

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

Service Appeal No. 1675/2023

Muhammad Kifayat Ullah Ex-SI Elite ForceAppellant

Versus

Inspector General of Police Khyber Pakhtunkhwa etcRespondent

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DEPONENT



(MIAN NIAZ MUHAMMAD)

DSP Legal
Elite Force, Peshawar

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 1675/2023

Muhammad Kifayat Ullah Ex-SI Elite ForceAppellant

Versus

Provincial Police Officer Khyber Pakhtunkhwa Peshawar.....Respondent

PARAWISE COMMENTS BY RESPONDENTS NO. 1 TO 3.

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

- a) That the appeal is not based on facts.
- b) That the appeal is barred by law and limitation.
- c) That the appeal is not maintainable in the present form.
- d) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- e) That the appellant is stopped to file the instant appeal by his own conduct.
- f) That the instant Service Appeal is badly time barred.
- g) That the appellant has not come to this Honorable Tribunal with clean hands.
- h) That the appellant has got no cause of action and locus standi to file the instant Service Appeal.

FACTS:-

1. Pertains to record, needs no comments.
2. In correct. Constable Tariq Aziz was under command of the appellant he committed in disciplined conduct by sharing frivolous video on social media in the wake of bomb blast. Being immediate senior of his subordinate, he knew the emotional anger of his junior but he did not try to de-escalate his anger nor reported the matter to high ups. Resultantly his junior posted a video maligning the image of Police Force.
3. Correct to the extent of showcase notice issued to the appellant for his weak supervision and command over his subordinates.
4. Pertain to reply of the showcase notice. However, the appellant failed to satisfy the competent authority despite the fact that an ample opportunity of defense was given to him. The appellant having loose command led to violation of policy issued by the competent authority from time to time that no police officer / official will create social media group and will not be part of any such group. In the instant case appellant being incharge of the Platoon No. 57 failed to keep himself inform of the activities of his subordinates staff which caused spread of unconfirmed, baseless and unfounded information on social media. This indiscipline act tarnished image of the entire force.

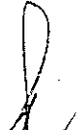
5. Para is incorrect and misleading; in fact appellant was issued Show Cause Notice u/s 5(3) under the police disciplinary rules 1975. Pursuance to which authority is competent to exercise power to dispose of the enquiry on its own merit.
6. Para is incorrect, departmental appeal of the appellant was thoroughly processed which will be decided on its own merit but the appellant without waiting its decision filed the instant appeal.

GROUNDS:-

- A. Incorrect. As explained in the preceding paras. Appellant being incharge of the platoon is duty bound to keep close watch over subordinates staff, restrain them from involvement in indiscipline and unlawful acts but the appellant failed to do so, which speaks, volume of his slackness, negligence and lack of coordination with subordinate staff.
- B. Para is incorrect as explained in Para 'A' above.
- C. Para is incorrect. Message based on unconfirmed information viraed on social media created unrest and frustration among the police copes.
- D. Para is incorrect. Appellant started to manage paper work after knowing sensitivity of the situation just to save his skin.
- E. Para is incorrect order passed by the competent authority is in accordance with law and existing rules.
- F. Para is incorrect, order passed by the competent authority is lawful and justified.
- G. Para is incorrect as explained in the preceding paras.
- H. The responding sick leave to raise additional grounds at the time of arguments.

Prayer:

It is, therefore, humbly prayed that the Appeal of the appellant may kindly be dismissed with cost.


(ABDUS SAMAD) PSP

Deputy Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 1)


(MUHAMMAD WISAL FAKHAR SULTAN) PSP

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


(DR. MUHAMMAD AKHTAR ABBAS) PSP

DIG/Legal, CPO
For Provincial Police Officer,
Khyber Pakhtunkhwa
(Respondent No. 3)

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

Service Appeal No. 16752/2023

M. Kifayat Ullah EX-SI Elite ForceAppellant


Versus

Inspector General of Police Khyber Pakhtunkhwa etcRespondent

AFFIDAVIT

I, Abdus Samad (Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar) do hereby solemnly affirmed that the contents of these joint parawise comments on behalf of Respondents No. 1 to 3 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off.


(ABDUS SAMAD)PSP
Deputy Commandant
Elite Force, Khyber Pakhtunkhwa
Peshawar.

