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**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

In Re:  
Service Appeal No. 663/2022

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 3501

Dated 10-2-2023


Manzoor Khan (Ex- FC Elite Force) .....Appellant

Versus

Inspector General of Police KPK and others..... Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Written Reply	*	1-3
2.	Affidavit	*	4
3.	Copy of Authority letter	*	5
4.	Copy of FIR	A	6
5.	Copy of Charge Sheet	B	7
6.	Copy of summery of allegation	C	8
7.	Copy of inquiry report	D	9-10
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DSP Legal Mian Niaz Muhamad,  
Elite Force, Peshawar

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

In Re:  
Service Appeal No. 663/2022

Manzoor Khan (Ex- FC Elite Force) .....Appellant

Versus

Inspector General of Police KPK and others..... Respondents

**PARAWISE COMMENTS OF BEHALF**  
**RESPONDENTS NO. 2 & 3**

Respectfully Sheweth:

1. That the appeal is not based on facts.
2. That the appeal is barred by law and limitation.
3. That the appeal is not maintainable in its present form.
4. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
5. That the appellant is estopped to the file the instant appeal by his own conduct.
6. That the appellant has come to this Hon'ble Tribunal with clean hands.
7. That the appellant has got no cause of action and locus standi to file the instant service appeal.

**ON FACTS:**

- i. Pertains to service record of the appellant, hence needs no comments.
- ii. As per information report of acting S.P Elite force Mardan appellant was involved in the instant case and also remained absent from lawful duty without any leave or prior information

②

with effect from 26.02.2020 till date i.e. 30.07.2020, hence in this regard charge sheet alongwith summary of allegations were issued to the appellant and Mr. Shah jehan Khan Durrani S.P Elite Force HQrs Peshawar was appointed as Inquiry Officer. The enquiry officer recorded the statement reported that investigation was carried out by Investigation Officer is patent who found him guilty in the murder case after fulfillment of all codal formalities. The Inquiry Officer has recommended that appellant may be awarded major penalty of dismissal from service, hence dismissed from service. **(Copy of FIR is Annexure A, copy of Charge Sheet is Annexure B, copy of summery of allegation is Annexure C, copy of Inquiry Report is Annexure D, while dismissal order is Annexure E).**

- iii. Pertain to record. However, being a member of the description force, involvement in a murder case is a gross misconduct and liable to be dismissed from service.
- iv. As already explained in the preceding paras.
- v. Pertains to record.
- vi. Incorrect, respondents are doing every act in the ambit of law, no injustice or illegality has been done with the appellant, hence the appellant has got no cause of appeal may kindly be dismissed on the following grounds:

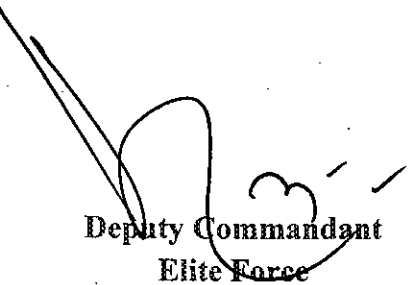
**GROUND:**


1. Incorrect, as already explain in the preceding paras.
2. Incorrect, as already explained in the above mentioned para.
3. Incorrect, being a member of discipline force and also was not on duty but arrested in a criminal case is the responsibility of appellant.
4. Incorrect, as already explained.

5. Incorrect, as already explained in para No. 02.
6. Pertains to record.
7. Needs no comments.
8. Needs no comments, as already explained.
9. Needs no comments.

**PRAYER:**

I have seen through the whole file. According to my assessment, appellant was falsely implicated in the case. May be decided on merit. However on the perusal of the departmental appeal it was filed on the grounds of time limitation i.e, time barred.

