

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.1676/2023.**

Ex-IHC Rehmat ullah No.3995 of CCP Peshawar..... **Appellant.**

**VERSUS**

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

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**DSP/Legal,  
CCP, Peshawar.**

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**Respondents.**

**REPLY BY RESPONDENTS NO. 1, 2&3.**

**Respectfully Sheweth:-**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 9794

Dated 11-12-2023

**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'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 2000 in the respondent department. He has indifferent service record and he was awarded various punishments on different occasions during his active service. The appellant being member of disciplined force, committed gross misconduct by involving himself in objectionable activities, hence his act brought a bad name for the entire force (Copy of Punishment list as annexure A)
2. Incorrect. The appellant while posted as Moharrar PS Shaheed Gulfat Hussain Peshawar was found involved in objectionable activities related to gravest misconduct of having nexus with anti-social, smugglers and criminal elements and was receiving illegal gratification/ bribe from them and brought bad name to Police in general. The appellant has been managing his posting as Moharrar throughout his service. Besides, the appellant did not confine the accused in the lockup and released the accused in lieu of huge bribe/amount and was getting hefty sums of rupees for encouraging such like elements. The appellant has a persistent reputation of being corrupt and has maintained a standard of living beyond his known sources of income. In this regard, he was issued charge sheet with statement of allegations vide No.71/E/PA dated 30.05.2022, which he received and replied, but his reply was found unsatisfactory.(copy of charge sheet and statement of allegation are annexure as B, C)

3. Incorrect. Proper departmental enquiry was conducted against appellant, wherein the allegations leveled against him were proved beyond any shadow of doubt vide enquiry findings report No. 588-E/PA dated 15.06.2022. The appellant has committed a gross misconduct by involving himself in contacts with smugglers and criminals etc which has defamed the image of police department in the eyes of general public. During the course of enquiry his statement was recorded as well as proper opportunity of self defense was provided to him, but he failed to rebut the charges leveled against him. (copy of enquiry report is annexure as D)
4. Incorrect. After completion of all codal formalities appellant was awarded major punishment of reversion from the rank of Head Constable to Constable vide order No.1797-99/PA dated 16.06.2022. The appellate authority after hearing the appellant in person and after perusing the enquiry record, it was established that the charges of appellant had relations with smuggler, criminals and receiving of illegal gratification, hence the punishment of lower authority was enhanced by converting the reversion into dismissal from service vide order No.3377-83/PA dated 27.10.2022. Furthermore, the august Apex court has held in number of dicta that accepting of illegal gratification by civil servant is a heinous offence and is found guilty of the offence, cannot be retained in the civil service.
5. Incorrect. The appellant preferred revision petition, which was thoroughly processed and an ample opportunity of hearing was provided to the appellant by appellate Board, but the appellant failed to defend himself with plausible/justifiable grounds, hence his petition was rejected/filed vide No.1928-33/23 dated 21.07.2023.
6. That appeal of the appellant being devoid of merits and hit by limitation may be dismissed on the following grounds.

**REPLY ON GROUNDS:-**

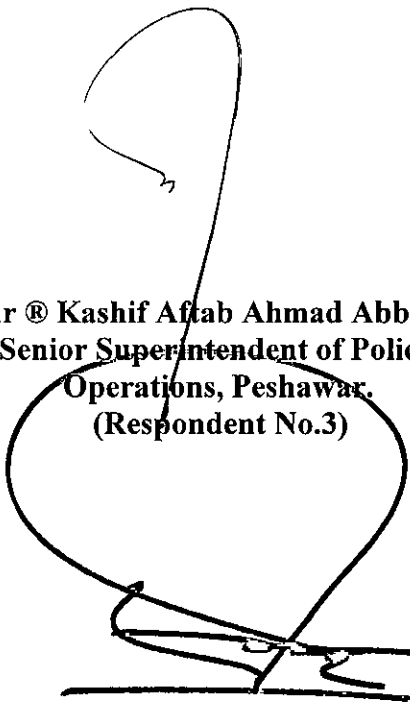
- A. Incorrect. The punishment order passed by the lawful authority is just legal and has been passed in accordance with law/ rules and no violation of Article 4 & 10A have been done by the respondents, hence liable to be upheld.
- B. Para is totally incorrect and misleading as the appellant was issued charge sheet with statement of allegations due to involvement in the above mentioned allegations. Proper departmental proceeding was conducted against him under Police Rules 1975 amended 2014. The appellant being member of disciplined force committed gross misconduct by involving himself in heinous offences of illegal gratification/bribe and also found relations with criminals/smugglers.
- C. Incorrect. Involvement in getting illegal gratification and relations with smugglers is a heinous offence and being a member of disciplined force he was liable to be proceeded departmentally hence after proof of charge, he was awarded penalty commensurate with his guilt/misconduct. Appellant has committed gross misconduct during service which is


a violation explicitly prohibited by the Constitution of Pakistan 1973 and such behavior of appellant is expressly forbidden by law/Police disciplinary Rules of 1975, amended 2014.


