

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1505/2022.

Afsar Kamal, S/o Malik Zoomar Jan, R/o Dak Banda, Shnawa Ghudi Khel, Tehsil Tehti-e-Nasrati District Karak.....Appellant.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.....Respondents

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RESPONDENTS

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VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

PARAWISE REPLY BY RESPONDENTS 1 to 3.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS:-

**Khyber Pakhtunkhwa
Service Tribunal**

Dist. No. 6359

Dated 11/7/2023

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has no cause of action and locus stand to file the instant appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

FACTS:-

1. Para No. 01 to the extent that appellant was enlistment in police department as admitted, while the rest of para is incorrect, as every police officer is under obligation to perform his assigned duty with great zeal and zest.
2. Incorrect. The appellant alongwith others were referred to Standing Medical Board by the competent authority. He was physically examined by a proper Standing Medical Board and recommend that he is not fit for active duty of police department for the rest of his life. (Copy of opinion of medical board is attached herewith as annexure "A").
3. Incorrect. The appellant was declared as unfit for active duty of police department by the Standing Medical Board as explain above and in the light of opinion of Medical Board he was retired from service on medical grounds.
4. Incorrect. As the appellant was found unfit for active duty by the Standing Medical Board as he is suffering from disability disease, which is not recoverable. Therefore, in the light of opinion of Standing Medical Board, the appellant was retired from service on medical grounds.
5. Incorrect. Departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.
6. The appellant has not come to this Honorable Tribunal with clean hands, hence this appeal being devoid of merits may kindly be dismissed on the following grounds.

GROUNDS:-

- A. Incorrect. The stance of the appellant is totally devoid of merit, because he was retired from service on medical grounds on the opinion of Standing Medical Board as he is not fit for active duty of police, hence the impugned orders of the respondents are legally justified and in accordance with facts, law, rules, norms of justice and fair play therefore the same is liable to be maintained.
- B. Incorrect. The allegations are false and baseless. As discussed above the appellant was board out on the opinion of Standing Medical Board, hence both the orders of respondents No. 02 & 03 are legally justified and in accordance with law/rules.
- C. Incorrect. Constable Farid Ullah and sibghat Ullah were allowed light duty because they sustained injuries during the performance of official duties i.e police combat/encounter, while the appellant was not found fit for light duty, therefore he was board out on the recommendation of medical board.
- D. Incorrect. A sufficient opportunity at every level of defense has already been provided to the appellant, by the respondents, but he failed to present any justification.
- E. Incorrect. As the appellant was recommended by the Standing Medical Board as under:-
 - (i) The appellant is not fit for active duty for the rest of his life
 - (ii) Can be adjusted on light duty for the rest of his life or boarded out on medical ground as not fit for active duty.

Keeping in view the above recommendation the Standing Medical Board has given liberty to the competent authority to allow the appellant light duty or to board out on medical ground as not fit for active duty. The case of appellant was thoroughly examined by competent authority (Respondent No.3) and after fulfillment of due codal formalities he was board out on medical grounds accordingly. Hence, the orders passed by the respondents in the case of appellant are legally justified and in accordance to law/rules (Copy of the recommendation of medical board has already attached as annexure "A").

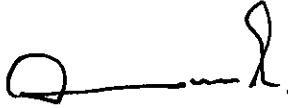
- F. Incorrect. The Standing Medical Board has already recommended that the appellant is not fit for active duty for the rest of his life.
- G. Incorrect. According to the recommendation of Medical Board the appellant was found medical unfit for active duty of police and the respondents are legally obligated to follow the opinion of Standing Medical Board. Hence the impugned orders of the respondents are legally justified and in accordance with facts, law, rules, norms of justice.
- H. Incorrect. As the appellant was examined by the medical board and found unfit for active duty of police force and he was got retired invalidated pension on the opinion of Standing Medical Board for the best interest of government.
- I. Incorrect and misleading. The appellant was not awarded any punishment by the respondents, while his disease was not recoverable near in future and found not fit for active duty of police as per the opinion of Standing Medical Board. However, the appellant alongwith others were physically examined by the Standing Medical Board and conveyed the recommendation to the office of respondent No.3 for taking further action. The case was processed and forwarded for approval before the respondent No.2 vide memo No.984/EC, dated 18.5.2022. Hence, the respondent No.2 accorded approval to the respondent No.3 vide Memo No. 4817/SI Legal, dated 08.06.2022, with the

directions that to pursue further into the matter in the light of recommendation of Standing Medical Board. Thus after proper approval of the competent authority the impugned order was issued, which is legally justified and accordance to law/rules. (Copies of memos dated 18.05.2022 & dated 08.06.2022 are attached herewith as annexure "B & C")

