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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 2085/2023

Masood Ur Rehman (Appellant)

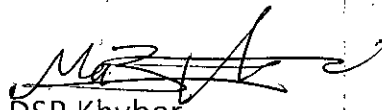
Versus

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

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DEPONENT


DSP Khyber

CNIC No. 212018380857-7

Mobile No. 03339262626

21-02-2024
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 2085/2023.

Masood Ur Rehman..... (Appellant)

Versus

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

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTION:-

~~Khyber Pakhtunkhwa~~
Services Tribunal

Case No. 11264

Date 21-2-2024

- 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 mis-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. Para No.01 of appeal is correct, to the extent of service in police department, however appellant while posted at PS Jamrud District Khyber found involved in trafficking of ice (narcotics)and arrested in case FIR No. 605/21 U/S 11B CNSA PS Lahore District Swabi. (Copy of FIR attached is Annexure A)
2. Para No. 02 of appeal to the extent of issuance of charge Sheet on account of facilitating drug paddles is correct, however his involvement in such malpractices stand proved, when he was arrested red handed by the Swabi Police and recovered narcotics drug i.e. ICE and registered FIR No. 605/21 against the appellant U/S 11B CNSA. (Copy already is annexed)
3. Incorrect, proper departmental enquiry was conducted through enquiry officer against the appellant, after conducting proper departmentally inquiry, the enquiry officer recommended appellant for major punishment, hence appellant was dismissed from service. (Copy of charge Sheet Summary of allegations, Show Cause Notice, enquiry Report and Dismissal Order are attached Annexure B, C, D, E)
4. Para No. 04 incorrect. The FIR is based on facts however, during departmentally enquiry appellant was found guilty. It is well settled law

that Criminal proceeding and departmental proceeding are two different entities, and both can run side by side having no bearing on each other.

5. Para No. 05 of appeal is incorrect. On account of involvement in facilitating drug paddles being member of discipline force and later on arrested red handed by the swabi police in case FIR noted above was proceeded against departmentally. During enquiry appellant was found guilty and recommended by the enquiry officer for major punishment, hence he was dismissed from service his departmental appeal/ service was rightly rejected by the respondent No. 02 being time barred.
6. That, the appellant has got no cause of action to the instant. Therefore, the instant appeal may kindly be dismissed being time barred as well as on the following grounds.

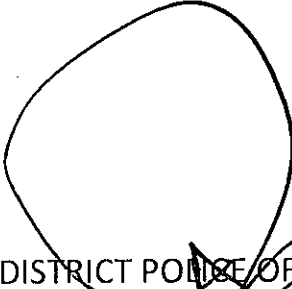
Grounds:-

- A. Incorrect. The orders of respondents are quite legal in accordance with law/rules.
- B. Incorrect, proper departmentally enquiry was conduct against appellant and after fulfillment of all codal formalities appellant was dismissed from service through speaking order.
- C. Incorrect, reply already explained in Paras above.
- D. Incorrect. Appellant was not dismissed from service on presumption, rather after proper departmental enquiry, during which he was found guilty and after fulfillment of all codal formalities.
- E. Incorrect, as explained in the preceding paras. Appellant was found guilty in the departmental proceedings however, departmental and criminal proceedings run concurrently having no bearings on each other.
- F. Incorrect, Criminal proceedings and departmental proceedings are two different entities, both can run side by side having no effect on each other. Moreover, being a member of Discipline force his involvement in drug paddling brings a bad name for the entire Police department hence not entitled to be retained on service.
- G. Incorrect, appellant was proceeded against departmentally in accordance with law/rules.
- H. Incorrect, appellant was treated according to law/ rules.
- I. That the respondent may also be allowed to raise other grounds at the time of arguments.

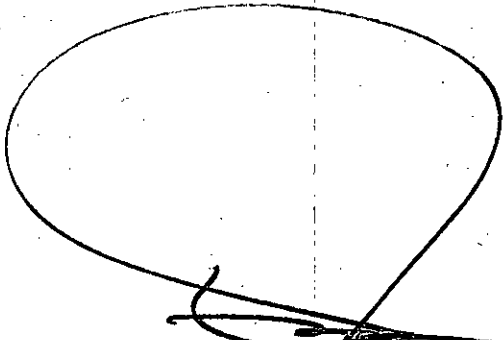
Prayer:-

Keeping in view of the above stated facts, it is humbly prayed that the instant appeal being time barred and meritless may kindly be dismissed with costs please.