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1675/2023

Muhammad Kifayat Ullah Ex-SI Elite ForceAppellant

Versus

Inspector General of Police Khyber Pakhtunkhwa etcRespondent

AFFIDAVIT

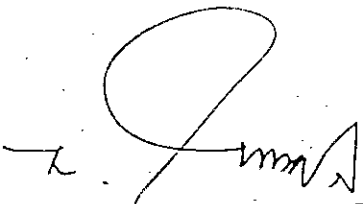
I, Mian Niaz Muhammad (DSP Legal Elite Force Khyber Pakhtunkhwa Peshawar) do hereby solemnly affirmed that the contents of these joint parawise comments on behalf of Respondents No. 1 to 4 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



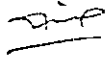
(ABDUS SAMAD) PSP
Deputy Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 1)



(MUHAMMAD WISAL FAKHAR SULTAN) PSP
Additional Inspector General of Police,
Elite Force, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 2)



(DR. MUHAMMAD AKHTAR ABBAS) PSP
DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa
(Respondent No. 3)



IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1675/2023


Muhammad Kifayat Ullah Ex-SI Elite ForceAppellant


Versus

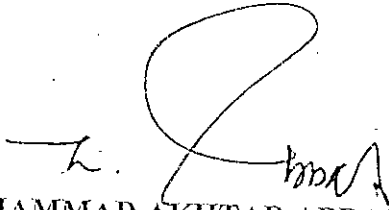
Inspector General of Police Khyber Pakhtunkhwa etcRespondent

AUTHORITY LETTER

Mian Niaz Muhammad (DSP Legal Elite Force Khyber Pakhtunkhwa Peshawar) is hereby authorized to submit Para wise comments/reply in the instant service appeal in the honorable Khyber Pakhtunkhwa Service Tribunal Peshawar and also to defend instant case on behalf of respondents


(AB) US SAMAD) PSP
Deputy Commandant,
Elite Force; Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 1)


(MUHAMMAD WISAL PAKHAR SULTAN) PSP
Additional Inspector General of Police,
Elite Force, Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 2)


(DR. MUHAMMAD AKHTAR ABBAS) PSP
DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa
(Respondent No. 3)

Office of the Deputy Commandant
Elite Force, Khyber Pakhtunkhwa Peshawar



No. 6222-AR-AEF

Dated: 08/05/2023

ORDER

Mohammad Kifayatullah SI of Elite Force, Khyber Pakhtunkhwa while posted as incharge platoon No.57 Dir Lower was proceeded departmentally on the following charges:-

a) That he while posted as incharge of platoon No.57 at Police Station Khali Dir Lower failed to keep close watch over subordinate staff and showed high negligence in performance of his official duty. As an ugly incident of bomb blast was occurred in CTD Police Station at Kabal Swat in which number of officials were martyred and severely injured. After that One of the constables namely Tariq Aziz posted under his direct command viral an unofficial, frivolous and unconfirmed audio message on social media which created unrest in the police force and also tarnished its image.

b) His act is highly objectionable and liable him to be proceeded departmentally.

He was issued Show Cause Notice under 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 and was served upon him.

He was thoroughly heard in person and was apprised about the allegations framed against him in the show cause Notice. He failed to forward reply to the show cause notice based on plausible / cogent grounds

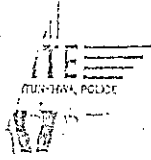
Foregoing in view, I Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, being competent authority have reached to the conclusion that his retention in force is not suitable therefore, SI Mohammad Kifayatullah No.760/M posted to platoon No.111 deployed at district Chitral is hereby awarded the major punishment of Dismissal from Service under the Police Rules 1975.

(IRFAN TARIQ) PSP

Deputy Commandant, Elite Force,
Khyber Pakhtunkhwa Peshawar

Copy of above is forwarded to the:-

1. Deputy Commandant RRF, Khyber Pakhtunkhwa Peshawar.
2. Acting Superintendent of Police, Elite Force HQs Peshawar
3. Acting Superintendent of Police, Elite Force Malakand Region.
4. Deputy Superintendent of Police, Elite Force HQs Peshawar.
5. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.
6. OASI, SRC, FMC Elite Force Khyber Pakhtunkhwa Peshawar.



Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



Subject: SHOW CAUSE NOTICE.

R/Sir,

It is submitted that Show Cause Notice No.5606/EF, dated 03-05-2023 was issued to SI Kifayat Ullah No.760/M served upon him and was apprised about the allegations framed against him. Today on 08-05-2023 he appeared and submitted his written reply wherein he claimed innocence & added that he spent only 15 days in Platoon No.57 (Police Station Khall District Dir Lower).

2. He further deposed that on arrival in Platoon No.57 he role called all subordinates staff & informed them regarding instruction passed on by High UPs. He further said that the said video was uploaded by FC Tariq Aziz No.4886 from his residence when he was on Eid leave.
3. Reply and Show Cause Notice is submitted for your kind perusal & orders please.

[Handwritten Signature]
8.5.23
OASI/EF

4. Dy: Comndt/EF

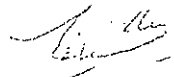
[Handwritten Signature]
08/05/23

بیان محمد کفایت اللہ SA انچارج پلاٹوں نمبر 57 مستحق لوڈر

جناب عالی!

