

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	25.05.2016	<p><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p>Appeal No. 258/2015</p> <p>Sajjad Hussain Versus the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and another.</p> <p><u>JUDGMENT</u></p> <p><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Appellant with counsel and Mr. Muhammad Addeel Butt, Addl. AG alongwith Javed Iqbal, Inspector (Legal) for respondents present.</p> <p>2. Sajjad Hussain, Ex-Inspector/ DSP, Elite Force, Kohat hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 05.12.2014 vide which he was compulsorily retired from service on the allegations of earning bad reputation and involvement in corruption and being in-efficient.</p> <p>3. Brief facts of the case of appellant are that the appellant was serving as Inspector/acting DSP when show cause notice dated 03.12.2014 was issued to him on the basis of preliminary enquiry and where-after major penalty in the shape of compulsory retirement was imposed against him vide impugned order dated 05.12.2014 where-against departmental appeal of the appellant dated 09.12.2014 was also rejected on 16.03.2015.</p>

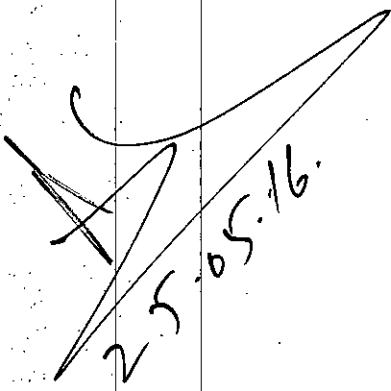
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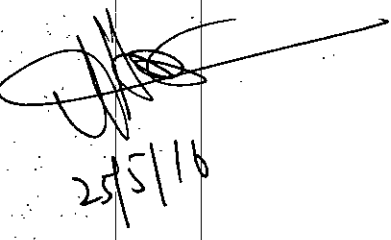
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25/5/16

and hence the instant service appeal on 24.03.2015.

4. Learned counsel for the appellant has argued that the appellant was issued show cause notice on 03.12.2014 wherein no opportunity of defence was afforded to him and he was directed to appear before the said authority in Orderly Room on the very next date i.e. 04.12.2014 and that on the next date i.e. 05.12.2014 the impugned order in the shape of imposition of major penalty of compulsory retirement was passed. That the proceedings were conducted in haste leaving no space for affording any opportunity of hearing to the appellant. That no enquiry whatsoever was conducted and the impugned order was based on a preliminary enquiry with which appellant was not associated. That according to Schedule-I of Khyber Pakhtunkhwa Police Rules, 1975, in case of Inspector, the competent authority was District Police Officer and in the case of DSP, the said authority was Provincial Police Officer while the impugned order was passed by the Addl. Inspector General of Police who was not competent authority either for the rank of Inspector or that of DSP.

5. Learned Addl. A.G argued that the charges of bad reputation and financial corruption and in-efficiency were evident from the record and that there was no need of regular enquiry which was dispensed with by the competent authority in view of provisions of sub-section-2 of Section-5 of the Khyber Pakhtunkhwa Police Rules, 1975. That the impugned order, therefore, warrants no interference.


25.05.16.


25/5/16

6. We have heard arguments of the learned counsel for the parties and perused the record.

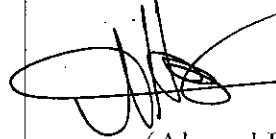
7. Record placed before ^{us} ~~us~~ would suggest that the show cause notice was based on preliminary enquiry conducted by Superintendent of Police, RRF Kohat wherein statements of 6 constables were recorded. The respondents have not produced the statements of the said officials before us so as to evaluate veracity and reliability on the said statements. Apart from the above the proceedings were initiated on 03.12.2014 which stood concluded on 05.12.2014 leaving no reasonable space for the appellant to submit reply and contest the show cause notice. Furthermore, the Addl. Inspector General of Police is not the relevant authority for the purpose of initiating enquiry and passing the impugned order as according to schedule it is the District Police Officer who is the competent authority in the cases of officials upto the rank of Inspector while it is the Provincial Police Officer who is the competent authority for the officers of the rank of DSP and above.


