

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR**

In Re:

Service Appeal No. 215/2023

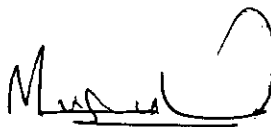
Abrar Ahmad .....Appellant

Versus

Govt of Khyber Pakhtunkhwa etc .....Respondent

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(MIAN NIAZ MUHAMMAD)  
DSP Legal  
Elite Force, Peshawar

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

Service Appeal No. 215/2023

Ibrar Ahmad..... (Appellant)  
VERSUS

Government of Khyber Pakhtunkhwa etc  
.....(Respondents)

**REPLY BY RESPONDENTS NO. 1 TO 6**

RESPECTFULLY SHEWETH:

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 6485

Dated 14/07/23

**PRELIMINARY OBJECTIONS:-**

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

**FACTS**

- 1. Pertains to personal information of the appellant hence no comments.
- 2. Incorrect, the appellant service record found porous and he did not take any interest in performance of official duties.
- 3. Incorrect, the appellant remained absent from the Basic Elite Course-18 and absented himself from the Course without any leave or prior permission of the Competent Authority w.e.f 29.09.2021 till date of his dismissal i.e. 26.01.2022.
- 4. Incorrect, charge sheet along with summary of Allegations were issued to the appellant vide NO. 12301-12306/EF, dated 21.10.2021 (Annexure "A") & Mr. Noor Jamal Khan Acting SP/ Security EPTC Nowshera was appointed as enquiry officer, the Enquiry Officer conducted the enquiry proceedings as per law/ rules but the appellant did not even bother to attend the enquiry proceedings nor he submitted his written reply. His service record also found porous. Therefore, the enquiry officer has recommended him for major punishment, a final show cause notice was issued to the appellant vide No. 15423/EF, dated 30.12.2021 (Annexure "B") which was delivered to him through Ex-Servicemen HC Rahim Zad No. 7051 and received by himself on 10.01.2022 but he also badly failed to submit his written reply. Therefore, the appellant was awarded with major punishment of dismissal from service vide Order No. 948-55/EF, dated 26.01.2022. (Annexure "C")

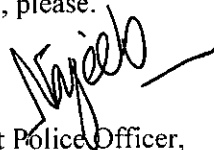
- 5. Incorrect, departmental appeal of the appellant was rejected on time barred vide Order dated 10.05.2022 (Annexure "D"). It is pertinent to mention here that when appeal before departmental authority is time barred, service appeal before the Service Tribunal is incompetent. Reliance has already been placed on 2017 SCMR 965, 2006 SCMR 453, 2007 SCMR 513, 2011 SCMR 1429 & 2021 SCMR 144.
- 6. Pertains to record hence no comments.
- 7. That the instant service appeal is badly time barred and not maintainable may kindly be dismissed on the following Grounds.

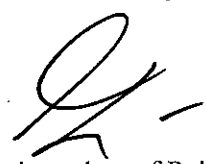
**GROUND**

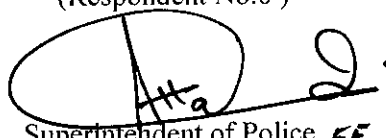
- A. Pertains to personal information of the appellant hence no comments.
- B. Incorrect, as already explained above, that appellant was well aware of departmental proceedings but he did not bother to attend the enquiry proceedings nor he submitted written reply. Hence, he was awarded with major punishment of dismissal from service.
- C. Incorrect and misleading, as already explained in detail above in Para No. 4.
- D. Incorrect and misleading, the acts of answering respondents are in accordance with law/ rules.
- E. Incorrect and misleading, no fundamental right of the appellant has been violated by the answering respondents.
- F. Incorrect, the appellant service record found porous and he did not take any interest in performance of official duties.
- G. Incorrect as already explained in preceding para.
- H. The answering respondents may also be allowed to raise additional grounds at time of hearing of instant Service Appeal.

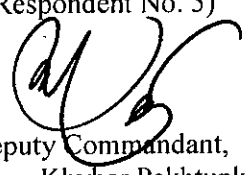
**PRAYER:-**

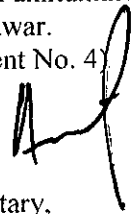
Keeping in view the above stated facts and circumstances, it is therefore humbly prayed that the appeal is not maintainable being devoid of merits hence, may kindly be dismissed with costs, please.


