## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1315/2023.

Muhammad	Tajdar,	Ex-constable	No.	1788,	FRP	HQrs;	Peshawar
	· · · · · · · · · · · · · · · · · · ·						Appellant.

## <u>VERSUS</u>

<b>Provincial</b>	Police	Officer,	Khyber	Pakhtunkhwa,	Peshawar	&
others					Responde	ents

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RESPONDENTS

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Khyber Pakhtukhw

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1315/2023.

Muhammad Tajdar, Ex-constable No. 1788, FRP HQrs; Peshawar Appellant.

## **VERSUS**

#### PARAWISE REPLY BY RESPONDENTS 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 and proper parties.
- 3. That the appellant has no cause of action and locus stand to file the instant appeal.
- 4. That the appellant has not come to this Honorable Tribunal with clean hands.
- 5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
- 6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

## **FACTS:-**

- Correct to the extent that the appellant was enlisted in police department as admitted. However, the rest of Para is incorrect as every police officer is obligated to perform his official duty with great zeal and zest.
- 2. Incorrect. The appellant being a member of Police Disciplined Force involved himself in a moral turpitude mature offence vide FIR No. 451, dated 19.06.20211 U/S 9C CNSA Police Station Gari Kapoora, District Mardan as there is 636 grams Charas were recovered from his possession and arrested from the spot by the local police of concerned Police Station.
- 3. Correct to the extent that the appellant being involved in the above criminal case was placed under suspension and closed to Line as per law/rules. He was issued Charge Sheet and Summary of Allegations and RI FRP HQrs; was nominated as Enquiry Officer to conduct enquiry into the matter.
- 4. Pertain to the record, needs no comment.
- 5. In fact the appellant was on the strength of FRP Unit and was working in City Traffic Police Peshawar on loan basis. Hence, the SP Traffic is not a competent authority to conduct enquiry against him. Therefore, the respondent No. 03 i.e Deputy Commandant FRP is being the competent authority has conducted proper departmental enquiry against him. The appellant was issued Charge Sheet alongwith Summary of Allegations and RI FRP HQrs; was nominated as

- Enquiry Officer. The appellant submitted his reply of Charge Sheet, which was found unsatisfactory by the Enquiry Office. (Copies of Charge Sheet and his reply are attached herewith as annexure "A & B").
- 6. Incorrect. The allegations are false and baseless. The appellant was fully associated with the enquiry proceedings and it is evident from Charge Sheet and his reply. Besides, the reply of Charge Sheet was submitted by the appellant before the Enquiry Officer itself. Moreover, the appellant is failed to approach for obtaining of copy of enquiry report. (Copy of enquiry report attached herewith as annexure "C").
- 7. Incorrect. Upon the findings of Enquiry Officer the appellant was issued/served with Final Show Cause Notice to which he replied, but his reply was found unsatisfactory. (Copies of Final Show Cause and his reply attached herewith as annexure "D & E").
- 8. Incorrect. Upon the reply of Final Show Cause Notice, the appellant was called in orderly room and heard in person, but he failed to present any justification before the competent authority regarding to his innocence. After fulfillment of all codal formalities, he was awarded major punishment of removal from service as per law/rules.
- 9. Incorrect. Departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds. The revision petition of the appellant was under processed, but in the meanwhile, he instituted the instant Service Appeal, hence, his revision petition has been returned by CPO. (Copy of CPO memo attached herewith as annexure "F").
- 10. Incorrect. The appellant has not come to this Honorable Tribunal with clean hands, hence this appeal being devoid of merits may kindly be dismissed on the following grounds.

## **GROUNDS:-**

- A. Incorrect. The orders passed by the respondents in the case of appellant are legally justified and in accordance to law/rules as the same were issued after fulfillment of all codal formalities.
- B. Incorrect. The allegations are false and baseless. As the appellant was fully associated with the enquiry proceedings and it is evident from the Charge Sheet, Final Show Cause Notice and his replies.
- C. Incorrect. A sufficient opportunity for defense in the shape of personal hearing was also provided to him, which he availed too, but he failed to produced any cogent reason before the competent authority to rebut the charges leveled against him.
- D. Incorrect. In fact, the appellant was dealt with proper departmental enquiry and the allegations leveled against him were fully established by the Enquiry Officer during the course of enquiry. Upon the recommendation of Enquiry Officer and

