


FORM OF ORDER SHEET

Court of _____

Appeal No. 1776/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/09/2023	<p>The appeal of Mr. Alamgir presented today by Mr. Imdad Ullah Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1776 of 2023

Alamgir Ex-Constable No. 503 of RRF (Rapid Response Force) Unit-II No. 11
District Buner R/o Palam Usheri Dara, Tehsil and District Dir Upper.

...Appellant

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

INDEX

S. No.	Description of documents	Annexure	Pages
1.	Memo of Appeal	1-6
2.	Affidavit	7
3.	Addresses of the parties	8
4.	Copy of the FIR	A	9-10
5.	Copy of the Order dated 16-09-2022	B	11
6.	Copy of the Order dated 18-05-2022	C	12
7.	Copy of the Order dated 04-05-2023	D	13
8.	Copy of the Charge Sheet	E	14
9.	Copy of the Reply	F	15
10.	Copy of the Final Show Cause Notice	G	16
11.	Copy of the Reply	H	17
12.	Copy of the Order dated 17-05-2023	I	18
13.	Copy of the Departmental Appeal	J	19-20
14.	Vakalat Nama	21

Appellant Through

Imdad Ullah

Imdad Ullah
Advocate Swat

Office: Khan Plaza, Gulshone Chowk,
Mingora Swat, Cell 0333 929 7746

Email: imdadswati@gmail.com

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1776 of 2023

Alamgir Ex-Constable No. 503 of RRF (Rapid Response Force) Unit-II No. 11 District Buner R/o Palam Usheri Dara, Tehsil and District Dir Upper.

...Appellant

VERSUS

1. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. The Commandant RRF (Rapid Response Force) Additional Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commandant RRF (Rapid Response Force) Khyber Pakhtunkhwa, Peshawar.

...Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER NO. 622-32/RRF DATED 17-05-2023, WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AGAINST THE LAW AND RULES, FEELING AGGRIEVED THE APPELLANT SUBMITTED A DEPARTMENTAL APPEAL, BUT THE SAME WAS NOT RESPONDED

2

DESPITE THE LAPSE OF STATUTORY
PERIOD OF TIME.

Prayer:

That on acceptance of this service appeal the order impugned may very kindly be set aside, being against the law and rules and reinstate the Appellant back into service with all back / consequential benefits.

Respectfully Sheweth:

Facts:

- i. *That the Appellant joined the Police Force as constable in the year 04-12-2013.*
- ii. *That the Appellant was charged with mala fide in case FIR No. 25 u/s 302, 324, 109, 34, 114, 202, 212 PPC dated 20-04-2022. Copy of the FIR is enclosed as Annexure "A".*
- iii. *That the Appellant was charged 7 after the lodging of the FIR and when got the information of his mala fide nomination, he run from pillar to post to clarify himself of the frivolous, mala fide and fabricated charges.*
- iv. *That the Appellant got arrested on 20-07-2022 and was released on bail by the Honourable Peshawar High Court, Mingora Bench Dar-ul-Qaza Swat on 16-09-2022. Copy of the order dated 16-09-2022 is enclosed as Annexure "B".*

- v. *That vide order No. 1014-19/PA/RRF dated 18-05-2022 the Appellant was suspended due to his mala fide nomination in the criminal case. Copy of the order 18-05-2022 is enclosed as Annexure "C".*
- vi. *That subsequently the Appellant was conditionally reinstated into service vide order No. 563-67/RRF dated 04-05-2023. Copy of the order dated 04-05-2023 is enclosed as Annexure "D".*
- vii. *That the Appellant was issued Charge Sheet after his release, to which the Appellant submitted a detailed reply. Copy of the charge sheet is enclosed as Annexure "E" and that of the reply as Annexure "F", respectively.*
- viii. *That the Appellant was issued Final Show Cause Notice No. 1768/RRF dated 15-09-2022 to which the Appellant submitted a detailed reply. Copy of the final show cause notice is enclosed as Annexure "G" and that of the reply as Annexure "H", respectively.*
- ix. *That strange enough and to the utmost surprise and dismay of the Appellant he was issued the impugned order No. 622-32/RRF dated 17-05-2023 whereby major penalty of dismissal from service was imposed upon the Appellant against the law and rules on the subject. Copy of the order dated 17-05-2023 is enclosed as Annexure "I".*

4

- x. That the Appellant feeling aggrieved, as no inquiry was ever conducted nor was he associated with any, submitted a departmental appeal, but the same was not decided despite the lapse of the statutory period of time. Copy of the departmental appeal is enclosed as Annexure "J".
- xi. That still feeling aggrieved and having no other remedy this Honourable Tribunal is approached on the following grounds.