  
 District Police Officer,  
 Mardan.  
 (Respondent No.6)

  
 Superintendent of Police,  
 Security EPTC, Nowshera.  
 (Respondent No. 5)

  
 Superintendent of Police, EF  
 HQrs: Khyber Pakhtunkhwa,  
 Peshawar.  
 (Respondent No. 4)

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

  
 Secretary,  
 Government of Khyber Pakhtunkhwa,  
 Home & TAs Department, Peshawar.  
 (Respondent No. 1)  
**Home Secretary,**  
 Khyber Pakhtunkhwa

  
 Additional Inspector General of Police  
 Commandant,  
 Elite Force, Khyber Pakhtunkhwa,  
 Peshawar.  
 (Respondent No. 3)

3

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

In Re:

Service Appeal No. 215/2023

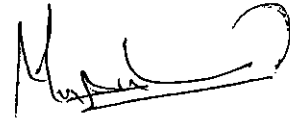
Abrar Ahmad .....Appellant

Versus

Govt of Khyber Pakhtunkhwa etc .....Respondent

AFFIDAVIT

I, **Mian Niaz Muhammad (DSP Legal Elite Force Khyber Pakhtunkhwa Peshawar)** do hereby solemnly affirmed that the contents of these joint parawise comments on behalf of Respondents No. 1 to 6 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT  
CNIC No. 17301-1519386-1  
Cell # 0300-5899631

Identified by:

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-party nor their defense has been struck off.



14/2/23

4


~~10~~ 6

AUTHORITY LETTER.

The undersigned is hereby authorized to nominate Mr. Mian Niaz Muhammad Acting DSP/Legal Elite Force to submit the replies and attend the Honorable High Court/Supreme Court on behalf of respondents.

  
(ASIF IQBAL MOHMAND) PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar

DEPUTY COMMANDANT,  
Elite Force Khyber Pakhtunkhwa  
Peshawar

Attested,  


**CHARGE SHEET**

I, Asif Iqbal Mohmand, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, hereby charge you Constable Ibrar Ahmed No. 2266, (Undergoing BEC-18) of Elite Force as follows;

As per letter of Principal/SSP Admin EPTC Nowshera vide No. 547/EPTC/NSR/course, dated 13.10.2021, you remained absent from the undergoing Basic Elite Course-18 without any leave or prior permission from the Competent authority w.e. from 29.09.2021 till to date. Being a member of discipline force, your act is highly objectionable and against the norm of disciplined force, which is gross misconduct on your part.

2. By reason of the above, you appear to be guilty of misconduct under the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014) 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.

Attested  
Muzamil

(ASIF IQBAL MOHMAND)PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa,  
Peshawar

0344-0992093

SUMMARY OF ALLEGATIONS

I, Asif Iqbal Mohmand, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Constable Ibrar Ahmed No. 2266, (Undergoing BEC-18), of Elite Force has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014).

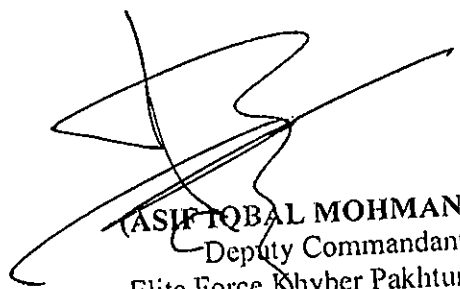
SUMMARY OF ALLEGATIONS

As per letter of Principal/SSP Admin EPTC Nowshera vide No. 547/EPTC/NSR/course, dated 13.10.2021, he remained absent from the undergoing Basic Elite Course-18 without any leave or prior permission from the Competent authority w.e.from 29.09.2021 till to date. Being a member of discipline force, his act is highly objectionable and against the norm of disciplined force, which is gross misconduct on his part.

2. For the purpose of scrutinizing an enquiry is conducted of the said accused with reference to the above allegations, Mr. Noor Jamal Khan Acting SP Security EPTC Nowshera is appointed as Enquiry Officer.

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.

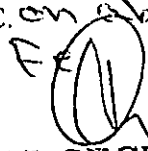
4. The accused shall join the proceedings on the date, time, and place fixed by the Enquiry Officer.

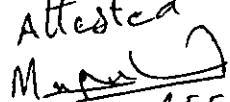
  
(ASIF IQBAL MOHMAND)PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa,  
Peshawar

No. 12301-12306 /EF, dated Peshawar the 21 / 10 / 2021.

Copy of the above is forwarded to the:-

- 1.  Acting Superintendent of Police, Security EPTC Nowshera.
- 2. Supdt: Accounts, Elite Force Khyber Pakhtunkhwa Peshawar to stopped pay.
- 3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
- 4. SRC/FMC; Elite Force Khyber Pakhtunkhwa Peshawar.
- 5. FC Ibrar Ahmed No. 2266, of Elite through reader A/SP Security EPTC. on above.

Reader  
Served CTS  
on above  
  
SP SECURITY  
EPTC Nowshera  
25/10/2021

Attested  
  
DSP Legal EF

(5)

1. Asif Iqbal Mohmand, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority under Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2015) do hereby serve you Constable Abrar Ahmed No. 2266/EF (EPTC Security) of Elite Force as follows:-

As per letter of Principal/SSP Admin EPTC Nowshera vide No. 517/EPTC/NSR/course, dated 13.10.2021, he remained absent from the undergoing Basic Elite Course-18 without any leave or prior permission from the Competent authority we from 29.09.2021 till to date. Being a member of discipline force, your this act amounts to gross misconduct on your part.