- other material available on record the appellant was awarded major punishment of removal from service as per law/rules.
- E. Incorrect. The respondents are not obligated to go with the contention of the appellant; in fact the criminal and departmental proceedings are two different initiates and can run side by side.
- F. Incorrect. The case mentioned by the appellant in the para is not at par with the case of the appellant.
- G. Incorrect. As mentioned above.
- H. Incorrect. The sufficient opportunity at every level of defense has already been provided to the appellant, but he failed to advance any cogent reason before the Enquiry Officer or before the competent authority.
- Incorrect. Besides, the involvement in criminal case the appellant had also been remained absent from lawful duty vide DD report No. 60, dated 02.07.2022 till the date of his removal from service for total period of 25 days without any leave or prior permission of the competent authority. Hence, his absence period has correctly treated as leave without pay. (Copy of DD report is attached herewith as annexure "G")
- J. The respondents may also be permitted to raise additional grounds at the time of arguments.

### PRAYERS:-

Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being devoid of merits may kindly be dismissed with costs please.

Deputy Commandant FRP,

Khyber Pakhtunkhwa, Peshawar

(Respondent No. 03)

Commandant FRP,

Khyber Pakhtunkhwa, Peshawar (Respondent No. 02)

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

(Respondent No. 01)

(4) 'ATTUR!

# CHARGE SHEET U/S 6 (1) (A) OF THE KHYBER PAKHTUNKHWA POLICE RULES 1975 AMENDED 2014.

As reported by Superintendent of Police, HQrs: City Traffic Police, Peshawar vide his office Order Endst: No. 528-32 / PA, dated 21.06.2022, that you Constable Tajdar No. 1788 of FRP HQrs: Peshawar are involved in Case F.l.R No. 451, dated 21.06.2022 U/S 9C-CNSA, Police Station Garhi Kapoora District Mardan.

You are hereby called upon to submit your written defense against the above charges before the Inquiry Officer.

Your reply should reach the Inquiry Officer within seven (07) days from date of receipt of this Charge Sheet, failing to which ex-parte action shall be taken against you.

Summary of allegations is enclosed.

(JEHANZEB KHAN BARKI) PSP

Deputy Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar.

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Attestand

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SUMMARY / STATEMENT OF ALLEGATIONS U/S 6 (1) (A) OF THE KHYBER PAKHTUNKHWA POLICE RULE 1975 AMENDED 2014.

As reported by Superintendent of Police, HQrs: City Traffic Police, Peshawar vide his office Order Endst: No. 528-32 / PA, dated 21.06.2022, that you Constable Tajdar No. 1788 of FRP HQrs: Peshawar are involved in Case F.I.R No. 451, dated 21.06.2022, U/S 9C-CNSA, Police Station Garhi Kapoora District Mardan, ceased to be Efficient within the meaning of the Khyber Pakhtunkhwa Police Rules 1975 amended 2014

2014.

The act falls within the purview of misconduct as contained u/s 2 (iii) of the Khyber Pakhtunkhwa, Police Rule 1975, amended 2014.

(JEHANZEB KHAN BARKI) PSP

Deputy Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar.

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(6) (B 5) 13/2 15 0, 20 23 00 651-53, 02 dob 5/40 be pt / 5/40 bes سائل كئيت بها ولقب ورس و كنيات و اورزائص و تي المان المساقة الأو الوراط الوران الم ويم على الحراد الوران الم ويم على الحراد الوراط الوران الم ويم على الم 550 miniminal c/2 c/2 splend 19 32 19 32 - 36 12 - 36 و الله و عن مان من ساكي مزوره كوكن في وزكر الدرران عوا . لي در بسرف الذه رود لد برسيارى رود بركوكون المسرى طري في سي ساكة مريرة مَعُولًا لِمَا الْمُ الْمُراسِينَ فَالْمَا وَ الْمُراسِينَ فَالْمَا الْمُرْسِينَ فَوْرُنَا عامع مر دورُسائے لاکررہ تحق ق درخاست برردی - درارہ ق درسائی س اترخ سی ار کوک باری کو رکھتے سی دونو استی می والی کی درکھتے سی دی آیا على المراق وق كوا مط - أم الرسان درست من الدي تو تارك الرساك الرسان المراق وقت الرياك الرساك المراق كان وه الرورا) كا ما أنه ركا تحر وراحر و لاسار الو كوربرس وكن إلى الم رز رود و عال الغ مير قرس رًا و الحر قرما روي ع كل . كن سن صلا كوم كبوره ها مع معامل كى بابت لدر تيا نمارت معي الله できんがよびとうが近くいいというないにはられているこうしんだけん 3 6 25 5 viel e cu. P. Es C x i line y Des m & Most المراجية على مرفره أما الرسير صدة كوفي الزال من مسرم 2005000 Lists John willed by Son Atesten 5/ 7)

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# انگوائری رپورٹ

جناب عالى!

