

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR
Objection petition No. _____/2023 in execution petition No.605/023 in Service
appeal No.4812/2021
AZMAT ULLAH

(Appellant)

V/S

INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA PESHAWAR.

(Respondent)

INDEX

S.No.	Description of documents	Page
	Objection petition	01-02
	Affidavit	03
	Authority Letter	04
	Annexure "A"	05-09
	Annexure "B"	10-14
	Annexure "C"	15

Azmat Ullah
~~BY: Superintendent of Police Legal~~
City Traffic Police

Peshawar.

31-10-23

Peshawar.

①

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Objection petition No. _____/2023 in Execution Petition No.605/2023 in Service Appeal No. 4812/2021

AZMAT ULLAH VERSES INSPECTOR GENERAL OF POLICE, KHYBER PAKHTUNKHWA

Khyber Pakhtunkhwa Service Tribunal

Respectfully Sheweth,

Diary No. 8486

The facts pertaining to objection petition are as under:

Dated 23-10-23

1. That the appellant had filed Service Appeal No. 4812/2021 with the following prayers:

"It is therefore, most humbly prayed that on acceptance of the instant service appeal, the impugned office order No. 704-07/PA dated 29.12.2020 of the office of Superintendent of Police, HQrs City Traffic Police, Peshawar whereby appellant was dismissed from service and impugned office order No. 744-51/PA dated 11.03.2021, of the office of Capital City Police Officer, Peshawar whereby the departmental appeal of the appellant was turned down, may graciously be set aside and by doing so, the appellant may very graciously be reinstated into service with all back benefits". (Attached as Annexure A).

2. That the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar vide Judgment Dated 25.07.2023 disposed off the instant service appeal in the following terms;

"The innocence/non involvement of the appellant in the above circumstances rendered the entire departmental proceedings of no avail, therefore, on acceptance of this appeal, we set aside the impugned orders and the order reinstatement of the appellant with all back benefits. The period of absence shall be treated as leave of kind leave". (Attached as Annexure B).

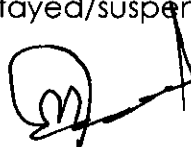
3. That Police Department has already filed CPLA No. 597-P/2023 against the impugned judgment in the Honorable Apex Court of Pakistan which is subjudice. (Attached as Annexure C).

2

4. That appellant has committed gross misconduct of indulging himself in criminal activities which disentailed the appellant to be remained in police force being the custodian of public rights i.e. life and property.
5. That appellant has been acquitted from criminal charge on the basis of compromise with complainant and not on merit which does not absolve the accused from the consequence of disciplinary proceedings.
6. That respondents department has a strong case and sanguine about its success before the supreme court of Pakistan.
7. That respondent also seeks additional permission of this Honorable Tribunal to raise additional grounds at time of arguments.

Prayers:

Keeping in view above narrated facts, circumstance, the execution petition of the appellant may kindly be stayed/suspended till decision of CPLA, please.



**Superintendent of Police, HQrs
City Traffic Police, Peshawar
Objector No. 03**

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR
Objection petition No. _____/2023 in execution petition No.605/023 in Service
appeal No.4812/2021
AZMAT ULLAH

(Appellant)

V/S

INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA PESHAWAR.

(Respondent)

AFFIDAVIT ON BEHALF OF RESPONDENT

I Amir Siyaf DSP Legal City Traffic Police Peshawar do hereby solemnly affirm on oath that the contents of objection petition are true and correct to the best of my knowledge and belief. Nothing has been concealed from honorable service Tribunal. It is further stated on oath that in this appeal, the answering respondent has neither been place ex-parte nor has their defense been struck off.

Amir Siyaf
DY. Superintendent of Police Legal
City Traffic Police
Peshawar.