Grounds:

- a. That as per the law and rules emanating from the commands of the constitution duly endorsed by plethora of judgments of the August Supreme Court of Pakistan a proper inquiry is mandatory in which complete right of self-defense and personal hearing is to be afforded to the official inquired against before the imposition of the major penalty, but in case of the Appellant the same has been done away with bald of any reason whatsoever and that too to the utter detriment of the Appellant.
- b. That the Respondents have misused their official authority in a very colorful and fanciful manner and have imposed the major penalty in a very hasty manner.
- c. That the reasons for the issuance of the order impugned are yet to be determined by the competent

5

forum as the criminal case is still pending, yet the Appellant was dismissed from service without conducted any proper departmental inquiry ascertain the facts on their part, which makes the order impugned nullity in the eyes of law.


- d. *That the Respondent Department was well aware of the facts and suspended the Appellant under the rules, yet failed to wait till the outcome of the criminal case imposed the major penalty very hastily and that too by considering the period of suspension as absence, which further dawns upon the fact of the negation of the codal formalities and law and rules on the subject and also the prejudice of the Respondents.*
- e. *That the Appellant has performed his duties to the best of his abilities and capabilities without any objections by the authorities neither has the Appellant committed any act of commission or omission which may constitute any offence under any law.*

It is, therefore, very respectfully prayed that on acceptance of this service appeal the order impugned dated 17-05-2023 may very kindly be set aside, being violative of the law and rules and reinstate the Appellant back into service with all back / consequential benefits.

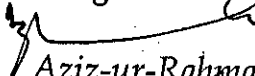
6

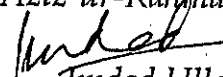
Any other relief deemed appropriate in the circumstances and not specifically prayed for may also very kindly be granted.

Appellant


Alamgir

Through Counsels,


Aziz-ur-Rahman


Imdad Ullah

Advocates Swat

7

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2023

Alamgir Ex-Constable No. 503 of RRF (Rapid Response Force) Unit-II No. 11 District Buner R/o Palam Usheri Dara, Tehsil and District Dir Upper.

... Appellant

VERSUS


The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

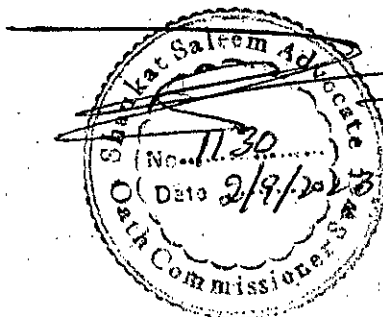
... Respondents

AFFIDAVIT

It is solemnly stated on Oath that all the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has either been mistreated or kept concealed before this Honourable Tribunal.

Deponent


Alamgir



(8)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2023

Alamgir Ex-Constable No. 503 of RRF (Rapid Response Force) Unit-II No. 11 District Buner R/o Palam Usheri Dara, Tehsil and District Dir Upper.

...Appellant

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

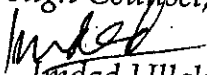
ADDRESSES OF THE PARTIES

Appellant:

Alamgir Ex-Constable No. 503 of RRF (Rapid Response Force) Unit-II No. 11 District Buner R/o Palam Usheri Dara, Tehsil and District Dir Upper.

Respondents:

1. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. The Commandant RRF (Rapid Response Force) Additional Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commandant RRF (Rapid Response Force) Khyber Pakhtunkhwa, Peshawar.

Appellant
Through Counsel,

Imdad Ullah
Advocate Swat

Annexure ^{~B~}

11

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
MINGORA BENCH (DAR-UL-QAZA) SWAT
(Judicial Department)

CFM (B.A) No: 618-M/2022

Date of hearing: 16/09/2022

Petitioner(s): (Atamgir Khan) by
Hazrat Rahman Advocate

Respondents (State) by
Mr. Razauddin Khan, A.A.G.
(Rozi Khan) by
Muhammad Nabi, Advocate

ORDER

MUHAMMAD NAEEM ANWAR, J.- For reasons

to be recorded later in the detailed order, this bail petition is allowed and petitioner is directed to be released on bail subject to furnishing his bail bond in the sum of Rs.200,000/- (two hundred thousand) with two sureties each in the like amount to satisfaction of Illaqa Judicial Magistrate/ MOD who shall ensure that the sureties are local, reliable and men of means.

