

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1277 /2022.


Ex Constable Waqar Ali No. 3171 of CCP Peshawar..... **Appellant.**

VERSUS

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

I n d e x

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Jy. Supdt: Police
Legal, CCP/Peshawar

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REPLY BY RESPONDENTS NO. 1, 2&3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

Khyber Pakhtunkhwa
Service Tribunal

Case No. 8686

Date: 30-10-2023

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. Incorrect. The appellant was appointed as constable in the year 2005 in the respondent department. He has not a clean service record and contains 18 bad entries, 04 Minor and 01 Major punishment on different occasions in his service. The appellant being a member of disciplined force committed gross misconduct by sharing a religious video and make controversial remarks.(Copy of list is annexed as A).
2. Incorrect. The appellant while posted to Brass Band CCP Peshawar was placed under suspension and proceeded departmentally on account of a religious video went viral on social media where he made a provocative remarks and the companions (صحابہ کرام) of the prophet (ﷺ) were targeted uninterrupted criticism by Ahle-Tashee community on social media platform, thus it caused a lot of pernicious, detrimental situations to the entire community. In this regard he was issued charge sheet with statement of allegations and proper departmental enquiry was conducted against him, wherein the Enquiry Officer held the appellant guilty of the charges leveled against him. During the course of enquiry, the appellant has also confessed his guilt and accepted his negligence. After completion of enquiry proceedings, he was issued final show cause notice to which he replied and also heard him in person but his explanation was found unsatisfactory. Therefore, he was awarded major punishment of dismissal from service under Police Rules 1975 amended 2014.(Copy of Charge Sheet, Statement of allegations, Enquiry Report and FSCN are annexed as B,C,D,E)
3. Incorrect. Departmental appeal of the appellant was properly processed wherein he was also heard in person by the appellate authority, however he failed to defend himself with

plausible/justifiable grounds, hence appeal of the appellant was rejected/ filed having no legal footings.

4. Incorrect. The appellant then preferred revision petition before the Revision Board, which was also filed/rejected after due consideration because the charges leveled against him were proved beyond any shadow of doubt. (Copy of rejection order is annexed as F)
5. That appeal of the appellant being devoid of merit and limitation may be dismissed on the following grounds:-

REPLY ON GROUNDS:-

- A. Incorrect. The impugned order is just, legal and has been passed in accordance with law/rules and is liable to be upheld.
- B. Incorrect. The appellant was provided full opportunity of defense/ personal hearing, but he failed to prove his innocence.
- C. Incorrect. The appellant was associated with the enquiry proceedings and ample opportunity of self defense was provided to him however he failed to defend the charges hence punished as per gravity of his guilt. Furthermore, the police officials are expected to maintain neutrality and impartiality, when it comes to sectarian matters. They should treat individuals of all sectarian backgrounds equally and not to show favoritism or discrimination based on sectarian beliefs.
- D. Incorrect. The competent authority before imposing major punishment had completed all codal formalities by issuing him Final Show Cause Notice, to which he replied, and an ample opportunity of self defense was provided, but he failed to defend himself. The punishment order passed by the competent authority is in accordance with rules ibid.
- E. Incorrect. In fact a full fledged departmental enquiry was conducted against him to dig out the real facts. During the course of enquiry, the allegations against him were proved beyond any shadow of doubt, hence he was awarded major punishment under the law/rules.
- F. Incorrect. During the course of enquiry, the appellant appeared before the enquiry officer and has accepted/confessed that his spouse shared a religious video from his mobile phone and also made obscene remarks on it.
- G. Incorrect. There is no doubt that a video was shared from the appellant's account which went viral on social media wherein he made provocative remarks and the companions ((صحابہ کرام) of the prophet (خاتم النبیین صل الله علیه وسلم) were targeted by millions of people, who made their haters comments against the namoos-e- sahaba (ناموس صحابہ) over which a grief and despicable spread against Ahle-Sunnat. Appellant being account holders is responsible for the same which led to sectarianism. Therefore, the appellant is rightly dismissed from service to avoid any untoward accident between Ahle-Sunnat and Ahle-Tashee community over the issue.
- H. Incorrect. Proper opportunity of personal hearing was provided to the appellant but he failed to prove himself innocent.
- I. Incorrect. The whole enquiry proceedings were initiated purely on merit and in accordance with law and rules. The appellant availed the opportunities of defense but he could not proved himself innocent, hence rightly awarded major punishment.

J. Incorrect. Charge sheet with statement of allegations was issued to the appellant. Regular inquiry was conducted and thereafter he was issued a final show cause notice, by giving him proper opportunity of personal hearing, but he was failed to defend himself, hence after fulfilling all the codal formalities he was awarded Major punishment of dismissal from service.