(4)

**OFFICE OF THE
CHIEF TRAFFIC OFFICER,
CITY TRAFFIC POLICE PESHAWAR**
091-9225361,
ctopeshawar@ptpkp.gov.pk



AUTHORITY LETTER

I, Qamar Hayat, Chief Traffic Officer (CTO), Peshawar hereby Authorize Mr. Amir Sayaf, DSP Legal City Traffic Police Peshawar to attend service appeal No.4812/2023 titled Azmat Ullah v/s IGP Khyber Pakhtunkhwa Peshawar and others to submit objection petition pertaining to this office in the Khyber Pakhtunkhwa Service Tribunal, on behalf of the undersigned.


**CHIEF TRAFFIC OFFICER,
PESHAWAR.**

(A) (S)
(1)

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR



In Re S.A _____/2021

Azmat Ullah Ex-Constable No: 602, (Police Department KPK) S/o Hazrat Yousaf R/o Ghar Mali Khel, Masho Khel, P.O Badhaber, District Peshawar.

-----**(Appellant)**

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa at Central Police Office, Civil Secretariat, Peshawar.
2. Capital City Police Officer at Police Line, Peshawar.
3. Superintendant of Police HQRS, City Traffic Police, Peshawar.

-----**(Respondents).**

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT - 1974 AGAINST THE IMPUGNED DISMISSAL ORDER NO: 704-07/PA, DATED: 29/12/2020 OF THE OFFICE OF SUPERINTENDANT OF POLICE HQRS CITY TRAFFIC POLICE PESHAWAR, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE & HIS DEPARTMENTAL APPEAL WAS TURN DOWN VIDE IMPUGNED ORDER NO: 744-51/PA DATED: 11/03/2021 BY CAPITAL CITY POLICE OFFICER INA CLASSICALLY, CURSORY AND WHIMSICAL MANNER.

Respectfully Sheweth;

1. That after being envisaged with the ordeals & inquisitions of Selection process, the Appellant got inducted onto the rolls of the highly prestigious department of police, whereby the Appellant always performed his duties with full zeal and zest and have never left any stone unturned in

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Services Tribunal
Peshawar

6

3

reply are annexed as annexure "D, E, F & G" respectively)

4. That thereafter, respondent department dismissed the Appellant from service vide office impugned order No: 704-07/PA dated 29/12/2020, of the office of Superintendent of Police, Headquarters City Traffic Police Peshawar in classical, cursory and whimsical manner. (Copy of Impugned dismissal order No: 704-07/PA dated 29/12/2020 as annexed as Annexure "H")
5. That feeling aggrieved from the supra-mentioned acts of the respondent department, the Appellant moved the departmental appeal on 26/01/2021 to the Office of Capital City Police Officer Peshawar for his reinstatement in to service but his departmental appeal was turn down vide impugned office order No: 744-51/PA dated 11/03/2021, in a whimsical manner. (Copies of Departmental Appeal & Impugned Order No: 744-51/PA dated 11/03/2021 are annexed as annexure "I & J" respectively).
6. That feeling aggrieved, the Appellant approached this Hon'ble Tribunal for reinstatement into service with all back benefit upon the following grounds inter-alia:-

Attested by
[Signature]
Deputy Superintendent of Police Legal
City Traffic Police,
Peshawar.

Grounds:

- A. That the impugned dismissal order is wrong, illegal, void ab-initio and is not sustainable at all.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(4)

(7)

- B. That the impugned dismissal order is unwarranted, illogical and against the rules thereof, hence not maintainable and liable to be set aside.
- C. That no proper inquiry was ever conducted in the case of the Appellant, nor the Appellant was ever heard in person, nor was ever allowed to cross-examine any witness and thus the Appellant was condemned unheard.
- D. That the Appellant has falsely been charged in a criminal case on the basis of which the Appellant was dismissed from service, but the Respondent Department totally ignored the facts that the Bail Before Arrest of Appellant have not only granted but also confirmed by the learned Court of Additional Senior Judge-IX, Peshawar on basis of innocence of Appellant, while deciding the fate of Appellant, therefore, the impugned dismissal orders are illegal, unlawful and liable to be turn down. Even the innocence of the Appellant is admitted by the opponent party in affidavit submitted by him in the court. **(Copy of Affidavit is annexure "C/1 & C/2")**
- E. That even the appeal of the Appellant was simply shelved by the Respondent's Department, without any rim or reason, nor the Appellant was ever summoned by the Appellate Authority as per Appeal Rules 1986 and thus the Appellant was double jeopardized.
- F. That no proper charge sheet as per law, was issued to the Appellant nor right of defense was extended to the Appellant, therefore, the impugned orders are unwarranted, illegal & unlawful.

