

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 1286/2023.

Abid shah..... (Appellant)


Versus

Inspector General of Police Khyber Pakhtunkhwa and others..... (Respondents)

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DEPONENT


DSP khyber

CNIC No #21201-8380857-7

Mobile# 0333-9262626

21-02-2024
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 1286/2023.

Abid shah..... (Appellant) **Khyber Pakhtunkhwa Service Tribunal**

Versus

Diary No. 11263

Inspector General of Police Khyber Pakhtunkhwa and others..... (Respondents) **Dated** 21-02-2024

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.01 TO 03

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTION:-

- a) That the Appellant has got no cause of action to file the present Appeal.
- b) That the Appeal is not based on facts.
- c) That the Appeal is not maintainable in the present form.
- d) That the Appeal is bad for non-joinder and miss-joinder of necessary parties.
- e) That the Appellant has not come to this Honorable Tribunal with clean hands
- f) That the Appellant is estopped by his own conduct to file the Appeal.
- g) That the appeal is barred by law and limitation.

Facts:

- 1. Pertain to service record of the appellant.
- 2. Incorrect, appellant while posted at police station jamrud involved in criminal activities charged in FIR No.38 u/s 302,324,34 PPC, FIR No 39 U/C 342/395 PPC, FIR No. 09, U/S 324/353, 15AA PPC and FIR No.84 U/S, 324/353 PPC, with 7ATA, with 3/4 Expel/427/15AA/188/148/149 registered at police station jamrud, consequent upon which issued a show cause notice with the opportunity to be heard in person but the appellant /defaulter official did not availed (**annexure A copy of show cause Notice attached**)
- 3. Para is pertain to record of appellant absentia however afterwards charge sheet with summary of allegations was served upon him vide this office No. 1036-A/PSO-Khyber dated 31.03.2021 in reply of which he also failed to submit any statement. And DSP Hqr Khyber was nominated as enquiry officer. (**Annexure B charged sheet and summary of allegations C enquiry report.**)
- 4. Incorrect, appellant was dismissed from service due to involvement in heinous criminal activities i.e. (criminal cases). Moreover, after fulfillment of all codal formalities i.e. (enquiry, show Cause Notice Charge Sheet)-
- 5. Correct, to the extent that appellant was released on bail through patch ups, but not honorably in the court of law. Moreover, trail is still pending in the court of law in the instant FIR's.
- 6. Correct, however, Major punishment of dismissal from service has been converted into reinstatement in service and his period of absence has treated as

leave without pay, therefore, no right to file the instant service appeal in the court of law.


- 7. As already explained in the preceding para.
- 8. Incorrect, appellatant has got no cause of the appeal. Therefore, the instant appeal my kindly be dismissed on the following grounds.

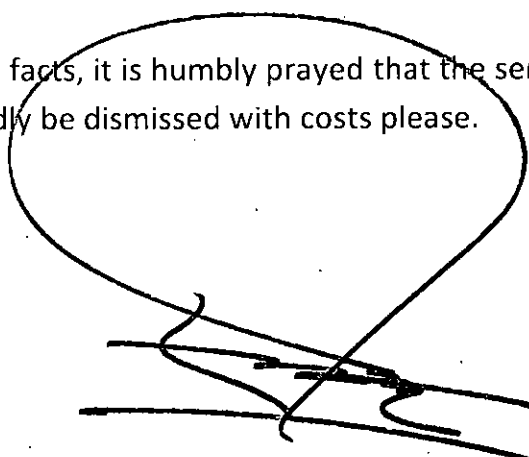
GROUND:

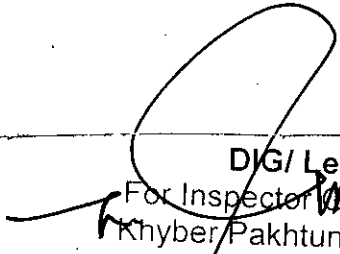
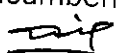
- A. Incorrect, appellatant has treated according to law, rules and regulation.
- B. Incorrect, reinstatement order is according to fundamental rights, law, rules and regulation, Moreover still the cases of the appellatant is pending for court trail if appellatant is convicted in any case by the court of law, then, according to rules and law appellatant will be dealed again.
- C. Incorrect, as already explained in the preceding paras.
- D. Incorrect, as already explained in 2, 3, 7 and para B.
- E. Respondent may allow to be raised additional grounds at the time of arguments.