  
**Deputy Commandant**  
**Elite Force**  
**Khyber Pakhtunkhwa Peshawar**  
(Respondent No. 3)

  
**Addl: IGP Commandant,**  
**Elite Force**  
**Khyber Pakhtunkhwa Peshawar**  
(Respondent No. 2)

(4)

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

In Re:  
Service Appeal No. 663/2022

Manzoor Khan (Ex- FC Elite Force) .....Appellant

Versus

Inspector General of Police KPK and others..... Respondents

**AFFIDAVIT**

I Mian Niaz Muhammad (ADSP Legal) Elite Force, Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm that the contents of this **Para Wise Comments on behalf of respondent No. 1, 2 & 3** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Identified by:



10/22/2023

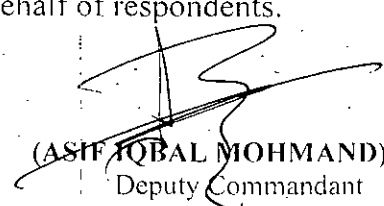
**DEPONENT**

CNIC: 17301-1519386-1

Cell # 0300-5899631

AUTHORITY LETTER.

The undersigned is hereby authorized to nominate Mr. Mian Niaz Muhammad Acting DSP/Legal Elite Force to submit the replies and attend the Honorable High Court/Supreme Court on behalf of respondents.

  
(ASIF IQBAL MOHMAND) PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar

DEPUTY COMMANDANT,  
Elite Force Khyber Pakhtunkhwa  
Peshawar



ہوا نہ بابت کارروائی کرنے پر خلاف

Riaz S.I. سیکرٹری 118 پی پی پولیس ایڈیشن لاہور

ضلع عالی!  
محکم محمد طارق اعظمی سے (AS-IX/JS) (پہلے)  
(آڈر شیٹ لفٹ کیس سے)

Sub inspector ریاض لاہور خلاف (Disciplinary proceedings)  
کے اور رپورٹ عدالت حضور صلیبیہ جموں کے نام پر  
لے آیا ہے کہ ان کے ساتھ ساتھ پولیس ایڈیشن لاہور  
کا کارروائی عمل سے لاہور کے

اس کے ساتھ




7

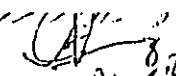
## CHARGE SHEET

I, Muhammad Hussain, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, hereby charge you Constable Manzoor No. 4754, Platoon No. 31 of Elite Force as follows:-

As per information report of A/SP Elite Force / RRF Mardan region vide No. 107/EF, dated 03.03.2020, you are involved in case FIR No. 256 dated 14.02.2020 u/s 302/324/353/7ATA/109/34 PPC Police Station City, district Mardan, and remained absent from lawful duty without any leave or prior permission w.e.from 26.02.2020 till date.

2. By reason of the above, you appear to be guilty of misconduct under the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
3. You are therefore, directed to submit your defense within Seven days of the receipt of this Charge Sheet to the Enquiry Officer.
4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. You are directed to intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.

  
(MUHAMMAD HUSSAIN)PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa,  
Peshawar.

  
A/S - P.S. City  
14-2-2020

آیڈی 4754

سورہ صافحہ

8

## SUMMARY OF ALLEGATIONS

1, Muhammad Hussain, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Constable Manzoor Khan No. 4754, Platoon No. 31 of Elite Force has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014).

## SUMMARY OF ALLEGATIONS

As per information report of A/SP Elite Force / RRF Mardan region vide No. 107/EF, dated 03.03.2020, he is involved in case FIR No. 25 dated 14.02.2020 u/s 302/324/353/7ATA/109/34 PPC Police Station City, district Mardan, and remained absent from lawful duty without any leave or prior permission w.e.from 26.02.2020 till date.

2. For the purpose of scrutinizing an enquiry is conducted of the said accused with reference to the above allegations, Mr. Shah Jehan Khan Durani SP Elite Force HQr: Peshawar is appointed as Enquiry Officer.
3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.
4. The accused shall join the proceedings on the date, time, and place fixed by the Enquiry Officer.

(MUHAMMAD HUSSAIN)PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa,  
Peshawar.  
05/03/2020.