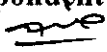
- D. Incorrect. Detail departmental enquiry was conducted against appellant in accordance with law/rules. Enquiry officer after detail probe into the matter reported that the charges against the appellant were proved. The appellant was provided full opportunity of defense/ personal hearing, but he failed to prove his innocence. After observing all codal formalities, he was awarded punishment in accordance with facts and rules.
- E. Incorrect as explained above. The appellate authority has rightly rejected the appeal of appellant after hearing and examining the material proof available on Enquiry file and issued order which is valid legal and in accordance with facts and rules. Punishment of appellant was enhanced and he was awarded major punishment of dismissal from service vide order No.3377-83/PA dated 27.10.2022.
- F. Incorrect. The duty of police is to protect life, property and liberty of citizens, preserve and promote public peace but he despite being a member of disciplined force deviated himself from his lawful duty and indulged himself in illegal/ immoral activities , hence after proper departmental enquiry conducted against him he was awarded major punishment under the law/rules.
- G. Incorrect. Proper departmental enquiry was conducted against appellant and during course of enquiry, he was provided full opportunity of defense, but he failed to rebut the charges. The enquiry officer conducted thorough probe into the matter and found the appellant guilty of the charges. After fulfilling of all codal formalities, he was awarded major punishment.
- H. Incorrect. The appellant availed the opportunity of hearing however, he failed to advance any plausible explanation in his defense.
- I. Incorrect. The appellate board diligently processed the petition of appellant affording an ample opportunity for personal hearing, but at that forum the appellant badly failed to present plausible or justifiable grounds in his defense, hence his petition was rejected/filed vide No.1928-33/23 dated 21.07.2023.
- J. Incorrect as explained in the proceedings paras.
- K. Incorrect. During active services, the appellant had got a blemish service record which contains 07 bad entries and 02 Minor punishments on different occasions. Furthermore, his involvement in corrupt practice specks high volume of his inefficiency. The august Apex court held number of dicta that accepting illegal gratification is a heinous offence for a civil servant who is found guilty on the offence, cannot be retained in the civil service.
- L. That the replying respondents also seek permission of this Hon'ble Tribunal to raise additional grounds at the time of arguments.

**PRAYERS:-**

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

  
**(Lt Cdr ® Kashif Aftab Ahmad Abbasi)PSP  
Senior Superintendent of Police,  
Operations, Peshawar.  
(Respondent No.3)**

  
**(Syed Ashfaq Anwar)PSP  
Capital City Police Officer,  
Peshawar.  
(Respondent No.2)**

  
**(Dr. Muhammad Akhtar Abbas)PSP  
DIG/Legal, CPO  
For Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No.1)**  


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**AFFIDAVIT.**

We respondents No. 1, 2, & 3 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/cast.

(Lt Cdr @ Kashif Aftab Ahmad Abbasi)PSP  
Senior Superintendent of Police,  
Operations, Peshawar.  
(Respondent No.3)

(Syed Ashfaq Anwar)PSP  
Capital City Police Officer,  
Peshawar.  
(Respondent No.2)



11 DEC 2023

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**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.

(Lt Cdr ® Kashif Aftab Ahmad Abbasi)PSP  
Senior Superintendent of Police,  
Operations, Peshawar.  
(Respondent No.3)

(Syed Ashfaq Anwar)PSP  
Capital City Police Officer,  
Peshawar.  
(Respondent No.2)

Dr. Muhammad Akhtar Abbas(PSP)  
DIG/Legal, CPO  
For Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No.01)

Name of Official

REHMAT ULLAH No.3995 S/O AKBAR JAN.

- R/O** Khazana PS Daudzai Distt: Peshawar
2. **Date of Birth** **21-03-1980**
3. **Date of enlistment** 29-07-2000
4. **Education** 10<sup>th</sup>
5. **Courses Passed** Nil
6. **Total qualifying service** 21 years, 10 Months & 05 days
7. **Good Entries** Nil **ULL**

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

1. 06 days leave without pay vide OB No.2667 dt:17-07-2003
2. 01 day E/drill vide OB No.3066 dt:11-08-1999
3. 01 day leave without pay vide OB No.2949 dt:12-11-2020
4. 05 days leave without pay vide OB No.756 dt:01-09-2008
5. 01 day leave without pay vide OB No.1933 dt:02-06-2010
6. Warned to be careful in future vide OB No.1873 dt:24-05-2016
7. Warned to be careful in future vide order No.2198-2204 dt:14-11-2016

**Minor Punishment**

1. Censured vide OB No.1873 dt:24-05-2016
2. Censured vide order No.2198-2204 dt:14-11-2016

**Major Punishment**

Nil

09. **Punishment (Current)**

- Awarded Major Punishment reverted to the rank of head constable to constable with immediate effect he is reinstated into service vide order endst No.1797-99/PA dated 16-06-2022 by SSP/Operation Peshawar.