- J. Incorrect. The impugned order passed by the competent authority is legally justified and in accordance to law/rules as the same was issued on the opinion of medical board, which is attained finality.
- K. Incorrect. As explained in the preceding para "J" above.
- L. Incorrect. The case of the appellant is not relates with departmentally rather any punishment imposed upon him. The appellant was already physically examined by the Standing Medical Board and found not fit for active duty of police for the rest of his life thus there is no need of further proceedings as the recommendation of Medical Board stand final.
- M. Incorrect. Departmental appeal submitted by the appellant was thoroughly examined as the relevant record was obtained and the appellant was heard in person in orderly room held in the office of respondent No. 02, however, the appellant failed to present any justification. Thus his departmental appeal was rejected on sound grounds.

PRAYERS:-

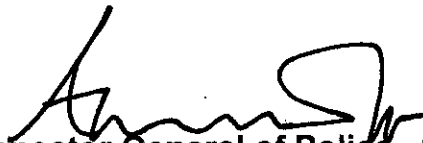
Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being not maintainable may kindly be dismissed with costs please.



Superintendent of Police FRP,
Kohat Range, Kohat
(Respondent No. 03)



Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)



Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01 & 04)

A/2

PC

PROCEEDING OF STANDING MEDICAL BOARD
DISTRICT HEADQUARTER HOSPITAL KDA KOHAT

SR.	NAME OF INCUMBANTS	REMARKS
1.	Constable Mehran Ahmad No.5508 CNIC# 14301-4618055-5	Healed FAI above Right lower thigh and Knee No bony injury No residual disability X-Ray: Right Knee Joint (AP / Lat) Fit for normal duty
2.	Constable Umar Khitab No.8580 CNIC# 14203-0665915-3	Hx of FAI right thigh in 2009 Appendectomy in 2011 Incisional Hernia - Needs surgery for incisional hernia Fit for normal duty
3.	Constable Ibrar Ahmad No.5643 CNIC# 14203-0552840-9	Hx of meningeal tumor Also history of psychiatric illness Asymptomatic MRI to be done after 03-months The facilities of treatment are available in government hospital of KPK He has opted for treatment in Shifa International Hospital Islamabad, by his own will without referral
4.	Constable Sibghat Ullah No.5643 CNIC# 14203-1615806-7	Left cubitus varus with stiffness Ulnar Neuropathy X-Ray Left Elbow Joint (AP / Lat) - Permanent disability in left upper limb Cannot do active duty for the rest of his tenure Can be adjusted in light duty or boarded out on medical grounds as not fit for active service
5.	Constable Afsar Kamal No.5143 CNIC# 14203-6885337-1	Hx of renal disease Previous elevation of RFTs 1. Ultrasound Abdomen 2. Blood Urea 3. Serum Creatinine Ultrasound shows increase echogenicity of both kidneys Blood urea and Serum Creatinine slightly elevated Needs constant treatment by a Nephrologist Not fit for active duty for the rest of his life Can be adjusted on light duty for the rest of his service or boarded out on medical ground as not fit for active duty.

SMB EXAMINATION
Dated Kohat the: 15/02/2022

Dr. Rehman Afridi
MEMBER
Dr. Rehman Afridi
(Orthopaedic Surgeon)
Orthopaedic Surgeon
DHQ Teaching Hospital
Kohat

Dr. Akhtar Ali
MEMBER
Dr. Akhtar Ali
(Senior Physician)
Medical Specialist
DHQ Teaching Hospital
Kohat

Dr. Mohammad Nasir
MEMBER
Dr. Mohammad Nasir
(Chief Surgical Specialist)
Surgical Specialist
DHQ Teaching Hospital
Kohat

