

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.811 /2023.

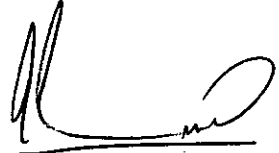
Lady junior Clerk Zakia minhas of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . **Respondents.**

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**DSP/Legal,
CCP, Peshawar.**

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Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. **Respondents.**

REPLY BY RESPONDENTS NO. 1, 2 & 3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

1. Pertains to record. However, the performance of appellant during service was not upto the mark.
2. Incorrect. Infact the appellant while posted in the office of SSP/Operations Peshawar and as per classified information she was found involved in immoral activities. Furthermore she also made illegal "sifarish" to police stations/customs authorities for release of contraband items at the time of seizure from her mother who is well known contraband smuggler. She was not taking keen interest in her official obligations rather concentrated in illegal activities by taking advantage of her government job. In this regard she was issued charge sheet and statement of allegations and ASP Hayatabad was appointed as enquiry officer. The enquiry officer conducted proper departmental enquiry and submitted his findings and recommended that the appellant was found guilty of the charges leveled against her. On receipt of the enquiry report she was issued final show cause notice to which her reply was found unsatisfactory. After observing all the codal formalities she was awarded major punishment of dismissal vide Order No. 67-73/PA, dated 21.01.2019.(Copy of Charge sheet, Statement of allegations and Dismissal order are annexed as A, B & C)
3. Incorrect. After completion of the enquiry proceedings she was issued Final Show Cause Notice, she failed to forward any reasonable ground in reply to the Show Cause Notice and her reply was found un-satisfactory. After fulfillment of all codal formalities she was awarded Major punishment of dismissal from service. Furthermore, Appeal of the appellant was properly evaluated and perused and provided ample opportunity of hearing to appellant by the appellate authority, however she failed to defend herself with plausible/justifiable grounds, hence the appeal was rejected/filed vide Order No.672-78/PA, dated 25.04.2019.

4. Incorrect. The appellant then filed service appeal No. 592/2019 before the Honorable Service Tribunal. The Honorable Service Tribunal after hearing the arguments remitted the case to the department to conduct de-novo enquiry.
5. Incorrect. In compliance of court direction, de-novo enquiry was conducted by SSP Coordination, Peshawar, after completion of codal formalities her service has been restored and the period she remained out of service was treated as without pay.
6. Incorrect. In compliance of order of the Hon'ble Tribunal, the appellant was reinstated in service for the purpose of de-novo enquiry and the same enquiry was entrusted to SSP Coordination, Peshawar.
7. Incorrect. In compliance with the directions of Honorable Service Tribunal, de-novo enquiry was conducted against her. After completion of de-novo enquiry, the appellant was warned to be careful in future and the period she remained out of service was treated as without pay. Departmental appeal of appellant was filed/ rejected on the grounds of facts and limitation by the appellate authority.
8. That appeal of the appellant being devoid of merit and hit by limitation may be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A. Incorrect. Orders passed by the competent authority & appellate authority are just legal, lawful and according to norms of natural justice hence, liable to be upheld as her reinstatement order was passed for the purpose of de-novo enquiry.
- B. Incorrect. In pursuance of judgment order dated 15.12.2020, passed by this Hon'ble Service Tribunal in Service Appeal No.592/2019 the appellant was reinstate into service and de-novo enquiry was conducted against her. Further, no injustice was done by the replying respondents. The Hon'ble Court in its judgment dated 15.12.2020 had already left back benefit on the mercy of de-novo enquiry, so during enquiry proceedings appellant was awarded her due right entitled for.
- C. Incorrect. Already explained in para 2 of the facts quoted above.
- D. Incorrect. Appellant being member of the disciplined force of Police and its sole responsibility to eradicate the menace of smuggling and protect life and property of the public at large. But her indulgence in such immoral acts has tarnished the image of Police as is evident from the charges framed in the Charge Sheet issued purely on merits.
- E. Incorrect. As explained in the above para.
- F. Incorrect. The appellant has been treated strictly in accordance with law and no legal right has ever been violated.
- G. Incorrect. In compliance with court direction the appellant was reinstated in service with warned to be careful in future and the period she remained out of service is treated as without pay.
- H. Incorrect. As explained above punishment order to the appellant was passed on the basis of allegations serious in nature after conducting proper departmental enquiry. After completion of de-novo enquiry the competent authority passed the impugned order in accordance with law/rules and liable to be upheld.


