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

Appeal No.7862-P/2021

Hamid Khan .....(Appellant)

Versus

Inspector General of Police Khyber Pakhtunkhwa & others..... (Respondents)

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DEPONENT

  
Asif Ali

Inspector Legal (Khyber)

CNIC No. 17301-8488972-5

Mobile No. 03339149322

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES  
TRINUNAL, PESHAWAR.**

Appeal No. 7862-P/2021.

Hamid Khan ..... (Appellant)

Versus

Inspector General of Police KPK & others..... (Respondents)

**AFFIDAVIT.**

I, Asif Ali Inspector Legal Khyber, do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of District Police Officer Khyber are correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Court.

DEPONENT

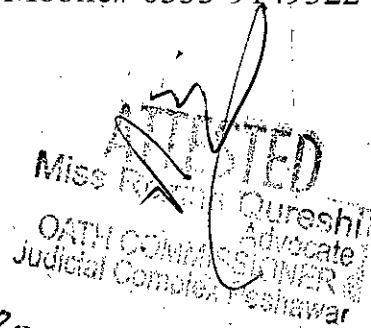


Asif Ali

Inspector Leal (Khyber)

CNIC No. 17301-8488972-5

Mobile# 0333-9149322



20-09-2022

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**OFFICE OF  
THE DISTRICT POLICE OFFICER  
KHYBER**



**AUTHORITY LETTER**

I, Imran Khan, District Police Officer, Khyber hereby authorize Asif Ali Khan DSP Legal of District Khyber to attend all the cases and submission of Para Wise comments pertaining of this Office in Peshawar High Court, Khyber Pakhtunkhwa Service Tribunal and Lower Courts on behalf of the undersigned.

**(IMRAN KHAN, PSP)  
DISTRICT POLICE OFFICER,  
KHYBER.**

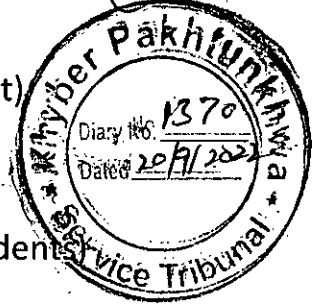
**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.**

Appeal No. 7862-P/2021

Hamid Khan..... (Appellant)

Versus

Inspector General of Police Khyber Pakhtunkhwa ..... (Respondent)



**PARAWISE COMMENTS RESPONDENTS NO.1,2,3&4.**

**RESPECTFULLY SHEWETH:**

**PRELIMINARY OBJECTION:-**

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

**FACTS:**

1. Pertains to appellant personal information
2. Pertain to appellant service record.
3. Pertain to appellant service record.
4. Pertain to record.
5. Incorrect, as per reports of intelligence Agencies, appellant remained involved in malpractices having links with undesirable elements, while posted at aTakhta beig PP, Police station Jamrud and after fulfillment of codal formalities i.e.(enquiry proceedings) appellant was remove from service.(Annexure-A Dismissal Order No.1436/PSO Khyber, dated Khyber 30.05.2020).
6. Incorrect, enquiry procedure provided in police disciplinary rules 1975 has been adhered in enquiry proceedings. Furthermore, In this regard

(18)

departmental enquiry was initiated against appellant. Charge sheet and statement of allegation were also issued against the defaulter officer separately with order No. 1263-A/PSO Khyber, dated the 29.04.2020, the appellant (defaulter ASI) was called to enquiry office for recording his statement. In defense against the allegation leveled against him (Appellant). In statement, the defaulter official failed to submit any cogent reason in his defense, after fulfillment of codal formalities enquiry officer recommend, that appellant/ASI Hamid Khan may be awarded punishment according to rules and regulations in order to settle an example for aother as deterrence who are the helping hands of criminal inside the department or involved in anti-social and criminal activities, hence removed from service.**(Annexure-B, Charge Sheet, Summary of Allegation Annexure-C Order No.1263-A/PSO Dated 29.04.2020).**

