

30.05.2023

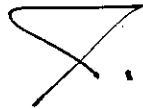
Clerk of learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 30.08.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
K.P.S.T
Peshawar

Naeem Amin


(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

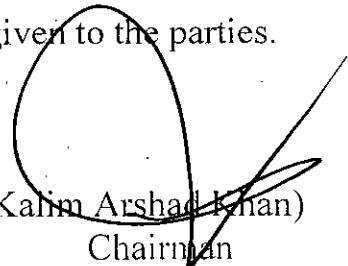
30th August, 2023

1. Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for official respondents present.
2. Learned counsel for the appellant sought further time for preparation of arguments. Adjourned. To come up for arguments on 08.12.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
K.P.S.T
Peshawar

Naeem Amin


(Salah-ud-Din)
Member (Judicial)

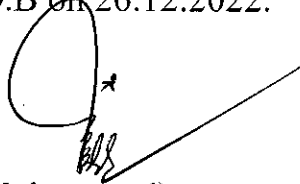

(Kalim Arshad Khan)
Chairman

02.11.2022

Nemo for the appellant. Mr. Muhammad Jan, District Attorney for the respondents present.

Counsel was informed telephonically on 13/12/2022

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for arguments before the D.B on 26.12.2022.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

26.12.2022

Due to winter vacation, the case is adjourned to 29.03.2023 before the same.



Reader

29th Mar, 2023



Clerk of learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Clerk of learned counsel for the appellant seeks adjournment on the ground that learned counsel is not available today. Last chance is given to the appellant to argue the case on the next date. To come up for arguments on 30.05.2023 before D.B. P.P given to the parties.



(Salah Ud Din)
Member (Judicial)



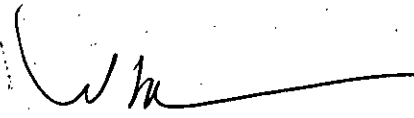
(Kalim Arshad Khan)
Chairman

SCANNED
POSTMASTER

20.01.2022

Clerk to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for respondents present.

Reply/comments on behalf of respondent are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 25.05.2022.



(Atiq-Ur-Rehman Wazir)
Member (E)

25th May, 2022

Learned counsel for the appellant present. Mr. Muhammad Rashid, Deputy District Attorney alongwith Muhammad Raziq (H.C) for respondents present.

Representative of the respondents submitted written reply/comments which is placed on file. A copy of the same is handed over to the learned counsel for the appellant. To come up for arguments on 10.08.2022 before D.B.



(Fareeha Paul)
Member(E)



(Kalim Arshad Khan)
Chairman

10-8-2022

Proper DB not available the case
is adjourned to 2-11-2022



Reader

14.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 25.10.2021 before the D.B.


Chairman

25.10.2021

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Appellant Deposited
Security & Process Fee

Learned counsel for the appellant submitted an application for extension of time to submit security and process fee. Application is allowed and he is directed to deposit the same within three days, thereafter notices be issued to the respondents for submission of written reply/comments. To come up for written reply/arguments before the D.B on 20.01.2022.




(MIAN MUHAMMAD)
MEMBER (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4950 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/04/2021 27/05/21	<p>The appeal of Muhammad Riaz resubmitted today by Mr. Ibrar Khan Afridi, Advocate , may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on 14/06/21</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Muhammad Riaz son of Rehman Zada r/o Mohallah Ghazi Khel P.O Sama Badaber Peshawar received today i.e. on 15/04/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of respondent no. 5 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.

No. 730 /S.T,

Dt. 16/04 /2021



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Ibrar Khan Afridi Adv. Pesh.

~~Resubmitted~~

- Respected Sir -
- 1) That Respondent No 5 has been removed from appeal being unnecessary party.
 - 2) That the above mentioned document has not been provided to the appellant, while the necessary documents have already been attached with the instant appeal. For reference Ground "C" is important.
 - 3) All the annexures are attested

Sir resubmitted after necessary completion


22-04-21

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 4950 /2021

Muhammad Riaz. **APPELLANT**

VERSUS

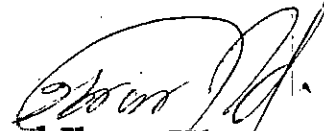
Inspector General of Police & others. **RESPONDENTS**

I N D E X

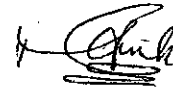
S.#	Description of Documents	Annex	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of the Parties		8
4.	Copy of CNIC	A	9
5.	Copies of FIR	B	10
6.	Copy of Bail Granting Order	C	11-12
7.	Copy of Impugned Order dated 29.12.2020	D	13
8.	Copy of Departmental Appeal dated 09.02.2021	E	14-15
9.	Copy of Impugned Order dated 18.03.2021	F	16
10.	Wakalatnama		17