بحواله مشموله انکوائری کاغذات برخلاف کنسٹیل تاجدار بلٹ نمبر FRP/HQrs 1788 پیثاور مغروض خدمت ہوں کہ مذکورہ کنسٹیل جو کہ بحوالہ مقد مدعلت نمبر 451 بجرم 9C-CNSA مورخہ 2022-20-20 کو تھا نہ گڑھی کپورہ ضلع مردان میں نامزد ہو چکا ہے۔ جس پر جناب ڈپٹی کما نڈن صاحب FRP/KP پیثاور نے مذکورہ کو بحوالہ آرڈر نمبری 1046-49/PA مورخہ 2022-20-20 پر معطل لائن کر کے ساتھ ہی بحوالہ آرڈر نمبری 1050/PA مورخہ 2022-20-202 پر چارج وسمری آف الیکیشن جاری کرکے کاغذات برائے انکوائری من RI FRP/HQrs پیثاور کو مارک کرکے حوالہ ہوئے۔ دوران انکوائری مذکورہ کشلیل پر حسب ضابطہ چارج شیٹ وسمری آف الیکیشن تقسیم کی گئے۔ جو کہ مذکورہ نے بذات خودہ صول کر سے کو بری بیان پیش کیا جس کا خلاصہ ذیل ہے۔

خلاصه بيان كمشيل تاجدار نمبر 1788:

پراگرس ر پورث C10 تھانہ گڑھی کپورہ ضلع مردان:

جناب عالى!

مورخہ 2022-19-06 کو بوقت 13:50 بجہ شیرمجم خان AS تھا نہ گڑھی کورہ نے بہقام ایراب غاڑہ نزونوا دباچہ پڑول بہب محم تاجد ارملزم بالا بمعدایک دوسر اشخص جودونوں موٹرسائیکلوں پر علیحدہ علیحدہ موجود تھے اورا کیک دوسر سے کے ساتھ گپ شپ میں مھردف تھے۔ جنہوں نے پولیس پارٹی کود کھر کر ایک موٹرسائیکل پر دواشخاص فرار ہونے میں کا میاب ہوئے۔ جبکہ دوسر اموٹرسائیکل سوار شخص کو قابو میں کر کے موٹرسائیکل سے نیچا تارکر مذکورہ شخص کی جامہ تاثی لینے پر انڈرویئر سے زرد کا ٹن ٹیپ میں لیٹی ہوئی ایک پیک چرس برآمد ہوئی۔ جووزن کرنے پر 640 گرام نگل شخص عاضرہ نے دریافت پر اپنانام مجمد تاجدار ولد شہر یار مذکورہ بالا بتلا کر برآمد شدہ چرس اورائسکی ملکیتی موٹرسائیکل نمبر ۴۹۵ کی پیشاور ازقتم یونا یکٹر کورو کے فرد قبضہ پولیس میں کر کے دوران انٹاروگیشن مجمد تاجدار نے انکشاف کیا کہ وہ چرس شیر زمان ٹیلر ولد نامعلوم سکنہ شاہ کس پیثاور سے لاکر ایک شخص نامعلوم جس کا موبا ئیل نمبر دوران انٹاروگیشن محمد تاجدار نے انکشاف کیا کہ وہ چرس شیر زمان ٹیلر ولد نامعلوم سکنہ شاہ کس پیثاور سے لاکر ایک شخص نامعلوم جس کا موبا ئیل نمبر فاکھنڈ مگر تاجدارعدالت سے متانت پر دہا ہوچکا ہے۔ دیورٹ عرض ہے۔ فاکھنڈ مگر دوران :

جناب عالى!