Announced
On: 16/09/2022

M
JUDGE

No. of Applicant: 16/09/2022
Date of Presentation of Applicant: 16/09/2022
Date of Completion of Copies: 16/09/2022
No. of Copies: 2
Filed for: 16/09/2022
Date of Delivery of Copy: 16/09/2022

Attested
[Signature]
Advocate

By: *[Signature]*
Hon'ble Magistrate Mohammad Naeem Anwar

Certified to be true copy

EXAMINER
Verification of Copy: Mingora Bench, Dar-ul-Qaza, Swat
Date: 16/09/2022



Office of the Deputy Commandant
RRF, Khyber Pakhtunkhwa Peshawar.

12




No. 1014-19 /PA/RRF.

Dated: 18/05/2022

Annexure 02


ORDER

As intimated by DSP Elite/RRF Malakand Region vide his letter No. 1126/R, EF dated 30.04.2022, Constable Alamgir No. 503 of RRF Unit No. 11 Buner has been nominated as accused in case vide FIR No. 25 dated 20.04.2022 u/s 302-324-34-109 PPC Police Station Balambat District Dir Lower is hereby suspended with immediate effect.


TARIQ IQBAL (UNPM BAR)
Deputy Commandant,
RRF, Khyber Pakhtunkhwa Peshawar.

Copy of above is forwarded for information to the:-

1. Deputy Commandant, Elite Force Khyber Pakhtunkhwa, Peshawar.
2. DSP, Elite/RRF Malakand Region.
3. SRC/FMC/RI/OHC, RRF Khyber Pakhtunkhwa Peshawar.

Attested

Advocate



**Office of the Deputy Commandant
RRF, Khyber Pakhtunkhwa Peshawar.**

13



No. 563.67 /RRF

Dated: 04/05/2023

ORDER

Annexure ND

Constable Alamgir No. 503 of RRF Unit No. 11 Buner involved in case FIR No. 25 dated 20.04.2022 u/s 302/324/109/34 PS Balabutt Dir Lower was suspended vide this office order No. 1014-19/PA/RRF dated 18.05.2022 is hereby conditionally reinstated in service from the date of suspension and his pay stopped vide this office letter No. 1346/RRF dated 05.07.2022 is hereby released, with immediate effect.

(ABDUS SAMAD) PSP
Deputy Commandant,
RRF, Khyber Pakhtunkhwa Peshawar.

Copy of the above is forwarded for information & necessary action to the:-

1. Superintendent of Police, Elite/RRF Malakand Region.
2. Accountant, RRF Khyber Pakhtunkhwa Peshawar.
3. RI/ RRF HQrs: Peshawar.
4. SRC, RRF Khyber Pakhtunkhwa Peshawar.
5. LO/OHC, RRF Khyber Pakhtunkhwa Peshawar.

Attested

Advocate

Annexure ^E**CHARGE SHEET**

I, Tariq Iqbal, Deputy Commandant, Rapid Response Force, Khyber Pakhtunkhwa, Peshawar as competent authority hereby charge you Constable Alamgir No. 503 RRF Unit No. 11 Duner as follows:-

As per information received from DSP EF/RRF Malakand Region Swat that you were charged in case FIR No. 25 dated 20.04.2022 u/s 302/324/34/109 PPC PS Balambut Dir Lower and absent from duty w.e. from 18.04.2022.

- You were issued Charge Sheets & Statements of Allegations and DSP EF/RRF Malakand Region was appointed as Enquiry Officer vide this office letter No. 1012-13/RRF dated 18.05.2022.
- The Enquiry Officer after conducting enquiry came to the conclusion that the accused official is at large and avoid his legal arrest, therefore, Charge Sheet & Summary of Allegation could not be served upon him.
- On 27.10.2022, a detailed report was sought from SI/OH PS Balambut that at the time of occurrence, you were injured by Police firing and escaped from the spot. On 20.07.2022, the local Police arrested you. In Police custody, you confessed your guilt.
- During your body search some wound marks were found. To clarify wound marks, you were examined through Doctor. The Doctor verified that the wounds marks are of fire arms. After completion of investigation you were sent to Juddial Lockup. On 16.09.2022 your bail application was accepted and the competent Court granted bail to you. He further disclosed that in the Bhetak of one Ikram you have been provided first Aid.

