

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 718/2023

Atta Muhammad.....(Appellant)

- Versus

Provincial Police Officer, Khyber Pakhtunkhwa etc.....(Respondents)

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Respondents through



Inspector/ Legal,
CPEC, KP

①

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 718/2023

Atta Muhammad..... (Appellant)
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa etc
.....(Respondents)

REPLY BY RESPONDENTS NO. 1 TO 3

RESPECTFULLY SHEWETH:

**Khyber Pakhtunkhwa
Service Tribunal**

PRELIMINARY OBJECTIONS:-

Diary No. 6760

Dated 31/07/23

- 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 service record of the appellant hence no comments.
2. Pertains to record hence no comments.
3. Pertains to record hence no comments
4. Correct to extent of issuance of charge sheet and the same was issued on the charges that he was transferred to Upper Kohistan as Incharge Platoon No. 7 on complaint basis vide Order dated 24.08.2022 but when Platoon No. 7 was transferred to District Peshawar vide order dated 09.09.2023, he was verbally directed by SP & DSP SSU, (CPEC) Hazara Region that he will remain & perform duty in Upper Kohistan till further order of high ups but he came to Peshawar along with Platoon No. 7 and absented himself from his lawful duties w.e.f 29.09.2022 till 11.11.2022.
5. Incorrect, a proper departmental proceedings were initiated against the appellant on account of charges as explained in preceding Para as he was issued charge sheet vide Endst: No. 7925/PA, dated 06.10.2022 (Annexure "A") & Mr. Javed Khan DSP HQrs SSU (CPEC) was nominated as enquiry officer to conduct inquiry into the matter, who after fulfilling all codal formalities submitted his findings report, wherein the enquiry officer recommended him for major punishment. On the basis of enquiry officer, the appellant was found guilty of the charges leveled against him therefore, the Competent Authority awarded the appellant minor punishment of stoppage of one annual increment without cumulative effect for a period of 01 years and transferred to Upper Kohistan Platoon till further order vide Order dated 11.11.2022 (Annexure "B"). Although the E.O held him responsible for gross misconduct in terms of Rule-03 of Police Rules 1975 (E&D Rules), hence

competent authority by taking a lenient view awarded him the minor punishment of stoppage of one annual increment without cumulative effect for a period of one year and transferred to Upper Kohistan which commensurate to the gravity of misconduct committed by the delinquent official. (2)

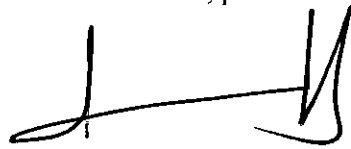
6. Incorrect, the appellant is not aggrieved in fact the appellant is awarded punishment on his own misconduct. Furthermore, the instant Service Appeal is liable to be dismissed on the following Grounds.

GROUND

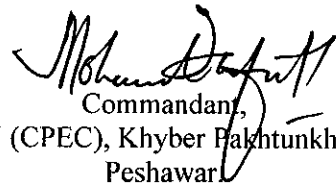
- A. Incorrect, the order dated 11.11.2022 is in accordance with law, facts as well as in accordance with natural justice hence, no need to be set aside.
- B. Incorrect, the appellant has been treated in accordance with law, no violation of any Article of Constitution of Islamic Republic of Pakistan, 1973 exist on part of respondent department.
- C. Incorrect, no mollified has been committed by respondent department.
- D. Incorrect, misleading and misconceived, as already explained above in Para No. 4 & 5 of Facts.
- E. Incorrect, the order dated 11.11.2022 is in accordance of principles of natural justice.
- F. Incorrect, the order dated 11.11.2022 is in accordance with fundamental rules, therefore, no need to set aside the same.
- G. Incorrect, as already explained above in Para No. 4 & 5.
- H. The answering respondents may also be allowed to adduce additional grounds at time of hearing of instant Service Appeal.