8. In the light of the above we are left with no option but to accept the instant appeal and set aside the original order dated 05.12.2014 and final order dated 16.03.2015. We therefore direct that the appellant be reinstated in service for the purpose of denovo enquiry which shall be conducted and concluded within a period of one month from the date of receipt of this judgment where-after the competent authority shall pass any

~~25.05.16.~~

~~25/5/16~~

order deemed appropriate. In case the competent authority fails^{to} to conduct and conclude the proceedings within the stipulated period of one month then it shall be presumed that the appellant has been reinstated in service w.e.f. 05.12.2014 with back benefits and that the intervening period of his absence from duty till date shall be deemed to have been treated as leave of the kind due. The appeal is accepted in the above terms. File be consigned to the record room.


(Ahmad Hassan Khan)
Member

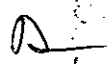

(Muhammad Azim Khan Afridi)
Chairman

25.05.16

ANNOUNCED
25.05.2016

23.11.2015

Counsel for the appellant and Mr. Javed Iqbal Inspector (Legal) alongwith Asst: AG for respondents present. Arguments could not be heard due to learned member (Judicial) is on official tour to D.I. Khan. Therefore the case is adjourned to 3/2/16 for arguments


Member

03.02.2016

Counsel for the appellant and Mr. Javed Iqbal, Inspector (Legal) alongwith Addl: AG for respondents present. Arguments could not be heard due to learned member (Executive) is on official tour to Swat. Therefore, the case is adjourned to 25-3-16 for arguments.


MEMBER

25.03.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 25.05.2016 for arguments.


MEMBER


MEMBER

3, 15.04.2015

Agent of counsel for the appellant present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned for preliminary hearing to 29.04.2015 before S.B.


Chairman

4 29.04.2015

Appellant with counsel present. Learned counsel for the appellant argued that vide impugned order dated 5.12.2014 appellant was compulsorily retired from service regarding which he preferred departmental appeal on 9.12.2014 which was rejected on 16.3.2015 and hence the service appeal on 24.3.2015.

That no regular inquiry was conducted and major penalty of compulsory retirement was awarded after conducting preliminary inquiry suggesting minor penalty in the shape of transfer.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 28.7.2015 before S.B.


Chairman

28.07.2015

Appellant with counsel and Mr. Javed Iqbal, Inspector (legal) alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 23.11.2015.


Chairman

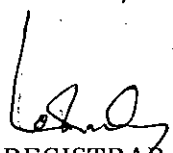

Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 258/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01.04.2015	<p>The appeal of Mr. Mr. Sajjad Hussain resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p> REGISTRAR</p>
2	3-4-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>15-4-15</u>.</p> <p> CHAIRMAN</p>

The appeal of Mr. Sajjad Hussain Ex-Inspector Elite Force Kohat received to-day i.e. on 24.03.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of enquiry report mentioned in para- H of the grounds of appeal (Annexure-E) is not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be attested.

No. 385/S.T,

Dt. 25/3/2015.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

Sir,

1. The only inquiry ~~was~~ conducted is that which is attached as ANN-E which was a preliminary inquiry and no other inquiry was conducted.

2. Removed.

Re-submitted.
Asif

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 258 /2015

Sajjad Hussain

V/S

Police Deptt:

INDEX.

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-4
2.	Copy of show cause notice	A	5
3.	Copy of order dated 5.12.2014	B	6
4.	Copy of departmental appeal	C	7-9
5.	Copy of rejection order	D	10
6.	Copy of inquiry report	E	11-13
7.	Vakalat Nama	-----	14

APPELLANT

THROUGH:


M.ASIF YOUSAFZAI

& 
TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.APPEAL NO. 258/2015

Sajjad Hussain Ex-Inspector,

Ex-A/DSP, Elite Force, Kohat.

