

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


**Service Appeal NO.1262/2023 -ATTAULLAH SHAH..... Appellant**

**VERSUS**

**Govt. of Khyber Pakhtunkhwa..... Respondents**

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19/12/23

**(Muhammad Yousaf Khan)  
Section Officer (Litigation-II)  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa**

15-1-24  
D.T. Kk

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

SERVICE APPEAL NO. 1262/2023

**Mr. Attaullah Shah**, District Public Prosecutor (BPS-19), in the office of District Public Prosecutor, District Dera Ismail Khan.

.....APPELLANT

**VERSUS**

1. **The Government** of Khyber Pakhtunkhwa, through Chief Minister Khyber Pakhtunkhwa, Peshawar.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10477

2. The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.

Dated 10-1-2024

..... RESPONDENTS

**Comments On Behalf Of Respondents No.1 to 2.**

**PRELIMINARY OBJECTIONS:**

1. That the instant Service Appeal is not maintainable in the eyes of law.
2. That the Appellant has got no Cause of Action.
3. That the Appellant evidently paved way for transmission of case file to Senior Public Prosecutor who tendered opinion which was not within the domain of Prosecution:
4. The Appellant did not disown the subject opinion at any stage rather owned it.
5. That the Appellant is estopped by his own conduct to bring the present Appeal before this Honourable Tribunal, hence not maintainable.
6. That the instant Appeal is embodiment of falsehood and misrepresentation, hence, bad in law and facts both.

**PARAWISE REPLY:-**

**Respectfully Sheweth,**

1. Pertains to record.
2. This Para is misleading. The Appellant has concealed material facts from this Hon'ble Tribunal which amounts to practicing deception on this Hon'ble Tribunal. Correct facts are that the Appellant was performing his duties as District Public Prosecutor, D.I.Khan, when Accused of a criminal case submitted an Application to him, pleading their innocence (Annexure-I). The Appellant requisitioned case file from police. Interestingly, on the day, when police brought the case file, the Appellant left the office on account of illness, issued an office order No.177-79/DPP/D.I.K, dated 02.02.2021 (Annexure-II), and authorized Senior Public Prosecutor to do his assignments in his absence.
3. The Appellant evidently paved the way for transmission of file to Senior Public Prosecutor (who is retired by now). The Senior Public Prosecutor issued illegal directions which were not checked later on by the Appellant being head of Prosecution at the District. Furthermore, a 22-A Petition was moved before the court of Additional

Sessions Judge, D.I.Khan, where in his comments, the Appellant owned the opinion and defended it (Annexure-III).

4. As already discussed, the Appellant's involvement in the matter is evident. His stance of putting whole of the blame on the shoulders of Senior Public Prosecutor (now retired) is wrong/false/baseless, hence denied.
5. Pertains to record. However, the impugned order was a result of full-fledged Inquiry and based on sound reasons, in accordance with law. Furthermore, in light of above stated facts, the astonishment of Appellant seems fake.
6. Pertains to record.
7. No comments.

### **GROUND**

- A. Incorrect, hence denied.
- B. Incorrect, hence denied.
- C. Incorrect, hence denied. No malafide whatsoever is brought on record by Appellant rather facts of the case show that his conduct was evidently malafide.
- D. Incorrect, hence denied. As already explained vide para- 2 to 4 of para wise reply.
- E. Incorrect, hence denied. The Inquiry Report is comprehensive and in minute detail.
- F. Incorrect, hence denied. Giving instructions to Police/I.O to place the name of accused in column-II of challan is an endeavor to alternate opinion of Investigation officer with that of District Public Prosecutor, which is beyond the scope of S.8(2) of Khyber Pakhtunkhwa Prosecution Act, 2005. The superior courts have deprecated the practice of interference in investigation, by any forum, in many cases.
- G. Incorrect, hence denied. Placing names of Accused in column-II of challan is subject to opinion of Investigation Officer and no other. Prosecution cannot step in the shoes of Investigation Officer and direct them to put the name of accused in column-II of challan, and it does amount to interference in investigation.
- H. The Appellant has not annexed any record to this effect hence cannot be commented/replied.
- I. Incorrect, hence denied.
- J. Incorrect, hence denied. The role of Appellant is apparent on record, and determined by the Inquiry.
- K. Incorrect, hence denied.
- L. The Respondents also seek permission to raise other grounds at time of arguments.