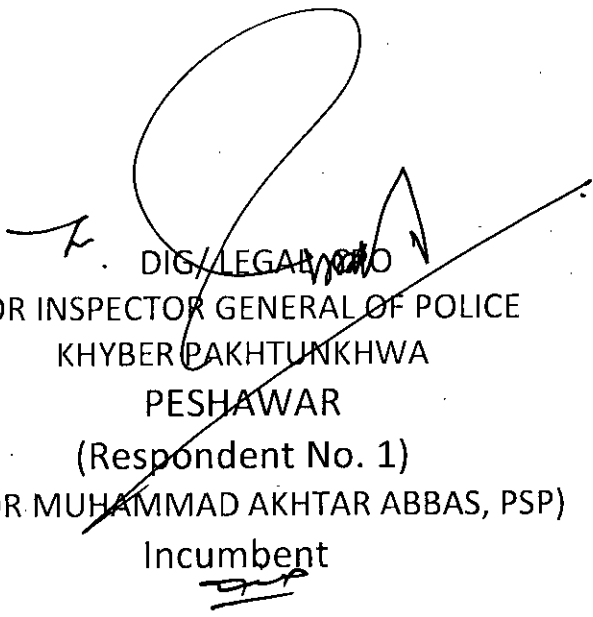
4



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



CAPITAL CITY POLICE OFFICER
PESHAWAR
Respondent No. 2
(SYED ASHFAQ ANWAR, PSP)
Incumbent



DIG/LEGAL
FOR INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR
(Respondent No. 1)
(DR MUHAMMAD AKHTAR ABBAS, PSP)
Incumbent

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 2085/2023.

Masood Ur Rehman..... (Appellant)

Versus

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

AFFIDAVIT

I, Capt @ 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.

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

~~ATTESTED
Miss Rodina Qureshi
Advocate
OATH COMMISSIONER
Judicial Complex Peshawar~~

21 - 02 - 2024

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 2085/2023.

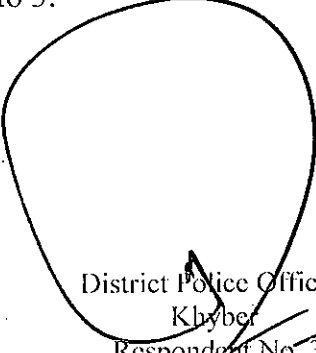
Masood Ur Rehman..... (Appellant)

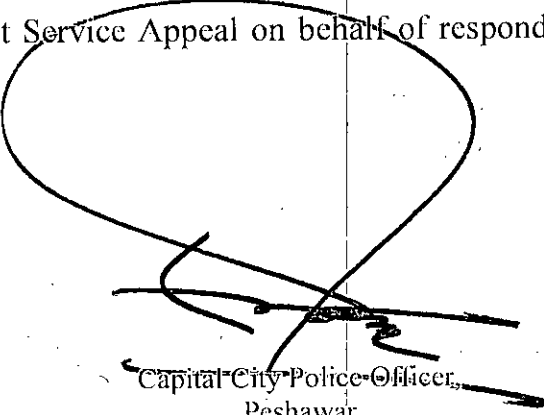
Versus

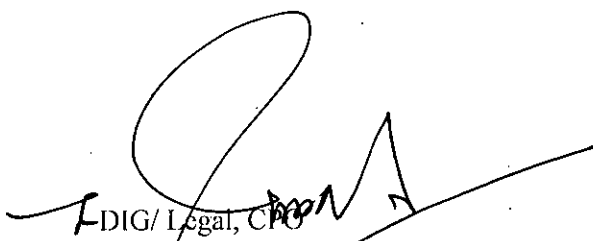
Inspector General of Police Khyber Pakhtunkhwa and others..... (Respondents)

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.


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


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


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

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Attested by
DSP HQ

BETTER COPY

ابتدائی اطلاعی رپورٹ

(فائل) ابتدائی اطلاعی رپورٹ نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

ضلع: صوابی

پولیس اسٹیشن: لاہور

تاریخ و وقت وقوعہ 30/08/2021 بوقت بجے

حالت نمبر 605

1	تاریخ وقت رپورٹ	30/08/2021 بوقت 17:20	چاکیدگی	پرچہ
		30,08:2021 بجے		
2	نام و سکونت اطلاع دہندہ و مستغیث	اکبر علی خان انسپٹر		
3	مختصر کیفیت جرم (معدہ دفعہ) مال اگر کچھ لیا گیا ہو	11-B CNSA		
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت	صوابی انٹر چینج اسلام آباد فاصلہ 5/6 کلومیٹر جانب		
5	نام و سکونت ملزم	مسعود الرحمان ولد عبد المنان (2) شعیب خان ولد نواب خان		
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کر۔	برسیدگی مر اسلہ بہ مقدمہ درج رجسٹرڈ کیا گیا		
7	تھانہ سے روانگی کی تاریخ و وقت	بہ سبیل ڈاگ		

