

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.536 /2023.


Ex-SI Zarshad Khan No.362P of CCP Peshawar..... **Appellant.**

VERSUS

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

I n d e x

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

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.536 /2023.

Khyber Pakhtunkhwa
Service Tribunal

Ex-SI Zarshad Khan No.362P of CCP Peshawar..... Appellant.

Diary No. 6694

Dated 25/07/23

VERSUS

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

REPLY BY RESPONDENTS NO. 1 to 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. First part of the Para Pertains to record hence needs no comments. However, the appellant has a blemished service record and not upto the mark.
2. Correct to the extent that an FIR No. 583 dated 2.06.2022 u/s 364/302/PPC & 7ATA, was registered in PS Shahpur by the complainant Muhammad Tariq S/O Salamat against culprits Ramzan Ali, Jansher, Lal Sher, S/O Shamsher and Abbas Alias Mohmanday, the motive was shown to be blood feud.
3. Incorrect. The appellant while posted at CCP Peshawar was placed under suspension and proceeded against departmentally on the charges that the appellant indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as proclaimed offenders (POs) in case vide FIR No. 583, dated 03.06.2022 u/s 365/302/109/ PPC & 7-ATA PS Shahpur and also leaked secret information in arrest of POs in case ibid and allied with criminals, this act of the appellant tarnished the image of Police Department in the eyes of general Public. In this regard, he was issued Charge Sheet with Statement of Allegations and SP/Rural Peshawar was appointed as Enquiry Officer. During the course of Enquiry he was provided full opportunity of personal hearing and also recorded his statement, as well as also availed the opportunity of cross questioned.. The Enquiry Officer after thorough probe into the matter found him guilty of the charges leveled against him. The Competent Authority after receipt of the findings issued him final show cause notice, which he replied, beside this he was also heard in person in OR on 15.11.2022, but failed to defend himself, hence he was awarded major punishment of removal from service under Police Rules 1975 amended 2014. (Copy of charge sheet, Statement of allegations, Enquiry Report and FSCN are annexure as A,B, & D).
4. Incorrect. Para already explained in the above Para. Further, detailed departmental enquiry was conducted against him under rules ibid, wherein the allegations leveled against him were

- proved beyond any shadow of doubt. The appellant was also provided full opportunity of defense by recording his statement and also cross examined, but failed to advance any plausible grounds in rebuttal of the charges leveled against him. His act brought a bad name for the entire force, hence he was awarded punishment as per gravity of his misconduct.
5. Incorrect. Fair departmental enquiry was conducted as per rules ibid and the enquiry officer reported that charges leveled against the appellant were proved. The whole enquiry was conducted purely on merit by recording his statement as well as cross questioning and thereafter he was issued a final show cause notice, which he replied. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling all codal formalities he was awarded major punishment as appellant committed gross misconduct.
 6. Incorrect. The appellant filed departmental appeal, which was thoroughly processed and an ample opportunity of hearing was provided to the appellant by appellate authority but the appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected/filed.
 7. That appeal of the appellant being devoid of merits and hit by limitation may be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A. Incorrect. The punishment order passed by the lawful authority is just legal and has been passed in accordance with law/ rules and no violation of Article 4 & 10A have been done by the respondents, hence liable to be upheld.
- B. Incorrect. The appellant is giving wrong picture just to save his skin from commission of misconduct. The charges leveled against him are proved, hence he was awarded the major punishment. Presence of such black sheep in police force and any kind of leniency will encourage the misuse of authority.
- C. Incorrect. The appellant was found involved in the objectionable activities related to gravest misconduct of having nexus with the above mentioned criminals and leakage of secret information due to which criminals easily escaped themselves from lawful arrest during raid conducted at their harbours. In this regard a detailed departmental enquiry was conducted against him in accordance with law/rules. During the course of enquiry his CDR was obtained wherein the appellant was remained in contact with the criminals (lal sher, jan sher, ramzan) for last one year or more without justified reason, hence he was rightly awarded major punishment. (Copy of CDR is annexure as E).
- D. Incorrect. Para already explained in the above paras. Further, the appellant being a member of a disciplined force committed gross misconduct by giving secret information to criminals. The charges leveled against him were stand proved, hence he was awarded the major punishment.
- E. Incorrect. A Proper departmental enquiry was conducted as per law/rules and the enquiry officer reported that charges leveled against the appellant were proved. The whole enquiry was conducted purely on merit. The appellant was provided full opportunity of defense, but

the appellant failed to defend himself. After fulfilling all the codal formalities he was awarded the major punishment.