2. By reason of the above, you appear to be guilty of misconduct under the Khyber Pakhtunkhwa Police Rules, 1975 (Amended 2014) and have rendered yourself liable to all or any of the penalties specified in the rules.

3. You should submit your written report, if any, to the Enquiry Officer within 07 days of the receipt of this notice, failing which it shall be presumed that you have no defense to offer and ex-parte action shall be initiated against you.

4. You are at liberty, if desire to be heard in person.

5. A statement of allegations is enclosed.

Attested

[Signature]
Advocate

TARIQ IQBAL
Deputy Commandant
RRF, Khyber Pakhtunkhwa Peshawar

جناب عالی!

بجوالہ مشورہ چارج شیٹ نمبر می RRF 2087-88-2022 نمبر 07-11-2022، عمارت چارج شیٹ
 عمارت صاحب RRF نمبر چٹو ٹھکانہ پشاور معروضی خدمت ہوں۔ کہ میں مورخہ 18-04-2022 کو یہ امر
 پوری یوجہ غرضی کارخانگی فیچر حاضر ہوا تھا۔ مسائل کو مقدمہ ملت نمبر 25 مورخہ 20-04-2022
 جرم 109-34-302-324 PPC تھانہ بلائٹ ضلع وزیر آباد میں مدعی مقدمہ نے قومیہ کے 07 جن بعد ملز
 م مہو آیا۔ چونکہ الزام انتہائی سنگین تھا۔ جان کی حفاظت کی خاطر 20-07-2022 تک روپوش رہا۔ روپوشی
 کے دوران مختلف ذرائع سے مدعی مقدمہ کو مطمئن کرنے اور اپنے بے گناہی ثابت کرنے کی ہر پوری کوشش کی
 مگر بے سود۔ بعد وہ نیل سے ضمانت پر رہا ہو کر مورخہ 23-09-2022 کو ڈیوٹی پر حاضر آکر بجوالہ شہکار
 نمبر می RRF 1768/ مورخہ 15-09-2022 اپنا تفصیلی و خاتمی رپورٹ بروقت جمع کیا تھا۔ جہاں تک چارج
 شیٹ میں میرے کوئی سے زخمی نہ کرنے کا ذکر کیا گیا ہے۔ اندر سے بارہ وضاحت کی جاتی ہے کہ قومیہ سے عرصہ
 قریب 03 ماہ قبل بھائیوں کے ساتھ جائیداد تازہ اور خانگی تقسیم پر آپس میں جھگڑا ہوا تھا۔ جھگڑے کے
 دوران بھائی ام مسیحی رامت اللہ نے مجھ پر ڈرانے و ہمکانے کی خاطر فائر کیا تھا، جس کے فائرنگ سے میں زخمی ہو
 ٹور پر بد قسمتی سے ایک ہاتھ اور ایک پاؤں (مٹنے) پر لگ کر زخمی ہوا تھا۔ جو کہ دیگر رشتہ داران اور ملازم
 معززین کے رسالت سے ہمارے مائین صلح کر کے جائیداد تازہ افہام تقسیم سے حل کیا گیا تھا۔ مدعی مقدمہ نے
 اور ملزم کنسٹیبل انشا احمد سے میرا نہ کوئی رشتہ داری ہے اور نہ ہی کوئی دشمنی۔ بیشک اذان اگر ام ساکن
 تیسر گروہ میں مجھ پر Treatment کا الزام منگھڑات اور بے بنیاد ہے۔ اوکل پولیس کے بیانات 161 سے میں
 بے خبر ہوں۔ چارج شیٹ متذکرہ اور مثل مقدمہ میں میرے خلاف لگانے گئے الزامات بے بنیاد منگھڑات
 اور حقیقت سے ایچ ہیں۔ اس وقت مقدمہ بالا عدالت میں زیر سماعت اور میں بر ضمانت اپنے ڈیوٹی پر حاضر ہوں۔