7. Incorrect, as already explained in Para No.06 **(Annexed-D enquiry report).**
8. Incorrect, respondents are doing every act according to rules, regulation and in the ambit of law, no in justice or illegality has been done with appellant. Moreover, chief Traffic Officer and SP/HQrs City Traffic were appointed as inquiry officers for further denovo enquiry. Enquiry officers after conducting proper enquiry submitted their finding that he is not found guilty of the charges leveled against him. The competent authority SSP/Coordination to conduct the proceedings afresh and submit report immediately. The SSP/Coordination Peshawar submitted his enquiry report, that the statement of previous Supervisory officer/ indicates that, corruptions and malpractice during the period of appellant were rampant, which clearly shows/ provide evidence and proof of the involvement of the staff and incharge of the post hence major punishment of removal from service was converted into forfeiture of two year approved service from appellant. **(Annexure-E order No.4035-36-PA dated Peshawar 15.10.2021).**
9. Incorrect, the appellant has got no cause of appeal; therefore the instant appeal may kindly be dismissed on following grounds.

**Grounds.**

- A. Incorrect, as already explained in the preceding Paras, however, respondents are doing every act in the ambit of law, no injustice or illegality has been done with the appellant.

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- B. Correct, however, respondents are doing every act/ manner in according to law, rules and regulations.
- C. Incorrect, as already explained in the preceding Paras. Moreover respondents have acted accordance with natural justice equality.
- D. Appellant has already been treated in accordance with the constitution of Pakistan 1973, however for the remaining Para it has already explained in the preceding Paras.
- E. As already explained in preceeding Paras.
- F. Incorrect, as already explained in the above mentioned Paras. However, no illegality or injustice done with appellant.
- G. Respondents may be allowed to raise other grounds at the time of arguments.

**Prayer:**

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

**INSPECTOR GENERAL OF POLICE OFFICER,  
KHYBER PAKHTUNKHWA.**

(Respondent No. 1)

**CAPITAL CITY POLICE OFFICER,  
PESHAWAR.**

(Respondent No. 3)

**DISTRICT POLICE OFFICER,  
KHYBER.**

(Respondent No. 2)

*Superdient of police  
HQrs Traffic city.  
(Respondent No. 4)*

Annexure - A

OFFICE OF THE  
DISTRICT POLICE OFFICER  
KHYBER



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**ORDER**

As per reports of Intelligence Agencies, ASI Hamid Khan remained involved in malpractices having links with undesirable elements while posted at Takhta Baig PP, Police Station Jamrud consequent upon which the undersigned being a competent authority under Govt. Servants Service & Efficiency Rules 1975 issued a Show Cause Notice with the opportunity to be heard in person which the defaulter official did not availed.

In reply of the Show Cause notice the defaulter constable failed to submit any cogent reason regarding the allegations leveled against him consequently a Charge Sheet with Summary of Allegations was issued & Acting SDPO Hqrs Khyber was appointed as Enquiry Officer vide this office No. 1263-A/Khyber, dated 29/04/2020.

The Enquiry Officer in his finding report stated that the defaulter in his written statement in his defense failed to submit any cogent reason and failed to defend himself against the allegations before the enquiry officer. Furthermore, enquiry made locally through various sources revealed that the ASI is ill reputed and involve in malpractices. After which the defaulter was issued a Final Show Cause Notice by the undersigned with an opportunity to be heard in person. In reply of the Final Show Cause Notice the defaulter again failed to submit any solid reason.

Keeping in view the recommendations of the Enquiry Officer & available record the defaulter ASI Hamid Khan is hereby awarded a major punishment of REMOVAL FROM SERVICE with immediate effect.

**DISTRICT POLICE OFFICER,**  
**KHYBER**

No. 1436/PSO Khyber, dated Khyber 30/05/2020.

Copies to all concerned for further necessary action.