Total leave at his credit

1048

Availed leaves

Nil

Balance

1048

CRCP  
218.

PA

W/CCPO



**CHARGE SHEET**

Annexure B

1. Whereas I, Haroon Rashid Khan PSP, SSP/Operations Peshawar, am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary expedient in the subject case against **Head Constable Rehmat Ullah No. 39 while posted as Moharrar PS SGT**.

2. And whereas, I am of the view that the allegations if established would call 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, **Haroon Rashid Khan PSP, SSP Operations**, Peshawar hereby charge **Head Constable Rehmat Ullah No. 3995 while posted as Moharrar PS SGT** under Rule 5 of the Police Rules 1975.

i) According to the source report, it has been observed that you were found taking undue advantage of your assigned duty. The fact is evident that you are getting bribe from different smugglers of the area and have developed contacts with anti-social and criminal elements and were receiving illegal gratification from them.

ii) It has also been reported that you did not confine the accused in the lockup and releasing the accused in lieu of huge bribe/amount and were getting hefty sums running of Rupees for encouraging such elements.


Being hand in glove with smugglers as well as criminal elements you have brought bad name to Police in general and SGH Police in particular.

iii) That you have a persistent reputation of being corrupt and have maintained a standard of living beyond your known sources of income.

iv) All this comes within the purview of 'corruption' under Police (E&R) Rules, 1975.

4. I hereby direct you further under Rule 6 (I) (b) of the said Rules to put forward 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.

  
**HAROOON RASHID KHAN (T.ST PSP)**  
Senior Superintendent of Police  
(Operations) Peshawar

*Attested  
Zaman*

5. Official concerned.

Thursday, May 05, 2022





**OFFICE OF THE  
SUPERINTENDENT OF POLICE,  
CITY, PESHAWAR.**

091-9225333/spcitypeshawar@yahoo.com

No. 588<sup>E</sup>/PA, dated Peshawar the 15/06/2022.

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

Subject: **REGULAR DEPARTMENTAL ENQUIRY REPORT.**

Memo:

Kindly refer to your office Diary No. 71/E/PA, dated 30-05-2022  
attached in original.

It is submitted that Regular Departmental Enquiry of accused  
Head Constable Rehmat Ullah No. 3995, while posted as Muharrar PS SGH,  
Peshawar, was entrusted to the undersigned which was proceeded under  
the law.

**SUMMARY OF CHARGE SHEET (ORIGINAL ATTACHED):-**

Head Constable Rehmat Ullah No. 3995, while posted as  
Muharrar, PS SGH, Peshawar, was charged for gross misconduct on the  
following grounds:-

- According to the source report, it has been observed that he was  
found taking undue advantage of your assigned duty. The fact is  
evident that he is getting bribe from different smugglers of the  
area and has developed contacts with anti-social and criminal  
elements and was receiving illegal gratification from them.
- It has also been reported that he did not confining the accused  
in the lockup and releasing the accused in lieu of hug  
bribe/amount and are getting hefty sums running Rupees for  
encouraging such like elements.
- Being hand in glove with smugglers as well as criminal elements  
he has brought bad name to Police in general and SGH Police in  
particular.

*Attested  
R. Khan*

3. PO, ... and OASI.
4. FMC along with complete fouji missal.
5. Official concerned.


- That he has a persistent reputation of being corrupt and has maintained a standard of living beyond his known source of income.
- All this comes within the purview of "corruption" under Police (E&D). Rules, 1975.
- That the situation prime facie suggests/implies unprofessional attitude and disinterest in service, thus making him liable/accountable under the relevant rules.

**ENQUIRY PROCEEDINGS:-**

- a) Charge Sheet was served upon HC Rehmat Ullah as per directions (copy of Charge Sheet is attached).
- b) HC Rehmat Ullah was called to office of the undersigned, heard in detail and his statement was recorded (statement is attached).

**FINDING/RECOMMENDATION:-**

I have perused all the relevant papers and the accused Head Constable was heard in person, but he failed to defend himself against the allegations leveled against him. Therefore, I came to the conclusion that Head Constable Rehmat Ullah No. 3995 is guilty of all accusations leveled against him.

  
 SUPERINTENDENT OF POLICE,  
 CITY, PESHAWAR.

*Accepted  
J. Ullah*

2. \_\_\_\_\_
3. PO, EC-II and OASI.
4. FMC along with complete fouji missal.
5. Official concerned.