(APPELLANT)

VERSUS

**P.W.F. Provincial
Service Tribunal**
Diary No. 253
Dated 24-3-2015

1. The Provincial Police Officer, KPK, Peshawar.
2. The Additional Inspector General of Police,
Elite Force, KPK, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 16.03.2015 WHEREBY THE DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 05.12.2014 HAS BEEN REJECTED FOR NO GROUNDS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 16.3.2015 AND 05.12.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. AND ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

24/3/15

1/4/15

RESPECTFULLY SHEWETH:

1. That the appellant joined the police force on 13.12.1988 as constable and completed all his due training etc and also have good service record throughout.
2. That the appellant was promoted to ASI in 2005, SI in 2010, Inspector in 2013 and acting DSP in 12.12.2012. The ACR reports of the appellant are "A" throughout his service period.
3. That on the basis of preliminary inquiry the appellant was issued show cause notice on 3.12.2014 and imposed major penalty of compulsory retirement upon the appellant in slipshod manner vide order dated 05.12.2014 under Police Rules 1975 amended in August ,2014 without charge sheet and without conducting proper inquiry. (Copy of show cause notice and impugned order are attached as Annexure-A&B)
5. That against the order dated 05.12.2014 the appellant filed departmental appeal 09.12.2014, but the same was also rejected for no good ground on 16.3.2015. (Copy of departmental appeal and rejection orders is attached as Annexure C&D).
6. That now the appellant come to this august Tribunal on the following grounds amongst others.

GROUND:

- A) That the orders dated 16.03.2015 and 05.12.2014 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That no regular inquiry was conducted against the appellant and major penalty was imposed on the appellant on the basis of preliminary inquiry which is against the judgments of Superior Courts.

- D) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses have been recorded in the presence of appellant while conducting preliminary inquiry. Even a chance of cross examination was also not provided to the appellant on the statements given against the appellant by some officials which is violation of norms of justice being not confronted with the complainants etc.
- E) That no charge sheet and statement of allegation was served on the appellant before imposing major penalty of compulsory retirement from service which is against the law and rules.
- F) That the show cause notice was served to the appellant on 3.12 2014 and imposed major punishment of compulsory retirement on 5.12.2014 without providing any chance defence to the appellant and providing at least 7 days period for submitted reply to show cause notice.
- G) That the appellant was dealt under Police Rules , 1975, amended in august 2014 which was a wrong action because neither the amended rules have force of law nor the same were promulgated in accordance with law and rules. Thus the appellant has been treated under a wrong law.
- H) That inquiry officer in his inquiry report recommended minor punishment, but the appellant was given major punishment of compulsory retirement from the service, which is against the recommendations of inquiry officer and even no reasons have been given for not agreeing with the recommendations of inquiry officer. (Copy of inquiry report is attached as Annexure-E)
- I) That the appellant was proceeded on the basis of anonymous compliant which according to Govt; instructions should have been thrown to dustbin, even that complaint was not proved through regular inquiry.

- J) That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- K) That impugned order was passed by Additional inspector General of Police which is not competent authority for the appellant as for Inspector the competent authority is PPO and not AIG/DIG.
- L) That the statements of different constables which were taken in preliminary inquiry not supported by any evidence nor the same were confronted with to the appellant which means that the impugned order was based on malafide.
- M) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT

Sajjad Hussain

THROUGH:

M.ASIF YOUSAFZAI

TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar



No. 17584 /EF

Dated: 03/12/2014

SHOW CAUSE NOTICE

You Inspector Sajjad Khan Inchrage RRF/Kohat were found guilty of gross misconduct on the following grounds.

As per report of Deputy Inspector General of Police, Kohat Region Kohat vide his Office Memo: No. 4030/C-Cell, dated 01.12.2014 and preliminary enquiry conducted by SP/RRF Kohat, you have very bad reputation of financial corruption and inefficiency.

By reason of the above, you appear to be guilty of misconduct under the Police Rules (NWFP Police Rules, 1975, Section 05, Subsection 2 (i) and have rendered yourself liable to all or any of the penalties specified in the said rules.

You are therefore, directed to appear before the undersigned in orderly room on 04.12.2014 at 1100 hrs:

If you could not appear before the undersigned on the given date and time, an ex-parte action will be taken against you as per Section 5, Subsection 5 of the said Police Rules.