Alte Steel by
M. A. J. F.
Deputy Superintendent of Police/Legal
City Traffic Police,
Peshawar.

ACCEPTED

EXAMINER
Khyber Pakhtoon
Province
Peshawar

8

5

G. That no statement of allegations, nor show cause Notice or final Show Cause Notice was ever issued to the Appellant, which are mandatory provision of law, therefore, the impugned dismissal order is wrong, void ab-initio and liable to be set aside.

H. That as per dictum and laws governing the land, it is a prima-facie fact; that where a law requires a thing to be done, then that has to be done in a particular manner and not otherwise.

I. That the Appellant has already been declared as innocent by the competent court of law and confirmed his BBA against the charges leveled against him, which was ample proof of the innocence of the Appellant; hence, impugned orders are illegal and liable to be set aside.

J. That the Appellant has served the Respondent Department for many years and that too unblemished, without any complaint ever against, on the part of the Appellant.

K. That from every angle the impugned orders are illegal, void and are liable to be set aside and the Appellant be re-instated into service with all back benefits.

L. That any other ground not raised here, may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, the impugned office order No: 704-07/PA dated 29/12/2020 of the office of Superintendant of Police Headquarters, City Traffic Police, Peshawar, whereby the

Attested by
[Signature]
Deputy Superintendent of Police Legal
City Traffic Police,
Peshawar.

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtukhwa
Service Tribunal
Peshawar

7
A
F
H

6

9

Appellant was dismissed from service; And the impugned office order No: 744-51/PA, dated 11/03/2021, of the office of Capital City Police Officer, Peshawar, whereby the Departmental Appeal of the Appellant was turn down, may graciously be set aside and by doing so, the Appellant may very graciously be reinstated into service with all back benefits.

Any other relief not specifically asked for, may graciously be extended in the favor of Appellant, in the circumstances of the instant appeal.

Attested by

[Signature]
Deputy Superintendent of Police Legal
City Traffic Police,
Peshawar.

Appellant
Through *[Signature]*
Javed Iqbal Gulbela
Supreme Court of
Pakistan

[Signature]
Saghir Iqbal Gulbela
&
Afshan Shabbir
Advocates, High Court
Peshawar
[Signature]

NOTE:-

No such like appeal for the same appellant upon the same subject matter has earlier been filed by me before this Hon'ble Tribunal.

[Signature]
Advocate.

Certified to be true copy
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal.
Peshawar

Date of Presentation of Application	31/08/2023
Number of Words	61-
Copying Fee	30/-
Urgent	51/-
Total	351/-
Name of Copy	
Date of Court	31/08/2023
Date of...	

48/2

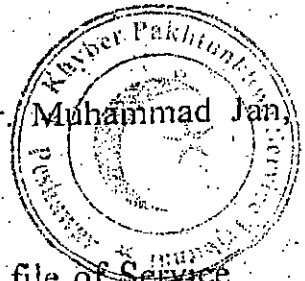
(B)

(10)

A #. 4812/2021

ORDER

25th July, 2023



1. Learned counsel for the appellant present. Mr. Muhammad Jan,
District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file of Service
Appeal No.3866/2021 titled "Asif Khan Vs. Inspector General of
Police, Khyber Pakhtunkhwa, Peshawar and others", we set aside the
impugned orders and order reinstatement of the appellant with all
back benefits. The period of absence shall be treated as leave of the
kind due. Consign.

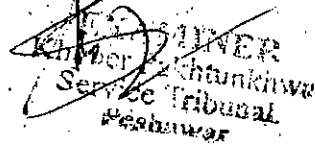
3. Pronounced in open Court at Peshawar and given under our
hands and the seal of the Tribunal on this 25th day of July, 2023.