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ر س ) کر دان میں نامزد ہو چکا ہے۔ جس پر جناب ڈپٹی کمانڈنٹ صاحب FRP/KP پٹاورنے مذکورہ کو بحوالہ آرڈر نمبری 49/PA-1046مورز کا جائے ہوئی کیانڈنٹ صاحب FRP/KP پٹاورنے مذکورہ کو بحوالہ آرڈر نمبری 49/PA-1046 مورز 222-06-2022 يرمعطل لائن كركے ساتھ ہى بحوالد آرڈ رنمبرى 1050/PA مورخہ 2022-06-22 يرجارج وسمرى آف اليكيشن جارى كركے كاغذات برائے انگوائری من RI FRP/HQrs پیثاورکو مارک کر کے حوالہ ہوئے۔ دوران انگوائری مٰدکورہ کنشیبل پرحسب ضابطہ چارج شیٹ وسمری آف الیکیشن تقسیم کی گئی۔جو کہ مذکورہ نے بذات خود وصول کر کے تحریری بیان پیش کیا جس کا خلاصہ انکوائری رپورٹ میں مفصل درج ہے۔اندریں سلسلہ تھانہ گڑھی کپورہ ضلع

کہ مور ند 2022-06-19 کو بوقت 13:50 بچہ شیر محمد خان AS تھا نہ گڑھی کپورہ نے بمقام ایراب غاڑ ہز دفواد باچہ پٹرول پیپ محمد تاجدار ملزم بالا بمعهایک دوسرا شخص جود دنوں موٹرسائیکلوں پرعلیحدہ علیحدہ موجود تتھا درایک دوسرے کے ساتھ گپشپ میں مصروف تتھ۔جنہوں نے پولیس پارٹی کود کیھکر ا کیے موٹر سائیل پر دواشخاص فرار ہونے میں کا میاب ہوئے۔ جبکہ دوسرا موٹر سائیل سوارشخص کو قابو میں کرکے موٹر سائیل سے بنیجے اُ تار کر مذکورہ شخص کی جامہ تلاثی لینے پرانڈرویئرے زردکاٹن ٹیپ میں لیٹی ہوئی ایک پیک چرس برآمد ہوئی۔جووزن کرنے پر 640 گرام نکلی شخص حاضرہ نے دریافت پراپنا نام محمد تا جدار ولدشہریار مذکورہ بالا بتلا کر برآ مدشدہ چرس اوراُسکی ملکیتی موٹرسائیکل نمبر FP2017 پٹاورازقتم یونا پیٹٹر 70CC بروئے فرد قبضہ پولیس میں کرکے دوران انٹاروگیشن محمد تاجدار نے انکشاف کیا کہ وہ چرس شیر زمان ٹیلر ولد نامعلوم سکنہ شاہ کس پیثاور سے لاکر ایک شخص نامعلوم جس کا موبائیل نمبر 0317-6151305 كيليح مروان لاتا ہے۔مقدمہ میں مزید شعبیش جاری ہے۔ملزم محمر تا جدارعدالت سے ضانت پر رہا ہو چکا ہے۔

جملہ حالات واقعات سے ثابت ہوتا ہے کہ مذکورہ نے انکشاف کیا ہے کہ وہ چرس ٹیلر شیر زمان ولد نامعلوم سکنہ شاہ کس پشاور سے لا کرا کیشخص نامعلوم جس کا موبائیل نمبر 6151305-0317 کیلئے مردان لاتا ہے اور مذکورہ عدالت سے صانت پر رہا ہو چکا ہے اور مزید تفشیش جاری ہے۔ مذکورہ کنشلیل کو ہدایت ہوئی کہ عدالت سے تصدیق شدہ صانت نامہ ارہائی آرڈ ربسلسلہ انکوائری کے جلداز جلد پیش کریں لیکن احذیذکورہ نے ابھی تک تحریری بیان کے علاوہ کسی قتم کی کوئی عدالتی کاغذات وغیرہ من انکوائری افسر کو پیش نہیں کیا۔ اس کے علاوہ مذکورہ کنٹیبل سٹی ٹریفک پولیس بشاور سے بحوالہ مد 60 روزنا محیہ 02-07-2022 تا حال بدستورغير حاضر چلا آر ہاہے۔

لہذا یکطرفه انکوائری مرتب ہوکر ملاحظہ گزارش ہے دیگر تھم افسران بالاصاحبان کا افضل ہے۔ ریورٹ گزارش ہے۔

ايف آريي ميڙ کوار فرز

Final Show Course notice

مردان CIO سے براگرس رپورٹ طلب کیا جس میں CIO صاحب نے تحریر کیا ہے۔

# FINAL SHOW CAUSE NOTICE UNDER THE KHYBER PAKHTUNKHWA (8) POLICE RULES 1975, AMENDED 2014.

I. Jehan Zeb Khan Barki, PSP Deputy Commandant FRP Khyber Pakhtunkhwa being competent authority do hereby serve this Final Show Cause Notice to you Constable Tajdar No. 1788 of FRP / FRP HQrs: Peshawar.