PRAYER:-

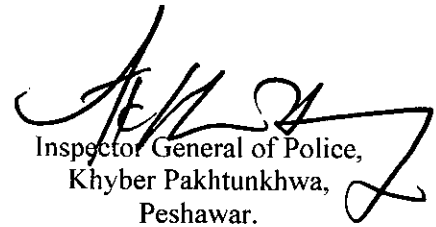
Keeping in view the above stated facts and circumstances, it is therefore humbly prayed that the appeal is not maintainable being devoid of merits hence, may kindly be dismissed with costs, please.



Deputy Commandant,
SSU (CPEC), Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.3)



Commandant,
SSU (CPEC), Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.2)



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

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

③

Service Appeal No. 718/2023

Atta Muhammad(Appellant)

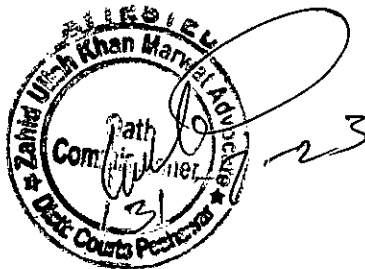
Versus

Provincial Police Officer, Khyber Pakhtunkhwa etc.....(Respondents)

AFFIDAVIT

I, Khyal Roz Inspector/ Legal, CPEC, Khyber Pakhtunkhwa, CPO Peshawar do hereby solemnly affirm on oath that the contents of Para-wise comments/ reply in above captioned Service Appeal on behalf of Respondents are correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

DEPONENT



(Handwritten signature)

(KHYAL ROZ)
Inspector/ Legal,
CPEC, KP
17301-2507764-1
0315-9867946

*It is further on oath that in
the appeal, the embroiling have
neither been placed ex-Parte nor
their defence has been struck off/cost
*(Handwritten signature)**

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

(4)

Service Appeal No. 718/2023

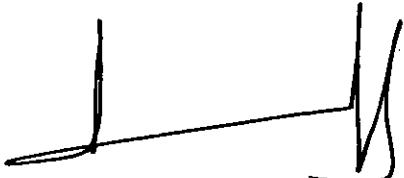
Atta Muhammad(Appellant)

Versus

Provincial Police Officer, Khyber Pakhtunkhwa etc.....(Respondents)

AUTHORITY LETTER

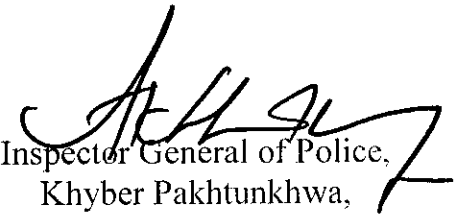
Mr. Khyal Roz Inspector/ Legal, CPEC, Khyber Pakhtunkhwa, Peshawar is authorized to submit Para-wise Comments/ reply in above captioned Service Appeal on behalf of respondents in Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar.



Deputy Commandant,
SSU (CPEC), Khyber Pakhtunkhwa,
Peshawar .
(Respondent No.3)



Commandant,
SSU (CPEC), Khyber Pakhtunkhwa,
Peshawar .
(Respondent No.2)



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

CHARGE SHEET

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C-7

1. Whereas I, Mohammad Zafar Ali PSP, Commandant SSU (CPEC), Peshawar, am satisfied that a Formal Enquiry as contemplated by Police Rules, 1975 is necessary & expedient in the subject case against SI Atta Muhammad.

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, **Commandant, Special Security Unit (CPEC), Peshawar hereby charge SI Atta Muhammad under Rule 5 (4) of the Police Rules 1975.**

I. That you SI Atta Muhammad was transferred to district Upper Kohistan as In Charge of platoon No. 07 on complain basis vide Dy: Commandant SSU (CPEC) order No. 5866-70/EC/HQrs/SSU, dated 24.08.2022 and when Platoon No. 07 was transferred to district Peshawar, you were verbally directed by SP & DSP Hazara region SSU that you will perform duty in Upper Kohistan till further order of High-Ups but you came to Peshawar alongwith Platoon No. 07.