(Farzha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

Atiq-uz-Shah

Certified to be true copy



Date of Presentation of Application 25/7/23
 Number of pages 2
 Copying Fee 10/-
 Urgent 10/-
 Total 20/-
 Name of Applicant _____
 Date of Completion 07/8/23
 Date of Delivery of Copy 07/8/23

Attested by

Deputy Superintendent of Police Legal
City Traffic Police
Peshawar.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.3866/2021

Date of presentation of Appeal.....24.03.2021
Date of Hearing.....25.07.2023
Date of Decision.....25.07.2023

Mr. Asif Khan, Ex-Constable No.853, Headquarter City Traffic Police, Peshawar.....(Appellant)

Versus

- 1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
- 2. The Chief Capital City Police Officer, Peshawar.**
- 3. The Superintendent of Police, Headquarters City Traffic Police, Peshawar.....(Respondents)**

Service Appeal No.4812/2021

Date of presentation of Appeal.....07.04.2021
Date of Hearing.....25.07.2023
Date of Decision.....25.07.2023

Mr. Azmat Ullah, Ex-Constable No.602, (Police Department Khyber Pakhtunkhwa) S/O Hazrat Yousaf, R/O Ghar Mali Khel, Masho Khel, P.O Badhber, District Peshawar.....(Appellant)

Versus

- 1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
- 1. The Capital City Police Officer, Police Lines, Peshawar.**
- 2. The Superintendent of Police, Headquarters City Traffic Police, Peshawar.....(Respondents)**

Present:

Mr. Mir Zaman Safi, Advocate.....For the appellant in S.A #.3866/2021
Syeda Ume Habiba, Advocate.....For the appellant in S.A #.4812/2021
Mr. Muhammad Jan, District Attorney..For the respondents

APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 29.12.2020 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANTS AND AGAINST THE IMPUGNED APPELLATE ORDERS DATED 02.03.2021 & 11.03.2021 WHEREBY THE DEPARTMENTAL APPEALS OF THE APPELLANTS HAVE BEEN REJECTED

Deputy Superintendent of Police Legal
City Traffic Police,
Peshawar.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

12

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment the above two appeals are being decided as they are similar in nature and almost with the same contentions, therefore, can be conveniently decided together.

1. Facts of the appeals as enumerated in the memoranda and grounds are summarized as under: -

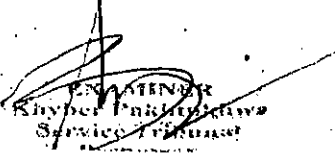
a. **Asif Khan SA 3866 of 2021:**

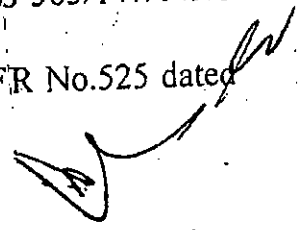
Appellant was serving as Constable in the Police Department. He was implicated in criminal case vide FIR No.810 dated 10.07.2020 U/S 365/147/149/5 Exp/15AA/182 PPC at Police Station Badhber, due to which, he was suspended vide order dated 31.08.2020; that the appellant approached the Court of the learned Additional District & Sessions Judge-IX Peshawar for want of pre-arrest bail which was granted to the appellant and BBA was confirmed vide order dated 06.10.2020. In the meanwhile, the respondents conducted fact finding inquiry. Resultantly, he was dismissed from service on 29.12.2020 i.e. before the final decision of the Court in the said FIR vide which the appellant was acquitted. Feeling aggrieved, he filed departmental appeal but the same was rejected on 02.03.2021 hence, the instant service appeal.