**PRAYER:**

In light of the above facts and circumstances of the case, the Service Appeal is devoid of any merit and legal substance; therefore, the same may kindly be dismissed with special cost, please.



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**(AMJAD HUSSAIN SHAH)**  
The Government of Khyber Pakhtunkhwa,  
through Chief Minister Khyber Pakhtunkhwa  
at Civil Secretariat Peshawar.  
(Respondent No. 01)



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**(ABID MAJEED)**  
The Additional Chief Secretary,  
Home & Tribal Affairs Department,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 02)

Additional Chief Secretary  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa

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

Service Appeal NO.1262/2023 -ATTAULLAH SHAH..... Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa..... (Respondents)

**AFFIDAVIT**

I Mr. Muhammad Abid Majeed Additional Chief Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa, solemnly affirm that contents of the Parawise comments is / true and correct to the best of my knowledge and belief that nothing has been concealed from this Honourable Court.



*M*  
CNIC- No- 17301-1396501-9 Dependent  
Additional Chief Secretary  
Home & T.As Department  
Khyber Pakhtunkhwa.

شہادت نامہ - 1000 - 1000

میں نے اپنے ایک دوست کو بتایا کہ وہ ایک ایسی جگہ پر گیا ہے جہاں  
 وہ ایک ایسی جگہ پر گیا ہے جہاں وہ ایک ایسی جگہ پر گیا ہے  
 وہ ایک ایسی جگہ پر گیا ہے جہاں وہ ایک ایسی جگہ پر گیا ہے  
 وہ ایک ایسی جگہ پر گیا ہے جہاں وہ ایک ایسی جگہ پر گیا ہے



میں نے اپنے ایک دوست کو بتایا کہ وہ ایک ایسی جگہ پر گیا ہے  
 وہ ایک ایسی جگہ پر گیا ہے جہاں وہ ایک ایسی جگہ پر گیا ہے  
 وہ ایک ایسی جگہ پر گیا ہے جہاں وہ ایک ایسی جگہ پر گیا ہے  
 وہ ایک ایسی جگہ پر گیا ہے جہاں وہ ایک ایسی جگہ پر گیا ہے  
 وہ ایک ایسی جگہ پر گیا ہے جہاں وہ ایک ایسی جگہ پر گیا ہے

محمد علی

Attest  
[Signature]

محمد علی  
 محمد علی  
 محمد علی

پجز صحیبا DPP صبا DPK

مقدمہ علت نمبر 12 مورخہ 20/1/2002 زبرد فہم  
302, 324, 169, 127-128, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

صبا - عالی

کہ من سائل پر نا حق دعوہ جاری ہوئی ہے۔  
اور دوران تفتیش میں من سائل کے خلاف کوئی شہادت  
نہیں ہے۔ اور نہ مدعی غریب کوئی ٹیس شہادت پیش کر سکا۔  
من سائل کو صرف سیاسی بنا پر ملوث کیا گیا ہے۔ لہذا اس کا  
یہ کہ مجھے انصاف فرایم کیا جائے۔

الغرضی

عبدالمرزاں

عبدالستار

OFFICE OF THE DISTRICT PUBLIC PROSECUTOR  
DERA ISMAIL KHAN

No 177-77 DPP/DIK Dated D.I.Khan the 06/06/2021

.....  
.....

OFFICE ORDER

As per Prosecution Act the forwarding of challans and applications is the domain of District Public Prosecutor. In case of non-availability the Senior Public Prosecutor will be performed the same duties.

Therefore all the Public Prosecutors and Senior Public Prosecutors are strictly directed to avoid forwarding of any challan or application to the Court without the consent of District Public Prosecutor/Senior Public Prosecutor.

