6th Oct. 2023

1. Learned counsel for the appellant and Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Zahoor Khan, DSP (Legal) for the respondents present.

2. File to come up alongwith connected Service Appeal No.4951/2021 titled "Sawar Khan Vs. Police Department" on 03.11.2023 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

*Mutazem Shah *

05th May, 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Learned counsel for the appellant seeks time for preparation. Adjourned. To come up for arguments on 10.07.2023 before the D.B. Parcha Peshi is given to the parties.

(Salah-ud-Din)
Member (J)

(Kalim Arshad Khan)
Chairman

Naeem Amin

10.07.2023

Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

The availability of complete inquiry record before the Tribunal is necessary for just and right decision of the case, however the same has not been submitted by either party. Learned Assistant Advocate General shall intimate the respondents for submission of complete inquiry record on the next date. Adjourned. To come up for complete inquiry record as well as arguments on 06.10.2023 before the D.B. Parcha Peshi given to the parties.

(Rashida Bano)
Member (J)

(Salah-ud-Din)
Member (J)

Naeem Amin

4th Nov. 2022 Lawyers are on strike today.

To come up for arguments on 12.12.2022 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

(Fareeha Paul)
Member(E)

(Kalim Arshad Khan)
Chairman

12.12.2022 Learned counsel for the appellant present.

Mr. Naseerud Din Shah, Assistant Advocate General alongwith Aziz Shah, H.C for the respondents.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 23.02.2023 before the D.B.

(FAREEHA PAUL)
Member(E)

(ROZINA REHMAN)
Member (J)

23.02.2023 Bench is incomplete, therefore, the case is adjourned to 05.05.2023 for the same as before.

Reader

18-2-22

Due to retirement of the Hon, ble Chairman
The case is adjourned to come up for the
Same as before on 10-6-22

Reader

10.06.2022 Appellant in person present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for rejoinder, if any, as well as arguments on 01.09.2022 before the D.B.

(Fareeha Paul)
Member (E)

(Salah-ud-Din)
Member (J)

01.09.2022 Bench is incomplete, therefore, case is adjourned to 04.11.2022 for the same as before.

Reader

12.07.2021 Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

Chairman

Stipulated period passed reply not submitted.

25.10.2021 Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Written reply/comments has not submitted despite extension of 10 days time. Learned AAG seeks further time to submit the same on the next date. Granted but as a last chance. To come up for reply/arguments before the D.B on 19.01.2022.

(MIAN MUHAMMAD)
MEMBER (E)

19.01.2022 Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil, Assistant Advocate General alongwith Mr. Aziz Shah, Reader for respondents present and submitted reply/comments which are placed on file. Copy of the same is handed over to the learned AAG. Learned counsel for the appellant requested for adjournment to submit rejoinder. Adjourned. To come up for rejoinder if any, and arguments before the D.B on 18.02.2022.

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

Chairman

14.06.2021 Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. 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.

Appellant Deposited
Security & Process Fee
14/6/21

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4952 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2.	3
1-	23/04/2021	The appeal of Qazi Fazal Dad resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-	27/05/21	This case is entrusted to S. Bench for preliminary hearing to be put up there on 14/06/21 CHAIRMAN

The appeal of Qazi Fazal Dad Constable no. 3751 Police line Peshawar received today i.e. on 13/04/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexures of the appeal may be attested.
2- Annexures-A, B and C of the appeal are missing.
3- Annexures of the appeal are illegible which may be replaced by legible/better one.
4- Annexure-D of the appeal is incomplete which may be completed.
5- Appeal has not been flagged/annexed annexures marks.
6- Copies of replies to charge sheet and show cause notice mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
7- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 732 /S.T,

Dt. 16/04 /2021

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Re-submitted after removing the objections.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 4952/2021

Qazi Fazal Dad versus SP & Others

INDEX

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	A1 entry in Service Book, 2013	"A"	5
3.	Lower School record, 2019	"B"	6-7
4.	Charge Sheet dated 25-09-2020	"C"	8-9
5.	Final Show Cause Notice, 03-12-2020	"D"	10
6.	Reply to FSCN Dated 21-12-2020	"E"	11
7.	Impugned order dated 20-01-2021	"F"	12
8.	Representation dated 09-02-2021	"G"	13
9.	Rejection order dated 31-03-2021	"H"	14

Appellant

Through

Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676

Dated 12-04-2021

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No._____/2021

Qazi Fazal Dad
S/O Qazi Zahir Shah,
R/o Badaber, Peshawar.
Constable No. 3751,
Police Line Peshawar. . . . . Appellant