K. Respondents may also be allowed to raise additional grounds at the time of arguments please.

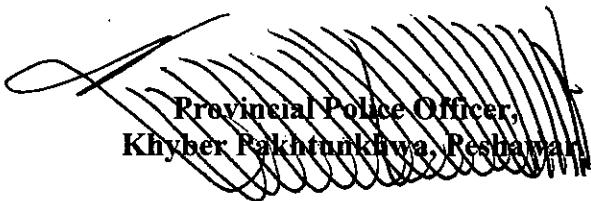
PRAYER.

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



Senior Superintendent of Police,
Operations, Peshawar.

Capital City Police Officer,
Peshawar.



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1277 /2022.

Ex Constable Waqar Ali No. 3171 of CCP Peshawar..... **Appellant.**

VERSUS

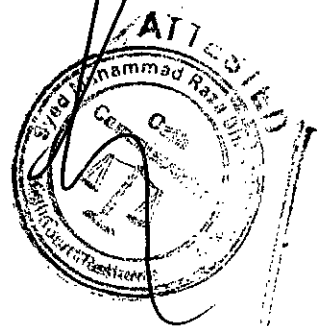
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.. **Respondents.**

AFFIDAVIT.

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

**Senior Superintendent of Police,
Operations, Peshawar.**

**Capital City Police Officer,
Peshawar.**



12 5 SEP 2023



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1277 /2022.

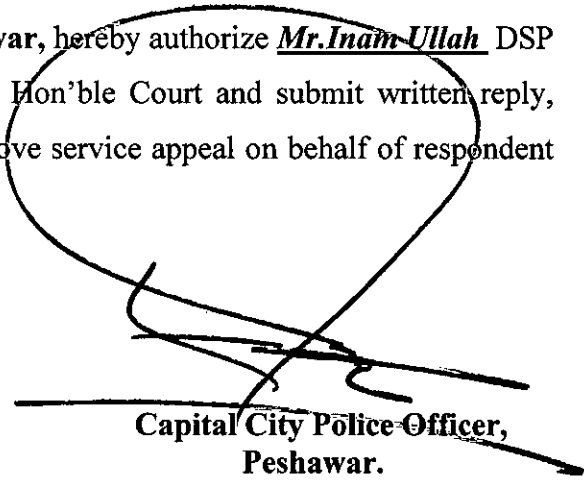
Ex Constable Waqar Ali No. 3171 of CCP Peshawar..... **Appellant.**

VERSUS

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

AUTHORITY.

I, **Capital City Police Officer, Peshawar**, hereby authorize Mr.Inam-Ullah DSP legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.


**Capital City Police Officer,
Peshawar.**

MUHAMMAD WIQAR ALI NO 3171 S/O ALAMDAR HUSSAIN

Name of Official
R/O
2. Date of Birth
3. Date of enlistment
4. Education
5. Courses Passed
6. Total qualifying service
7. Good Entries

Police line Family PS East Cantt: Distt: Peshawar
01-01-1989
05-09-2008
7th
Nil
11 years, 10 months & 08 days
NIL

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

- 01 06 Day leave without pay vide OB No.201 dt:11-07-2009
- 02 01 day leave without pay vide OB No.2311 dt:13-06-2012
- 03 04 day leave without pay vide OB No.2655 dt:10-07-2012
- 04 23 days leave without pay vide OB No.3066 dt:05-09-2013
- 05 10 days leave without pay vide OB No.4197 dt:28-11-2012
- 06 04 days leave without pay vide OB No.1908 dt:29-05-2013
- 07 07 days leave without pay vide OB No.570 dt:11-02-2013
- 08 10 days leave without pay vide OB No.1389 dt:25-04-2014
- 09 31 days leave without pay vide OB No.1334 dt:09-04-2013
- 10 31 days leave without pay vide OB No.2717 dt:05-09-2014
- 11 01 day E/drill vide OB.1124 dt:07-04-2014
- 12 01 day E/drill vide OB.1052 dt:31-03-2014
- 13 07 days leave without pay vide OB No.1968 dt:03-06-2013
- 14 05 days leave without pay vide OB No.2135 dt:22-05-2017
- 15 01 day E/drill vide OB No.844 dt:22-02-2017
- 16 01 day E/drill vide OB No.3362 dt:11-09-2017
- 17 01 day E/drill vide OB No.395 dt:29-01-2018
- 18 02 day E/drill vide OB No.4347 dt:26-12-2016 ✓