- I. Para pertains to record.
- J. Incorrect. The appellant was treated as per law/rules and no injustice has been done by the replaying respondents.
- K. That the replying respondents also seek permission of this Hon'ble Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

Keeping in view the above stated facts & reasons it is, most humbly prayed that the appeal of the appellant being devoid of merits & limitation, may kindly be dismissed with costs please.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.


Senior Superintendent of Police,
Coordination, Peshawar.

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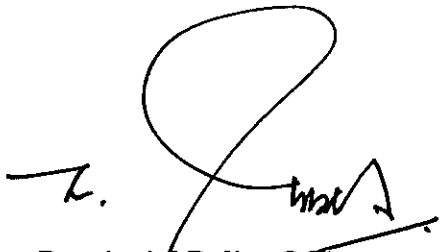
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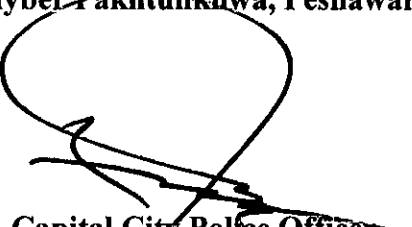
VERSUS


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AFFIDAVIT.

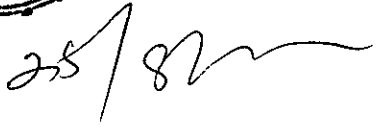
We respondents 1, 2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.


Senior Superintendent of Police,
Coordination, Peshawar.





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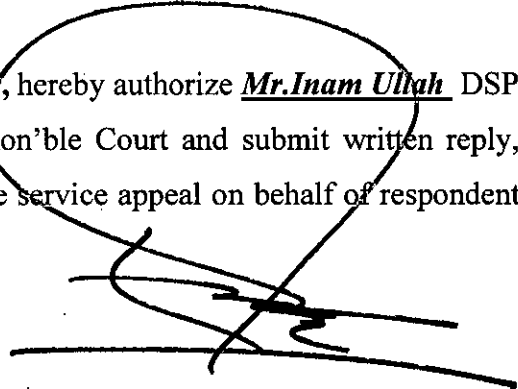
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AUTHORITY.

I, **Capital City Police Officer, Peshawar**, hereby authorize Mr.Inam Ullah DSP legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.



**Capital City Police Officer,
Peshawar.**

CHARGE SHEET

(A) (6)

I, Senior Superintendent of Police, Operations, Peshawar as competent Authority hereby charge you, Junior Clerk Zakia Minhas of Capital city Police Peshawar as follows:-


- i. As per classified information that you are involved in immoral activities. Furthermore you are also making illegal "*sifarish*" to police stations/customs authorities for release of contraband at the time of confiscation from your mother who is well known contraband smuggler.
- i. That you are not taking keen interest in your official obligations and rather concentrate in illegal activities by taking advantage of your job.
- ii. This amounts to gross misconduct on your part.

By reason of the above, you appear to guilty of misconduct under section 3 of KPK Government Servants (E&D) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Section-4 of the said Rules.

You are therefore, required to submit your written defense within seven days of the receipt of this charge sheet to the enquiry officer/enquiry committee failing which it shall be presumed that you have no defense to put in and an ex-parte action shall be taken against you.

Intimate whether you desire to be heard in person or otherwise.

A statement of allegation is enclosed


SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS) PESHAWAR

Accepted


DISCIPLINARY ACTION

(B) (7)

I, Senior Superintendent of Police Operations, Peshawar as competent authority, am of the opinion that Junior Clerk Zakia Minhas has rendered herself liable to be proceed against, as she committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.