Versus

1. Superintendent of Police,
   Hqrs: Peshawar.

2. Capital City Police Officer,
   Peshawar . . . . . Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST OB. NO. 244 DATED 20-01-2021 OF R. NO. 01, WHEREBY APPELLANT WAS AWARDED MAJOR PUNISHMENT IN REDUCTION TO LOWER STAGE OF TIME SCALE FOR A PERIOD OF ONE YEAR, CANCELLATION OF PASSING OF LOWER COLLEGE COURSE AND WITHDRAWN OF ENTRY OF A1 IN SERVICE ROLL OR OFFICE ORDER NO. 1009-14 / PA DATED 31-03-2021 OF R. NO. 02, WHEREBY APPEAL OF APPELLANT WAS REJECTED / FILED FOR NO LEGAL REASON:

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That appellant was enlisted in service as Constable in the year 2009 and was serving the department with the best of his ability and to the entire satisfaction of the superiors.

2. That at the time A1 examination was conducted in the year 2013 by the department and appellant was declared successful and entry in his Service Book was recorded by the department to this effect. (Copy as annex "A")

3. That in the year 2013, departmental examination was abundant and the same was then made through ETEA, so in the year 2018, appellant qualified B1 examination under R. No. 7475 with marks 125/200 and entry to this effect was made in the Service Book.

4. That thereafter in turn appellant was deputed to PTC Hangu for qualifying Lower School Course and after taking the said examination, he passed the same and entry to this effect was also recorded in Service Book. The Service Book is in the custody of respondents. (Copy as annex "B")

5. That appellant is serving the department for about 13 years when on 20-03-2020 Audit was conducted wherein it was found by the audit party that A1 examination in the record was found failed. Such matter came into surface at the time that one OSI made numerous appointments as per consideration in the department which was complained by colleagues and to scrutinized the said matter, Committee was constituted on 20-03-2020, wherein such matter was also came to surface and A1 examination was found failed.

6. That regarding the aforesaid omission, appellant was served with Charge Sheet on 25-09-2020 with allegation that during scrutiny by Committee constituted on 20-03-2020 to conduct audit of A1 and B1 examination of two branches of OSI and CRC, the same were found failed in A1 examination, yet qualified Lower School Course in PTC Hangu. Enquiry Committee was also constituted therein to probe into the matter. (Copy as annex "C")

7. That the said Charge Sheet was replied and denied the allegations.

8. That enquiry into the matter was initiated but the same was not conducted as per the mandate of law and submitted enquiry report to the authority wherein suitable punishment was suggested.

9. That on 03-12-2020, appellant was served with Final Show Cause Notice which was replied on 21-12-2020 in the aforesaid manner. (Copy as annex "D" & "E")

10. That on 20-01-2021, appellant was awarded with major punishment of reduction to lower stage of time scale for a period of one year, cancelled of passed Lower College Course and entry of A1 passed examination in Service-Roll was also withdrawn, meaning thereby that at one and the same time, 03 different punishments were awarded to appellant at a single stroke of pain. (Copy as annex "F")

11. That thereafter appellant submitted representation on 09-02-2021 before R. No. 02 for waiving of the aforesaid punishment but the same was rejected on 31-03-2021. (Copies as annex "G" & "H")

Hence this appeal, inter alia, on the following grounds:-

GROUNDS:

a. That A1 examination was taken by the respondents internally wherein appellant was declared passed and entry to this effect was made in the Service Book.

b. That as per Law and Rules after scrutiny of record employee is deputed / selected for subsequent courses of B1, Lower College Course, Upper School Course, etc and those who have not passed A1 or subsequent examinations cannot be selected for further upper courses.

c. That in the office of OSI, some mishaps have taken place to dig out the same, scrutiny Committee was constituted to check the record as to whether appointments were as per the mandate of law or otherwise and not of the appellant but the Committee also scrutinized other record and then it came to notice that appellant had not passed A1 examination. By then appellant has served for about 13 year's service.

d. That the authority also cancelled all other courses which were qualified as per the mandate of law by the appellant.

e. That every year audit goes in the department but no such lacuna was ever pointed out and it is very strange that after 13 years, such drastic action was taken by the respondents for no legal reason.

f. That whole of the record of the courses is in the possession of the respondents and thereafter such entries were made in the Service Book by them and not by the appellant.

g. That at this stage appellant cannot be deputed for passing of A1 examination followed by subsequent examination on account of age limit.

It is, therefore, most humbly prayed that on acceptance of appeal, orders dated 20-01-2021 and 31-03-2021 of the respondents be set aside and A1 examination of appellant be declared as passed with all consequential benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Appellant

Through

Miss Rubina Naz

Saadullah Khan Marwat

Arbab Saiful Kamal

Amjad Nawaz
Advocates.

Dated 12-04-2021

A 5

RESIDENCE AND OTHER PARTICULARS OF HEIRS

TR No. 1303 Dated 6/10/09

Drawn the arrear of pay & allowance w.e.f. 1-08-2009 to 30-09-09 amounting Rs. 94054/-

Asstt: Accountant General
O/O
A.G. NWFP. Peshawar
14/10/2009.