Minor Punishment

- 01 Stoppage of 01-year annual increment w. cumulative effect and 91 days leave without pay vide OB No. 3921 dt:15-12-2014
- 02 Awarded minor punishment of Censure And Fined Rs.5000 vide OB.1389 dt:25-04-2014
- 03 Stoppage of 01-year annual increment without cumulative effect and 87 days leave without pay vide:OB No. 225 dt:17-01-2019
- 04 Awarded minor punishment of Censure and 23 days leave without pay vide OB No.4083 dt:31-12-2018

Major Punishment

- 01 Re-instated into service and the intervening period of absence from duty be considered in service but not on duty and he will not be entitled for salary of the intervening period.vide OB No.2252 dt:24-06-2016

09. Punishment (Current)

- 01 Awarded Major punishment dismissed from service vide order No.1894-1902/PA, dated 13.09.2021 by SSP/Operation Peshawar.

Total leave at his credit

568

Availed leaves

Nil

Balance

568

PA

CRC 01/11

B 7

CHARGE SHEET

1. Whereas I, Yasir Afridi PSP, SSP/Operations Peshawar, am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you **Constable Muhammad Waqar Ali No. 3171 while posted to Brass Band Police Lines District Peshawar.**


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.

3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Yasir Afridi, PSP, Senior Superintendent of Police, Operations, Peshawar hereby charge you **Constable Muhammad Waqar Ali No. 3171 while posted to Brass Band Police Lines District Peshawar** District Peshawar under Rule 5 (4) of the Police Rules 1975 on the basis of following allegations/grounds:

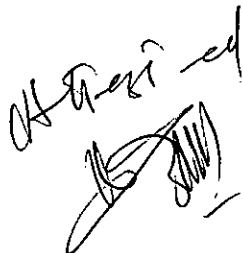
- A religious video went viral on social media where you made a provocative remarks against the companions (صحابه كرام) of the Prophet (خاتم النبيين ﷺ) which triggered an uninterrupted criticism between Ahle-Sunnat and Ahle Tashee community on mainstreaming and social media platforms, thus it caused a lot of pernicious, detrimental situations to the entire police force.
- Your past record also corroborates, where you have history of suspension, dismissal, enquiries etc.
- By doing so you have transgressed/violated the police rules governing the police force.

4. I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why action should not be taken against you and also stating at the same time whether you desire to be heard in person.

5. In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.


Yasir Afridi, PSP
Senior Superintendent of Police
(Operations) Peshawar

No. 624 E/PA dated Peshawar the 17/08/2021.



STATEMENT OF ALLEGATIONS

1. I, Yasir Afridi, PSP, SSP/Operations, Peshawar as competent authority, am of the opinion that Constable Muhammad Waqar Ali No. 3171 while posted to Brass Band Police Lines District Peshawar has rendered himself liable to be proceeded against departmentally, as he has committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.

OFFICE OF THE
DSP SUBURB -

No. 19-E/PA

Dated 17/08/21

A religious video went viral on social media where he made a provocative remarks against the companions (صحابه كرام) of the Prophet (خاتم النبيين ﷺ) which triggered an uninterrupted criticism between Ahle-Sunnat and Ahle Tashee community on mainstreaming and social media platforms, thus it caused a lot of pernicious, detrimental situations to the entire police force.

- His past record also corroborates, where he has history of suspension, dismissal, enquiries etc.
- By doing so he has transgressed/violated the police rules governing the police force.


2. For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations DSP Suburb is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

3. The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

29
Yasir Afridi, PSP
Senior Superintendent of Police,
(Operations) Peshawar

No. 624 E/PA, dated Peshawar the

17/08/2021

Attested




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

D 9



NO. 19-E /St: Dated Peshawar the 24/08/2021

To: The Senior Superintendent of Police,
(Operations) Peshawar.

Subject: DEPARTMENTAL ENQUIRY AGAINST FC WAQAR ALI NO. 3171 OF BRASS BAND CCP, PESHAWAR.

Memo:

Please refer to your office Endst: No.624-E/PA, dated 17.08.2021, on the subject noted above.

ALLEGATIONS.

1. I, Yasir Afridi, PSP, SSP/Operations, Peshawar as competent authority, am of the opinion that **Constable Waqar Ali No. 3171 while posted to Brass Band Police Lines District Peshawar** has rendered himself liable to be proceeded against departmentally, as he has committed the following acts/omission within the meaning of section 036 of the Khyber Pakhtunkhwa Police Rules, 1975.
2. A religious video went viral on social media where he made a provocative remarks against the companions (صحابہ کرام) of the Prophet (ﷺ) which triggered an uninterrupted criticism between Ahle-Sunnat and Ahle Tashee community on mainstreaming and social media platforms, thus it caused a lot of pernicious, detrimental situations to the entire police force.
3. By doing so he has transgressed/violated the police rules governing the police force.