Appellant

Through

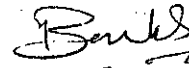


Muhammad Ibrar Khan Afridi



Manik Shah

&



Bakhtiar Muhammad

Advocates High Court,
Peshawar

Dated: 08.04.2021



Malik Musa Shah Jehan ADV

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2021

Muhammad Riaz S/o Rehman Zada R/o Mohallah Ghazi
Khel, P.O Sama Badaber, Tehsil Hassan Khel, District
Peshawar. **APPELLANT**

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa
Police Lines, Peshawar.
2. Capital City Police Officer, Khyber Pakhtunkhwa
Police Lines, Peshawar.
3. SP/Saddar, Peshawar.
4. SDPO, Saddar, Peshawar.
5. OSI, Pay Office, CRRC/FMC, Peshawar.

.....**RESPONDENTS**

**SERVICE APPEAL U/S 4 OF THE SERVICE
TRIBUNAL ACT, 1974, AGAINST THE
IMPUGNED ORDER DATED 18.03.2021,
VIDE WHICH THE DEPARTMENTAL APPEAL
OF THE APPELLANT WAS DISMISSED AND
AGAINST THE ORDER DATED 29.12.2020,
VIDE WHICH THE APPELLANT WAS
DISMISSED FROM SERVICE.**

PRAYER IN APPEAL:

On acceptance of this appeal, the impugned orders dated 18.03.2021 and 29.12.2020 may please be set aside and the appellant may please be re-instated in his service with all back benefits and consequential benefits.

Respectfully Sheweth:

The appellant very humbly submits as under:

1. That the appellant is permanent resident of Tehsil Hassan Khel, District Peshawar and law abiding citizen of Pakistan. (Copy of CNIC is attached as annexure "A").
2. That initially the appellant was appointed as Sepoy in Khasadar Force in the year 2014.
3. That after merger of FR Peshawar into Sub-Tehsil Hassan Khel, District Peshawar, the services of the appellant were converted to Police Department.
4. That since his appointment, the appellant performed his duties efficiently upto the mark of his high-ups.

5. That a fake and concocted case was registered i.e. case FIR No.552, dated 25.09.2019, u/s 302/364 P.P.C of Police Station Mattani, in which the appellant was not charged by name, while the complainant malafidely and with connivance of local police charged the appellant and three other persons in his 164 Cr.P.C statement and it is to be noted that the appellant is on bail and the case is pending adjudication before the competent court of law. (Copies of FIR and Bail Order are attached as annexure "B" & "C" respectively).
6. That on the basis of above FIR, a departmental inquiry was initiated against the appellant.
7. That after conducting the departmental inquiry, the Inquiry Officer recommended that the inquiry may be kept pending till the decision of the court.
8. That, thereafter, the respondents issued final show cause notice, which was never received to the appellant and without following the codal formalities, issued impugned order dated 29.12.2020, vide which major penalty of dismissal

from service was imposed upon appellant. (Copy of Impugned Order dated 29.12.2020 is attached as annexure "D").

9. That the appellant moved departmental appeal dated 09.02.2021, which was dismissed vide order dated 18.03.2021 (copies attached as annexure "E" & "F"), hence the present appeal, on the following grounds, inter-alia:-

GROUND S:

- A. That the order of the respondents is illegal, against law and against the facts of the case, hence the same is liable to be set aside.
- B. That no illegality whatsoever committed by the appellant nor any violation of law and procedure was committed, hence the allegations are not sustainable in the eyes of law.
- C. That the allegations so leveled are doubtful upon which proceedings were initiated as no one was associated the inquiry, no aggrieved person was examined, hence the same is not tenable in the eyes of law. Furthermore, the appellant has not been given any opportunity for personal hearing and similarly no show cause notice and charge sheet has been served upon the appellant.

- D. That the allegations so mentioned and the recorded findings have no consequential or penal implications and the appellant cannot be made/held responsible for any omissions.
- E. That the allegations leveled against the appellant and their findings which are totally irrelevant as the Inquiry Officer after completion of inquiry proceedings recommended that the inquiry may be kept pending till the decision of the court.
- F. That the past record of the appellant is clean, transparent, satisfactory and was never charged for minor omissions, hence cannot be held liable.
- G. That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is, therefore, humbly prayed that, on acceptance of this appeal, the impugned orders dated 18.03.2021 and 29.12.2020 may please be set aside and the appellant may please be re-instated in his service with all back benefits and consequential benefits.

Any other relief, which deems fit appropriate in
favour of appellant may also be granted.