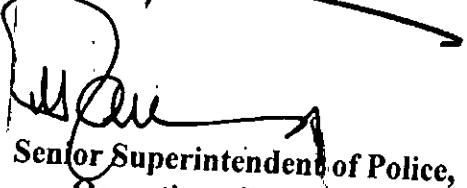
- F. Incorrect. The appellant was rightly issued charge sheet with statement of allegations and clearly mentioned the charges that "he has allegedly been reported that you have been indulged in illegal activities and misconduct as you have maintained links with notorious criminals as well as Proclaimed Offender (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/PPC & 7-ATA PS Shahpur. It is further alleged that you have leaked secret information in arrest of POs in above mentioned FIR and allied with criminals. During the course of enquiry the charges mentioned in the charge sheet were proved against him.
- G. Incorrect. The appellant was provided proper opportunity of personal hearing and cross questioning was provided to appellant, but he failed to defend the charges leveled against him.
- H. Incorrect. The appellant was treated as per law/rules and no violation of the Article 10A has been done by the respondents.
- I. Incorrect. The appellant was associated with the enquiry proceedings and proper opportunity of personal hearing and cross questioning was provided to appellant but failed to defend the charges leveled against him.
- J. Incorrect. The appellant has preferred time barred departmental appeal, which was properly processed and also heard him in person by the appellate authority, however he failed to defend himself with plausible/justifiable grounds hence, filed/rejected because the charges leveled against him were proved.
- K. Incorrect. The competent authority before imposing the major punishment had completed all codal formalities and an ample opportunity of self defense/ personal hearing was provided, but the appellant failed to rebut the charges leveled against him.
- L. 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 and limitation, may kindly be dismissed with costs please.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.


Senior Superintendent of Police,
Operations, Peshawar.

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

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VERSUS

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

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.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.536 /2023.

Ex-SI Zarshad Khan No.362P of CCP Peshawar..... **Appellant.**

VERSUS

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

AFFIDAVIT

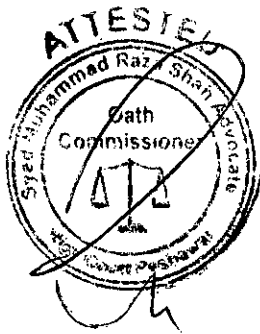
We respondents 1, 2, &3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

it is further stated On Oath that in this appeal, the answering respondents neither been placed ex-parte nor their defence have been struck off.

[Signature]
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

[Signature]
Capital City Police Officer,
Peshawar.

[Signature]
Senior Superintendent of Police
Operations, Peshawar.



25 JUL 2023

(6)
CHARGE SHEET

1. Whereas I, Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP/Operations Peshawar, am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against SI Zarshad Khan No. 362/P while posted as incharge Investigation PS RMT Peshawar.
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, Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP Operations, Peshawar hereby charge SI Zarshad Khan No. 362/P while posted as incharge Investigation PS RMT Peshawar under Rule 5 (4) of the Police Rules 1975.
- i) It has allegedly been reported that you have been indulged in illegal activities and misconduct as you have maintained links with notorious criminals as well as Proclaimed Offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/7-ATA PS Shahpur.
 - ii) It is further alleged that you have leaked secret information in arrest of P.Os in above mentioned FIR and allied with criminals.
 - iii) He has tarnished the image of police department in the eyes of general public.
 - iv) All this amounts to gross misconduct on your part and rendered you liable for punishment under Police (F&D) 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.

