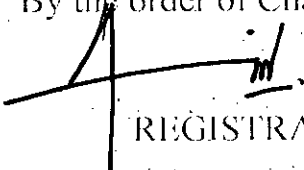


FORM OF ORDER SHEET

Court of _____

Appeal No. 164/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1.	19/01/2024	<p>The appeal of Mr. Habib ur Rehman resubmitted today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ . Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Habib ur Rehman received today i.e on 09.01.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal are unattested.
- 4- Affidavit is not attested by the Oath Commissioner.
- 5- Annexures-A & B of the appeal are illegible which may be replaced by legible/better one.
- 6- Five more copies/sets of the appeal along annexures i.e. compete in all respect may also be submitted with the appeal.

No. 81 /S.T,

Dt. 10/1 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv.
High Court at Peshawar.

Respected Sir,

1- Renewed

2- Renewed

3- Renewed

4- Renewed

5- ~~Annexure A & B are better~~

5- Better copies of Annexure-A & B are made

6- Renewed

Resubmitted after compliance



19/01/2024.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 165 /2024

Habib Ur Rehman

V/S

Police Department

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S.No.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	01-04
2.	Affidavit	-----	05
3.	Copies of show cause notice and reply to show cause	A&B	06-07
4.	Copies of order dated 16.08.2023, departmental appeal and rejection order dated 22.12.2023	C,D&E	08-12
5.	Wakalat Nama	-----	13

THROUGH:

APPELLANT



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
03339390916

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 165 /2024

Khyber Pakhtunkhwa
Service Tribunal

10447

08-1-2024

Habib Ur Rehman, Ex-Offg: ASI No.348,
Police Lines Kohat.

(APPELLANT)

VERSUS

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region, Kohat.
3. The District Police Officer, Kohat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 16.08.2023, WHEREBY
THE APPELLANT WAS DISMISSED FROM THE
SERVICE AND AGAINST THE ORDER DATED 22.12.2023,
WHEREBY THE DEPARTMENTAL APPEAL OF THE
APPELLANT WAS REJECTED FOR NO GOOD
GROUNDS.

A
08/01/24

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
ORDER DATED 16.08.2023 AND 22.12.2023 MAY PLEASE
BE SET ASIDE AND THE APPELLANT MAY KINDLY BE
REINSTATED INTO SERVICE WITH ALL BACK AND
CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY
WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND
APPROPRIATE THAT MAY ALSO BE AWARDED IN
FAVOUR OF APPELLANT.

2

RESPECTFULLY SHEWETH:
FACTS:

1. That the appellant was appointed in the respondent department as Constable in the year 2004 and has completed all his due training and appellant was promoted to the rank of Officiating ASI due to his excellent performance. The appellant since his appointed has performed his duty with devotion and honesty, whatsoever, assigned to him and no compliant has been filed by his superiors regarding his performance.
2. That the appellant was working as Offg: ASI, compliant was filed against the appellant by one Muhammad Owais that he has sold to him a motor Car GLI white color fraudulently and taken Rs.500000/- in advance but neither the motor Car was handed over to him nor the amount was returned. It is pertinent to mention here that the appellant has took money of Rs.500000/- as debit from the complainant Muhammad Owais.
3. That on the basis of above complaint, preliminary inquiry was conducted against the appellant by SP Operation Kohat in which the appellant appeared before the inquiry officer and clearly stated that there is no issue about the motor Car and he has taken the amount of RS.500000/- as a debit form the complainant Muhammad Owais and is ready to return.
4. That another inquiry was conducted against the appellant by SP Investigation Kohat, however, the appellant was never associated with inquiry proceeding as neither charge sheet along with the statement of allegations were communicated to the appellant nor any summon or order was issued by the inquiry officer to appear in the inquiry proceeding despite the fact the appellant was on the strength of the department and was regularly performing his duty. Even the inquiry report was not provided to the appellant.
5. That show cause notice was issued to the appellant which was replied by him in which he clearly stated that there is no issue about the motor Car and he has taken the amount of RS.5000000/- as a debit form the complainant Muhammad Owais and is ready to return. **(Copies of show cause notice and reply to show cause are attached as Annexure-A&B)**
6. That without associating the appellant with the inquiry proceeding and conducting proper inquiry to dig out the realty about the allegation, the appellant was dismissed from service vide order dated 16.08.2023, the appellant being aggrieved from the order dated 16.08.2023 filed departmental appeal on 04.09.2023, which was rejected on 22.12.2023 for no good grounds. **(Copies of order dated 16.08.2023,**

