

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.810 /2023.

Ex- PASI Umar Farooq No.500 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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REPLY BY RESPONDENTS NO. 1& 2.

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.
2. Pertains to record.
3. Incorrect. Infact as per recommendation of Khyber Pakhtunkhwa Public Service Commission, the appellant was appointed as PASI vide Notification No. 9830-35/EC-I dated 24.05.2022. However, after getting verification from Special Branch it was reported by the agencies concerned that the appellant was involved in the Criminal Cases vide FIR No. 102 dated 13.01.2020 u/s 17(3) Haraba/506/387/427/149- PPC PS Bhana Mari and FIR No. 97 dated 12.01.2020 u/s 382/387/506/427/148/149-PPC PS Bhana Mari which adjudication are still pending before the Competent court of law and yet to be decided. Foremost responsibility of police is to protect lives and property of the general public and if an official having already criminal background of heinous nature offences cannot be considered to be a devoted and dedicated member of the disciplined force. As such removal from service order was passed due to above stated criminal history and in the larger interest of general public. (Copy of removal order is annexed as "A").
4. Para already explained in the above para. Further, upon recommendation of Khyber Pakhtunkhwa Public Service Commission, the appellant was appointed as PASI in the respondent Department however after due verification from Special Branch it was disclosed that the appellant has involved himself in two criminal cases, therefore, as per the laid down criteria mandatory for the subject post, he was removed from service.
5. Incorrect. Obtaining/Confirmation of BBA in criminal cases are not finality of the case, he has to face trial, and acquittal is mandatory. Further, the appellant is involved in 02 heinous criminal cases, which are still subjudice before court.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7634

Dated 19/09/23

6. Incorrect. Each and every individual who hide himself in the guise of human cloth while having a criminal record and dodged the departments even the High ups shall face the price.
7. Incorrect. The Appellant was rightly deprived from basic recruit trainings because of his criminal record. Appointment in discipline force is subject to medical and character verification. Furthermore, verification is mandatory for newly appointed official/recruit to join Government service.
8. Incorrect. As explained in the preceding para that the appellant was dropped from the selection of basic training due to his criminal history based on the report of Special Branch and in the mean of that time an enquiry into the matter was under way so, the appellant despite the reason discussed above had filed the Writ Petition in the hasty of time before the Peshawar High Court, Peshawar in order to save his skin.
9. Incorrect. The appellant was removed from service after thorough probe into the matter as the charges of his involvement in criminal cases were proved beyond any shadow of doubt.
10. Incorrect. In fact the appellant filed departmental appeal before the PPO and without waiting its statutory period of disposal by the appellate authority, the appellant filed Service Appeal before the Honorable Service Tribunal.
11. Incorrect. A free and fair proceeding was conducted and subsequently, in light of the report of Special Branch, the appellant being guilty of criminal cases was removed from service and respondent department has never acted against the law/rules. Moreover, appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A. Incorrect. The punishment order of the appellant was passed under the law/rules and no illegality upon the part of replying respondent has been committed.
- B. Incorrect. As per 12.18(1) of Police Rules 1934 the Police Clearance certificate (Character verification) from the concerned police station and Special Branch is extremely essential for an individual to appoint him as Government Servant under the laid down criteria.
- C. Incorrect. The appellant was treated legally and no violation of his fundamental right has ever been done.
- D. Incorrect. Proper verification of the conduct of appellant was made through Special Branch and after receiving comprehensive report of the Special Branch it came to surface that the appellant was involved in the heinous criminal cases ibid pending before court, thus on the basis of which he has been removed from service by the competent authority.
- E. Incorrect. Being an accused of the above criminal cases ibid the appellant is not entitled to join training/courses
- F. Incorrect. The appellant at the time of his removal from service was not found innocent but was found involved in the above criminal cases.
- G. Incorrect. The appellant was dealt in accordance with law without any discrimination.
- H. Incorrect. The appellant has been penalized due to his involvement in the above criminal cases.

- I. Incorrect. The appellant was removed, based on the report of Special Branch being responsible department. No discrimination against the appellant has been done by the replying respondents.
- J. Incorrect. The appellant was legally treated in accordance with law/rules and proper opportunity of self defense was provided to the appellant but he did not prove himself innocent, hence he was rightly removed from service.
- K. Incorrect. The respondents department had removed the appellant based on the report of Special Branch after fair proceedings in the matter with full justice.
- L. Incorrect. No violation of the Constitution of Islamic republic of Pakistan 1973 has been done by the replying respondents.
- M. Respondents also seek permission of this Hon'ble Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merit and legal footing, may kindly be dismissed with cost please.