(TARIQ AVED) P.S.P

Addl: Inspector General of Police,
Elite Force Khyber Pakhtunkhwa Peshawar

1. Inspector Sajjad Khan
Elite Force Kohat

ATTESTED



Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar



B 6

No. 178SS-66/EF

Dated: 05/12/2014.

ORDER

As per enquiry conducted and report submitted by Deputy Inspector General of Police Kohat Region Kohat you Inspector Sajjad Khan of Elite Force Kohat is having bad reputation of financial corruption and inefficiency. You are also found involved in teasing and taking money from poor Constables.

You were called in the Orderly Room on 04.12.2014 and heard in person but you have failed to satisfy the undersigned.

Therefore, I, Tariq Javed, Additional Inspector General of Police, Elite Force Khyber Pakhtunkhwa Peshawar as a Competent Authority, impose major penalty of compulsory retirement, upon you under Police Rules (NWFP Police Rules 1975, Section 05, Subsection 05) with immediate effect.

(TARIQ JAVED) P.S.P
Additional Inspector General of Police,
Elite Force Khyber Pakhtunkhwa Peshawar.

Inspector Sajjad Khan
Elite Force Kohat.

Copy of above is forwarded for information to the:-

1. PSO to Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General of Police Enquiry & Inspection Khyber Pakhtunkhwa Peshawar w/r to his letter No. 1962/E & I, dated 01.12.2014.
3. Regional Police Officer Kohat Region Kohat.
4. Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar.
5. District Police Officer Kohat.
6. Superintendent of Police Headquarters Elite Force Peshawar.
7. Superintendent of Police Rapid Response Force Kohat.
8. Office Superintendent Elite Force Khyber Pakhtunkhwa Peshawar.
9. Accountant Elite Force Khyber Pakhtunkhwa Peshawar.
10. RI/Elite Force Khyber Pakhtunkhwa Peshawar.
11. OASI Elite Force Khyber Pakhtunkhwa Peshawar.
12. SRC Elite Force Khyber Pakhtunkhwa Peshawar.

ATESTED

BEFORE THE INSPECTOR GENERAL OF POLICE KHYBER
PUKHTUNKHWA, PESHAWAR

C
7

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER OF
WORTHY ADDL: INSPECTOR GENERAL OF POLICE ELITE FORCE
KHYBER PUKHTUNKHWA, PESHAWAR NO.17855-66/EF DATED 05-
12-2014 IN WHICH EX-INSPECTOR SAJJAD HUSSAIN ACTING DSP
ELITE FORCE KOHAT HAS BEEN AWARDED THE PUNISHMENT
OF COMPULSORY RETIREMENT FROM SERVICE WITH
IMMEDIATE EFFECT.

Respectfully Sheweth with great veneration;

The instant appeal is preferred by the appellant on the following facts and grounds:

Facts:

1. That the order of the worthy Addl: Inspector General of Police elite Force KHYBER PUKHTUNKHWA, PESHAWAR No.17855-66/EF dated 05-12-2014 is very harsh in nature.
2. That I Ex-Inspector Sijad Hussain acting DSP elite force Kohat have qualified recruit lower intermediate and upper courses with efficiency.
3. That I have performed my duties through out with honesty and in accordance with the rules of law.
4. That I had serving as a acting DSP Elite Force since 12-12-2012 and comes more than two period and I have never approach for transfer to any valuable post in the Police Deptt: and used to pass my time on salary and

P-1

Office of the PPO KPK, Peshawar
(Secret Branch)

Recd. No. SI
Dated 9.12.14
D/O
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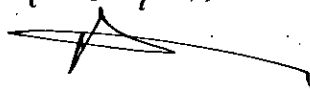
ATTESTED

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two brothers are in Saudi Arabia since last 20 years and they also help me when ever in need my life. (8)