Transferred from CCP Peshawar to Traffic Police Peshawar vide CCPO Peshawar Endst No. 8824-32/EC-I, dt 2-7-2014.

For SSP/Traffic Peshawar

(UPGRADATION)

The post of Head Constable is hereby upgraded ... -2018 ... Finance ... No. ...

For CCPO, Peshawar

1550-610-28

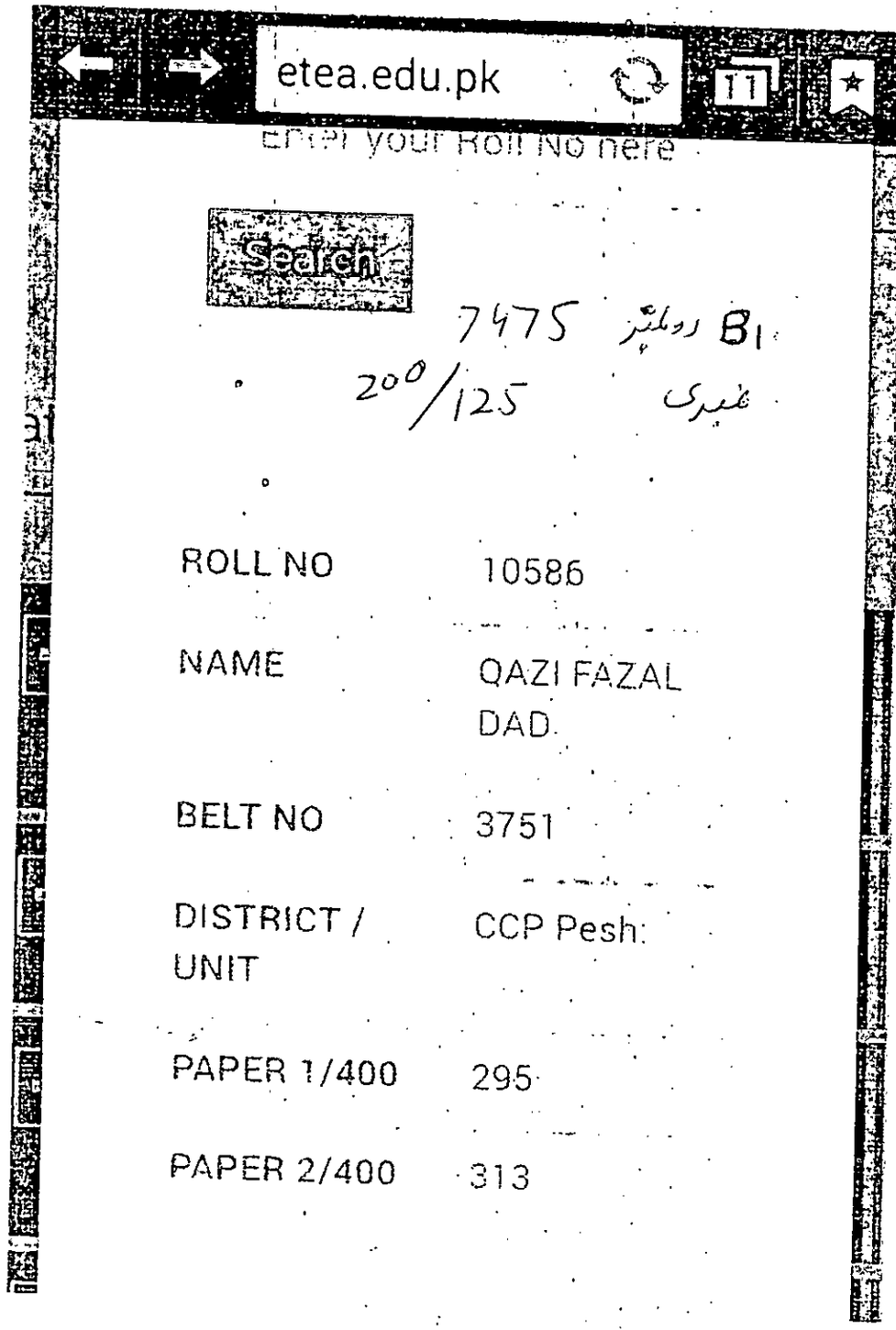
1460

...ne in red ink their nominated (with not more than two alternatives) and particulars necessary to trace.