Riaz

Appellant

Through



Muhammad Ibrar Khan Afridi



Manik Shah

&



Bakhtiar Muhammad
Advocates High Court,
Peshawar

Dated: 08.04.2021

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2021

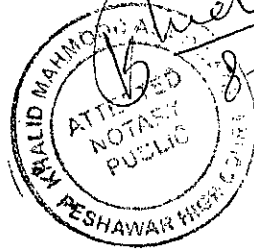
Muhammad Riaz. **APPELLANT**

VERSUS

Inspector General of Police & others. **RESPONDENTS**

AFFIDAVIT

I, Muhammad Riaz S/o Rehman Zada R/o Mohallah Ghazi Khel, P.O Sama Badaber, Tehsil Hassan Khel, District Peshawar, do hereby solemnly affirm and declare on oath, that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Riaz
DEPONENT

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2021

Muhammad Riaz. **APPELLANT**

VERSUS

Inspector General of Police & others. **RESPONDENTS**

ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Riaz S/o Rehman Zada R/o Mohallah Ghazi Khel, P.O Sama Badaber, Tehsil Hassan Khel, District Peshawar.

RESPONDENTS:

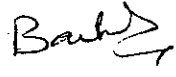
1. Inspector General of Police, Khyber Pakhtunkhwa Police Lines, Peshawar.
2. Capital City Police Officer, Khyber Pakhtunkhwa Police Lines, Peshawar.
3. SP/Saddar, Peshawar.
4. SDPO, Saddar, Peshawar.
5. OSI/Pay Officer CRC/FMC, Peshawar.

Appellant
Through


Muhammad Ibrar Khan Afridi


Manik Shah

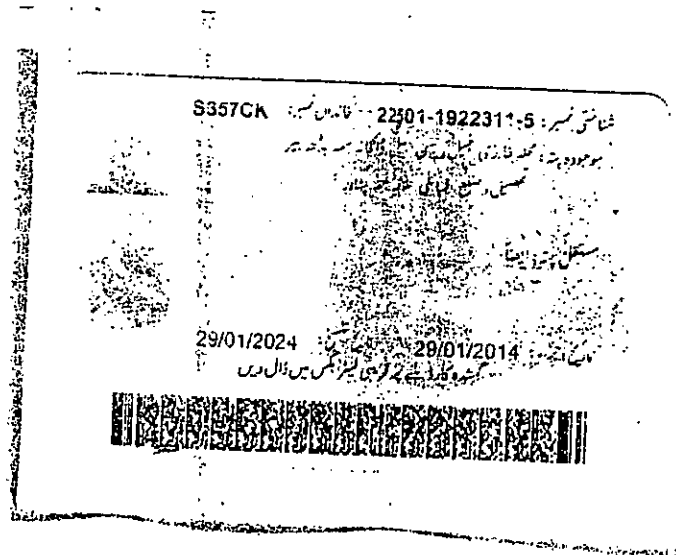
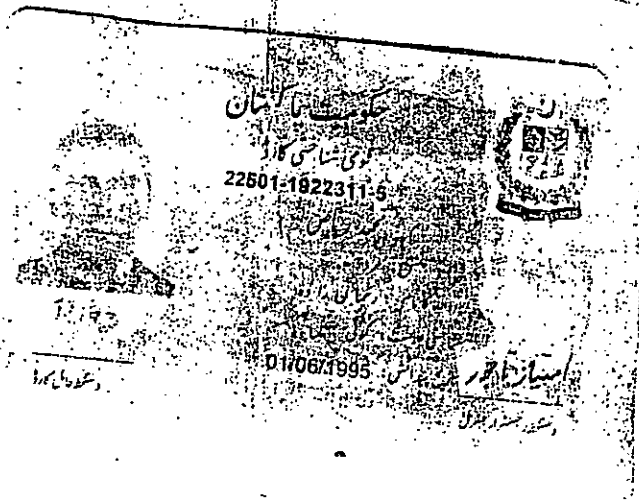
&


Bakhtiar Muhammad
Advocates High Court,
Peshawar

Dated: 08.04.2021

(9)

Annex "A"



ابتدائی اطلاعی رپورٹ

کاؤنٹر فائل

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجموعہ ضابطہ نو جداری

نمبر	تھانہ	تھانہ ضمنی	ضلع
2	لاہور	لاہور	پشاور
1	تاریخ و وقت رپورٹ	تاریخ	تاریخ
2	نام و سکونت اطلاع دہندہ	تاریخ	تاریخ
3	مختصر کیفیت جرم (مدد دفعہ) حال اگر کچھ لیا گیا ہو۔	تاریخ	تاریخ
4	جائے وقوعہ فاصلہ تھانہ سے اور دست	تاریخ	تاریخ
5	نام و سکونت ملزم	تاریخ	تاریخ
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں آؤف ہوا تو وجہ بیان کرنا	تاریخ	تاریخ
7	تھانہ سے روانگی کی تاریخ و وقت	تاریخ	تاریخ