*Handwritten signatures and initials:*  
- A large signature that appears to be "Mustafa"  
- A signature that appears to be "GMRP/LEGAL"

CHARGE SHEET

Annex - B

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1. WHEREAS I am satisfied that a formal enquiry as contemplated by Police Rules 1975 is necessary and expedient.
2. AND whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule-3 of the aforesaid Rules.
3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules I, **WASEEM AHMAD KHALIL**, Chief Traffic Officer, Peshawar hereby charge you ASI Hamid Khan under Rules 5 (4) of the Police Rules 1975 on the basis of following allegations:-
  - i) That as per report of Intelligence Agencies, you have been involved in malpractices having links with undesirable elements while posted at PP Takhta Baig, PS Jamrud.
4. By doing this you have committed gross misconduct on your part.
5. AND I hereby direct you further under Rule 6 (1) (b) of the said Rules to put-in written defence within 07-days of the receipt of this Charge Sheet as to why the proposed action should not taken against you and also state whether you desire to be heard in person.
6. AND in case your reply is not received within the stipulated period to the enquiry officer, it shall be presumed that you have no defence to offer and in that case, ex-parte action will be taken against you.

  
( WASEEM AHMAD KHALIL )  
CHIEF TRAFFIC OFFICER,  
PESHAWAR.

(Competent Authority)



09

**DISCIPLINARY ACTION**

1. I, **WASEEM AHMAD KHALIL**, Chief Traffic Officer, Peshawar as competent authority, am of the opinion that ASI Hamid Khan has rendered himself liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of Police Rules 1975.

**SUMMARY OF ALLEGATIONS**

2. i) That as per report of Intelligence Agencies, you have been involved in malpractices having links with undesirable elements while posted at PP Takhta Baig, PS Jamrud.

3. For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, an Enquiry Committee comprising of the following officer(s) is constituted:-

a. Mr. Iftikhar Ali, SP/Hqrs. Traffic, Peshawar.

b. \_\_\_\_\_

4. The enquiry committee/officer shall in accordance with the provision of the Police Rules 1975 provide reasonable opportunity of hearing to the accused officer/official and make recommendations as to punishment or any other appropriate action against the accused.

  
( WASEEM AHMAD KHALIL )  
CHIEF TRAFFIC OFFICER,  
PESHAWAR.

(Competent Authority)

AMJ 2020-10  
OFFICE OF THE  
DISTRICT POLICE OFFICER  
KHYBER



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**ORDER**

**UNDER SUB-SECTION-3 & SECTION 5 OF POLICE RULES, 1975.**

I, District Police Officer, Khyber as competent authority, charge you ASI Hamid of Police Station Jamrud is prima facie guilt of the following acts to be dealt with u/s 5 (3) of the NWFP, (now Khyber Pakhtunkhwa) Police Rules, 1975.

**“That as per report of Intelligence Agencies, you were involved in malpractices having links with undesirable elements while posted at Takhta Baig Police Station Jamrud”.**

The act of delinquent officer falls within the ambit of gross misconduct and is liable to be proceeded under the NWFP (now Khyber Pakhtunkhwa) Police Rules 1975.

For the purpose of scrutinizing the conduct of the said defaulter with reference to the above allegations, I, District Police Officer, Khyber being authorized officer hereby nominate Enquiry Officer as below to enquire into the charges within the meaning of 2 (iii) under the NWFP (now Khyber Pakhtunkhwa) Police Rules, 1975.

**Mr. Muhammad Nawaz (Acting SDPO/Hqrs) Khyber**

The enquiry officer after completing all enquiry proceedings, should submit findings to the undersigned within stipulated period of (15) days per u/s 6 (5) of Police Rules.

Charge Sheet and Statement of Allegations are issued against the defaulter officer separately. Reply should submit before the Enquiry Officer within the period of (07) days from the date of receipt.

**DISTRICT POLICE OFFICER,  
KHYBER**

No. 1263-A/PSO-Khyber, dated Khyber, the 29/04/2020.

Copy to:-

1. Acting SDPO/Hqrs Khyber for initiating proceedings against defaulter under the provisions of the Police Rules 1975.
2. ASI Hamid Khan with the direction to appear before the Enquiry Officer on the date, time and place fixed by the Officer.

S.D.P.O HQRS  
KHYBER



Received  
D  
11

To,

The District Police Officer,  
Khyber.

Subject

ENQUIRY REPORT

Respected Sir,

Kindly referred to departmental enquiry against ASI Hamid Khan of Police Station Jamrud in connection with his involvement in malpractices and links with undesirable persons while posted at PP Takhata Baig PS Jamrud.