For CCPO Peshawar

Qazi Fazaldad
Nov 5, 2018 ·

Lower course result november 2018



47 78 Comments

15 MISCELLANEOUS PARTICULARS.

Passed the Re-mail course for the term ending 30.9.2010 vide Commandant PTC Hangu Notification No 2346-73/S. OD 15-11.2010.

for SSP/Traffic, Peshawar

Passed 131st Advance Traffic Course vide DIG/Traffic KP, Peshawar Memo No. 252-92/EC, OD 10-3-2014.

for SSP/Traffic Peshawar.

1 Miscellaneous particulars including awards others than those accompanied by commendation certificates, admission to removal from promotion lists

Qualified Cavalry College held at PTC Hangu for the Term Ending 31-12-2019 Notification No. 466/S dt: 8-01-2019

for SP/Head Qrs
Pesh

C 8

55

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that 06-officials mentioned in the attached list vide at annexure-D of Capital City Police Peshawar with the following irregularities.

"During scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct Audit of A-I & B-I examination of 02-branches i.e OSI & CRC, you were found failed in A-I examination but you qualified lower school course in PTC Hangu. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

DISCIPLINARY ACTION

(54)

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that 06-officials mentioned in the attached list vide at annexure-Q has rendered themselves liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"During scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct Audit of A-I & B-I examination of 02-branches i.e OSI & CRC, they were found failed in A-I examination but they quallfied lower school course in PTC Hangu. This amounts to gross misconduct on their part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and following Officer appointed as Enquiry Officers.

i) **Mr. Gul Arif DSP Civil Secretariat**

ii) **Mr. Arshid Khan DSP Coordination**

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 221 /E/PA, dated Peshawar the 9578 /2020

1. _____ is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

D 10

50

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, Constable Lal Haq Afridi/Fazal Bad No. 375/ the final show cause notice.

The Enquiry Officer, DSP Civil Secretariat & DSP Coordination, after completion of departmental proceedings, has recommended you for suitable punishment for the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you Constable Lal Haq Afridi/Fazal Bad No. 375/ deserve the punishment in the light of the above said enquiry report.

And as competent authority, has decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 221 /PA, SP/HQrs dated Peshawar the 7-12 /2020.

Copy to official concerned

E

بیان اوان کا حسیل قاضی حصل داد 3751 LHC

حسینہ سنی بیز والد بگاہ

(49)

میں بمراہ FSCN بزی 221/Pa/SP1/HORS مورخہ 3/12/20 موضع

شہل کہ میں نے پہلے کہہ چکا ہوں کہ بکوری سول سٹی گرانٹ دفتر

اس سلسلے میں بیان شروع بزی 221/R.DSP.civil Seat مورخہ 9/12/20

دیا تھا۔

یہ میرا اضافی بیان ہے جو درست ہے

الفاظ

LHC قاضی حصل داد 3751

حسینہ سنی بیز والد بگاہ

LHC قاضی حصل داد 3751

F

12

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Qazi Fazal Dad No.3751 of Capital City Police Peshawar on the allegations that during scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct audit of A-1 & B-I examination of 02-Branches i.e OSI & CRC, he was found failed in A-I examination but he qualified lower school course in PTC Hangu vide letter No.1095-99/PA/CCPO dated 03.09.2020.

In this regard, he was issued charge sheet & summary of allegations. DSP Civil Secretariat & DSP-Coordination were appointed as Enquiry Officers. They conducted enquiry proceedings & submitted their finding/report that the alleged official failed to produce solid proof in connection with his A-I passed result & found guilty. The E.O further recommended suitable punishment for the defaulter official.

Upon the finding of E.O, he was issued final show cause notice which he received & replied. His explanation found un-satisfactory.

DSP Legal opinion was also sought. He opined that "act of the accused official during perusal of relevant available record are highly objectionable as they had not qualified A-I examination on its own merits. Therefore his selection for B-I and subsequently to lower college course stand illegal"

From perusal of finding of Enquiry Officers & other material available on record, the undersigned came to the conclusion that the defaulter official found guilty of this misconduct. In exercise of the power vested to me under Police & Disciplinary Rules-1975, he is awarded the major punishment in reduction to lower stage of time scale for a period of 01-year with immediate effect. Hence, lower college course he passed is hereby cancelled with immediate effect & his fake entry of A-I passed examination in service roll is also withdrawn.

SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 244 / Dated 20/1/2021

No. 529-35 /PA/SP/dated Peshawar the 20/01/2021

Copy of above is forwarded for information & n/action to:

- ✓ The Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Officer
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

[redacted]

جناب عالی!