ابتدائی اطلاع نیچے درج کرو۔ بطور پینٹل رپورٹ

تفتیش صدر جہانگیر خان نے والدین کی قتل کی

بعض اہم احوال کے اندر لید میں قتل کی سبب سے متعلق معلومات فراہم کی ہیں۔

پیشگی جوڑی کے تحت صاحب SHC صاحب تھانہ قن صاحب عالی گزارش کیجائی بھیکہ والہ ام کے 11 کو تھانہ

09:00 بجے کو فون آیا اور تھانہ سے والد ام کے نکال گیا شام کو والدین نے آبا جکی تلاش و لہ بڑی رشتہ

دریان جاری رکھا جوڑی کے 12 کو تلاش کے دوران تین خدایا صاحبیل گیا والد ام رتھان شاہ کی لفظ

دیگیا صاحب پر تشدد کر کے قتل کیا گیا تھا قتل کے واقعہ کی تلاش بھی جاری رکھا معلوم ہوا کہ والد ام

کو جسمی و عیب لوزار والہ محمد لوزار سانی خد رتھ بید کے قتل کیا گئے ہیں باقی بر ملا ام کے خندان نے

بات چیت شروع کرنے سے پہلے و صید لوزار کو دس لاکھ روپے قوم نے جہانگیر خان صاحب سے

پا لاکھ روپے بطور امداد ہے جو والد ام سنی جی سے PA نے اور کو بھی روخواست دی تھی

لیکن PA نے اور بھی بتایا کہ قتل علامہ تھانہ قن کی ضرورت تھی بنو ایہ آپ نے بھی ابھی رو

والین کی اس وقت سے بھی کیوں سے ہم نے رپورٹ نہیں کی جیسا والد ام کے قتل کرنے کے بعد

و صید لوزار کو پیار یوں آپ کا قانونی کارروائی کیلئے روخواست دینا ہے تمہاری جہاد فرمائی جاوے

جہاں باقی ہے تھانہ اہلیت ضمنی حال لوزار جوڑی کے 19-25 کا روائی تھانہ پشاور روخواست لوسا

افسار بار اہل صاحبان لفظ کا روائی محمد شید خان 19-25 کو فائر ہو کر صے اندر بارہ سالو

را بنیائی کی لفظ LPP صاحب سے رجوع کر کے سید DPP صاحب ان ورے باجیادہ صحت

گرتی تھی عدالت کی جو کہ افسان بالا صاحبان کسانہ دستک کر کے حالات واقعات اور عدالت روخواست

سے صورت جرم PPC 302-364 یا صاحب بظراف خلد م بالا مقدمہ رج رتھان لوزار لوزار

لفظ ضمنی تفتیش تھانہ محمد شید خان اور لوزار کے جوڑے کے قتل کے واقعہ کوئی ضمنی نہ لکھ لیا گیا ہے

پرجہ بطور پینٹل رپورٹ گزارش کیے

9 مہینہ ط

25-19

Asiatic PP Pasau

FIR میں محمد ربان کاناغہ کی پیش FIR میں جس کا نام لگاوا صید لوزار

اس کی معاون کو رو رتھان لوزار لوزار

(11) Annex 'C'

IN THE COURT OF MS ZEB A RASHEED

Additional Sessions Judge-XIV, Peshawar

Bail application

FIR No.552, dated 25/09/2019, U/S 302/364 PPC, Police Station Matani
Peshawar

Yasir & others ... VS... The State

Order.....04

09/10/2019

1. Mr. Muhammad Ibrar Afridi Advocate for accused/petitioners; Mr. Sajeed Khan counsel for complainant and Miss Huma, APP for the State present.

2. Accused/petitioners namely Yasir, Luqman, Riaz and Hassan Jan seek post arrest bail in case FIR No.552, dated 25/09/2019, U/S 302/364 PPC, Police Station Matani Peshawar.

3. Facts in brief of the case are that on 23/04/2019 the complainant Khalid Gul reported the matter to the local police to the effect that on 11/05/2018 hours at 09:00 hours his father Rehman Shah received a telephonic call and he left his house but till evening he did not come back. The complainant and his relatives searched him

and on 12/05/2018 his dead body was found at Aza Khel, which was severely tortured. They were in search of the culprits and came to know that accused Waheed Nawaz S/O Muhammad Nawaz R/O Badhber Peshawar has committed the offence. Through the intervention of elders of locality the accused was fined of Rs.10,00,000/- out of which Rs.400,000/- were paid to the legal heirs of deceased. The complainant had also filed an application before PA/FR Peshawar who informed the complainant that the occurrence took place in the criminal jurisdiction of Police Station Matani. Hence, the complainant lodged the report and the instant FIR got registered.