(3)

departmental appeal and rejection order dated 22.12.2023 are attached as Annexure-C,D&E)

7. That the appellant now comes to this Honorable Tribunal to file the instant appeal for redressal of his grievance on the following grounds amongst others.

GROUND:

- A) That the orders dated 16.08.2023 and 22.12.2023 are against the law, rules, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That no proper and regular inquiry was conducted against the appellant because the appellant was never associated with inquiry proceeding as neither charge sheet along with the statement of allegations were communicated to the appellant nor any summon or order was issued by the inquiry officer to appear in the inquiry proceeding despite the fact the appellant was on the strength of the department and was regularly performing his duty. Which is against the law and rules and as such the impugned orders are liable to set aside on this ground alone.
- C) That one sided inquiry was conducted against the appellant as no proper opportunity of defence was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination to dig out the reality about the allegations which is against the norms of justice and fair play.
- D) That even the complainant Muhammad Owais statement was not recorded before the appellant nor gave opportunity of cross examination of the appellant on which the whole action has taken against the appellant, which is violation of law and rules and as such the impugned orders are liable to be set aside.
- E) That no charge sheet and statement of allegations was communicated to the appellant despite the fact the appellant was in the strength of the department and was regularly performing his duty, which is violation of law and rules.
8. That complaint was filed against the appellant by one Muhammad Owais that he has sold to him a motor Car GLI white color fraudulently and taken Rs.500000/- in advance but neither the motor Car was handed over to him nor the amount was returned, but the actual issue that the appellant has took money of Rs.500000/- as debit from the complainant Muhammad Owais and has no issue of selling of the Motor Car to the Complainant which was the private issue between the parties, which means that the appellant has dismissed from service on baseless allegation.

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2024

Habib Ur Rehman

VS

Police Department

AFFIDAVIT

I, Habib Ur Rehman, Ex-Offg: ASI No.348, Police Lines Kohat, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.

HABIB
DEPONENT



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-920116 Fax 920125

No. 4003 / PA dated Kohat the 24/7/2023

A
6

FINAL SHOW CAUSE NOTICE

1. **Mr. Farhan Khan PSP, District Police Officer, Kohat** as competent authority, under the Khyber Pakhtunkhwa Police Rules, 1975, (amended 2014) is hereby serve you **Offg: ASI Habib Ur Rehman Police Lines Kohat** as follow:

1. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No 3306-07/PA dated 23.06.2023.
 2. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.
- I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance

- a. *As per preliminary enquiry conducted by SP Operations Kohat, you ASI Habib Ur Rehman has taken a huge amount from various people i.e Gul Rehman, Umar Saeed, Qudrat Ullah etc, whereas a complaint submitted by one Muhammad Owais r/o Sheikhan, that you have sold a motor car GLI white color fraudulently and taken Rs: 05 lac in advance but neither the motor car was handed over to him nor the amount return up till now.*
- b. *Your above act shows in-efficiency, irresponsibility and professional gross misconduct on your part.*

4. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules *ibid*.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.