گزارش ہے کہ سائل [illegible] سیا ہے۔ سائل نے ناجائز بے داغ ملازمت اختیار کی ہے [illegible] پیدا کیا ہے۔ یہ کہ سائل حسب ضابطہ A-1 اور B-2 پاس کرنے کے بعد [illegible] لوئر کورس کے لیے منتخب کر کے پولیس ٹریننگ کالج حیدرو میں مقررہ مدت ٹریننگ حاصل کرنے کے لیے بھیجا گیا۔ سائل نے مکمل امتحانات پاس کر کے سرٹیفکیٹ حاصل کیا۔ یہ کہ سائل کے خلاف بے بنیاد انکوائری لا کر جسمیں سائل کی جائیداد معروضات اور دلائل کو نظر انداز کر کے بے جا طور پر سائل کو عنوان الاکر سزا دی گئی۔ حالانکہ سائل نے فزیکل ٹریننگ کر کے لوئر کورس پاس کیا ہے۔ سائل کے ساتھ بے انصافی ہوئی ہے اور انصاف کا طلبگار ہے۔

سائل کے خلاف کوئی ثبوت منظر عام پر نہیں لایا گیا ہے۔ علاوہ ازیں یہ امر قابل ذکر ہے کہ سائل کا سروس ریکارڈ سائل کے قبضہ / تحویل میں نہیں ہے۔ بلکہ یہ متعلقہ ریکارڈ کیپر کے پاس محفوظ ہوتی ہے۔ جس سے سائل ہاتھ بھی نہیں لگا سکتا ہے۔

اس لیے درخواست ہے کہ سائل کو عنوان بالا سنگین سزا منسوخ فرما کر سائل کو اپنے عہدہ پر دوبارہ اسی طرح بحال فرما کر مشکور فرمائیں

Read and [illegible]

سائل تابعدار خانجی خفضل داد نمبر 3751 حال پولیس لائن پشاور

Contact # 0333-9321042

09-09-2021

OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR
Phone No. 091-9210989
Fax No. 091-9212597

ORDER

This order will dispose of the departmental appeal preferred by **Constable Qazi Fazal Dad No.3751** who was awarded the major punishment of **"Reduction to the lower stage of time scale for a period of one year and his fake entry of A-I passed in his Service Roll is also withdrawn"** under PR-1975 by SP/HQrs Peshawar vide OB No.244, dated 20-01-2021

2- He was proceeded against departmentally on the allegations that during the audit of A-I & B-I examination of the two branches i.e OSI and CRC he was found failed in A-I examination but he qualified lower School Course in PTC Hangu.

3- He was issued proper Charge Sheet and Summary of Allegations by SP/HQrs Peshawar. An enquiry committee comprising of DSP/Civil Secretariat and DSP Coordination Peshawar were constituted to scrutinize the conduct of the accused official. During the coruse of enquiry statements of all concerned were recorded and after completion of codal formalities, the Enquiry Committee found the accused official guilty in the matter and recommended him for suitable punishment. The competent authority after perusal of the findings of the enquiry committee issued him Final Show Cause Notice to which he replied but his reply was also found unsatisfactory; hence the competent authority awarded him the above major punishment.

4- He was heard in person in O.R and the relevant record along with his explanation perused. He failed to produce any plausible explanation in his defence. Therefore his appeal for setting aside the punishment awarded to him by SP/HQrs vide OB No. 244, dated 20-01-2021 is hereby **rejected/ filed.**

(ABBAS AHSAN) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 1009-14 /PA dated Peshawar the 31-03- 2021

Copies for information and n/a to the:-

1. SP/HQrs Peshawar
2. OS/ Pay Officer/ CRC
3. FMC along with Fouji Missal
4. Official concerned.

بعدالت جناب سروسز ٹریبونل صوبہ سرحد پشاور

منجانب اسلام شیٹ

فضل داد بنام محکمہ پولیس

دعوی ۲ سال

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے اسعد اللہ خان مروت ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کرکے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ وتقرر ثالث وفیصلہ برحلف دینے جواب دہی اور اقبال دعوی اور بصورت ڈگری کرنے اجراء اور وصولی چیک وروپیہ اور عرضی دعوی اور درخواست ہر قسم کی تصدیق اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظرثانی وپیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ وہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا وخرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حدود سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہٰذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم 09-04-21

الحمد الحمد الحمد

11

ارباب سیف اکمال
ایڈووکیٹ

Zahid Khan
اسعد اللہ خان مروت
ایڈووکیٹ

Rebuna
سید وسیم ناز
ایڈووکیٹ

امجد نواز
ایڈووکیٹ

Iqbal
فضل داد

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4952 /2021.