Sajid
3A RASHEED
Additional Sessions Judge
Peshawar


4. After hearing the parties at some length, I have gone through record on file.

5. Perusal of the record on file reveals that accused/petitioners are not directly charged in the FIR. The occurrence took place on 11/05/2018, while the FIR was lodged on 23/04/2019. The complainant recorded his statement u/s 164 Cr.P.C on 28/09/2019 wherein he charged the present accused/petitioners and stated that the accused Waheed Nawaz during interrogation has named the accused/petitioners for commission of offence. Motive is not stated in the report of complainant. The post-mortem report of deceased is not available on file. Allegedly the deceased had left the house after attending phone call but his CDR is not available on file. Thus, the case in hand is one of further inquiry and investigation. The accused/petitioners have remained in police custody however they have not confessed their guilt and as such they are no more required for further investigation; hence, it would serve no good purpose to keep the accused/petitioners behind the bars for an indefinite period of time.

6. Resultantly, application in hand is accepted subject to furnishing of bail bonds in the sum of Rs.100,000/- (one lac rupees) each with two local and reliable sureties each in the like amount to the satisfaction of this court. Record be returned.

7. Moharrir is directed to annex the copy of this order with judicial and police records, however, this file be consigned to record room after its completion and compilation.

Announced
09/10/2019


MS ZEB A RASHEED,
Additional Sessions Judge-XIV,
MS ZEB A RASHEED Peshawar
Additional Sessions Judge XIV
Peshawar

OFFICE OF THE
SUPERINTENDENT OF POLICE,
SADDAR, CCP, PESHAWAR

(13)

Annex 'D'


NO. C3/E /PA

DATE: 29-12 /2020

ORDER

Ex-Levy Muhammad Riaz CNIC No. 22501-78640074-9 of PS Hassan Khel involved in case vide FIR No. 552 dated 23.04.2019 u/s 302/364 PPC PS Mattani is hereby dismissed from service after proper departmental proceedings under E & D Rules 1975 amended with 2014.

Order announced.


Superintendent of Police, Saddar Division
CCP Peshawar.

OB. No. 3550 dated 29/12/2020

Copy of above is forwarded for information and necessary action to:

1. The Capital City Police Officer, Peshawar
2. The Senior Superintendent of Police Operations CCP Peshawar.
3. EC-I, EC-II, CC, AS, PO & OS.
4. FMC along-with enquiry file for record.
5. I/C Computer Cell, CCP, Peshawar.
6. All concerned.

To

14

Anex "E"

The Worthy,

Capital City Police Officer,
Peshawar.

Subject: Departmental Appeal against
the Order dated 29-12-20

Respected Sir,

The undersigned submits as under.

- 1) That the applicant is permanent resident of Sub Tehsil Hassan Khel District Peshawar and law abiding citizen of Pakistan.
- 2) That initially the applicant was appointed as Sepoy Force in the year 2014.
- 3) That after merger of F.R Peshawar into Sub Tehsil Hassan Khel Dist, Peshawar, the Services of the applicant were converted to Police Department.
- 4) That a fake and concocted case was registered i.e FIA No 552 dated 25-09-2019 U/S 302, 364 PPC of P.S Matani in which the applicant was not charged by name, while the complainant malafidely and with connoyance of local Police charged the applicant and three other persons in his 164 Statement and the applicant is on bail from the competent Court of law, and the case is pending adjudication before Competent Court.

of law.

- 5) That the applicant is innocent ⁽¹⁵⁾ and has no nexus with the said case.
- 6) That the applicant performed his duty with due diligence and according to satisfaction of his high ups.
- 7) That the impugned order dated 29-12-20 is illegal, unlawful and against the law and rules.
- 8) That no prior notice nor inquiry has been conducted in the case of applicant.
- 9) That no proper procedure was adopted in the case of applicant i.e order dated 29-12-20 is without due course of law.
- 10) That it is pertinent to mention here that applicant is seriously ill with chronic disease of liver.
(medical certificates unenclosed)

It is therefore requested that the applicant may please be reinstated with all back benefits and the order dated 29-12-20 may please be cancelled.

Applicant.

Riaz

Date: 09-02-2021

Muhammad Riaz s/o Rehman Zada
Sub Division Hassan Khel
CNIC: 22501-1922311-5
Phone: 0346-5994470



OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR

Phone No. 091-9210989
Fax No. 091-9212597

"F"
Aned

16

ORDER

This order will dispose of departmental appeal preferred by Ex-Levy Muhammad Riaz who was awarded the major punishment of "Dismissal from Service" under PR-1975 by SP/Saddar Peshawar vide OB No.3550, dated 29-12-2020.

2- He while posted in Police Station Hassan Khel Peshawar was proceeded against departmentally on the charges of his involvement in a criminal case vide FIR No.552, dated 23-04-2019 u/s 302/364/PPC PS Mattani Peshawar.