**OFFICE OF THE
DISTRICT POLICE OFFICER
KOHAT**

Tel: 0922-920116 Fax 920125
No.4003/PA dated Kohat the 24/7/2023

FINAL SHOW CAUSE NOTICE

I, **Mr. Farhan Khan PSP, District Police Officer, Kohat** as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you **offg: ASI Habib ur Rehman Police Lines Kohat** as fallow:

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 3306-07/PA dated 23.06.2023.
 - ii. Ongoing, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.
 - a. **As per prelimarny enquiry conducted by SP Operations Kohat, you ASI Habib ur Rehman has taken a huge amount from various people i.e. Gul Rehman , Umar Saeed, Qudrat Ullah etc, whereas a complaint submitted by one Muhammad Owais R/o Sheikhan, that you have sold a motor car was handed over to him nor the amount return up till now.**
 - b. **Your above act shows in-efficiency, irresponsibility and professional gross misconduct on your part.**
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules **ibid**.
3. You are, therefore, requested to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.
5. The copy of the findings of inquiry officer is enclosed.

(7) B

بنا۔

فائزر شوکار جناب D.P.O. ڈھاکہ عرض
خدمت ہوں جیسا کہ درخواست گزار نے پیسوں
اور قرضوں کے لین دین کے حلقے یا سٹیٹس
پیسوں اور قرضوں کا لین دین ٹریڈنگ کے حلقے
اور اس کا تعلق سول سٹور کے سیکرٹری
سہ کار کی ذمہ داری کیسے کہ اس کا تعلق نہیں ہے
میرا بیان ہے۔

HABIB

Ex Asi

15/8-2023

جناب عالی

فائنل شوکار جناب DPO کوہاٹ معروض خدمت ہوں
جہاں تک درخواست گزار نے پیسوں اور قرض کے لین دین
کے متعلق بات کی ہیں پیسوں اور قرض کا لین دین پرائیویٹ
معاملہ ہے اور اس کا تعلق سول کیساتھ ہے سرکاری نوکری
کیساتھ اس کا تعلق نہیں ہے یہ میرا بیان ہے۔

HABIB

Ex-ASI

15-8-023



③

Office of the
District Police Officer,
Kohat

Ph: #. 0922-9260116 Fax #: 0922-9260125

ORDER

This order will dispose of departmental proceedings conducted against Offg: ASI Habib Ur Rehman (hereinafter called accused official) under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014), on the below score of charges:-

As per preliminary enquiry conducted by SP Operations Kohat, Offg: ASI Habib Ur Rehman has taken a huge amount from various people i.e Gul Rehman, Umar Saeeq, Qudrat Ullah etc, whereas a complaint submitted by one Muhammad Ovais r/o Sheikhan, that he has sold a motor car GLI white color fraudulently and taken Rs: 05 lac an advance but neither the motor car was handed over to him nor the amount return up till now.

The above act shows in-efficiency, irresponsibility and professional gross misconduct on his part.

For the above, serious / professional misconduct of the accused officiating ASI. Charge sheet alongwith statement of allegations was served upon the accused ASI and SP Investigation Kohat was appointed as enquiry officer to scrutinize the conduct of the defaulter ASI. The enquiry officer stated that ASI Habib Ur Rehman was repeatedly summoned verbally and written reports to join the inquiry proceedings and to receive his charge sheet but he deliberately avoiding the inquiry. His this act is gross misconduct and punishable u/s 118 (c) (g) Police Act 2017. Moreover, he has received a huge amount from different people fraudulently which is also a criminal act u/s 419,420,468,471 PPC.

The accused official was issued Final Show Cause Notice but his reply was found unsatisfactory.

The accused official was called in O.R held in this office on 16.08.2023 and heard in person, but his version amounts to admission / confession of his illegal practice / corruption and misconduct.

Record gone through which indicates that the accused official being member of a disciplined department indulged himself in illegal activities, cheating / frauds with complainant. Hence, the accused official misused his authority, bring bad name to a disciplined force and he is a stigma on Police. Hence, the charges leveled against the accused official are established beyond any shadow of doubt and his retention in department shall damage the image of Police.

Therefore, in exercise of powers conferred upon me under the rules Ibid I, Farhat Khan PSP, District Police Officer, Kohat impose a major punishment of Dismissal from service on accused Offg: ASI Habib Ur Rehman with immediate effect.

Announced
16.08.2023

DISTRICT POLICE OFFICER,
KOHAT

OB No: 671
Date 16-08-2023

No 4700-02/PA dated Kohat the 16-08-2023.