Dr. Nasir Hassan Afridi
CHAIRMAN
Dr. Nasir Hassan Afridi
(Medical Superintendent)
Medical Superintendent
DHQ Teaching Hospital
Kohat

Attested
[Signature]



'B'

**OFFICE OF THE SUPERINTENDENT OF POLICE,
FRP KOHAT RANGE, KOHAT**

PH: NO. 0922-9260124, FAX: 0922-9260134

No. 984 /EC, dated Kohat the 18/5/ /2022

To: The Commandant, FRP ✓
Khyber Pakhtunkhwa Peshawar

Subject: STANDING MEDICAL BOARD

It is submitted that 10 FRP officials of this Range who possessed physical disabilities due to either road accidents or Police combats, were taken to DHQ Hospital Kohat for the purpose of examination by Standing Medical Board. Medical Superintendent DHQ Hospital Kohat communicated the remarks of the SMB vide his office letter number 2493/F-6 dated 12.05.2022 (copy of which is attached) mentioning therein that the following 5 officials possess permanent/unrecoverable disabilities therefore recommended for retirement on medical ground:-

- 1) Constable Afsar Kamal No. 5143
- 2) Constable Imtiaz Ullah No. 5906
- 3) Constable Muhammad Komail No. 4961
- 4) Constable Sibghat Ullah No. 5643
- 5) Constable Farid Ullah No. 5403

It is worth mentioning here that the officials mentioned at Serial 1 to 3 sustained disabilities from road accidents while the officials at Serial 4 & 5 got disabled in Police combats.

In wake of the above, it is requested that this office may kindly be enlightened regarding further action.

Submitted please.

Attested
[Signature]

[Signature]
SUPERINTENDENT OF POLICE, FRP
KOHAT RANGE, KOHAT



OFFICE OF THE COMMANDANT
FRONTIER RESERVE POLICE
KHYBER PAKHTUNKHWA, PESHAWAR
Ph: No. 091-9214114 Fax No. 091-9212602

No. 4817 ISI Legal, dated 8/6/2022.

To: The Superintendent of Police, FRP
Kohat Range, Kohat.



Subject: STANDING MEDICAL BOARD

Memo: Please refer to your office Memo: No. 984/EC, dated
18.05.2022.

The Competent Authority has approved directed to pursue
further into the matter in the light of opinion of the Standing Medical Board.

SRC/OHC/G.C

For n/actum

For Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

Superintendent of Police
FRP Kohat Range
Kohat

13/6/22

Attested

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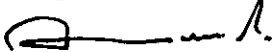
VERSUS

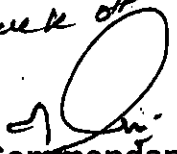
**Inspector General of Police, Khyber Pakhtunkhwa, Peshawar &
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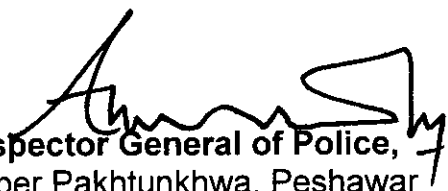
AFFIDAVIT

We respondents No. 1 to 4 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of our knowledge and belief that nothing has been concealed from this Honorable Court.

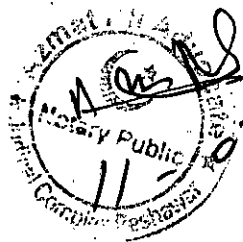
*It is further stated on oath in this Appeal,
The answering respondents have neither been placed
Ex. Party nor neither defence is struck off.*


**Superintendent of Police FRP,
Kohat Range, Kohat
(Respondent No. 03)**


**Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)**


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01 & 04)**

ATTESTED



11-07-2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1505/2022.

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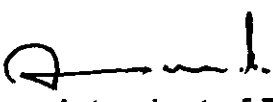
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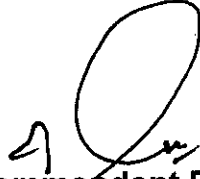
Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

AUTHORITY LETTER

Respectfully Sheweth:-

We respondents No. 1 to 4 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs; to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.


**Superintendent of Police FRP,
Kohat Range, Kohat
(Respondent No. 03)**


**Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)**


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01 & 04)**