*Attended
P. Aftab*

Lt Cdr @ KASHIF AFTAB AHMAD ABBASI)PSP
Senior Superintendent of Police
(Operations) Peshawar

7

STATEMENT OF ALLEGATIONS

1. I, Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP/Operations Peshawar as competent authority, am of the opinion that SI Zarshad Khan No. 362/P while posted as incharge Investgiation PS RMT Peshawar has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.

- i) It has allegedly been reported that he has been indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as Proclaimed Offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/7-ATA PS Shahpur.
- ii) It is further alleged that he has leaked secret information in arrest of P.Os in above mentioned FIR and allied with criminals.
- iii) He has tarnished the image of police department in the eyes of general public.
- ii) All this amounts to gross misconduct on his part and rendered him liable for punishment under Police (E&D) Rules, 1975.

2. For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations SP Rural is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

3. The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

Lt Cdr @ KASHIF AFTAB AHMAD ABBASI)PSP
Senior Superintendent of Police
(Operations) Peshawar

No. 170 E/PA, dated Peshawar the

301 07 2022

Copy to:-

- 1. The Inquiry Officer.
- 2. The Delinquent official through PA to the EO officer

Zarshad
02-08-2022

Attested
Qadri

② OFFICE OF THE
SUPERINTENDENT OF POLICE,
RURAL, PESHAWAR.

Page 1 of 3

No. 4094/PA: dated Peshawar the 28/10 /2022.

To The Senior Superintendent of Police,
Operations, Peshawar,
Subject: DEPARTMENTAL ENQUIRY

Please refer to your office Endt: No. 170/E/PA, dated 30.07.2022; pertaining to departmental enquiry against SI Zarshad Khan No. 362/P.

STATEMENT OF ALLEGATION:

- Faisal*
- i. It has been reported that he has been indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as proclaimed offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365, 302, 109, 7-ATA PS Shahpur.
 - ii. It is further alleged that he has leaked secret information in arrest of POs in above mentioned FIR and allied with criminals.
 - iii. He has tarnished the image of police department in the eyes of general public.
 - iv. All this amounts to gross misconduct on his part and rendered him liable for punishment under Police (E&D) Rules, 1975.
- S. M. Khan*

PROCEEDING:

- Personal hearing.
- Recording of statement.
- Collection of CDR and posting record.
- Criminal record of Lal Sher group vides this office memo No. 2112/PA dated 02.08.2022.

Enquiry officer provided reasonable opportunity to SI Zarshad Khan. Statement .. allegation was served upon him and his written reply was recorded and he was cross questioned too. His CDR was obtained from CFU vide this office letter No. 2113/PA dated 02.08.2022. His posting record was also sought from concerned office vides this office letter No. 2113/Pa dated 02.08.2022.

SCOPE OF ENQUIRY:

The scope of the enquiry includes supporting these criminals (Lal Sher, Jan Sher, Ramzan and rest of the family) in criminal cases in particular and in normal circumstances in general. Giving information regarding the operations of the police. It also includes being in contact with them for last one year or more without justified reasons. Being in contact with the abovementioned group after the killing of Haji Ihsan Ullah.

STATEMENT OF SI ZARSHAD KHAN:

SI Zarshad Khan was called to the office and his statement was recorded which is attached.

Attested

CROSS QUESTIONS:-

Q: - Do you know Jan Sher, Ramzan and Lal Sher etc?

Ans: - Yes, since 20,25 years.

Q: - What are their activities and reputation in the area?

Ans: - Suspicious/ involved in illegal activities, killing of innocent people, land grabbing and extortion.

Q: - Why Muhammad Hussain SI (police official) was killed by Lal Sher group?

Ans: - He was killed by them without any reason.

Q: - Did you know about the illegal activities of Jan Sher etc and have information regarding killing of innocent people?

Ans: - Yes.

Q: - Do you know about the killing of innocent women as well as innocent people by Jan Sher etc?

Ans: - Yes.

Q: - Do you know the said group is land mafia?

Ans: - Yes.

Q: - Were you in contact with Jan Sher, Ramzan etc and since when?

Ans: - Yes, since long.

Q: - Being a police officer why you helped them?

Ans: - They are my relatives.