Copy of above to the:-

1. R.I/Reader/SRC/OHC/Pay Office for necessary action.

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT.

APPEAL AGAINST THE IMPUGNED ORDER DATED 16-08-2023 VIDE
OB-NO-671 IN WHICH THE DPO KOHAT AWARD THE MAJOR
PUNISHMENT OF DISMISSAL FROM SERVICE WITH IMMEDIATE
EFFECT.

Respectfully Sheweth,

With great veneration the instant representation is preferred by the appellatant on the following grounds:-

Facts:

- CC
5/9
- i. Briefly facts are that as per impugned order the appellatant has taken a huge amount from various people i.e Gul Rehman, Umar Saeed, Qudrat Ullah ect, whereas a complaint submitted by one Muhammad Owais r/o Sheikhan, that he has sold a motor car GLI white color fraudulently and taken Rs: 5 Lac an advance but neither the motor car was handed over to him nor the amount return up till now.
 - ii. That appellatant above act shows inefficiency, irresponsibility and professional gross misconduct on your part.
1. That upon the undone offence without enquiring the allegations which pertains to civil nature resulted into impugned order. (Copy of Impugned order is annexed)
 2. That the appellatant had not committed any wrong with any one and without enquiring the facts, and without verifying the contents of complaint and in the absence of any material cogent evidence directly issued the FINAL SHOW CAUSE NOTICE (FCN) no show cause no charge sheet along with statement of allegation was served upon the appellatant nor was summoned by enquiry officer, nor any report / information was given through muharar staff nor through any other source of communication and one sided enquiry was conducted against the appellatant, the appellatant properly submitted the reply of the FCN but in vain and without recording the statement of the appellatant and giving the opportunity of cross examination and heard in person directly blessed with the impugned order (Copy of FSN is annexed)
 3. That the appellatant had tender good long service record and there are numerous good entries which could be verify form the service record as the allegations mentioned in the impugned order never practice nor proved through any solid ground as the sale consideration was not made by appellatant the whole transaction was carried out in the presence of the complainant and the complainant himself offer to use his amount as the appellatant was in domestic crises and the appellatant promise him to return his debt in installments.

.. That the as per the allegation of impugned order pertaining to taken a huge amount from various people and fraudulently taken Rs: 5 Lac is totally baseless. (PO)

5. That the appellant is a poor person having a large family and the appellant was the only person for spoon feeding and to earn the lively hood for the entire family.

6. That again an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation. Just on the basis of fake complaint held guilty the appellant without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014) & Police Act of 2017.

7. That all the proceedings conducted against the appellant are against cannon of justice and fair trail as per the guidelines of the upper courts and existing Rules & order mentioned in police Rules.

8. That no proper enquiry has been conducted against the appellant when the appellant is not aware about any proceedings then the whole enquiry proceedings are defective one even though the enquiry report is also not provided to the appellant which speaks that no proper so called enquiry has been initiated against the appellant.

9. That the appellant is still unable to realize that what element appealed to the mind of DPO Kohat for issuing of impugned order inspite of it that the matter is of purely civil nature and interference in civil nature matter is to take the cognizance of civil court which is bed in eye of law.

10 That while awarding the impugned punishment the enquiry report has not been given to the appellant which were requested by the appellant time and again but in vain, which is very much necessary as per Apex court judgment.

Grounds:

a. That during enquiry none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are practiced by the appellant nor proved against any cogent reason against the appellant.

b. That the appellant was neither intimated nor informed by any source of medjum regarding enquiry proceedings for any disciplinary action which shows bias on the part of concerns.

c. That the DPO Kohat has acted whimsically and arbitrary, which is apparent from the impugned order.

11

- d. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts, and it is a matter of worth consideration that prior the commencement of any so called proceedings a single summoned had not been served upon the appellant nor inform him through any source which is totally against the principle of justice and fair enquiry which shows that departmental enquiry was not conducted according to the rules.
- e. That the impugned order is outcome of surmises and conjecture.