ابتدائی اطلاع نیچے درج کرو: مر اسلہ منجانب مستغیث خانہ نمبر 2 کاشف 1184 موصول ہو کر درج ذیل ہے

بخدمت جناب ایس ایچ او صاحب تھانہ NET صوابی بمعدہ NE T سکو اڈا امجد خان ASI عبدالعزیز ASI، کاشف 1184 سجات 1051 البواری گاڑی بہ کاری نمبری A-A 4775 بشمول ڈرائیور بسلسلہ ناکہ بندی بمقام جائے وقوعہ بالا موجود تھے کہ سوزو کی نمبری B-B- 8117 کو بناء شک کھڑا کر کے ڈرائیور سیٹ پر بیٹھے ہوئے شخص نے اپنا نام مسعود الرحمان ولد عبد المنان جبکہ پچھلے سیٹ میں بیٹھے ہوئے دو کسان نے اپنا اسمائے بالترتیب شعیب خان ولد نواب خان، غالب گلاب گل ساکنان جرود ضلع خیبر اور ساتھ ہی خود کو جرود لیویز کیے گئے۔ ہر سہ کسان کو کیری ڈبہ سے اتار کر بالترتیب جامہ تلاشی لی جا کر کوئی غیر قانونی اشیاء برآمد نہ ہوئی۔ البتہ کیری ڈبہ کی تلاشی کرتے ہوئے کیری ڈبہ کے سونچ بورڈ پر برنگ ڈارک براون میں لپٹی ہوئی دائیں ہاتھ کی پلاسٹک کی مصنوعی ہاتھ برنگ اٹھائی جا کر پڑتال پر سفید پلاسٹک شاپر میں آئس برآمد ہو کر بذریعہ ڈیجیٹل سکیل وزن کر کے 200 گرام نکلے۔ آئس برآمد شدہ کو قبضہ پولیس میں کر کے (1) گرام آئس تجزیہ FSL پشاور جبکہ بقایا 199 گرام آئس بمعہ مصنوعی ہاتھ کو کاغذات ملکیتی معہ سرٹیمان بالا کو بروئے فرد قبضہ پولیس میں کر کے حسب ضابطہ گرفتار کر کے مر اسلہ بجرم بالا ضبط تحریر میں لا کر بدست کاشف 1184 تھانہ ہے مقدمہ قائم کر کے تفتیش کیا جائے۔ دستخط انگریزی اکبر علی خان انسپٹر انچارج صوابی مورخہ 30/08/2021 پس آمدہ مر اسلہ حرف بہ حرف درج بالا ہو کر نقول ایف آئی آر ہر ادا تفتیش حوالہ شعبہ تفتیش کے حوالے سے گزارا ہے۔

19

Jamrud

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OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER

(G.D.)



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

You Constable Masood Rehman s/o Abdul Manan Kuki Khel of PS Jamrud while on duty at PS Jamrud district Police Khyber is hereby charged for committing the following omission/commissions:-

"That as per source reports you remained involved in facilitating drug peddlers while performing duty at PS Jamrud along with other malpractices. Being member of a discipline force, 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.

DISTRICT POLICE OFFICER,
KHYBER

~~Attested by~~
Attested by
DSP HQ

10 Area B

8

THE DISTRICT POLICE OFFICER
KHYBER



ORDER

UNDER SUB-SECTION-3 & SECTION 5 OF POLICE RULES, 1975.

I, District Police Officer, Khyber as competent authority, charge you FC Masood Rehman s/o Abdul Manan as prima facie guilty of the following acts to be dealt with u/s 5 (3) of the NWFP, (now Khyber Pakhtunkhwa) Police Rules, 1975.

"That as per source reports you remained involved in facilitating drug peddlers while performing duty at PS Jamrud along with other malpractices. Being member of a discipline force, this is a gross misconduct on your part liable to be dismissed from service."

The act of delinquent official falls within the ambit of gross misconduct and are liable to be proceeded under the NWFP (now Khyber Pakhtunkhwa) Police Rules 1975.