That, as reported by Superintendent of Police, HQrs: City Traffic Police, Peshawar vide his office Order Endst: No. 528-32 / PA, dated 21.06.2022, that Constable Tajdar No. 1788 of FRP HQrs: Peshawar is involved in Case F.I.R No. 451, dated 21.06.2022, U/S 9C-CNSA, Police Station Garhi Kapoora District Mardan. Besides, you also absented yourself w.e.f 02.07.2022. In this connection an inquiry was entrusted to R.I. F.R.P. HQrs: Peshawar.

That consequent upon the completion of inquiry conducted against you by R.I. F.R.P. HQrs: Peshawar for which you were given full opportunity of hearing but your reply to the Charge Sheet / statement of allegation was found unsatisfactory, hence the 1.0 recommended you for suitable punishment.

On going through the findings / recommendations of the Inquiry Officer as well as other material available on record and other connected papers, I am satisfied that you iii. have committed the above acts / omissions which is against the Khyber Pakhtunkhwa Police Rules 1975, amended 2014.

Therefore, I Jehan Zeb Khan Barki, PSP Deputy Commandant, FRP, Khyber Pakhtunkhwa being competent authority have tentatively decided to impose upon (2)you Major / Minor penalty including dismissal from service under the said Rules.

You are, therefore, required to Show Cause to this final notice as to why not the aforesaid penalty should be imposed upon you.

If no reply to this Final Show Cause Notice is received within (07) seven days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and consequently ex-parte action shall be taken against you.

(JEHANZEB KHAN BARKI) PSP

Deputy Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar.

67 12022 PA, dated 07

0 prillet fin 2002 6: 0396. 5656627 Mob: 0396.5656427

CNIC = 17/61-6337039.7

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2 = 7 -58 in 60 1 de Jishor 2 7 30 = 7,30 in what will be المار هوا العراب المارين المارية المار رسى مارا ئالى دى تا منائى كى تىلىدائى ئىزىلالى كولۇغانى دىلالىدىنى مرا عالى: Fc نامداره ۱۷۵۸ جر ایم سی نونی پولی ل رسي أن لون لفيّنات هي بحرال مثير وبلت 13 8) gr (p) 1/2 9 cNSA (P. 196/2000) فردان س فلام في ميممر دلس كاس after for in 1-e for in his fish = 2 I Ein 60 N (51/3/2 19) كا كال فالمور المناولية عن المورد عمون و



# OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKIITUNKHWA Central Police Office, Peshawar.

No. 8/ 2353

/23, dated Peshawar the 19/ 09 /2023.

To

The

Deputy Commandant,

Frontier Reserve Police,

Khyber Pakhtunkhwa, Peshawar.

Subject:

REVISION PETITION.

Memo:

Please refer to your office Memo: No. 7521/SFLegal, dated 14.09.2022.

The Service Roll and D.file (in-original) of Ex-FC Muhammad Tajdar No.

1788 received vide above quoted reference, is returned herewith for your office record.

please.

Enel: Service Record D. File

(C Secret Branch) For Registrar,

Attested

For Inspector General of Police. Khyber Pakhtunkhwa, Peshawar,

E'Scoret Branch 202 6t euro Letters Auf

(14)

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1315/2023.

Muhammad Tajdar, Ex-constable No. 1788, FRP HQrs; Peshawar Appellant.

## **VERSUS**

## **AFFIDAVIT**

We respondents No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of our knowledge and belief that nothing has been concealed from this Honorable Court.

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/costs.

Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar (Respondent No. 03)

Commandant FRP, Khyber Pakhtunkhwa, Peshawar (Respondent No. 02)

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. (Respondent No. 01)

ATTESTED

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1315/2023.

## **VERSUS**

## **AUTHORITY LETTER**

Respectfully Sheweth:-

We respondents No. 1 to 3 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs; to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.

**Deputy Commandant FRP,** Khyber Pakhtunkhwa, Peshawar

(Respondent No. 03)

Commandant FRP,

Khyber Pakhtunkhwa, Peshawar

(Respondent No. 02)

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. (Respondent No. Q1)