An enquiry was conducted where the defaulter ASI was called to this office for recording his statement in defense against allegations leveled against him. In his statement, the defaulter official failed to submit any cogent reason in his defense. A secret inquiry through other sources was also conducted against the ASI which also revealed that the ASI is involved in malpractices which is a gross misconduct on his part. It was also learned that the official is ill reputed.

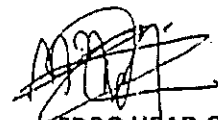
Conclusion:

The defaulter is involved in malpractices and ill reputed and brought a bad name to this department hence is not eligible for policing duty. He also involves his subordinates in malpractices.

Recommendation:

It is recommended that ASI Hamid Khan may be awarded punishment according to the rules & regulations/law in order to settle an example for all criminals disguised as police officials/officers who are the helping hands of criminals inside the department or involved in anti-social and criminal activities.

Submitted, please.

  
Acting SDPO HEAD QUARTERS,  
KHYBER



OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE  
COORDINATION PESHAWAR  
Phone No. 091-9213757

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No. 145 /PA

Dated Peshawar the 19.05 /2021

TO: The Capital City Police Officer  
Peshawar.

Dy: No. 565 PA-CCPO  
Dt: 20-05-2021  
Encl: \_\_\_\_\_

Subject. **DENOVO DEPARTMENTAL ENQUIRY AGAINST 16 POLICE OFFICIALS OF DISTRICT KHYBER.**

This is denovo departmental enquiry against Ex-ASI Hamid Khan of district Khyber "as per report of Intelligence, he remained involved in malpractice having links with undesirable elements while posted at PP Takhta Baig Police Station Jamrod"

With reference to the above allegations he was charge sheeted by the DPO/Khyber and SDPO Head Quarters Khyber was appointed as E.O.

The E.O recommended the defaulter ASI for suitable punishment upon which DPO Khyber awarded him major punishment "**Removal from service**" vide order No. 1436/PSO Khyber dated 30.05.2020.

Later on ex-ASI filed departmental appeal before W/CCP against the impugned order and for re-instatement into service.

The defaulter ASI was heard by W/CCPO in OR. He was re-instated into service for the purpose of de-novo proceedings and CTO Peshawar was directed to entrust the enquiry to SP/Hqrs Traffic Peshawar.

Accordingly SP Headquarters, Traffic Peshawar conducted enquiry and opined that ex-ASI Hamid Khan was not found guilty of the charges leveled against him and recommended that previous punishment "**Dismissal from service may be converted into minor punishment**" and he may be reinstated into service.

After perusal the enquiry the W/CCPO passed the following remarks and directed the undersigned to conduct proceedings and report :-

- 1) Previous supervisory offices have not been consulted for his performance.
- 2) Nor of the contents of the reports against him analyzed.

*Amir*  
*J. GNSP/legal*

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In order to verify the character of EX ASI Hamid Khan intelligence agencies were contacted for verification of his previous character. The reply received to this office narrates that maximum ex-khasadars posted on Pak Afghan route were involved in collecting illegal amount from cargo trucks including Takhta Baig check post and after Police system the then DPO dismissed 16 ex-khasadars on account of mal-practices.

Statements from his previous supervisory officers DSP Mazhar Afridi, SHO Akbar Khan (Station House Officer Bara) were also recorded (Enclosed).

FINDINGS.

Keeping in view of the available record the following findings are achieved.

1. SP/Hqrs Traffic Peshawar already conducted a Departmental enquiry however he did not contact/consult his immediate supervisors/ colleagues regarding his character and performance and secondly no secret report through agencies was obtained to ascertain the character and verify the allegations.
2. The statements of his previous supervisory officer indicates that corruption and malpractices during the period were rampant which clearly shows/provide evidence and proof of the involvement of the staff and In-charge of the post which was being done under his very nose. He is therefore found guilty into the matter.

Submitted please.

ENCL (46-pages)

*[Signature]*  
 Senior Superintendent of Police  
 Coordination, Peshawar.

*Hamid Khan is reinstated in service. His previous punishment is converted to forfeiture of approved service for two years.*

*Agreed*

*[Signature] 7/6/21*

*[Signature] GNSP/legal*



OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

*Anexure*

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ORDER.