5. That my father have old lands in Kurram Agency measuring about 32 Kanals and we also get some livelihood from it for my children.
6. That a preliminary enquiry has been reported against me by the S.P / RRF and conveyed to high ups by the DIG Kohat vide office memo No.4030/C-cell dated 01-12-2014.
7. That such complaint / enquiry is based on malafide, I have not been kept aware about any such process and the SP / RRF is subordinate Deputy Commandant and Commandant Elite Force and was required to have submission of such enquiry report to them, therefore, in a sound mind question arise about the preplanning and malafide action on the part of reportee and enquiry reporting officer.
8. That I was just on Command Seat and no concerning with any financial section or funds.
9. That the allegations and subsequent process is based on jealousy and output of those who have been kept tight by me in discharging of their highly attentive duties of Elite force and also a result of not giving extra ordinary leaves, Shabashee to Elite Constable for which they often demands when needed.
10. That departmental enquiry have not been conducted in a proper manner, which is the basic essential for the said enquiry.
11. That no such opportunity has been given to me to explain my position regarding the allegation leveled against me in the instant enquiry.

ATESTED



12. That it is worth mentioning here that when a departmental enquiry regarding the said allegation leveled against any Police officials must be dealt in accordance with the rule of law in which a proper evidence and proofs should be gather from public at large against any accused official.
13. That no such evidence and proofs has been brought to the file which shows the allegations leveled against me that I the incumbent indulged in corruption and guilty of In efficiency.
14. That no such opportunity of fair hearing assigned to me for the interest of justice which shows the in efficiency on the part of enquiry officer.
15. That above impugned order is bad in eye of law and liable to be set aside in the large interest of justice.

It is therefore prayed that by accepting of this Deptt: appeal the impugned order dated 12-11-2014 may kindly be set aside the appellant may please be reinstated in service with all back benefit form the date of compulsory retirement.

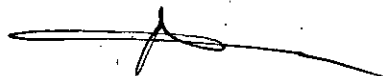
Dated: 09-12-2014.

Appellant



Ex-Inspector Sajjad Hussain
A/ DSP Elite Force Kohat.

ATTESTED





No. S/ 1780 /15, Dated Peshawar the 16/03/2015.

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-Sub-Inspector Sajjad Hussain**. The appellant was awarded punishment of compulsory retirement from service by Commandant, Elite Force, Khyber Pakhtunkhwa vide order No. 17855-66/EF, dated 05.12.2014 (under Police rules (NWFP Polcie rules 1975, Section 05, Sub-section 05).

In the light of recommendations of Appeal Board meeting held on 04.03.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Show Cause Notice. Therefore, the enquiry officer Incharge RRF/Kohat found him guilty of gross misconduct. As per reported by DIG/Kohat. A preliminary enquiry conducted by SP/RRF Kohat, you have very bad reputation of financial corruption and inefficiency.

The appeal board meeting was held in CPO on 04.03.2015. He was also heard in person but he could not defend nor provided any cogent reasons against his punishment. Therefore, the appeal of **Ex-Inspector Sajjad Hussain** is hereby filed.

Sd/-

NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

No. S/ 1781-90 /15,

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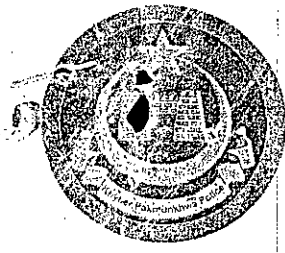
1. Addl: IGP/Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar w/r to his office memo: No.19180/EF, dated 29.12.2014.
2. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Kohat.
4. District Police Officer, Kohat.
5. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
6. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
7. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
8. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
9. PA to AIG/Establishment CPO, Peshawar.
10. Office Supdt: E-II, CPO Peshawar.

(MUHAMMAD ALI KHAN)
DIG/Trg:

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

AML

ATTESTED



Office of the Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.

No. 1962

/E&I, dated Peshawar the 01/12/2014

To:

The Addl: IGP/Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar.

