respondent No.3-4: Mr Jan Muhammad Khan, ASC/AOR.

No.1-2: Shah Jehan (Est. Asstt)

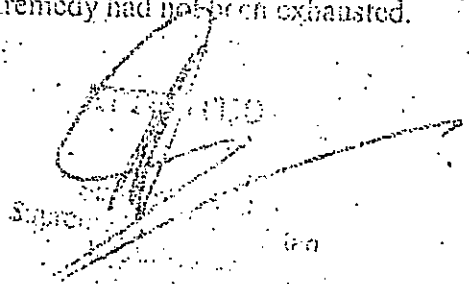
Date of hearing: 27.4.2005

ORDER

FAQIR MUHAMMAD KHOKHAR, J. - The petitioners seeks leave to
appeal from orders dated 14.6.2003, passed by the NWFP Service Tribunal,
Peshawar, (hereinafter referred to as the Tribunal) in Service Appeals No.223 and
224 of 2002.

2. The petitioners felt aggrieved by order dated 25.2.2002 passed by
the appellate authority in respect of their place of seniority as *Patwaris*. They
preferred Service Appeals No.223 and 224 of 2002 there-against which were
dismissed by the Tribunal, by the separate impugned orders dated 14.6.2003.

3. The learned counsel for the petitioners submitted that the order
which was called in question in appeal before the Tribunal, was itself an appellate
order passed by the departmental authority. Therefore, the Tribunal had taken an
erroneous view of the matter in dismissing the service appeals of the petitioners on
the ground that the departmental remedy had not been exhausted.


Sd/-
Faqir Muhammad Khokhar
Justice

The learned counsel for the respondents could not controvert the above-position.

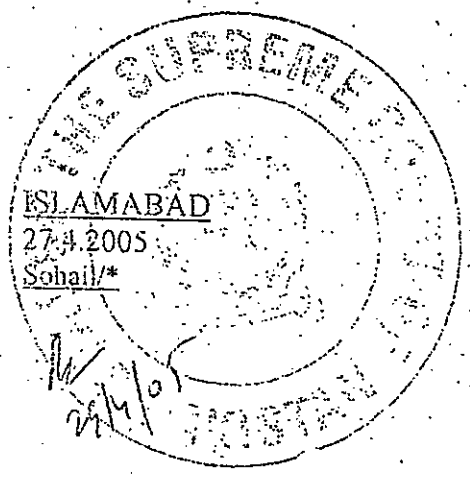
5. We have heard the learned counsel for the parties and have also perused the available record. We find that the respondents being aggrieved of the original order of the departmental authority in respect of their seniority had availed the remedy of appeal which was accepted by the appellate authority. It was against the order of the appellate authority that the petitioners had preferred the service appeals. In these circumstances, it could not be said that the departmental remedy had not been exhausted. The impugned orders of the Tribunal are not sustainable at law.

6. For the foregoing reasons, both these petitions are converted into appeals and the same are allowed. The impugned orders dated 14.6.2003 of the Tribunal are set aside. Consequently, the Service Appeals No.223 and 224 of 2002 of the petitioners shall be disposed of by the Tribunal afresh in accordance with law. There shall be no order as to costs.

Sd/- Fajir Muhammad Khokhar,

Sd/- M. Tameed Butt,

Certified to be a true copy
President
Supreme Court Pakistan
ISLAMABAD
11.5.05





Office of the Commandant
Elite Force Khyber Pakhtunkhwa
Peshawar



No. 2500-2501 /EF

Dated: 13/02 /2019.

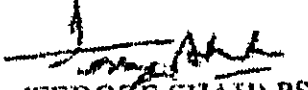
ORDER

Ex-Head Constable Sher Zada No. 1569 of Elite Force Khyber Pakhtunkhwa was involved in case FIR No. 354, dated 17.09.2016 U/S 436/427/381/411 PPC Police Station Kohsar, Islamabad. He was properly charge sheeted and summary of allegations were issued to him. On the recommendations of the enquiry officer, he was dismissed from service by the Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar vide Order No. 17101-10/EF, dated 23.11.2016. On the directions of the Khyber Pakhtunkhwa Service Tribunal, he was reinstated in service for denovo enquiry proceedings but the enquiry officer found him guilty again in the denovo enquiry proceedings and recommended him for major punishment and he was again removed from service vide Order No. 833-39/EF, dated 16.01.2019.

Against this order, he preferred an appeal to the undersigned. He was heard in person in Orderly Room on 12.02.2019.

I, Feroze Shah, Commandant Elite Force Khyber Pakhtunkhwa Peshawar as Competent Authority accepted his request and Mr. Saleem Riaz SP/HQrs: Peshawar is hereby appointed as enquiry officer to conduct re-enquiry into the matter and fact finding report/ recommendations be submitted within 07 days to proceed further into the matter.

Encl: 2 Enquiry File 133 pages


(FEROZE SHAH) PSP
Commandant,
Elite Force Khyber Pakhtunkhwa Peshawar

Copy to the

1. Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar.
- ✓ 2. SP/HQrs: Elite Force Peshawar.