STATEMENT OF ALLEGATIONS


- ii. As per classified information that she is involved in immoral activities. Furthermore she is also making illegal "sifarish" to police stations/customs authorities for release of contraband at the time of confiscation from her mother who is well known contraband smuggler.
- iii. That she is not taking keen interest in her official obligations and rather concentrate in illegal activities by taking advantage of her job.
- iv. This amounts to gross misconduct on her part.

For the purpose of scrutinizing the conduct of said accused officials with reference to the above allegations, an enquiry officer/enquiry committee comprising of the following is/are hereby constituted nominated:-

- i. ASP Hayatabad
- ii. _____

The Enquiry Officer/enquiry committee shall, in accordance with the provision of the said, provide reasonable opportunity of the hearing to the accused official and submit its finding within specified period and make recommendations as to punishment or take other appropriate action against the accused officials.

Alleged.
Peshawar


SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR

No. 89 E/PA, dated Peshawar the

07/01/2019

Copy of the above is forwarded to the Enquiry Officer/Enquiry Committee for initiating proceeding against the accused official under the KPK Government Servants (E&D) Rules 2011.



C 8

OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS),
PESHAWAR

Ph: 091-9210508 Fax: 091-9213054

ORDER

This office order will dispose off the departmental proceedings initiated against **Lady Junior Clerk Zakia Minhas of CCP Peshawar** vide this office No. 89/F/PA dated 07.01.2019. Allegations leveled against her were that:

- i. As per classified information, she was involved in immoral activities. Furthermore she was also making illegal "*sifarish*" to police stations/customs authorities for release of contraband items at the time of confiscation from her mother who is well known contraband smuggler.
- ii. That she was not taking keen interest in her official obligations rather concentrate in illegal activities by taking advantage of her government job.

Charge sheet along with summary of allegations was issued to her and Mr. Najam-ul-Husnain Liaquat, ASP Hayatabad, Peshawar was appointed as Enquiry Officer; who after conducting a detailed enquiry, held her guilty of all the aforementioned charges.

On receipt of the findings, Final Show Cause Notice was served upon her vide this office No. 53/PA dated 17.01.2019. Her written reply received well in time. The same was perused and found unsatisfactory. She was called in Orderly Room on 21.01.2019 and heard in person while giving her ample opportunity for self-defense. She failed to advance any plausible explanation in rebuttal of the charges.

The undersigned perused all the relevant record and source reports beside heard the accused Lady Junior Clerk. The undersigned found her guilty of the charges on following accounts:-

- i) She has been openly involved in immoral which is bring bad name to the departmental as a whole.
- ii) She has been found misusing her official position by visiting various Police Posts and approaching police officials for the release of contraband items confiscated from her mother who is a notorious contraband smuggler and commonly known as "Patakai". This fact has been admitted by the accused official before the Enquiry Officer.
- iii) She is habitual absentee and often remain absent from official duties without prior approval of the officer concerned.

Alleged

Office Record

مقامی طور پر اس کی سزا سنائی جائے اور اس کی سزا کے مطابق اس کی سزا سنائی جائے
FIR کی بارشورٹ ڈورج کے لیے الزام ہے اس کی سزا سنائی جائے

iv) She failed to act upon the advice notice conveyed to her in writing vide letter bearing number 2011/PA dated 31.12.2018.

9

From the aforementioned facts, it is crystal clear that the accused official is guilty of the charges leveled against her. Therefore, Lady Junior Clerk Zakia Minhas is hereby awarded the **major punishment of dismissal from service** under the Government Servants (Efficiency & Disciplinary) Rules 2011 with-immediate effect.


SENIOR SUPERINTENDENT OF POLICE,
OPERATIONS, PESHAWAR

No. 67-73 /PA dated Peshawar, the 21.01 /2019.

Copy for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. SP HQrs Peshawar
3. Head Clerk
4. Pay Officer.
5. EC-II/FMC.
6. Official concerned

Encl-12

نہ سائنہ فی والدہ کو استناب سمجھنے کے لیے اعداد سے واقف رہا
جوئی FIR رپورٹ ورجے ایسے الزام ہے اس کے لیے مکمل اعداد