Q: - Are they your blood relatives?

Ans: - No.

Q: - As a police officer, knowing fully well that they are known criminals of the area and you are not even their blood relative, can you justify your relationship with them?

Ans: - Silence (No answer).

Q: - Do you think such kind of conduct that is keeping close relations with criminals can be justified while being in police department?

Ans: - No.

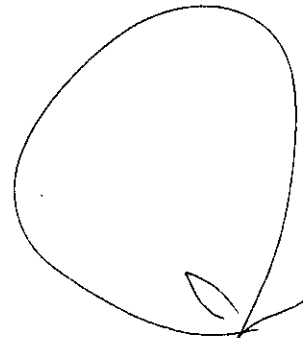
Q: - Do you know that Jan Sher and group are POs and are wanted to different police stations?

Ans: - Yes

Q: - Do you know that number 03160242424, 03199077591 and 03160901144 a being used by whom?

Ans: - Yes, Jan Sher, Ramzan and Lal Sher respectively.

Handwritten signature



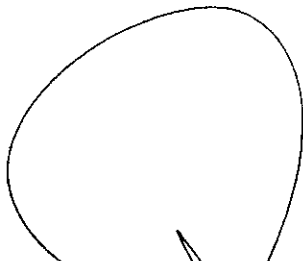
FINDINGS:

1. That Lal Sher, Jan Sher, Ramzan etc. are involved in land grabbing, extortion, killing innocent people as well as killing of innocent women.
2. That they are also involved in the killing of police officers.
3. That they are involved in illegal activities since 20,25 years.
4. That entire family involved in criminal activities, (criminal record is attached).
5. That there are many police officers who are their friends and supporters.
6. That they also harass police officers by using many techniques i.e submitting false applications in courts and to superior officers just to stop them from performing their lawful duties.
7. That it is because of these police officers that they have been able to reach that much level of the criminality.
8. That the testimony to the fact above is that there is not a single FIR of Extortion and land grabbing against them in Peshawar contrary to the ground facts and realities.
9. That he confessed that the above mentioned group is involved in land mafia, killing of innocent people as well as killing of police officials.
10. That being a police officer it is necessary to avoid contacts with criminals and other people having illegal activities, but, SI Zarshad Khan failed to do this.
11. That if Lal Sher group was gone very high up the ladder of criminality, police officers like SI Zarshad Khan have contributed to this. As, it is a universal and recognized fact that a criminal/ a criminal gang/ a mafia/ a cuts cannot move up the ladder of criminality without the assistance of police officer.
12. That he confessed during the cross questioning that **he is a mediator for Lal St group for his all Jirgas and conducts Jirgas** for them.
13. That he had been hands and gloves with Lal Sher group etc. throughout their criminal history.
14. That this officer has 27 contacts and SMS with the group.
15. That he is **staunch supporter of the group**.

CONCLUSION:

In view of above, analyzing of the statement of SI Zarhsad Khan No. 362/P, cross questioning, intelligence sources and other available material the "**all allegations against him are proved and he is found guilty**".

*Arrested
Durrani*


Capt (R) Saleem Abbas Kulachi (PSP)
 Enquiry Officer
 Superintendent of Police,
 Rural Division,
 Peshawar.



(11)

OFFICE OF THE
SENIOR: SUPERINTENDENT OF POLICE,
(OPERATIONS),
PESHAWAR
Phone. 091-9213054

No. 2890 /PA

Dated Peshawar the 02 /11, 2022

FINAL SHOW CAUSE NOTICE
(Under Police Disciplinary Rules, 1975)

1. I, Senior Superintendent of Police, Operations, Peshawar as competent authority, under the Police disciplinary Rules 1975, do hereby serve you **SI Zarshad Khan No. 362/P** as follows:-

2. (i) That consequent upon the completion of enquiry committee conducted against you by SP Rural Peshawar, who found you guilty of the charges for which you were given the opportunity of personal hearing.

(ii) Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said officers; I am satisfied that you have committed the follow misconducts:

You have been **found guilty** of the charges already communicated to you vide this office bearing No. 170/PA dated 30.07.2022.