لہذا استدعا ہے کہ مسائل اس سلسلہ میں بے قصور اور کسی بھی قومیہ یا دیگر کوئی بھی جرم میں ملوث
 نہیں ہے۔ اور نمبر حاضر می بھی مجبوراً اپنے بے گناہی ثابت کرنے کی خاطر کی ہے۔ لہذا استدعا ہے کہ مسائل کا
 چارج شیٹ جاری شدہ بغیر کسی کاہوائی کے داخل دفتر کی جاوے۔ تاکہ انصاف کی بالا دستی ہوں۔ مسائل کی حقیقت
 جانو رہیگا۔

کنسٹیبل عالیگیر خان نمبر 503 RRF یونٹ نمبر 11 ضلع وزیر آباد

قومی شناختی کارڈ نمبر: 45701-3692074-7

موبائل نمبر: 0325-9324008

مورخہ: 03-03-2023


Attested

 Advocate

FINAL SHOW CAUSE NOTICE

I, Tariq Iqbal, Deputy Commandant RRF, Khyber Pakhtunkhwa Peshawar as competent authority under the Khyber Pakhtunkhwa Police Rules, 1975 (Amended 2014), do hereby serve you Constable Alamgir No. 503 of RRF Unit No. 11 District Bunir as follows:-

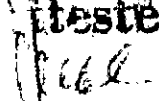
As per information report received from DSP Elite/RRF Malakand Region Swat vide No. 1103/R EF, dated 21.04.2022 that you have been charged in case FIR No. 25 dated 20.04.2022 U/S 302-324-34-109 PPC Police Station Balambat District Dir Lower and absent from duty w.e.from 18.04.2022.

1. That consequent upon the completion of enquiry conducted against you by DSP Elite/RRF Malakand Region, you were at large, avoiding legal arrest.
2. 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 the Police Rules Khyber Pakhtunkhwa, 1975 (Amended 2014) and charges leveled against you have been established beyond any doubt.
3. As a result therefore, I, Tariq Iqbal, Deputy Commandant RRF, Khyber Pakhtunkhwa Peshawar as competent authority have tentatively decided to impose major or minor penalty upon you, under the above Police Rules.
4. You are therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you.
5. 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.


TARIQ IQBAL (MPPM BAR)
 Deputy Commandant,
 RRF, Khyber Pakhtunkhwa Peshawar.

No. 1768 /RRF, dated Peshawar the 15/04/2022.

Copy to the delinquent Constable Alamgir No. 503 of RRF Unit No. 11 Bunir. Reader DSP Elite/RRF Malakand Region is directed to serve the final show cause notice on the delinquent official and a copy of the notice duly signed by him may be sent to this office as token of receipt.

Tested

 Advocate

بجوالہ فائنل شوکار نوٹس نمبری RRF/1768 مورخہ 15.09.2022 بجاریہ ڈپٹی کمائنٹ صاحب
 RRF خیر پختوخواہ معروض خدمت ہوں کہ سائل کو مورخہ 26.09.2022 کو فائنل شوکار نوٹس موصول ہوا۔
 چونکہ سائل کو قبل ازیں نہ تو شوکار نوٹس یا چارج شیٹ موصول ہوا ہے۔ سائل کو مقدمہ علت 25 مورخہ
 20.04.2022 م 302-324/34-109 PPC تھانہ بامبٹ ضلع ویراوتر میں مدعی مقدمہ نے وقوعہ کے 7 دن
 بعد بیان مجسٹریٹی بیان 164 ض ف قلمبند کر کے مقدمہ ہذا میں ملزم چارج کیا۔ چونکہ مقدمہ ہذا میں ہمارے پونٹ
 RRF کنسٹیبل انشاد احمد مین ملزم ہے۔ وقوعہ کے دن سائل نے انشاد احمد سے موبائل پر رابطہ کر کے جو کہ مذکورہ
 انشاد احمد قریبی ساتھی ہونے کے سبب حال چال پوچھنے کی غرض سے کال کی تھی۔ لیکن بد قسمتی سے اسی دن وقوعہ
 رونما ہوا، اور اسی دن سائل نے دیگر کافی کسان سے بھی روٹین کے مطابق موبائل فون پر رابطہ کیا ہے۔ RRF
 کنسٹیبل انشاد کا CDR نکالنے کے بعد ہمارے رابطہ پر مدعی مقدمہ نے من سائل کو مقدمہ میں ملزم شہرایا ہے۔
 سائل کو معلوم ہونے پر لہنی بے گناہی ثابت کرنے کے لئے سائل ڈیوٹی سے مجبور غیر حاضر ہوا۔ اور مدعی مقدمہ کو
 ملٹین کرنے کی بار بار کوشش کر کے بے سود رہا۔ تو سائل نے خود کو پولیس کو حوالہ کر کے عدالت سے ضمانت منظور
 ہونے پر مورخہ 23.09.2022 کو اپنے RRF پونٹ میں حاضری کی ہے۔