Subject:

**COMPLAINT AGAINST INSPECTOR SAJJAD KHAN, RRF, KOHAT
AND OTHER POLICE OFFICERS**

Memo:

1. Please refer to RPO Kohat letter No. 4030/C.Cell dated 06.11.2014.
2. While perusing RPO Kohat letter under reference the Worthy IGP has passed the following remarks:-


- Inspector Sajjad Khan (Acting DSP RRF) is placed under suspension.
- On the basis of preliminary enquiry conducted, he should be issued Show Cause Notice by awarding major penalty.
- SSP/RRF to finalize the proceedings by 05.12.2014.

3. It is therefore, requested that the above remarks may be complied and report be communicated to this office on or before 05.12.2014 for the perusal of Worthy IGP.

Note:-

Preliminary enquiry alongwith statements of constables is attached.

Enclrs: (08 pages)


(AZAD KHAN) TSt, PSP
DIG/Enquiry & Inspection
For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar

No:

/E&I,

Copy of above is forwarded for information to:-

1. The Regional Police Officer Kohat with reference to his letter No. 4030/C.Cell dated 06.11.2014.
2. The Deputy Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. The Senior Superintendent of Police, RRF.
4. The PSO to Worthy IGP with reference to his office letter No. 5587/C.Cell dated 17.10.2014.

(AZAD KHAN) TSt, PSP
DIG/Enquiry & Inspection
For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar

TESTED

12

From: - The Dy: Inspector General of Police,
Kohat Region, Kohat.

To: - The Dy: Inspector General of Police,
Enquiry & Inspections,
Khyber Pakhtunkhwa, Peshawar.

No. 4030 /EC, Dated Kohat the 06/11/2014.

Subject: - COMPLAINT AGAINST INSPECTOR SAJJAD KHAN
RRF, KOHAT AND OTHER POLICE OFFICIALS.

MEMO:

Please refer to your office Memo: No. 1616/E&I, dated
21.10.2014.

The preliminary enquiry conducted by Superintendent
of Police, RRF Kohat has proved beyond doubt the corruption and
misconduct of the above named Inspector.

He has very bad reputation of financial corruption and
inefficiency.

He may be dealt with departmentally and accorded
exemplary punishment for teasing and taking money from poor
constables.

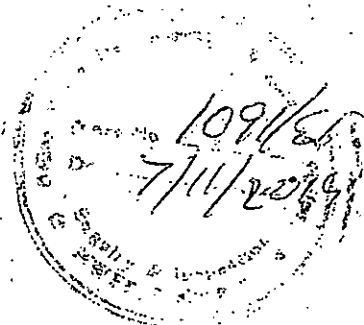
Preliminary enquiry alongwith statements of
constables is attached herewith for favour of perusal and further action
please.

Encls: (07, in original)

(Signature)
(DR. ISHTIAQ AHMAD MARWAT)
Dy: Inspector General of Police,
Kohat Region, Kohat

No. /EC,

Copy of above is submitted to the Inspector General of
Police, Khyber Pakhtunkhwa, Peshawar for favour of information please.



(Signature)
(DR. ISHTIAQ AHMAD MARWAT)
Dy: Inspector General of Police,
Kohat Region, Kohat

(Signature)
APESTED

No: 1050 EF/RRF, dated Kohat 5/11/2014

To: The Regional Police Officer,
Kohat

Subject: COMPLAINT AGAINST INSPECTOR SAJJAD KHAN,
RRF, KOHAT AND OTHER POLICE OFFICIALS

The preliminary enquiry has been carried out by the under signed as directed vide endorsement No: 3046/C cell dated 24-10-2014 of the office of DIG Kohat against Inspector Sajjad Khan of RRF Kohat and other police officials on the allegations mentioned in attached application.

In the connection the undersigned have recorded the statements of following officials of RRF Kohat;

1. Constable Zaibullah
2. Constable Khalid Usman
3. Constable Farmanullah
4. Constable Umer Khan
5. Constable Rashid Mehmood
6. Constable Tahir Roman Wali

Furthermore undersigned have interviewed some of the officials of RRF Kohat who also corroborated the version mentioned by the above stated officials in their statement.