**Capital City Police Officer,
Peshawar.**



**Provincial Police Officer -
Khyber Pakhtunkhwa, Peshawar.**

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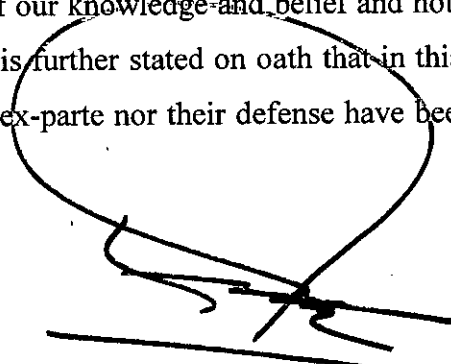
Ex- PASI Umar Farooq No.500 of CCP Peshawar..... **Appellant.**

VERSUS

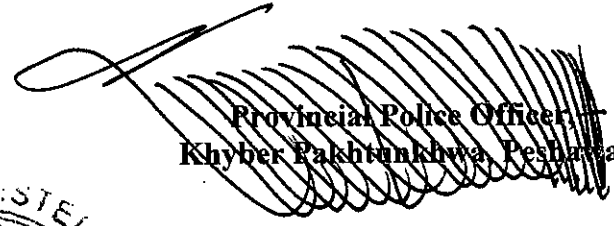
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AFFIDAVIT.

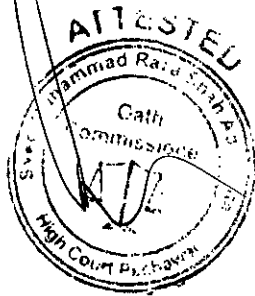
We respondents No. 1 & 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off.



**Capital City Police Officers,
Peshawar.**



**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.**



19 SEP 2023

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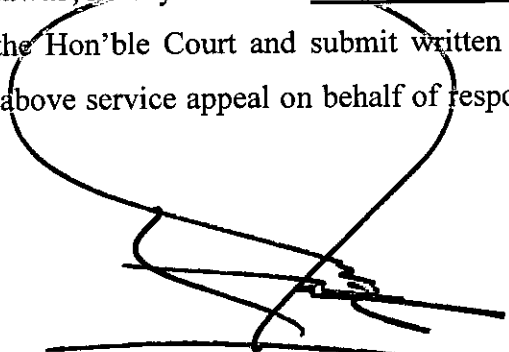
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AUTHORITY.

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.**



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

Telephone No. 091-9210641 Fax No. 091-9212597

ORDER.

On the recommendation of Khyber Pakhtunkhwa Public Service Commission Peshawar vide letter No. PSC-ASI-EXAM-94-2018/025195 dated 18-04-2022 duly approved by the Inspector General of Police Khyber Pakhtunkhwa Peshawar vide letter No. 900-07/E-III dated 13-05-2022, Mr. Umar Farooq was appointed as PASI vide this office notification No. 9830-35/EC-1, dated 24.05.2022, subject to Medical Fitness, verification of Antecedent and verification of documents/testimonials from the concerned Board/University under the relevant rules and prescribed manner.

Being involved in criminal cases i.e. Case FIR No. 97, dated 12.01.2020 u/s 382/387/506/427/143/149-PPC PS Bhan Mar. and Case FIR No. 102, dated 21.11.2019 u/s 143/149-PPC PS Bhan Mar. Mr. Umar Farooq is hereby removed from service with immediate effect.

Sd/-
(MUHAMMAD IJAZ KHAN) P.O
CAPITAL CITY POLICE OFFICER
PESHAWAR.

No. 23528-27/EC-1, date Peshawar 22/12/2022.

Copy of above is sent to for information & necessary action, please.

1. The Deputy Inspector General of Police (Qrs) Khyber Pakhtunkhwa Peshawar.
2. SSP/Operations, CCP, Peshawar.
3. SP/HQrs, CCP, Peshawar.
4. AIG/Legal, CCP, Peshawar.
5. DSP/Legal, CCP, Peshawar.
6. EC-II, P.O & AS.

[Handwritten Signature]
SSP/COORDINATION
FOR CAPITAL CITY POLICE, OFFICER
PESHAWAR.