استدعا ہے کہ سائل اس سلسلہ میں بے تصور اور کسی بھی وقوعہ یا دیگر کوئی بھی جرم میں ملوث نہیں ہے۔ اور
 غیر حاضری بھی مجبور اپنے بے گناہی ثابت کرنے کی خاطر کی ہے۔ لہذا استدعا ہے کہ سائل کا فائنل شوکار نوٹس بغیر کسی
 کارروائی کے داخل دفتر کیا جائے۔ تاکہ انصاف کی بالادستی ہوں۔ سائل تاحیات دعا گو رہے گا۔

کنسٹیبل عالمگیر خان نمبر 503 پونٹ RRF II

Attested
 [Signature]
 Advocate



Office of the Deputy Commandant
RRF, Khyber Pakhtunkhwa Peshawar.

18



No. 622-32 /RRF

Dated: 17 / 05 / 2023

Annexure

ORDER

Constable Alamgir No. 503 while posted in RRF Unit No. 11 Buner, an information report was received from DSP Elite/RRF Malakand Region vide No. 1126/R/EF dated 30.04.2022 that he has been nominated as accused in case FIR No. 25 dated 20.04.2022 u/s 302/324/34/109 PPC Police Station Balambutt district Dir Lower and absent from duty w.e.from 18.04.2022.

He was issued Charge Sheet and Statement of Allegations vide No. 1012-13/RRF dated 18.05.2022 and DSP Elite/RRF Buner was appointed as Enquiry Officer.

The Enquiry Officer after conducting enquiry and submitted finding vide No. 1229/R dated 28.06.2022 that accused Constable Alamgir is avoiding legal arrest and presently at large. His continuous absence from duty and avoiding arrest seem that to some extent he is involved in the occurrence.

On 20.07.2022, the accused Constable was arrested by the Local Police. According to the report of OII PS Balambutt, the accused confessed his guilt and pointed the place of occurrence. During investigation, blood stained plastic recovered from the roof top of the room in the house of one Akhtar Munir r/o Malak Abad where first aid was provided to the accused Constable injured by the Police firing.

The accused Constable was examined through Doctor to clarify wound marks on the body of accused. The Doctor verified that wound marks are of fire arms. The Doctor took blood sample of the accused to match with already recovered blood stained plastic mentioned above. The sample was sent to FSL for examination and opinion. The FSL opinion was received bearing the result that the blood sample taken from the accused matches with blood stained plastic.

The Enquiry Officer submitted his findings with the recommendation that the absence period of the delinquent official from 18.04.2022 to 23.09.2022 (Total 155 days) may be treated as leave without pay and one annual increment stopped.

The undersigned disagreed with the recommendation of the enquiry officer and of the opinion to enhance the punishment on the grounds that the accused official played role of guard had shaken hands with the culprits, thus, such like black sheeps are not required to retain in the force.

He was issued Final Show Cause Notice vide this office No. 1768/RRF, dated 15.09.2022 with the opportunity of personal hearing. His reply to the Final Show Cause Notice was received and found unsatisfactory. During his personal hearing he failed to produce any cogent reason regarding his non-involvement in the case.

I, Abdus Samad (PSP) Deputy Commandant RRF Khyber Pakhtunkhwa Peshawar as competent authority, awarded him the major punishment of Dismissal from service under Police Rules 1975 (amended 2014) with immediate effect.

(ABDUS SAMAD) PSP
Deputy Commandant,
RRF, Khyber Pakhtunkhwa Peshawar.

Copy of the above is forwarded to the:-

1. Addl: IGP/Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. District Police Officer, Dir Upper.
4. SP Elite Force /RRF Malakand Region Swat.
5. Accountant, RRF Khyber Pakhtunkhwa Peshawar.
6. SRC/FMC, RRF Khyber Pakhtunkhwa Peshawar.
7. R/O, RRF Khyber Pakhtunkhwa Peshawar.
8. OHC, RRF Khyber Pakhtunkhwa Peshawar.
9. Constable Alamgir No. 503 RRF Unit No. 11 Buner.