Constable Qazi Fazal Dad No.3751 of CCP Peshawar..... **Appellant.**

VERSUS

Capital City Police Officer Peshawar and others..... **Respondents.**

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 and proper parties.
3. That the appellant has not come to Hon'able 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 Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

1. Incorrect. The appellant has not a clean service record and contains 07 bad entries and 01 minor punishment on different occasions in his service. Record shows that he was an unwilling and unprofessional officer, thereby not interested in discharging of his official duties. (copy of list as annexure A)
2. Incorrect. In fact when it was learnt that some constables have unlawfully managed and manipulated to make fake entry of A-1 and B-1 examination, so to unearth the real fact and enquiry committee was constituted. The committee after thorough probe into the matter concluded and nominated each and every individual who had manipulated the fake entry in their service record. As such proper departmental enquiry was initiated and all the defaulters were taken to task as per gravities of their misconduct.
3. Para is totally incorrect as explained above. However, during the audit of A-1 and B-1 examination, the appellant was found failed in A-1 examination.
4. Incorrect. In fact the appellant had managed his selection for Lower Course through back doors and after surfacing the real facts his A-1 and B-1 entry were found faked/forged, hence his selection for Lower Course was found illegal at the very outset, therefore after conducting full-fledged enquiry his Lower Course as well as entry of A-1 and B-1 were cancelled by the competent authority.

5. Para-5 the Appellant has personally explained the factual position of the case as police is a disciplined force wherein such fault/illegality is not tolerated and deserving individuals are not deprived of their due rights what so ever.
6. Incorrect. In fact during the audit of A-1 and B-1 examination, the appellant was found failed in A-1 examination. In this regard, he was issued charge sheet with statement of allegations. DSP Civil Secretariat and DSP Coordination were appointed as enquiry officers. The enquiry committee after thorough probe into the matter pointed out all sort of illegality and unlawful entries made in the record. . (copy of charge sheet, statement of allegations, enquiry report, FSCN are annexure as B,,C,D,E)
7. Incorrect. The appellant was issued charge sheet with summary of allegations to which he received and also submitted his written reply, but his reply was found unsatisfactory.
8. Incorrect. In fact, proper departmental enquiry was conducted against him in accordance with law/rules. The enquiry officers after conducting enquiry recommended that the charges leveled against him proved. The enquiry officers provided full opportunity of defense during the course of enquiry, but the appellant failed to defend the charges leveled against him. The enquiry was conducted against him on merit.
9. Incorrect. After completion of the enquiry proceedings, the appellant was issued final show cause notice to which he replied, but his reply was also found unsatisfactory.
10. Incorrect. Appellant was awarded only the punishment of reduction to lower stage of time scale for a period of 01 year, besides cancellation of fake entry and qualifying course illegally is not a punishment.
11. Incorrect. In fact, the punishment awarded to the appellant was found justified and lawful, therefore his departmental appeal was rejected as no modification in the punishment was deemed fit/appropriate.

That appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.

REPLY ON GROUNDS:

a. Incorrect. During the audit of A-1 and B-1 examination, the appellant was found failed in A-1 examination. The charges levelled against him was proved, hence he was awarded the appropriate punishment as per law/rules.
b. Incorrect. As per the amended 2017 rules 13(7) those constables who qualified A-1 and B-1 examination through pre requisite criteria shall eligible for the lower school course in the order of merit in B-1 examination.
c. Incorrect. A committee was constituted to scrutinized the record of OSI branch and CRC who after through probe to the matter and revealed that there were same

mischief was taken place, found some personnel failed in A-1 and B-1 examination. The appellant was also found failed in A-1 examination thus punished.

d. Incorrect. In fact when the matter of mischief was brought in the notice of the competent authority the appellant was proceeded against departmentally over which his courses were cancelled.

e. Incorrect. The appellant was treated legally and no violation of his right has been committed by the replying respondents, while conducting enquiry against him in accordance with law/rules.

f. Incorrect. The replaying respondents have never acted against the law/rules.

g. Incorrect. The appellant himself is responsible for the situation. Furthermore, replying respondent is duty bound to strictly follow law/rules.

PRAYER.

Keeping in view the gravity of slackness, willful negligence and misconduct of appellant, it is prayed that appeal being devoid of merit may kindly be dismissed with cost please.

Capital City Police Officer,
Peshawar.

Superintendent of Police,
HQrs, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4952 /2021.

Constable Qazi Fazal Dad No.3751 of CCP Peshawar..... **Appellant.**

VERSUS

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

AFFIDAVIT.

We respondents 1 and 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 Honorable Tribunal.

Capital City Police Officer,
Peshawar.

Superintendent of Police,
HQrs, Peshawar.