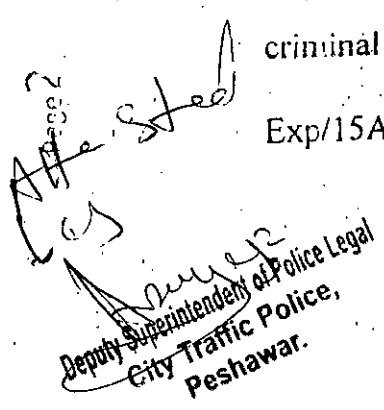
b. **Azmat Ullah SA 4812 of 2021**

Appellant was serving as Constable. He was implicated in two criminal cases, i.e. FIR No.810 dated 12.08.2020 U/S 365/147/149/5 Exp/15AA/182 PPC at Police Station Badhber and FR No.525 dated

ATTESTED


CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal




Deputy Superintendent of Police Legal
City Traffic Police,
Peshawar.

05.06.2020 U/S 342/427/149/PPC at Police Station, Badhber, due to which, he was suspended with immediate effect; that the appellant approached the Court of the learned Additional District & Sessions Judge-IX Peshawar for want of pre-arrest bail which was granted to the appellant and BBA was confirmed vide order dated 06.10.2020. In the meanwhile, the respondents conducted fact finding inquiry. Resultantly, he was dismissed from service on 29.12.2020 before the decision in the criminal case, by the Court before the final decision in the said FIR vide which the appellant was acquitted. Feeling aggrieved, he filed departmental appeal but the same was rejected on 11.03.2021, hence, the instant service appeal.

2. On receipt of the appeals and admission to full hearing, the respondents were summoned, they put appearance and contested the appeals by filing their respective written replies raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellants.

3. We have heard learned counsel for the appellants and learned District Attorney for respondents.

4. The Learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney assisted by the learned counsel for respondents, controverted the same by supporting the impugned order(s).

5. It appears in the FIR No.810 that none of the appellants have been charged for any overtact. Besides, the affidavit of the complainant party, placed on file, shows that they have declared the appellants innocent having not been

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

Attested by
Deputy Superintendent of Police Legal
City Traffic Police,
Peshawar.

14

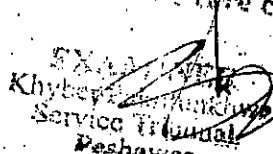
involved in the criminal case on the basis of which, they were proceeded against departmentally. Moreover, the Inquiry Officer did not bother to conduct inquiry properly as no opportunity of cross-examination seems to have been provided to the appellants during the course of inquiry. Last, but not the least, the charge sheet and statement of allegations were issued by Chief Traffic Officer, Peshawar, whereas, the impugned order was passed by Superintendent of Police Headquarters, City Traffic Police, Peshawar.


6. For the stated reasons, especially, the innocence/none involvement of the appellants in the above circumstances rendered the entire departmental proceedings of no avail, therefore, on acceptance of these appeals, we set aside the impugned orders and order reinstatement of the appellants with all back benefits. The period of absence shall be treated as leave of the kind due. Consign.

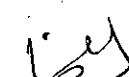
7. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 26th day of July, 2023.


KALIM ARSHAD KHAN
Chairman

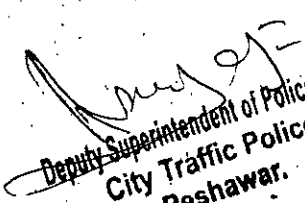
Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal
Peshawar


FAREEHA PAUL
Member (Executive)

Attested by


Date of Presentation of Application 25/7/23
Number of Words page 4
Copying Fee 20/-
Urgent 20/-
Total 20/-
Name of Applicant _____
Date of Completion of Copy 27/8/23
Date of Delivery of Copy 27/8/23


Deputy Superintendent of Police Legal
City Traffic Police,
Peshawar.

(C)

(15)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA No. 597-P /2023

Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar & others

-----PETITIONERS

VERSUS

Azmat Ullah

-----RESPONDENT

Appeal from : Learned Khyber Pakhtunkhwa Service
Tribunal, Peshawar
Counsel for Petitioner : *Advocate General, Khyber Pakhtunkhwa,*
Peshawar
Instituted by : *Mian Saadullah Jandoli, AOR*

Attested by
[Signature]
Deputy Superintendent of Police Legal
City Traffic Police,
Peshawar.