1. Constable Abdul nasir
2. Constable Israr

The officials mentioned above charged Inspector Sajjad Khan for taking monthly Rs-150 each for his pocket and Rs 200 to 300 each for his fatigue.

In view of the above undersigned have come to the conclusion that the allegations leveled against Inspector Sajjad Khan mentioned in the applications have been proved.

Recommendations:

1. Proper departmental action may be initiated under the discipline rules.
2. He may be transferred.

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VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal, Peshawar

Sajjad Hussain

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt:

(Respondent)
(Defendant)

I/We Sajjad Hussain

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar, (Adv)** ^{& Taimur Ali Khan} to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

(Signature)
(CLIENT)

ACCEPTED

(Signature)
M. ASIF YOUSAFZAI
Advocate

(Signature)
TAIMUR ALI KHAN
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

(Signature)
GOHER SAJJAD KHAN
Adv

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 258/2015

Sajjad Hussain.....(Petitioner)

Versus

Provincial Police Officer, Khyber Pakhtunkhwa and one
other.....(Respondents)

Subject:- REPLY ON BEHALF OF RESPONDENTS

Preliminary Objections:-

- a) The appeal has not been based on facts.
- b) The appeal is barred by law and limitation.
- c) The appeal of appellant is bad for mis-joinder and non-joinder of necessary parties.
- d) The appellant has not come to the Honorable Tribunal with clean hands.
- e) The appellant has got no cause of action to file the appeal.
- f) The appeal of appellant is not maintainable in the present form.

Respectfully Sheweth!

Respondents very humbly submit as follows:-

FACTS:-

1. Correct to the extent that appellant was serving in Police department, however, he was found involved in exploitation of subordinate constables by receiving illegal gratification from them, therefore, he was compulsorily retired from service vide impugned order.
2. Correct to the extent that appellant was promoted to the rank of Inspector on his own turn, however, he was found involved in corrupt practices therefore, he was compulsorily retired from service.
3. Incorrect, the complaint against the appellant on above charges was marked to Deputy Inspector General of Police Kohat Region, Kohat for enquiry. His office

made enquiry into the allegations through SP RRF Kohat and submitted report vide his office memo No. 4030/C-Cell dated 06.11.2014. Copies of report of SP RRF and Deputy Inspector General of Police, Kohat are enclosed as Annexure-A & B respectively. In pursuance of the above reports, show cause notice was issued to the appellant by competent authority within the meaning of Rule 5(3) of Police Rules 1975 wherein if the authority decides that enquiry is not necessary then the accused officer shall be informed in writing about the proposed action and will give him reasonable opportunity of showing cause.

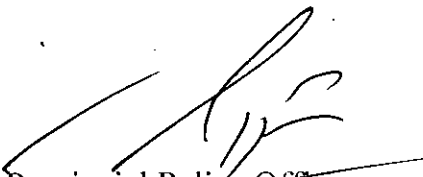
5. This Para has wrongly been numbered, the departmental appeal of appellant was considered by the review board and being without any substance and force, was rejected by the competent authority.
6. Incorrect, the appeal of appellant on the ground advanced in the appeal is not sustainable.


GRUNDS:-

- A. Incorrect, the impugned orders are just, legal and have been passed in accordance with law and rules.
- B. Incorrect, proper show cause notice was issued to appellant and he was also heard in person on 04.12.2014 by the competent authority but he failed to defend himself.
- C. Incorrect, the authority while exercising powers vested in him under rule 5(3) Police Rules 1975 decided that regular enquiry is not necessary, therefore, show cause notice was issued to appellant and he was also heard in person.
- D. Incorrect, show cause notice was issued to appellant and he was also heard in person.
- E. Incorrect, show cause notice was issued to appellant and he was also heard in person but he failed to defend himself therefore, the impugned order was passed.
- F. Incorrect, appellant was heard in person on 04.12.2014 but he failed to rebut the charges leveled against him.