PRAYER:-

Keeping in view of the above stated facts, it is humbly prayed that the service appeal is based on wrong grounds may kindly be dismissed with costs please.


CAPT. SALEEM ABBAS KULACHI (PSP)
 DISTRICT POLICE OFFICER
 KHYBER
 (Respondent No. 3)


SYED ISHFAQ ANWAR
 CAPITAL CITY POLICE OFFICER
 PESHAWAR
 (Respondent No.2)


DIG/ Legal/ CPO
 For Inspector General of Police,
 Khyber Pakhtunkhwa, Peshawar
 Respondent No. 1
(DR. MUHAMMAD AKHTAR ABBAS)
 Incumbent


BEFORE THE HONORABLE PESHAWAR HIGH COURT PESHAWAR

Service Appeal No. 1286/2023

Abid Shah.....(Appellant)

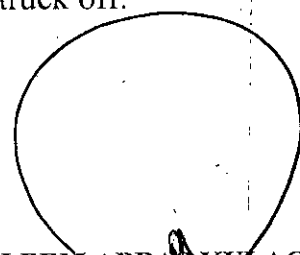
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa etc..... (Respondents)

AFFIDAVIT

I, Saleem Abbas Kulachi, District Police Officer, Khyber (Respondent No. 3) do hereby solemnly affirm on oath that the contents of accompanying Reply to the instant Service Appeal are correct to the best of my knowledge and belief. Nothing has been concealed from this Hon'ble Tribunal.

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



(SALEEM ABBAS KULACHI) PSP
District Police Officer,
~~Khyber~~
(Respondent No. 3).

Miss [Signature] Durzshi
Advocate
C.A.F. COMMISSIONER
Judicial Commission, Peshawar

21 - 02 - 024

BEFORE THE HONORABLE PESHAWAR HIGH COURT PESHAWAR

Service Appeal No. 1286/2023

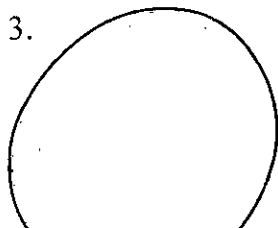
Abid Shah.....(Appellant)

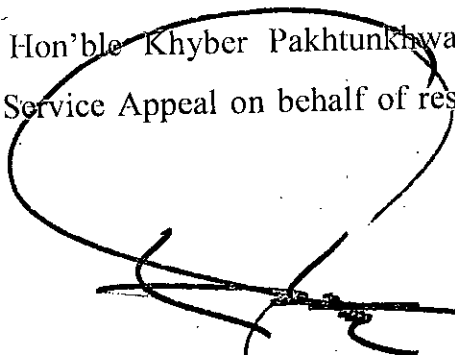
VERSUS

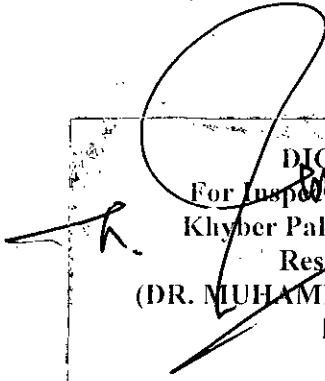
Inspector General of Police, Khyber Pakhtunkhwa etc..... (Respondents)

AUTHORITY LETTER

Mr. Mazhar Khan DSP, Khyber is authorized to submit Para-wise comments/ reply in the instant Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant Service Appeal on behalf of respondents No. 1 to 3.


(SALEEM ABBAS KULACHI) PSP
District Police Officer,
Khyber
(Respondent No. 3)


(SYED ASHFAQ ANWAR) PSP
Capital City Police Officer,
Peshawar
(Respondent No. 2)


DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 1
(DR. MUHAMMAD AKHTAR ABBAS)
Incumbent



(6)

**OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER**



NO. 938 /Showcause/PSO/Khyber,
Dated: 17/03/2021.