3- He was issued proper Charge Sheet and Summary of Allegations by SP/Saddar Peshawar and SDPO Saddar Peshawar was appointed as enquiry officer to scrutinize the conduct of the accused official. The enquiry officer after completion of enquiry proceedings recommended that the enquiry may be kept pending till the decision of the court. The competent authority while disagreeing with the findings of Enquiry Officer and issued him Final Show Cause Notice to which his reply was also found unsatisfactory. Hence he was awarded the above major punishment.




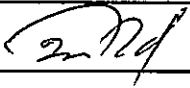
4- He was heard in person in O.R. and the relevant record along with his explanation perused. IO of the case was also summoned to this office alongwith case file. The IO has stated that although the accused official has not been directly charged in the criminal case but later on nominated by the arrested accused and challaned to the court of law. Moreover, there are no evidence or eye witnesses to show his innocence in the case. Therefore his appeal for setting aside the punishment awarded to him by SP/Saddar Peshawar vide OB No.3550, dated 29-12-2020 is hereby **rejected/filed**.


(ABBAS AHSAN) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 878-84 /PA dated Peshawar the 18/03-2021

Copies for information and n/a to the:-

1. SP/Saddar Peshawar
2. SDPO Saddar.
3. OSI/ Pay Officer/ CRC/FMC
4. Official concerned.

قیمت 50 روپے	82627	  
ایڈوکیٹ: 		
بار کونسل/ایسوسی ایشن نمبر: 11-1235-ط		پشاور بار ایسوسی ایشن، خیبر پختونخواہ
رابطہ نمبر: 9589150-0332		

بعدالت جناب:  سروس ٹریسٹریٹس

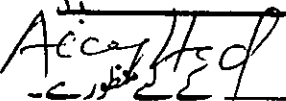
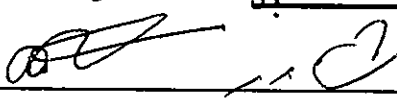

مخانب: ایڈووکیٹ	دعویٰ: Service Appeal
محمد ریاض بنام آئی جی پی ڈی سروسز	علت نمبر: /
	مورخہ: 21-04-08
	جرم: /
	تھانہ: /

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ،
 آن مقام کے لیے محمد اسرار خان آفیسر، عانت مسماں + محمد اسرار خان آفیسر + محمد اسرار خان آفیسر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 21-04-08

الع ہواہ شد الع ہواہ شد
 مقام

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Before The Honourable Service Tribunal K.P. Peshawar

Muhammad Riaz vs Govt of K.P.

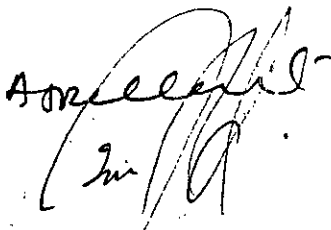
Application for extension to submit Security Fee in the instant ~~fee~~ ^{case}.

Respectfully Sheweth: - SNOR 4950/21

1. That the above title service appeal is pending before this Honourable Tribunal which is fixed for today.
2. That on the last date of hearing the appellant was directed to submit Security Fee, but inadvertently the appellant was unable to deposit the same.
3. That now as per the direction of this Honourable Tribunal the appellant shall deposit the same, therefore need extension of time.

It is therefore requested that on acceptance of this application the time for deposit of Security Fee may kindly be extended.

Date 25th 10/21

Through: 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4950 /2021.

Muhammad Riaz Ex- Constable No.2784 of CCP Peshawar..... **Appellant.**

VERSUS

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

REPLY BY RESPONDENTS NO. 1 to4.

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 not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file the 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 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. Pertains to record.
4. Incorrect. The performance of the appellant during service was neither satisfactory nor upto the mark and his involvement in heinous offence specks volume of his inefficiency.
5. Incorrect. The appellant was proceeded against departmentally on the charges of his involvement in a criminal case vide FIR No.552 dated 23.04.2019 u/s 302/364/PPC PS Mattani Peshawar. The appellant was on bail and still not acquitted from the court of law. After completion of all the codal formalities, he was awarded Major Punishment of Dismissal from Service.
6. Correct to the extent that proper departmental enquiry was conducted against him under the law/rules when got involved in criminal case.
7. Incorrect. Court proceedings and departmental proceedings are two different entities which can parallel as per dicta of august court of Supreme Court of Pakistan, however the suggestions of Enquiry Officer is not binding on competent authority.
8. Incorrect. Charge sheet with statement of allegations was issued to him. Regular inquiry was conducted and thereafter he was issued final show cause prior the award of Major penalty of dismissal from service after going through the finding by the competent authority as per Rules ibid.
9. Correct to the extent, that the appellant filed departmental appeal which after due consideration was filed/rejected having no substance in it as the charges leveled against