- G. Incorrect, Police Rules 1975 are statutory rules and was amended with approval of Chief Executive of the Province.
- H. Incorrect, enquiry officer has not recommended award of minor penalty to the appellant.
- I. Incorrect, Police constables were examined during preliminary enquiry and they supported the allegations leveled against appellant in their statements.
- J. Incorrect, penalty of compulsory retirement from service has been imposed on appellant instead of removal from service.
- K. Incorrect, according to Police rules Deputy Inspector General of Police is competent authority for the post of Inspector while the impugned order was passed by the Additional Inspector General of Police, Elite Force, Khyber Pakhtunkhwa.
- L. Incorrect, the constables examined during preliminary enquiry supported the allegations leveled against appellant.
- M. That the respondents may also be allowed to raise other grounds.

It is therefore prayed that the appeal of appellant may be dismissed with costs.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)


Additional Inspector General
of Police, Khyber Pakhtunkhwa, (Elite)
Peshawar
(Respondent No. 2)

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 258/2015

Sajjad Hussain

VS

Police Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(a-f) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 First portion of para 1 is admitted correct by the respondents hence no comments, while the rest of the para 1 of the appeal is incorrect as the appellant has not received illegal gratification from subordinate constables and he was proceeded on the basis of anonymous compliant which according to Govt: instructions should have been thrown to dustbin, even that complaint was not proved through regular inquiry.
- 2 First portion of para 2 is admitted correct by the respondents hence no comments, while the rest of the para 2 of the appeal is incorrect as the appellant was not involved in corrupt practices and he was proceeded on the basis of anonymous compliant which according to Govt: instructions should have been thrown to dustbin, even that complaint was not proved through regular inquiry.
- 4 Incorrect. According to Superiors Courts judgment regular inquiry is must and mandatory before imposing major punishment but in the case of the

appellant no regular inquiry was conducted against the appellant and penalty of compulsory retirement was imposed upon the appellant in slipshod manner. Which the violation of law and rules.

- 5 Incorrect. The departmental appeal was rejected for no good ground.
- 6 Incorrect. The appellant has good cause of action and sustainable on the ground advanced in the appeal.

GROUND:

- A. Incorrect. The impugned orders are unjust, illegal and have not been passed in the accordance with the law and rules.
- B. Incorrect. The show cause notice was served to the appellant on 3.12 2014 and imposed major punishment of compulsory retirement on 5.12.2014 without providing any chance defence to the appellant.
- C. Incorrect. According to superiors courts judgment regular inquiry is most and mandatory before imposing major punishment. Moreover the show cause notice was served to the appellant on 3.12 2014 and imposed major punishment of compulsory retirement on 5.12.2014 without providing any chance defence to the appellant.
- D. Incorrect. Not replied according to para D of the appeal. Moreover para D of the appeal is correct.
- E. Incorrect. Not replied according to para E of the appeal. Moreover para E of the appeal is correct.
- F. Incorrect. While para F of the appeal is correct.
- G. Incorrect. The appellant was dealt under Police Rules 1975 amended in august 2014 which is wrong in action because neither the amended

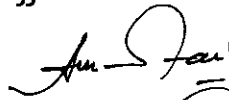
rules have force of law nor the same were promulgated in accordance with the law and rules.

- H. Incorrect. While para H of the appeal is correct.
- I. Incorrect. While para I of the appeal is correct.
- J. Admitted correct that upon the appellant the penalty of compulsory retirement was imposed instead of removal from service, but removal from service was inadvertently written in para J of the appeal.
- K. Incorrect. The competent authority for the appellant is PPO and not AIG/DIG.
- L. Incorrect. While para L of the appeal is correct.
- M. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Sajjad Hussain

Through:


(M. ASIF YOUSAFZAI)

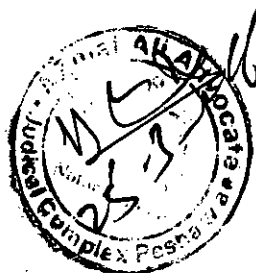
&


(TAIMUR ALI KHAN)
ADVOCATES, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

ATTESTED




DEPONENT

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 752 /ST

Dated 3/6 / 2016

To


The PPO,
Peshawar..

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 25.5.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.