Attested
M
INSP/ Legal/ SSU
31-07-2023

That you have absented yourself from your lawful duties w.e.f. 29.09.2022 till date, received vide DD report No. 01, dated 29.09.2022 from Company Commander Upper Kohistan.

III. Being a responsible police official, you disobey the order of your seniors, thus this act is highly objectionable and renders you liable for disciplinary proceedings under the Police Rules 1975.

4. I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why action should not be taken against you and also stating at the same time whether you desire to be heard in person.

5. In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

M Zafar Ali

Mohammad Zafar Ali
INSPECTION OFFICER AT PESHAWAR

6

OFFICE OF THE COMMANDANT
SPECIAL SECURITY UNIT (SSU)
KHYBER PAKHTUNKHWA POLICE

CENTRAL POLICE OFFICERS, S.A.Q ROAD, PESHAWAR CANTT (PH: 091-9214056)

No. 9408-12

dated Peshawar the 11 / 11 / 2022.


ORDER


1. This office order will dispose-off the departmental proceedings against ASL Atta Muhammad No. 96/MR on the charges/allegations that he was transferred to Upper Kohistan as Incharge Platoon No. 07 on complaint basis vide Dy: Commandant SSU (CPEC) order No. 5866-30/FC/HQrs:SSU, dated 24.08.2022 but when Platoon No. 07 was transferred to District Peshawar, he was verbally directed by SP & DSP SSU (CPEC), Hazara Region that he will remain & perform duty in Upper Kohistan till further order of High-Ups but he came to Peshawar alongwith Platoon No. 07 and absented himself from his lawful duties w.e.f. 29.09.2022 till date, received vide DD report No. 04, dated 29.09.2022 from Company Commander Upper Kohistan.

2. In this regard, proper departmental proceedings was initiated against him, as he was issued charge sheet vide Endst. No. 7925/PA, dated 06.10.2022 & Mr. Javaid Khan DSP HQrs: SSU (CPEC) was nominated as enquiry officer to conduct inquiry into the matter, who after fulfilling all Codal formalities submitted his findings report, wherein he reported that charge sheet alongwith summary of allegations were served upon him to which he replied that Platoon No. 07 was transferred to District Peshawar vide Dy: Commandant SSU (CPEC) order No. 6609-0620/OASI, dated 09.09.2022, being Incharge of Platoon No. 07 he came alongwith the said Platoon and made arrival at SSU HQrs. He further stated in his reply that neither verbally nor written directions were given to him by any senior but the EO was not satisfied with his reply & stated that he was verbally directed by SP & DSP SSU (CPEC), Hazara region to perform duty in Upper Kohistan till further order of High-Ups which is clear evident from DD report No. 04, dated 29.09.2022 entered in daily dairy register by Inspector Abdur Rauf Company Commander SSU Upper Kohistan. Thus, the EO recommended him for major punishment.

Altester
u
INSP/Kepk
SSU
31-07-22

3. Keeping in view of the above facts, as well as material available on the record and recommendation of the enquiry officer, the above named ASI is found guilty of the above mentioned charges leveled against him. Therefore, I, Commandant SSU (CPEC), being the competent authority in the exercise of powers vested to me under section 4(b) of Khyber Pakhtunkhwa, Police Rules 1975 (amended in 2014) hereby awarded him Minor Punishment of stoppage of one annual increment without cumulative effect for a period of (01) year and transferred to Upper Kohistan Platoon till further order.


(MOHAMMAD ZAFAR ALI)^{PSP}
COMMANDANT,
Special Security Unit (CPEC),
Khyber Pakhtunkhwa, Peshawar.


11-11-22

Copy of the above is forwarded for information to the:

1. SP North SSU (CPEC) at Mansehra.
2. SP Admin SSU (CPEC), Khyber Pakhtunkhwa Peshawar.
3. PSO to Commandant SSU (CPEC), Khyber Pakhtunkhwa Peshawar.
4. Reader to Dy: Commandant SSU (CPEC), Khyber Pakhtunkhwa Peshawar.
5. Accountant, SRC, EC and LO SSU (CPEC).