No. 3823-27/EF, dated Peshawar the

Copy of the above is forwarded to the:-

1. Superintendent of Police, Elite Force HQr: Peshawar.
2. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
3. SRC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar.
4. FC Manzoor Khan No. 4754, of Elite through reader.SP EF HQrs.

(MUHAMMAD HUSSAIN)PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa,  
Peshawar.

D:\Charge Sheet\Charge Sheet for Case FIR 2020 docs

میں نے اپنا چارج شیٹ بلو سمری آف ایگیشن د  
طور پر وصول کیا  
03/4-9995982  
14.2-2020

منافس کارڈ نمبر 3-8875381-16/01

14.2-2020



OFFICE OF THE SUPERINTENDENT OF POLICE,  
HEADQUARTERS, ELITE FORCE, PESHAWAR.



No 107 /R,SP/EF, HQrs

Date: 02 /07/2020.

To: The Deputy Commandant,  
Elite Force, Khyber Pakhtunkhwa.

Subject: **DISCIPLINARY ACTION AGAINST CONSTABLE MANZOOR KHAN  
NO.4754**

Memo:

Kindly refer to your office Endst: No.3823-27/EF, dated Peshawar the 05.03.2020.  
Respected Sir,

In pursuance of your kind directions, the undersigned completed enquiry in the above cited case. Its stepwise detail is given below:

**ALLEGATIONS:**

As per letter of Acting SP Elite Force/RRF Mardan Region Mardan vide No.107/EF dated 03.03.2020, Constable Manzoor Khan 4754 is charged in case FIR No.256 dated 14.02.2020, U/S 302/324/353/7ATA/109/34 PPC of Police Station City, district Mardan, and remained absent from lawful duty without prior permission w.e.from 26.02.2020 till date.

In this regard, the Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar suspended him and issued Charge Sheet and Summary of Allegations and the undersigned was appointed as enquiry officer.

**PROCEEDINGS:**

The Charge Sheet and Summary of allegations were served upon the accused constable Manzoor Khan 4754 at the address of Central Jail Mardan through reader SP/HQrs Elite Force Peshawar, in reply to charge sheet and summary of allegations the accused constable submitted his written statement as quoted below:

**STATEMENT OF MANZOOR KHAN NO.4754:**

Responding to Charge Sheet and Summary of allegations the accused Constable Manzoor Khan 4754 stated in his written statement that he had been sent to the Central Jail Mardan district Mardan on 26.02.2020 in same case. Further he stated that he did not willfully absent himself from lawful duty and charged in aforesaid criminal case falsely. He revealed that actual accused namely Adnan Khan was killed on the spot by police party on 14.02.2020 and he was arrested on 26.02.2020. He requested in his statement that his absence period may be exonerated and enquiry may be kept pending till decision of honorable court. (Statement attached)

**STATEMENT OF INSPECTOR HAZRAT ALI (INVESTIGATION OFFICER):**

To probe into matter the statement of inspector Hazrat Ali (Investigation officer) of PS City district Mardan was recorded, stating in his statement that footage of instant incident from CCTV cameras and CDR data were collected that had reflected the cogent evidence of allegations against the accused constable Manzoor Khan No.4754. Further he stated that it has been learnt during the course of investigation the accused constable handed over his motorcycle to the actual accused Sayyar Khan and himself seated on the motorcycle behind the accused Sayyar Khan, both went to Kachehri to meet with hired killer who was already present at the Kachehri both the accused spent some time and gave instruction and then left the Kachehri and then went to police station Kalu Khan for duty. According to the statement of IO he recovered motorcycle and cell-phone with sim of accused constable which were used for committing the case. The accused constable himself confessed before police in same case and found guilty. (Statement attached)

**FINDINGS/CONCLUSION/RECOMMENDATION:**

Keeping in view the above facts and statements the matter was thoroughly enquired that the allegations leveled against the accused Constable Manzoor Khan 4754 that he (constable) along with co-accused namely Sayyar Khan came to Kachehri Mardan on his motorcycle, spent some time and gave some instruction to hired killer whose name is unknown and then left Kachehri. After commission of offence both the accused constable Manzoor Khan No.4754 and Sayyar Khan were charged for the murder of one Adnan Khan in case FIR No.256 dated: 14.02.2020, U/S 302/324/353/7ATA/109/34 PPC of Police Station City, district Mardan and then constable Manzoor Khan No.4754 remained unlawfully absent without the permission of high ups from the duty.