Pray:

In the view of above circumstances it is humbly prayed that the impugned order of punishment awarded by DPO Kohat may graciously please be set aside for the end of justice and the appellant's service may please be graciously restored and blessed with all back benefits.

Appellant

Ex- ASI Habib Ur Rehman
Kohat Police

4/9/2023

Mca 9590 BE

0334-5581845

DPO Kohat

For Commandant / Provide
his s/Receipt & enquiry
File.



DSP/L

For Commandant

Handwritten signature and date 6/9/23

Handwritten signature and date 6/9

E (12)

ORDER.

This order will dispose of the departmental appeal preferred by Ex: Offg: ASI **Habib-ur-Rehman No. 348** of district Kohat against the order of District Police Officer, Kohat whereby he was awarded major penalty of dismissal from service vide OB No. 671, dated 16.08.2023.

Brief facts of the case are that as per preliminary enquiry conducted by SP Operation Kohat against Offg: ASI Habib-ur-Rehman has taken huge amount from various people i.e, Gul Rehman, Umer Saeed, Qudrat Ullah etc. A complaint was submitted by one Muhammad Owais r/o Sheikhan that he has sold to him a Motor Car GLI white color fraudulently and taken Rs. 500000/ in advance but neither the Motor Car was handed over to him nor the amount was returned uptil now.

On the basis of above misconduct, Charge Sheet alongwith Statement of Allegations was served upon the Ex; Offg: ASI. SP Inv: Kohat was appointed as Enquiry Officer to conduct regular departmental enquiry against the defaulter Offg: ASI. The enquiry officer reported that ASI Habib-ur-Rehman was repeatedly summoned verbally and through written summons to join the enquiry proceedings and to receive his Charge Sheet but he was deliberately avoiding the enquiry. He further reported that he has received a huge amount from different people fraudulently, which is criminal act u/s 419/420/468/471 PPC.

Keeping in view the recommendations of the Enquiry Officer and the above cited circumstances, the delinquent officer was awarded major punishment of dismissal from service under the relevant rules by the District Police Officer, Kohat vide OB No. 671 dated 16.08.2023.

Feeling aggrieved from the order of District Police Officer, Kohat, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in the office of the undersigned on 19.12.2023. During personal hearing the appellant did not advance any plausible explanation in his defense. He had earlier been removed from service vide OB No. 421 dated 16.06.2021 on the charges that he had received huge amount from different people fraudulently for employment in FIA. Moreover, he was also dismissed from service vide OB No. 330 dated 20.09.2022 on the charge that he had fraudulently received huge amount from another person for employment of his son in FIA. On both occasions, he was later reinstated in service. However, he did not mend his ways. On the contrary, he continued with this irresponsible conduct with impunity. The retention of such officer in a disciplined force is bound to tarnish the image of Police amongst the public.

Foregoing in view, I, Sher Akbar, PSP, S.St, Regional Police Officer, Kohat, being the appellate authority, am of the considered opinion that the punishment awarded to the appellant is justified and, therefore, warrants no interference. Hence, appeal of Ex: Offg: ASI **Habib-ur-Rehman No. 378** is hereby rejected, being devoid of substance and merit.

Order Announced
19.12.2023

CHE/SRE
SP
26/12/23

District Police Officer

Regional Police Officer,
Kohat Region

No. 13414-15 /EC, Dated Kohat the 26/12/23 /2023

Copy forwarded to District Police Officer, Kohat for information and necessary w/r to his office Memo: No. 7739/LB, dated 27.11.2023. His Service Record and Fauji Misal are returned herewith.

2. Ex: Offg: ASI Habib-ur-Rehman of district Kohat.

9038
27/12/23

(1)

VAKALAT NAMA

NO. _____/2024

IN THE COURT OF KP Service Tribunal, Peshawar

Habib Us Rehman (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Department (Respondent)
(Defendant)

I/We, Habib Us Rehman

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, 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 _____/2023

HABIB

(CLIENT)

ACCEPTED

TAK

TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916