him were proved. Thus appeal of the appellant having no legal footing is liable to be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A. Incorrect. The punishment orders are just, legal and have been passed in accordance with law/rules and liable to be upheld.
- B. Incorrect. After fulfilling all codal formalities, the charges leveled against the appellant were stand proved, hence he was awarded the Major-punishment.
- C. Para is totally incorrect and misleading as the appellant was issued charge sheet with statement of allegations due to involvement in the above criminal case. Detailed departmental proceeding was conducted against him under Rules ibid. Proper opportunity of defense was provided to the appellant but he failed to defend himself. Before imposing major punishment on the appellant, he was issued final show cause notice.
- D. Incorrect. Involvement in a criminal case of committing culpable homicide is a heinous offence and being a member of disciplined force he was liable to be proceeded departmentally hence after proof of charge, he was awarded penalty commensurate with his guilt/misconduct.
- E. Explained in the preceding paras.
- F. Pertains to record, however the performance of appellant during service was not upto the mark being involved in a criminal offence of committing culpable homicide.
- G. 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.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.

Superintendent of Police,
Saddar Peshawar.


Sub Divisional Police Officer,
Saddar Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4950 /2021.


Muhammad Riaz Ex- Constable No.2784 of CCP Peshawar..... Appellant.

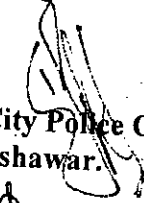
VERSUS


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

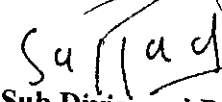
AFFIDAVIT.

We respondents 01 to 04 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.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
Saddar Peshawar.


Sub Divisional Police Officer,
Saddar Peshawar.


CHARGE SHEET

1. Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary and expedient.
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.

Now therefore, as required by Rule 6 (1) of the said Rules I, ABDUS SALAM KHALID Superintendent of Police, Saddar Division, Peshawar hereby charge you Ex-Levy Muhammad Riaz (constable designate) s/o Rehman Zada of PS Hassan Khel on the basis of following allegations:-

“You Ex-Levy Muhammad Riaz (constable designate) s/o Rehman Zada of PS Hassan Khel is involved in criminal case vide FIR No. 552 dated: 25.09.2020 u/s 302/364-PPC PS Mattani, departmental enquiry is being initiated against you under the Rule 1975.

3. By doing this you have committed gross misconduct.
4. And I hereby direct you further under Rules 6 (I) of the said Rules, to put in a written defence within 7 days of the receipt of this Charge Sheet as to why the proposed action should not be taken against you and also stating at the same time whether you desire to be heard in person.
5. And in case your reply is not received within the specific period it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.


(ABDUS SALAM KHALID)
Superintendent of Police Saddar Division
CCP, Peshawar.

No. 03/E /PA

Date 27 / 02 / 2020.

DISCIPLINARY ACTION

I, ABDUS SALAM KHALID Superintendent of Police Saddar Division, Capital City Police Peshawar, as competent authority am of the opinion that he Ex-Levy Muhammad Riaz (constable designate) s/o Rehman Zada of PS Hassan Khel has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of Section-3 of the Disciplinary Rules 1975.

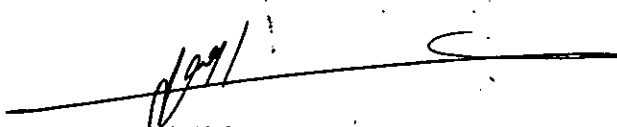
STATEMENT OF ALLEGATIONS.

"You Ex-Levy Muhammad Riaz (constable designate) s/o Rehman Zada of PS Hassan Khel is involved in criminal case vide FIR No. 522 dated: 25.09.2019 u/s 302/364-PPC PS Mattani departmental enquiry is being initiated against him under the Rule 1975.

For the purpose of scrutinizing the conduct of the said constable with reference to the above allegations an enquiry officer SDPO SADDAR is appointed.

The Enquiry Committee/Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused officer/officials and make recommendations as to punish or other appropriate action against the accused.

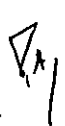
Dy: Superintendent of Police
Dy No: <u>03-E</u> /ST
Dt: <u>24/02/2020</u>
Saddar Circle, Peshawar


(ABDUS SALAM KHALID)
Superintendent of Police Saddar Division
CCP, Peshawar.

No. 03/E /PA

Date 24/02/2020

Copy to Enquiry officer for conducting departmental enquiry and submit finding within stipulated period


SDPO SADDAR
27/02/2020

OFFICE OF THE
SUB DIVISIONAL POLICE OFFICER,
SADDER CIRCLE, PESHAWAR

NO. 03-E /St: Dated Pesh: the 01 / 06 /2020.

To : The Superintendent of Police,
Saddar Division, Peshawar

Subject: DEPARTMENTAL ENQUIRY AGAINST (EX-LEVY
MUHAMMAD RIAZ (CONSTABLE DESIGNATE) S/O
REHMAN ZADA OF PS: HASSAN KHEL OF CCP,
PESHAWAR.

Memo:

Please refer to your office Endst: No.03/E/PA, dated
24.02.2020, on the subject noted above.