HT  
Amir

District Public Prosecutor  
Dera Ismail Khan

Refr: No. & date even:

Copy forwarded for information to:

1. The Regional Director Prosecution D.I.Khan Division D.I.Khan.
2. All Public Prosecutors & Special Public Prosecutors of District D.I.Khan
3. The Superintendent of Police (Inv.) D.I.Khan

District Public Prosecutor  
Dera Ismail Khan



**OFFICE OF THE DISTRICT PUBLIC PROSECUTOR  
DERA ISMAIL KHAN**

No. 177-79 DPP/DIL Dated 02-02-2021

**OFFICE ORDER**

As per Prosecution Act the forwarding of challans and applications is the domain of District public prosecutor. In case of non availability the senior public prosecutor will be performed the same duties.

Therefore, all the Public Prosecutors and Special Public Prosecutors are strictly directed to avoid forwarding of any challan or application to the court without the consent of District Public Prosecutor/ Senior Public Prosecutor.

**District Public Prosec..tor**

BEFORE THE COURT OF LEARNED ADDITIONAL SESSIONS JUDGE,  
PAHARPUR, D.I. KHAN

APPLICATION U/S 22A(6)

HAMEED ULLAH VERSUS DSP PAHARPUR ETC.

CASE FILE NO. 13 DATED 20.01.2021 U/S 302, 326, 109 & 27, 34 ETC. PS BAND KURAI, D.I. KHAN

Respected Sir,

It is very humbly submitted the captioned case was registered in PS Band Kurai on dated 20.01.2021, police thoroughly investigated the case and after the expiry of stipulated time, case was requisitioned from the police U/S 7(b) of Prosecution Act, 2005.

On 06-02-2021 the same was checked/scrutinized and was found that I.O and complainant failed to discover any evidence against the accused, who were charged for the abatement. Then suggestion/guideline was given to the I.O that "I.O may proceed for placing both the accused in Column 2 of the challan".

I may mentioned here that no direction was given to the Investigation Officer rather suggestion/guideline U/S 8(b) of the Prosecution Act, 2005 was given which is wrongly interpreted by the petitioner.

Finally when police failed to procure an iota evidence against the accused charge for abatement, submitted challan by placing their names in Column 2 of the challan

Submitted please.

Dated 24.03.2021

District Public Prosecutor -  
Dera Ismail Khan

24/3/21

0156566  
9959310  
-8880

So (litigation - II)



(2)

**BEFORE THE COURT OF LEARNED ADDITIONAL SESSIONS JUDGE  
PAHARIPUR, D.I. KHAN**

**APPLICATION U/S 22A(6)**

**HAMEED ULLAH VERSUS DSP PAHARIPUR ETC.**

CASE FIR NO.13 DATED 20.01.2021 U/S302-324-109-427-14 PPC PS BAND KURRAM,  
D.I. KHAN

Respected Sir,

It is very humbly submitted that the captioned case was presented in PS Band Kurram on dated: 20-01-2021, Police thoroughly investigated the case in after the expiry of stipulated time; case was re-questioned from the police u/s 7(b) of prosecution act 2005

On 06-02-2021 the same was checked/scrutinized and was found that I-O and complainant failed to discover any evidence against the accused who were charged for the abatement. Then suggestion/guideline was given to the I-O that "I-O may proceed for placing both the accused in column 02 of the challan".

I may mention here that no direction was given to the investigation officer rather suggestion/guideline u/s 8(b) of the prosecution act 2005 was given which is wrongly interpreted by the petitioner.

Finally when police failed to procure an iota evidence against the accused charged for abatement. Submitted challan by placing their name in column 02 of the challan.

Submitted please.

**District Public Prosecutor  
Dera Ismail Khan**

Dated 24-03-2021



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT  
Dated Peshawar the 14<sup>th</sup> Dec, 2023

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**AUTHORITY LETTER**

Mr. Albert David, CNIC No. 17301-3785363-7 Superintendent Litigation-II Section,  
Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department is  
hereby authorized to submit Parawise Comments in Service Appeal NO.1262/2023 –  
Title: ATTAULLAH SHAH in the Khyber Pakhtunkhwa Service Tribunal Peshawar  
and to pursue the case onward on behalf of Respondent No.1 & 2.

(Muhammad Abid Majeed)  
Additional Chief Secretary  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa  
Additional Chief Secretary  
Home & T.As Department  
Khyber Pakhtunkhwa.