SHOW CAUSE NOTICE

Whereas you FC Abid Shah while posted at PS Jamrud, District Khyber committed the following gross misconduct on your part:

"that you are involved in case FIR No. 38, 08/02/2021, u/s 302/324/34 PPC registered at Police Station Jamrud. Involvement in criminal offences is a gross misconduct on your part"

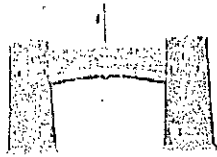
If this allegation is proved against you, Proper departmental action will be initiated against you which may result in Dismissal from Service as per Police Rules (1975/04-b-iii).

Now I, District Police Officer, Khyber, being the competent authority, call upon you to Show Cause within 03 days of the receipt of this Notice as to why you should not be dealt with departmentally under Police Rules (1975/04-b-iii). Also intimate that whether you desire to be heard in person.

If you failed in submitting any reply an ex-parte action shall be taken against you.

Janh
(DISTRICT POLICE OFFICER)
KHYBER.

~~Attested by~~
Attested by
Dep. I.C. Khyber



OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER



CHARGE SHEET U/S 6(1) (A) POLICE RULES 1975

You. FC Abid Shah s/o Mohabat Shah Kuki Khel of PS Jamrud while on duty at PS Jamrud district Police Khyber is hereby charged for committing the following omission/commissions:-

"That you were involve in FIR # 38, dated 08/02/2021, u/s 302/324/34PPC, Police Station Jamrud. This is a gross misconduct on your part liable to be dismissed from service."

You mentioned above are hereby called upon to submit your written defense against the above charges before the Enquiry Officer.

Your reply should reach the Enquiry Officer within seven (3) days from the date of receipt of this charge Sheet, failing which ex-parte action shall be taken against you.

Summary of allegations is enclosed herewith.

Lame
DISTRICT POLICE OFFICER,
KHYBER

4/3/21
Accepted by
DSP Khyber

8



OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER



**SUMMARY/STATEMENT OF ALLEGATION U/S 6(1) (A) POLICE
RULES 1975.**

You FC Abid Shah of PS Jamrud have committed the following:-

"That you were involve in FIR # 38, dated 08/02/2021, u/s 302/324/34PPC, Police Station Jamrud. This is a gross misconduct on your part liable to be dismissed from service."

Your this act falls within the purview of misconduct as contained u/s 2 (iii) of NWFP (now Khyber Pakhtunkhwa) Police Rules 1975.

Lamh

DISTRICT POLICE OFFICER,
KHYBER

*Attended by DSP
Khyber*

9 EU
DSP/HEAD QUARTERS KHYBER



"ENQUIRY REPORT"

Case in Brief:

Constable Abid is a notorious and habitual criminal wanted in cases FIRs 38, registered u/s 302/324/34 PPC, 39 registered u/s 342/395 PPC, 09 registered u/s 506/15AA/34 PPC & FIR 84 registered u/s 324/353/7ATA/3/4 Expl/427/15AA/188/148/149 at Police Station Jamrud. He was also involved in a firing incident on Police where Adl SHO Saifullah alongwith a Constable got seriously injured.

Departmental Proceedings:

The defaulter constable was issued Show Cause vide this office 938, dated 17/03/2021 which not received by the defaulter constable. Afterwards Charge Sheet with summary of allegations was served upon him vide this office No. 1036-A/PSO-Khyber, dated 31/03/2021 in reply of which he also failed to submit any statement. To proceed further into the enquiry process,

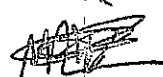
Conclusion:

During the course of enquiry it was learned that the defaulter constable remained involved in criminal activities.

Recommendation:

It is recommended that the defaulter constable may be awarded major punishment in order to get rid of criminals exists in the department.

Submitted, please.


MUHAMMAD NAWAZ,
DSP HQRs, Khyber

Arrested by DSP Khyber