Similarly, the investigation of the subject case was carried out by inspector Hazrat Ali (Investigation officer) of PS city district Mardan who found him guilty in the murder case and took his motorcycle and mobile with sim in possession as case property, the accused constable namely Manzoor Khan No.4754 whose involvement is proved with the assistance of CCTV cameras and Call Data Record (CDR) as the day of occurrence both the accused constable Manzoor Khan No.4754 and Sayyar Khan (relative of accused constable) were found inside the Kachehri as mentioned by the I.O in his investigation as well. Hence, the accused constable Manzoor Khan No.4754 does not deserved any sympathy and mercy, therefore it is recommended that the accused constable Manzoor Khan No.4754 may be awarded major penalty of dismissal from service, if agreed so.

*Shah Jehan Durrani*  
(SHAH JEHAN DURRANI)  
Superintendent of Police,  
Headquarters, Elite Force, Peshawar.

By No 391 /RI EF

Date 06-7-20

*R1*  
*6/6*  
3197  
6-7-20

Elite Force



Office of the Deputy Commandant  
Elite Force Khyber Pakhtunkhwa Peshawar



No. 8375-82/EF

Date: 30/07/2020

ORDER


This order will dispose of the departmental proceedings against Constable Manzoor Khan No. 4754, of District Police Mardan now on deputation to Elite Force Khyber Pakhtunkhwa.

As per information report of Acting SP Elite Force Mardan region vide No. 107/EF, dated 03.03.2020 that he is allegedly involved in case FIR No. 256, dated 14.02.2020 U/S 302/324/353/7ATA/109/34 PPC Police Station City, District Mardan and also remained absent from lawful duty without any leave or prior permission w.e. from 26.02.2020 till to date.

In this regard Charge Sheet alongwith Summary of Allegations were issued to him by this office vide No. 3823-27/EF, dated 05.03.2020 and Mr. Shah Jehan Khan Durrani SP Elite Force HQrs: Peshawar was appointed as enquiry officer. The Enquiry Officer recorded the statements and reported that investigation was carried out by Inv: Officer Inspector Hazrat Ali of Police Station City Mardan, who found him guilty in the murder case. The I/O took his motorcycle and mobile with sim in possession as case property and involvement of the accused Constable is proved with the help of CCTV cameras and call data record (CDR) shows that both the accused Constable Manzoor and his relative Sayar Khan were found inside the kachehra on the day of occurrence. Hence, the accused Constable does not deserved any sympathy and mercy, therefore Enquiry Officer has recommended that he may be awarded major penalty of dismissal from service.

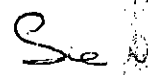
Therefore, I, Zaib Ullah Khan, Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, keeping in view the above facts, circumstances and recommendations of the enquiry officer, impose major penalty of dismissal from service upon the defaulter official from the date of absence i.e 26.02.2020.

Order Announced!

  
(ZAIB ULLAH KHAN)PSP  
Deputy Commandant  
Elite Force Khyber Pakhtunkhwa  
Peshawar.

Copy of the above is forwarded to the:-

1. District Police Officer, Mardan for information.
2. Superintendent of Police, Elite Force HQr: Peshawar.
3. Superintendent of Police, Elite Force Mardan.
4. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
5. Accountant /Incharg Kot, Elite Force Khyber Pakhtunkhwa Peshawar.
6. OASI/SRC, Elite Force Khyber Pakhtunkhwa Peshawar.
7. FMC, along with complete enquiry file Enls: (16) pages.