That consequent upon the completion of enquiry conducted against you by Mr. Noor Jamal Khan Acting SP Elite Force HQrs: Peshawar you were given full opportunity of hearing, but you did not appeared and failed to satisfy the enquiry Officer.

ii. Ongoing through the finding and recommendation of the enquiry officer, the material available on record, I am satisfied that you have committed the omission/commission specified in Police Rules and charges leveled against you have been established.

2. As a result, I, Asif Iqbal Mohmand, Deputy Commandant Elite Force, Khyber Pakhtunkhwa Peshawar as competent authority have tentatively decided to impose major penalty upon you, under Police Rules.

3. You are therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this show cause notice is received within seven days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put and in that case an ex-parte action shall be taken against you.

5. A copy of the finding of the Enquiry Officer is enclosed.

(ASIF IQBAL MOHMAND)PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa  
Peshawar  
Date: 02/2021

No. 15423 /EF, dated Peshawar the

FC Abrar Ahmed No. 2266/EF at his home address through reader A/SP Elite HQrs: Peshawar.

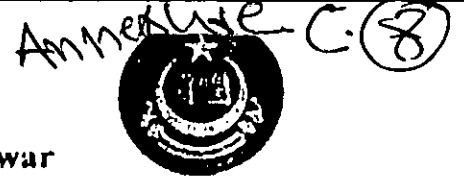
*Musawir*  
DSP. Legal EF







Office of the Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar



No. 948 - 55 /EP

Date: 26/01/2022

**ORDER**

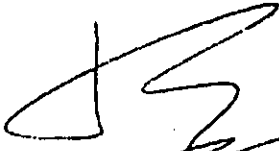
This order will dispose of the departmental proceedings against Constable Ibrar Ahmed No. 2266/UT, of District Police Mardan now on deputation to Elite Force Khyber Pakhtunkhwa.


As per letter of Principal/SSP Admin EPTC Nowshera vide No. 547/EPTC/NSR/Course, dated 13.10.2021, he remained absent from the undergoing Basic Elite Course-18 without any leave or prior permission from the Competent authority w.e.from 29.09.2021 till to date.

In this regard Charge Sheet alongwith Summary of Allegations were issued to him vide No. 12301-12306/EF, dated 21.10.2021 and Mr. Noor Jamal Khan Acting SP Security EPTC Nowshera was appointed as enquiry officer. The Enquiry Officer conducted the enquiry proceedings but the said constable did not appeared before the enquiry officer nor submitted any reply. Moreover, the delinquent official has been dropped from the BEC-18 and still absent. His service record was also perused which was found porous. Therefore, the Enquiry Office has recommended that he may be awarded major punishment. Similarly, a Final Show Cause Notice was issued to him vide No. 15423/EF, dated 30.12.2021 which was delivered to him through Ex Serviceman IIC Rahim Zad No. 7051 of EPTC Nowshera vide DD No. 20, dated 09.01.2022 and received by himself on 10.01.2022, but his reply is still awaited. He neither joined the enquiry proceeding conducted against him, nor appeared for duty. It seems that he has no interest in his current job.

Therefore, I, Asif Iqbal Mohmand, Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, keeping in view the above facts, circumstances and recommendations of enquiry officer, impose major penalty of "**DISMISSAL**" from service upon him from the date of absence i.e 29.09.2021 under Police Rules 1975 (amended 2014).

(Order announced)

  
(ASIF IQBAL MOHMAND)PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa  
Peshawar.

Attested  


Copy of the above is forwarded to the:-

1. District Police Officer, Mardan for information.
2. Acting Superintendent of Police, Security EPTC Nowshera.
3. Accountant/ Incharge Kot, Elite Force Khyber Pakhtunkhwa Peshawar.
4. Reader to Dy: Comndt/ OASI, Elite Force Khyber Pakhtunkhwa Peshawar.
5. SRC, Elite Force Khyber Pakhtunkhwa Peshawar.
6. FMC, Elite Force Khyber Pakhtunkhwa alongwith complete departmental

(Dated: 23.12.2021) (Order No. 6835/EF dated 23.12.2021).



No. / /EF

Dated: 10/05/2022

ORDER

This is a departmental appeal submitted by Ex-Constable Ibrar Ahmad No.2266 against the punishment of dismissal from service awarded to him by the Deputy Commandant Elite Force vide order No.948-55/EF, dated 26.01.2022, as he has remained absent from Basic Elite Course-18 without prior permission from the competent authority w.e.from 29.09.2021 till the issuance of his dismissal order.

Hence, the competent authority has filed the appeal, on the grounds of time limitation i.e: time barred by 03 months.

Order Announced!

-Sd-

(MUHAMMAD WISAL FAKHAR SULTAN)PSP

Addl: Inspector General of Police,  
Elite Force Khyber Pakhtunkhwa Peshawar

No. 4154-88/EF,

Copy of above is forwarded:-

1. Superintendent of Police, HQrs: Elite Force, Peshawar.
2. OASI /SRC/FMC, Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. Ex-Constable Ibrar Ahmad No.2266, through Reader SP/HQrs: Elite Force.

(ASIF IQBAL MOHMAND)PSP

Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar

Attested  
Muzam

R.1-1/10/22

CG