For information
please

For necessary
action please

Attested

Advocate

To,

The Additional Inspector General of Police/Elite Force,
Khyber Pakhtunkhwa
Peshawar.

19
Signature

Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 17/05/2023 No 622-32/RRF PASSED BY DEPUTY COMMANDANT, RRF, KHYBER PAKHTUNKHWA PESHAWAR, WHEREBY MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT.**

Respected Sir,

My Humble Submission Are As Under.

1. That the applicant namely Alamgir No.503 of RRF Unit No 11 was serving as constable in the police department and has rendered unblemished service recorded.
2. That on 20/04/2022 the applicant was falsely charged in case vide F.I.R No. 25 u/s 302,324,109,34,114,202,212, PPC, Police Station Balambat, Dir Payan
3. That after falsely charging in criminal the applicant surrendered himself to police and the Honrble Peshawar swat Bench granted Bail on 16/09/2022.
4. That 18/05/2022 the applicant had hereby suspended by the Deputy Commandant RRF, Khyber Pakhtunkhwa.
5. That on 04/05/2023 the applicant is hereby conditional re-instated in service from the date of suspension and his pay was released.
6. That on 17/05/2023 the applicant was dismissed from service by the Deputy Commandant RRF, Khyber Pakhtunkhwa.
7. That the applicant was regularly performing his duty and has never been wilfully absent from his duty.
8. That the applicant has not been convicted by court of law in criminal case and court proceedings against the applicant is pending in the court of Additional District and Session judge court concerned whereas case of the applicant is prima facie and hopefully will be decided in favour of the applicant.
9. That according to law and rules as well as averments of judgments of the superior courts the department cannot dismissed the applicant from service, while the department can suspend the applicant if the court of law has not been declared the applicant as convict and during the period behind the bar/ judicial lockup on suspension the applicant is entitled to pay monthly salary till conviction from the court of law in this regard the applicant rely upon judgment of the Superior Court reported as 2019 PLC (CS) 255.

Attested
Advocate

10. That the department committed illegality and irregularity referred to FR 54 and CSR 194-which read as:

"CSR 194-A: A Government Servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension, from the date of his arrest. In case such a Government Servant is not arrested or is released on bail, the competent authority may suspend him, by specific order, if the charge against him is connected with his position as Government Servant or is likely to embarrass him in the discharge of his duties or involve moral turpitude. During suspension period the Government servant shall be entitled to the subsistence grant as admissible under FR 53."

11. That the applicant was served charged sheet/statement of allegations and as per dismissal order of the applicant and not inquiry was conducted against the applicant.

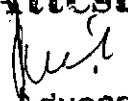
12. That no opportunity of personal hearing was afforded to applicant, which is also the mandatory requirement of law and rules. The applicant was condemned unheard and accordingly the dismissal order dated 17/05/2023 is void, ab-initio, arbitrary and hence not sustainable.


13. That no fact finding or regular inquiry has been conducted against the applicant hence the whole proceeding are illegal, unlawful against the law and rules, void - initio and the dismissal order dated 17/05/2023 of the applicant is liable to be set aside.

14. That the right of fair trial is granted by Article 10 A of the constitution of Islamic republic of Pakistan 1973 but the same cannot provided to the appellant, furthermore there is no evidence against the appellant.

15. That codal formalities regarding dismissal of the applicant has not been followed by the department in accordance with Law and Rules, while in case the applicant was in judicial lockup and behind the bar which against the norms of natural justice.

It is, therefore, most humbly requested that the applicant may very kindly be re-instated in his service in the light of various judgments of the superior Courts as well as Honourable Tribunal mentioned above with all back benefits and the applicant departmental appeal may kindly be accepted in accordance with rules and judgments of the Honourable Courts as mentioned above. Any others relief which this deem fit if any may also be granted.

Attested

Advocate


Constable Alamgir No 503
Elite /RRF Malakand Region.

Dated 18/05/2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

21

In the matter of:-

عالمی خان Appellant
VERSUS
ایم داد Respondent

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH
Advocates High Court

To be the advocate for the Appellant in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 2 day of 8 2023.

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk

G.T. Road Mingora, District Swat.

Cell No. 0300 907 0671

(IMDAD ULLAH)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk,

G.T. Road, Mingora, District Swat

Cell No. 0333 929 7746