  
Superintendent of Police  
HQRS Elite Force  
Peshawar

باب اول فی حق علی بن ابی طالب

302/324/353/109  
7  
256  
2  
2020  
FATA-21, JATA

عزت و شرف و اقتدار و سربلندی

و در برابر آن حقیقت را چه عالم می تواند آید

که اگر کسی در حق او سخن بگوید که سزاوار طالب است

توبه و عفو شود که در حق او ستم و ظلم در حق او

از حق او سزاوارتر است و در حق او ستم و ظلم

و اگر کسی سزاوارتر از او باشد حق است که سزاوارتر است

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عزیز/مستقر

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No.663/2022

Manzoor Khan Son of Alamzeb Ex. Constable No. 4754/EF, Police  
Department Mardan. **Appellant**

**VERSUS**

1. The Secretary, Home Department, Khyber Pakhtunkhwa, Peshawar.
2. The Commandant Elite Force, KPK Police, Peshawar.
3. The Deputy Commandant Elite Force Khyber Pakhtunkhwa,  
Peshawar. **Respondents.**

=====

**SUBJECT:- REJOINDER ON BEHALF OF APPELLANT**

=====

Respected Sir,

**Preliminary Objection:**

All Preliminary Objections are misconceived, incorrect. Denied.

**On Facts:**

Paras 1 to VI.

- I. Para No.I, is correct, which has not denied by the respondents hence stand admitted on their part.
- II. Para No.II of the reply is incorrect, wrong, illegal, against the law and facts of the case, hence denied. The Appellant was falsely implicated in a criminal case vide FIR No. 256 dated 14.02.2020 U/S 302/ 324/ 353 / 7ATA/, he was arrested in the consequence of the said case, later on, the appellant was honourably acquitted by a competent court of law, vide judgment dated 06.01.2022. the appellant was innocent he was never involved in the said case, all the departmental proceeding in respect of the appellant service were conducted in absentia, his dismissal from service is wrong, illegal.
- III. Para No:III, is incorrect, wrong, illegal, against the law and facts of the case, hence vehemently denied, The Appellant was falsely implicated in a criminal case vide FIR No. 256 dated 14.02.2020 U/S 302/ 324/ 353/ 7ATA/, after a regular trial he was honourably acquitted by a competent court of law, vide judgment dated 06.01.2022, before the conclusion of the criminal case, disciplinary proceedings in absence of the appellant were initiated,

which culminated in his dismissal from service. Unilateral inquiry proceedings were conducted in which neither statement of the appellant was recorded nor afforded an opportunity of personal hearing. copy of the inquiry report was not provided, thus he was condemned unheard. Opportunity of fair trial was not provided to him.

- IV. Para No. IV needs no reply.
- V. Para No. V also needs no reply.
- VI. Para No. VI, is incorrect, wrong, illegal against the law and facts of the case, hence vehemently denied.

**On Grounds :-**

1. Para No.01, needs no reply.
2. Para No.102, is incorrect, wrong, illegal, against the law and facts of the case, hence vehemently denied, the allegation of the appellant in a criminal case are false, which is evident from the fact that the competent court of law has honourable acquitted him from the charges, vide judgment dated 06.01.2022.
3. Para No. V also needs no reply.
4. Para No. V also needs no reply.
5. Para No. V also needs no reply.
6. Para No. V also needs no reply.
7. Para No. V also needs no reply.
8. Para No. V also needs no reply.
9. Para No. V also needs no reply.

It is therefore humbly prayed that setting aside the impugned dismissal order, the appellant may be reinstated into service, with all back service benefits.

Any other relief deemed fit may also be graciously granted please.

Dated: 27-03-2023

Appellant Through Counsel

**AFFIDAVIT**

I, **Manzoor Khan** Son of Alamzeb Ex. Constable No. 4754/EF, Police Department Mardan, do hereby solemnly affirm that the contents of Rejoinder are true and correct to the best of my knowledge and belief. Nothing has been concealed from this Hon'ble Tribunal.  
Deponent

16/01-227558