1.	**Name of Official**	QAZI FAZAL DAD [illegible] 3751 S/O QAZI ZAHIR SHAH
	R/O	Mali khel Ahmad khel PS Badaber Distt; Peshawar..
2.	**Date of Birth**	02-03-1989
3.	**Date of enlistment**	01-08-2009
4.	**Education**	**FSC**
5.	**Courses Passed**	
6.	**Total qualifying service**	11 years, 07 Months & 0 day.
7.	**Good Entries**	**Nil**

Bad Entries (L.W.O Pay, E/Drill & Warning)

1. 02 days leave without pay vide OB No.3235 dt;03.07.2012
2. 01 day leave without pay vide OB No.590 dt: 19.08.2013
3. 02 days E/drill vide OB No.589 dt: 19.08.2013
4. 01 day E/drill vide OB No.570 dt: 13.08.2013
5. 02 days E/drill vide OB No.429 dt: 15.07.2014
6. 02 days leave without pay vide OB No.643 dt: 21.10.2014
7. 02 days leave without pay vide OB No.706 dt: 13.11.2014

Minor Punishment

1. 02 days leave without & Censured vide OB No.797 dt: 31.12.2014

Major Punishment

1. Dismissed from service vide Order Endst: No.2875-77/EC, dated 16.07.2015 & re-instated his service and dismissal order conv[illegible]d to stoppege of two annual increments vide order Endst: No.1493-1501/17 by AIG Establishment.

08. Punishment (Current)

Awarded major punishment of reduction to lower stage of time scale for a period of 01 year vide OB No.244 dated 20.01.2021 by SP/HQrs Peshawar

09. Leave Account

Total leave at his credit	Availed leaves	Balance
556 days	Nil	556 Days

CRC 15/03

FA

W/CCPO

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that 06-officials mentioned in the attached list vide at annexure-D of Capital City Police Peshawar with the following irregularities.

"During scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct Audit of A-I & B-I examination of 02-branches i.e OSI & CRC, you were found failed in A-I examination but you qualified lower school course in PTC Hangu. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

(54)

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that 06-officials mentioned in the attached list vide at annexure-D has rendered themselves liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"During scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct Audit of A-I & B-I examination of 02-branches i.e OSI & CRC, they were found failed in A-I examination but they qualified lower school course in PTC Hangu. This amounts to gross misconduct on their part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and following Officer appointed as Enquiry Officers.

i) **Mr. Gul Arif DSP Civil Secretariat**

ii) **Mr. Arshid Khan DSP Coordination**

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 271 /E/PA, dated Peshawar the 9578 /2020

1 _____ is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

3

Subject: **INQUIRY OF POLICE OFFICIAL'S A1 FAILED CANDIDATES BUT THEY QUALIFIED THE LOWER COURSE IN PTC HANGU.**

Memo:

Please refer to your office Endst: No.221/E/PA dated 25/09/2020 on the subject cited above.

Allegations:-

That the LHC following were failed in A1 Examination and qualified the lower course from PTC Hangu the names are following:-

1. Naveed Ullah 4559.
2. Sawar Khan 1466/428/FRP/HQrs:.
3. Rooh Ullah 809/T/1924.
4. Qazi Fazal Dad 3751.
5. Fasil-Ud-Din 2612.
6. Shah Nawaz No.2171/4766.

Proceedings:-

To dig out the factual the above Police officials summoned appear before the undersigned charge sheets and summary of allegations was served upon on them. They are heard in person and they recorded their statement.

1. **Statement of Constable Naveed Ullah 5449:-**

The constable Naveed Ullah No.5449 recorded in his statement that he does not know about the entry of A1 in his service Roll. He qualified various promotion courses and he qualified the A1 and B1 examination on time. A1 Pass entry is present in his Service Roll therefore on this basis he applies for B1 examination but he failed and once again he submitted his form through OSI for B1 examination and again on second time he passed the B1 exam. If there is any mistake in his Service Roll. It is not my responsibility because I am not the Incharge of CRC Branch and the service Roll keeps under the Incharge of CRC Branch in his office. If there is some mistake in my Service Roll why they send me for Lower Course. (Statement enclosed).

2. **Statements of Constable Sawar Khan 1866:-**

The Constable Sawar Khan No.1866 stated in his statement that he passed the A1 examination in year 2012. The entry is present in the service record. Therefore he submits form for the B-1 examination and he passed the examination in 2017. Who entry is present in Service Roll. (Statement enclosed).

3. **Statement of Constable Rooh Ullah 809/T/1924:-**

The Constable Rooh Ullah No.809/T/1924 stated in his statement that he passed the A1 and B1 Exam by legal procedure and sent to Lower Corse PTC Hangu. I do not know about the bogus entry in his Service Roll. (Statement enclosed).

4. **Statement of Constable Qazi Fazal Dad 3751:-**

The Constable Qai Fazal Dad No.3751 stated that he passed the exam in 2013 and after qualifying the Lower Course he perform his duty in his district. (Statement enclosed).

5. **Statement of Constable Fasih-Ud-Din 2612:-**

The constable Fasih-Ud-Din stated in his statement that he never checked his Service Roll or his result of A-1 exam. Once he checked his Service Roll in connection of GP fund purpose. He saw the A1 pass entry in his Service Roll. Therefore he submitted the form for B1 exam and Pass the exam of B1 in year 2018 and qualified Lower Course from Hangu Training College and now he is performing his duty in his district. (Statement enclosed).