3. As a result thereof I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.

4. You are, therefore, require to Show Cause as to why the aforesaid penalty should not be imposed upon you.

5. If no reply to this notice is received within **7-days** of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

6. You are at liberty to be heard in person, if so wished.

(Lt Cdr ® KASHIF AFTAB AHMAD ABBASI)PSP
Senior Superintendent of Police
(Operations) Peshawar

Arrested
3/11/22

Zarshad
3/11/22

SI Zarshad Khan was called to the office and his statement was recorded which is attached.

3335985200 Si Zarshad Khan

Call Type	A	B	Date/Time	SECS	IMEI	Location of A
Call - Outgoing	3199077591	3335985200	03/29/2022 12:12:36	96	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Sms - Outgoing	3199077591	3335985200	03/29/2022 12:15:25	X	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3335985200	04/01/2022 15:32:43	47	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Sms - Outgoing	3199077591	3335985200	04/01/2022 15:45:40	Y	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Sms - Outgoing	3199077591	3335985200	04/01/2022 17:58:18	X	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Sms - Outgoing	3199077591	3335985200	04/01/2022 17:58:19	X	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3335985200	04/01/2022 19:07:20	63	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3335985200	04/01/2022 19:13:01	22	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Outgoing	3199077591	3335985200	04/16/2022 20:25:33	73	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar

(12)

Arrested
Signature

you are at liberty to be heard in person, if so wished.

3335985200 Si Zarshad Khan

Call Type	A	B	Date/Time	SECs	IMEI	Location of A
Call - Outgoing	3160901144	3335985200	02/19/2022 17:35:05	36	359392241747860	PTCL Colony, Peshawar
Call - Incoming	3160901144	3335985200	02/19/2022 17:37:06	183	359392241747860	Japan bussines Center,
Call - Outgoing	3160901144	3335985200	02/19/2022 18:13:43	14	359392241747860	PTCL Colony, Peshawar
Call - Incoming	3160901144	3335985200	02/20/2022 10:43:11	170	359392241747860	PTCL Colony, Peshawar
Call - Incoming	3160901144	3335985200	03/26/2022 13:50:46	188	359392241747860	Japan bussines Center,
Call - Outgoing	3160901144	3335985200	03/28/2022 09:45:13	278	359392241747860	Japan bussines Center,
Call - Outgoing	3160901144	3335985200	04/01/2022 15:25:24	76	359392241747860	Judical Complex, Pehsawar
Call - Outgoing	3160901144	3335985200	04/01/2022 18:44:29	39	359392241747860	Japan bussines Center,
Call - Outgoing	3160901144	3335985200	04/01/2022 19:16:35	59	359392241747860	Japan bussines Center,
Call - Outgoing	3160901144	3335985200	04/01/2022 20:04:18	84	359392241747860	Judical Complex, Pehsawar
Call - Incoming	3160901144	3335985200	04/02/2022 10:25:29	119	359392241747860	Japan bussines Center,
Call - Outgoing	3160901144	3335985200	04/02/2022 10:40:47	54	359392241747860	Japan bussines Center,
Call - Incoming	3160901144	3335985200	04/02/2022 12:21:59	34	359392241747860	Japan bussines Center,
Call - Outgoing	3160901144	3335985200	06/01/2022 11:55:09	600	350938110513210	Judical Complex, Pehsawar
Call - Outgoing	3160901144	3335985200	06/02/2022 10:01:44	32	350938110513210	Judical Complex, Pehsawar
Call - Outgoing	3160901144	3335985200	06/21/2022 12:20:00	239	355036111051690	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar

13

You are at liberty to be heard in person, if so wished.

Attested


3335985200 Si Zarshad Khan

Call Type	A	B	Date/Time	SECS	IMEI	Location of A
Sms - Outgoing	3160242424	3335985200	08/17/2021 21:08:49	9	860217043914260	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Outgoing	3160242424	3335985200	05/24/2022 09:41:00	29	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar

16

Attended
Bullish

6. You are at liberty to be heard in person, if so wished.

... appropriate action shall be taken