ALLEGATIONS:

This is a departmental enquiry against Ex-Levy Muhammad Riaz (Constable designate) PS: Hassan Khel of CCP, Peshawar with the allegations **“That while he was posted at PS: Hassan Khel is involved in a criminal case vide FIR No.522 dated 25.09.2019 u/s-302/364-PPC, PS: Mattani, Peshawar.”** This amounts to gross misconduct on his part & is against the discipline of the force.

For the purpose to scrutinizing the conduct of above defaulter accused/official with reference to the above allegations an enquiry ordered by the Worthy Superintendent of Police, Saddar Division, CCP, Peshawar & the undersigned was appointed as Enquiry Officer.

PROCEEDINGS.

During the course of enquiry, the defaulter accused/official mentioned above was called through his cell phone with the directions to appear before the undersigned in connection for personnel hearing and recording his statement. The accused/official produced before the undersigned heard in persons also recorded his statement which revealed that on 27.09.2019, he received a call from Inspector Muhammad Jan of PS: Mattani that complainant Khalid Gul s/o Rehman Shah r/o Badaber has charged him in case vide FIR No.552dated 23.04.2019, u/s-302/364-PPC, PS: Mattani for the commission of crime.

On this information the accused/official Muhammad Riaz immediately reached to PS: Mattani whereon he was arrested by the local Police of PS: Mattani and on next day challaned to the court by the local Police accordingly. He further stated that during hearing in the court of law he made his observation before the Honorable court of law that he indulged in disease of liver since (04) years ago. One day police custody in the favour of accused got and interrogated him while on expiry he was jailed.

After (07) days he acquitted by the court. He stated in his statement that he is the patient of liver disease & has falsely been implicated in above cited FIR. He requested for provision of legal help into the matter. It is pertinent to mention here that father of accused/official also corroborated the version of his son (Muhammad Riaz) accordingly.

So for complainant has charged the accused/official in his statement u/s-164-Cr.PC for the murder of his father namely Rehman Shah. Copy enclosed please. On the other hands the accused/official Muhammad Riaz also produced the Standing Medical Board documentary proof duly examined by the Chairman Standing Medical Board/Medical Superintendent Police/Services, Hospital, Peshawar vide his letter No.6121/MS/SMB/2019-20, dated 26.11.2019, copy addressed to the Worthy Capital City Police Officer, Peshawar was held on 20.11.2019, whereas the Standing Medical Board were of the opinion that the patient with chronic liver disease Non B, Non C, Hepatic venous flow obstruction ascites with varies in splenic helium & needs lifelong treatment & advised for light duty for one year and will be reviewed after one year. In this connection the W/CCPO, issued order vide his office order letter No.17333-36/CRC, dated 29.11.2019 is worth perusal.

Keeping in view and in light of above discussion as well as in light of observation issued by the Chairman Medical Board Peshawar to the Worthy Capital City Police Officer, Peshawar is worth perusal. The name of accused/official Muhammad Riaz not found in FIR. However, accused/official has been observe before I.O in the case regarding his innocence & stated that would be ascertain his innocence before the court of law. However, accused/official arrested & sent to jail but seems innocent. Henceforth, in this regard the court is more competent.

Therefore, in view of the above discussion it is hereby suggested that subject departmental enquiry against accused/official may be postponed till the decision of the court if approved.

2: (14)


(SAEED KHAN)

Sub-Divisional Police Officer,
Saddar Circle CCP, Peshawar.

9c

OFFICE OF THE
SUPERINTENDENT OF POLICE,
SADDAR, CCP, PESHAWAR

NO. 03/E /PA,

DATE: 29-12 /2020

FINAL SHOW CAUSE NOTICE.


I, Waqar Ahmed, Superintendent of Police, Saddar, CCP Peshawar, as competent authority under the Police Disciplinary Rules, 1975 do hereby serve you Ex-Levy Muhammad Riaz CNIC No. 22501-7864074-9 as follow:-

- a) That consequent upon the completion of enquiry against you by Enquiry Officer SDPO Saddar, Peshawar for which you are given opportunity of hearing and producing evidence.
- b) On going through the finding of Enquiry Officers submitted vide memo: No. 03/E/ST, dated 01.06.2020. The material on record and other connected papers including your defense before the said Enquiry Officers.

1. I am satisfied that you have committed the following acts/omissions specified in the said rules.

That you are involved in criminal case of PS Mattani.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major/minor punishment under the said rules.
3. You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate as to whether you desire to be heard in person.
4. If no reply to this notice is received within 15 days of its delivery, it shall be presumed that you have no defense to put-in and in that case ex-parte action shall be taken against you.
5. Copy of the findings of Enquiry Officer is enclosed.


Superintendent of Police, Saddar Division
CCP, Peshawar

R193