This order will dispose of the denovo departmental inquiry conducted by SP/HQrs City Traffic Peshawar against ASI Hamid Khan of District Police Khyber who was awarded the major punishment of dismissal from service by DPO Khyber vide his office order No.1436, dated 30-05-2020.

2- A denovo departmental inquiry was initiated against ASI Hamid Khan of District Police Khyber who was re-instated in service for the purpose of denovo inquiry, order issued vide Endst No.1039-41/PA, dated 27-08-2020.

3- He was again issued Charge Sheet and Summary of Allegations by Chief Traffic Officer and SP/HQrs City Traffic Peshawar was appointed as inquiry. The inquiry officer after conducting proper enquiry submitted his findings that he is not found guilty of the charges levelled against him. The competent authority after perusal of the findings of the inquiry officer referred the inquiry to SSP/Coordination to conduct the proceedings afresh and submit report immediately. The SSP/Coordination Peshawar submitted his inquiry report that the statement of previous supervisory officer indicates that corruption and malpractices during the period were rampant which clearly shows/provide evidence and proof of the involvement of the staff and incharge of the post, therefore he is guilty into the matter.

4- The ASI was heard in person in O.R and the relevant record and inquiry report perused. During personal hearing he totally denied the allegations levelled against him. After perusal of record the undersigned reached to the conclusion that the punishment awarded to him seems too harsh. The other 16 officials who were also dismissed have already been reinstated in service on the same allegations. Therefore, the punishment awarded to him by DPO Khyber vide No 1436/PSO Khyber is hereby set aside. He is hereby reinstated in service with immediate effect. He is awarded the punishment of approved service for two years. No benefit is granted for the period he remain out of service.

CCP
OB No <u>2690</u>
Date <u>14-10-2021</u>
Peshawar

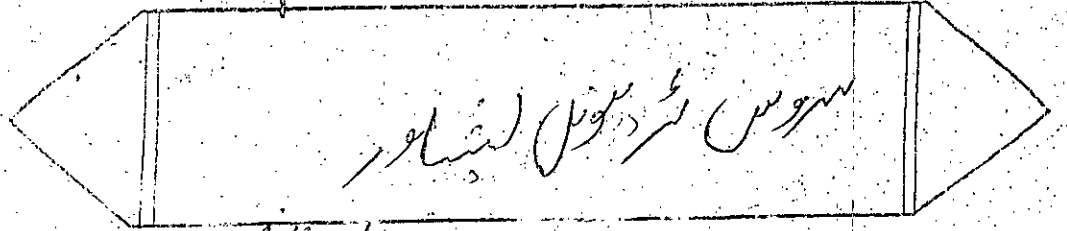
*Abbas Ahsan*  
(ABBAS AHSAN) PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No. 4035-36 /PA dated Peshawar the 15/10/2021  
Copies for information and necessary action to the:-

1. DPO Khyber with reference to his office letter No.1436, dated 30-05-2021.
2. Official Concern.

*Abbas Ahsan*  
*J msp/legal*

بعد الت



حاضر قلم 2 جواب  
 حاضر قلم 1 مقام گورنرس

سورج  
 مقدمہ  
 دعویٰ  
 جرم

باعت نظر سے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کاروائی متعلقہ  
 آن مقام کے لئے اس لئے کیے۔ حاضر قلم 1 اور 2  
 مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی انجام کرنے و تقریر نمائندہ فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بصورت ذکر کرنے ایڑا اور وصولی چکی اور اس کے لئے دعویٰ اور درخواست ہر قسم کی تسدین  
 فرمایاں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرز یا اپیل کی برآمدگی اور مستوفی  
 نیز دائر کرنے اپیل گجراتی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا ختمہ قانونی کو اپنے ہمراہ لیا اپنے بجائے تقریر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی تاملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سامنتہ  
 برداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جہان التوائے مقدمہ کے سب 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 اذکالت نامہ لکھ دیکر مسترد ہے۔

Accepted  
 Attest

20 \_\_\_\_\_

المقام  
 حواء العباد  
 Hamid I Chera  
 مقام