6. **Statement of Constable Shah Nawaz 2171/4766:-**

The Constable Shah Nawaz 2171/4766 stated in his statement that he give examination of A1 in year 2013. My result announce late due to write wrong date of enlistment in his record. Which is wrote 2012 instead of 2009. When I clear the mistake they announce my result which is A-1 exam Passed. (Statement enclosed).

FINDING:-

After going through the charge sheet and summary of allegations and statements of the alleged officials and other material available on record the undersigned came to conclusion that Police officials were A1 Exam failed. Too much time gives to them to produce solid proof in the connection of A1 Pass result but they were failed in producing solid proof. The statements of the alleged officials were un-satisfactory. Only Constable Shah Nawaz produce A-1 Pass result by self which is sent to verification to PTC Hangu by through SP/HQrs: furthermore 05 Constable found guilty they are failed in A1 examination all 05 constables recommended for suitable punishment if so agree please. Furthermore, the matter of Constable Shah Nawaz No.2171/4766 after the receiving of verification of A-1 result will decide.

(Gul Arif Khan)
Deputy Superintendent of Police (Security), Civil Secretariat, Peshawar.

(Arshad Ahmad Khan)
Deputy Superintendent of Police, Coordination CCP, Peshawar

No. 185 /R, Dated 12 / 11 /2020

issue FSCN.

Superintendent of Police
HQrs: CCP, Peshawar.

W/SP/Hqrs

51

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, Constable LHC Qazi Sajjad No. 3751 the final show cause notice.

The Enquiry Officer, DSP Civil Secretariat & DSP Coordination, after completion of departmental proceedings, has recommended you for suitable punishment for the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you Constable LHC Qazi Sajjad No. 3751 deserve the punishment in the light of the above said enquiry report.

And as competent authority, has decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 221 /PA, SP/HQrs: dated Peshawar the 3-12 /2020.

Copy to official concerned

Tac
18/12/2020

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 4952/2021

Qazi Fazal Dad versus SP & Others

REJOINDER

Respectfully Sheweth,

PRELIMINARY OBJECTION

All the 07 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is time barred, bad for mis and non-joinder of proper parties, unclean hands, without cause of action / locus standi, estoppel, concealment of material facts and non maintainable.

ON FACTS

1. Not correct. Service record of appellant having 13 years service is neat and clean and if any pervious laxities exist, the same has already been dealt with and cannot be made part and parcel of the impugned punishment. More so, appellant was never reduced on the score mentioned in the impugned order.

2. Not correct. Appellant never managed and manipulated any entry in the Service Book because the Service Book is in the possession of the respondents and after 13 years such closed chapter cannot be opened on the false allegation. No proper enquiry was ever made regarding the allegations.

3. Not correct. Every year audit took place and it is not known that such lacuna was, if any, not pointed out well within time. Appellant qualified the examination.

4. Not correct. Reply to the allegation in the para is given in the preceding para No. 02. It was the duty of the respondents to check the record before nominating him for B-1 examination. This means that nothing wrong was found in the service record of appellant. No enquiry was ever conducted as per the mandate of law what to speak of full fledge enquiry. Entry of the examinations were illegally cancelled.

5. Not correct. And as stated earlier whoever nominates for further courses, previous record was to check. The position of the matter has been explained in the para of appeal and it was not for the first time for audit but every year audit was conducted but no such lacuna was ever pointed out.

6. Not correct. It is not understood that why at such a belated stage, such action was taken. Enquiry Committee was constituted not for the purpose in hand but illegal appointments were made, so the same were scrutinized. As for as enquiry was conducted the same was not per the mandate of law because no statement of anyone was recorded in presence of appellant, nor opportunity of cross examination was provided to appellant.

7. Not correct. The para of the appeal is correct regarding reply to Charge Sheet and denial of allegation.

8. Not correct. The para of the appeal is correct regarding none conduct of enquiry as per the mandate of law. No major punishment was ever suggested for him.

9. Not correct. The para of the appeal is correct regarding submission of reply to the Final Show Cause Notice.

10. Not correct. The para of the appeal is correct regarding 03 different punishments for one and the same cause.

11. Not correct. The para of the appeal is correct regarding submission of representation and its rejection for no legal reason.

GROUNDS:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are re-affirmed once again.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Appellant

Through

Saadullah Khan Marwat
Advocate,

Dated: 31-08-2022

AFFIDAVIT

I, Qazi Fazal Dad, appellant do hereby solemnly affirm and declare that contents of the **Appeal** & **rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

DEPONENT

ATTESTED
TANVIR AHMAD
Notary Public
Advocate High Court

01-09-22