For the purpose to scrutinize the conduct of defaulter Government servant with reference to the above allegations an enquiry was ordered by the Senior Superintendent of Police Operations, Peshawar while the undersigned was appointed as enquiry officer.

PROCEEDINGS.

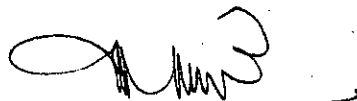
During the course of enquiry the defaulter constable was called vide this office Parwana No. 730/PA dated 20.08.2021 for recording his statement. The defaulter constable mentioned above appeared before the undersigned, heard in person and also stated in his statement that I confess that my spouse shared against a religious video from my mobile phone and also made obscene comments on it in honor of Muhammad (ﷺ) and his companions Khalifas (صحابہ کرام Radi Ullah anhu). I regret what I did, I will be careful in future.

Yasir Afridi

FINDINGS:

From perusal the statement of said accused FC Waqar Ali No. 3171 of Brass Band Police Line & in light of his statement the undersigned has gone through the conclusion that the defaulter constable mentioned above found guilty and he accepted that against religious video was shared from my mobile. Therefore, suggest/recommend that a proper FIR should be registered against him & he should be struck off/ dismissed from the Police Department. Submitted please.

Enclose.



(ALAMZEB)

Sub-Divisional Police Officer,
Suburb Circle, Peshawar.

PA
Issue final
show. cause notice.

2 ✓
Senior Superintendent of Police,
(Operations), Peshawar

Let me dismiss
it with CCPO

Arrested
(Signature)



OFFICE OF THE
SENIOR: SUPERINTENDENT OF POLICE,
(OPERATIONS),
PESHAWAR
Phone. 091-9213054

FINAL SHOW CAUSE NOTICE
(Under Police Disciplinary Rules, 1975)

1. I, Senior Superintendent of Police, Operations, Peshawar as competent authority, under the Police disciplinary Rules 1975, do hereby serve you **Constable Waqar Ali No. 3171 of Brass Band CCP Peshawar** as follows:-
2. (i) That consequent upon the completion of departmental enquiry conducted against you by DSP Badaber CCP Peshawar, who found you guilty of the charges for which you were given the opportunity of personal hearing.
(ii) Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said officers; I am satisfied that you have committed the follow misconducts:

You have been **found guilty** of the charges already communicated to you vide this office charge sheet bearing No. 624/E/PA dated 17.08.2021.
3. As a result thereof I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.
4. You are, therefore, require to Show Cause as to why the aforesaid penalty should not be imposed upon you.
5. If no reply to this notice is received within **7-days** of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
6. You are at liberty to be heard in person, if so wished.

✓
20
YASIR AFRIDI^{SP}
Senior Superintendent of Police,
(Operations) Peshawar
2021

No. 1853 /PA dated Peshawar the 06/09, 2021

Attested
[Signature]

01/11



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Waqar Ali No. 3171. The petitioner was dismissed from service by SSP/Operations, Peshawar vide order Endst: No. 1894-1902/PA, dated 13.09.2021 on the allegations that he while posted at Brass Band Police Lines, Peshawar, a religious video went viral on social media where he made a provocative remarks against the companions (صحابہ کرام) of the prophet ﷺ which triggered an un-interrupted criticism between Ahle-Sunnat and Ahle-Tashi community on mainstreaming and social media platforms, thus it caused a lot of pernicious, detrimental situations to the entire Police force. His appeal was rejected by Capital City Police Officer, Peshawar vide order Endst: No. 960-67/PA, dated 25.03.2022.

Meeting of Appellate Board was held on 19.01.2023 wherein petitioner was heard in person. Petitioner denied the allegations leveled against him.

The Board examined the enquiry papers which reveal that the petitioner was found guilty and the Enquiry Officer recommended that FIR should be registered against him. Perusal of the record reveals that he was earlier dismissed from service on 01.01.2016 on the allegation of absence from duty. During hearing petitioner failed to advance any plausible explanation in rebuttal of the charges. Therefore, the Board decided that his petition is hereby rejected.

Sd/-

SABIR AHMED, PSP

Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI/ 276-82 /23, dated Peshawar, the 9-02 /2023.

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. One Service Roll, one Fauji Missal and one enquiry file of the above named Ex-FC received vide your office Memo: No. 7901/CRC, dated 20.04.2022 is returned herewith for your office record.
2. Senior Superintendent of Police, Operations, Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.



Assistant II
For n. action

Noted

(MR. ZAHID ULLAH) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.