معروض خدمت یوں کہ میرا تبادلہ مورخہ 07.04.2023 کو بحیثیت انچارج پلاٹوں نمبر 57 ہو کر مورخہ 10.04.2023 کو تھانہ خال لوڈر میں حاضری کی۔ مورخہ 12.04.2023 کو میں گنتی کر کے انفری کے ساتھ اپنا تعارف کرایا اور جو انوں کو ہدایات دی اور دوران عید الفطر تک ان افسران بالا پلاٹوں کے جو انوں کو 02 شفٹ میں عید لیو پرووانہ کیا گیا۔ کنسٹیبل طارق عزیز نمبر 4886 پلاٹوں نمبر 57 جو کہ مورخہ 23.04.2023 کو تین یوم عید لیو پر تھا اور مورخہ 26.04.2023 کو واپسی تھی مورخہ 25.04.2023 معلوم ہوا کہ مذکورہ بالا کنسٹیبل سوشل میڈیا غیر قانونی اور غیر اخلاقی افسران بالا کے خلاف میٹجز اور بیانات دیا ہے اس کے خلاف رپورٹ درج روز نامہ کی گئی ہے اور مورخہ 26.04.2023 عید لیو سے واپس آیا۔ DPO صاحب لوڈر، SP صاحب ایلیٹ فورس بلاکڈ ریجن اور DSP صاحب ایلیٹ فورس لوڈر نے اسکو دفتر طلب کیا تو وہ انکاری ہوا بعدہ DSP صاحب ایلیٹ فورس لوڈر تھانہ خال آیا دفتر SHO صاحب میں میری اور SHO اور انوسٹی گیشن سٹاف کی موجودگی میں کنسٹیبل طارق عزیز کو طلب کر کے 2/3 گھنٹے تک اسکو سمجھایا گیا تاہم وہ اپنے بیانات پر ڈٹا رہا کہ برخواست بھی کیا جائے تو میں اپنے باتوں سے منکر نہیں ہوں۔ مورخہ 27.04.2023 کو دربار بھی مستعد کیا گیا جہاں پر بھی اس نے اپنے مطالبات پیش کئے جو کہ بے بنیاد الزامات ہیں جن کا کوئی ثبوت نہیں ہے۔ چونکہ کنسٹیبل طارق عزیز نمبر 4886 پلاٹوں نمبر 57 ایلیٹ فورس کو بحوالہ آرڈر نمبر 5123-31/EF مورخہ 26.04.2023 کو سپینڈ ہو کر ہیڈ کوارٹرز ایلیٹ فورس کلوز کیا گیا ہے کو بحوالہ نمبر 47 مورخہ 28.04.2023 کو ہیڈ کوارٹرز روانہ کیا گیا ہے۔ اس سے قبل بھی کئی دفعہ افسران بالا کے احکامات بابت سوشل میڈیا گروپ کے غلط استعمال کی بابت ہدایات دی گئی ہیں۔ تاہم مذکورہ کنسٹیبل ان احکامات کی پرواہ کئے بغیر سوشل میڈیا پر پوسٹس اور میسج شیئر کر رہا ہے اور بار بار سمجھانے کے باوجود بھی اپنے باتوں پر ڈٹا ہوا ہے۔ اس کے خلاف رپورٹ درج روز نامہ کئے گئے ہیں۔ نقلدات روز نامہ ہمراہ لف ہے۔

یہی میرا بیان ہے جو کہ درست ہے۔



محمد کفایت اللہ SA

انچارج پلاٹوں نمبر 57 لوڈر

0344-9703080



Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



No. 5606 /FF

Dated: 03/05/2023

SHOW CAUSE NOTICE

Under Rules 5(3) of Khyber Pakhtunkhwa Police Rules 1975(Amended 2014)

That you Mohammad Kifayatullah, SI of Elite Force have rendered yourself to be proceeded against departmentally under Rule 5(3)(e) of the Khyber Pakhtunkhwa Police Rules 1975 (Amended 2014) for the commission of misconduct and negligence in duty enumerated below:-

- a) That you while posted as incharge of platoon No.57 at Police Station Khabl Dir Lower failed to keep close watch over subordinate staff and showed high negligence in performance of your official duty. As an ugly incident of bomb blast was occurred in CTD Police Station at Kabal Swat in which number of officials were martyred and severely injured. After that One of the constables namely Tariq Aziz posted under your direct command viral an unofficial, frivolous and unconfirmed audio message on social media which created unrest in the police force and also tarnished its image.
- b) Your act is highly objectionable and liable you to be proceeded departmentally.
2. That by reason of the above and sufficient material placed before the competent authority: it is decided to proceed against in General Police proceedings without aid of enquiry officer as contemplated in rule 5(3)(e) of Police Rules 1975(Amended 2014)
3. That your retention in the police force will amount to encourage of anti social elements, inefficient.
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by imposing on you one or more of the major punishments as provided in the rules
6. You are therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975(Amended 2014) for the commission of misconduct mentioned above.
7. You should submit reply to the show cause notice within 07 days of its receipt failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.

(IRFAN TARIQ)^{PSP}

Deputy Commandant, Elite Force,
Khyber Pakhtunkhwa Peshawar

OAS
EF

Co Co - 10
MHC

907N 4886 / 10 / 5/11/12 (10-3-12)

2604 / 23 / 5123-31 / EF 5/11/12

(suspend) / 23

2604 / 23 / 5123-31

2604-23