For the purpose of scrutinizing the conduct of the said defaulters with reference to the above allegations, I, District Police Officer, Khyber being authorized officer hereby nominate Enquiry Officer as below to enquire into the charges within the meaning of 2 (iii) under the NWFP (now Khyber Pakhtunkhwa) Police Rules, 1975.

Mr. Muhammad Nawaz (DSP Headquarters) Khyber

The enquiry officer after completing all enquiry proceedings, should submit findings to the undersigned within stipulated period of (7) days per u/s 6 (5) of Police Rules.

Charge Sheet and Statement of Allegations are issued against the defaulter officers separately. Reply should submit before the Enquiry Officer within the period of (03) days from the date of receipt.

DISTRICT POLICE OFFICER,
KHYBER

No. 293-94 /PSO-Khyber, dated Peshawar, the 27/01 /2021.

Copy to:-

1. DSP/Hqs Khyber for initiating proceedings against defaulter under the provisions of the Police Rules 1975.
2. FC Masood Rehman with the direction to appear before the Enquiry Officer on the date, time and place fixed by the Officer.

Received Charge sheet 293-94

Name Masood Rehman

Signature Masood Rehman

[Handwritten signature]
Attested by
DSP HQ

(11)

Annex



**OFFICE OF
THE DISTRICT POLICE OFFICER
KHYBER**



No. 3042 /Showcause/PSO/Khyber
Dated. 30/08/2021

SHOW CAUSE NOTICE


Whereas you Constable Masood Ur Rehman while posted at PS Jamrud, District Khyber committed the following gross misconduct on your part:

"That you are already under inquiry due to your alleged contacts with drug paddles. Now it is reported that your got nominated in FIR No.605 dated 30.08.2021 U/S 11B CNSA PS Lahore District Swabi. Being a member of a discipline force involvement in a criminal case is a gross misconduct on your part"

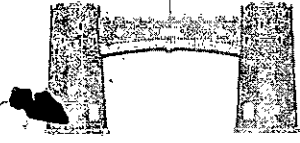
If this allegation is proved against you, Proper departmental action will be initiated against you which may result in dismissal from Service as per E&D Rues Khyber Pakhtunkhwa 2011 Section 7.

Now I, **Waseem Riaz (PSP)** 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 dismissed from service under rules mentioned above. 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.

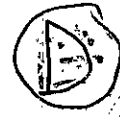

**DISTRICT POLICE OFFICER
KHYBER**

~~Attended by~~
Attended by
DSP HQ



(12)

Annex



DSP/HEAD QUARTERS KHYBER



INQUIRY REPORT

Respected Sir,

It was reported by sources that Constable Masood Rehman s/o Abdul Manan Koki Khel of PS Jamrud is involved in facilitating drug peddlers while performing duties at PS Jamrud, alongwith other malpractices.

An inquiry was conducted through various sources regarding the above mentioned allegations. During the course of inquiry it was revealed that Consatable Masood Rehman s/o Abdul Manan is involved in illegal activities. During the course of inquiry it was reported that the Constable concerned is got involved in FIR No. 605, dated 30/08/2021 u/s 11-B/CNAS of PS Chota Lahore, Sawabi also.

Keeping in the view of background checks and his habitual miss-conducts, it is recommended that major punishment may be awarded.

Submitted please.

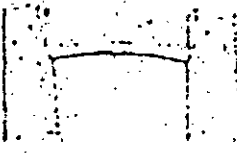

MUHAMMAD NAWAZ,
DSP HQRS KHYBER

~~Attested by~~
Attested by
DSP HQrs

(13)

Annex

(14)
(15)
(16)



OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER



ORDER

Constable Masood Rehman s/o Abdul Manan of Police Station Jamrud District Police Khyber remained involved in illegal activities due to which he was suspended and closed to Police Lines. Later on he was arrested by Swabi Police Lahore Police Station with ICE and a proper FIR was registered against him vide No. 605, dated 30/08/2021, w/s 11BCNSA. The undersigned being a competent authority under Govt. Servants Service & Efficiency Rules 2011 issued a Show Cause Notice with the opportunity to be heard in person which the defaulter official did not avail.

In reply of the Show Cause notice the defaulter constable failed to submit any cogent reason/reply regarding the allegations leveled against him consequently a comprehensive ground check was conducted which revealed that the defaulter constable is deeply involved in drugs peddling which was confirmed by his arrest by Swabi Police. The undersigned is satisfied that the allegation leveled against him are factual.

It is therefore, his involvement in illegal activities/drugs peddling and to eliminate the criminals within Police Department, the defaulter constable is hereby awarded major punishment of dismissal from service under Khyber Pakhtunkhwa E&D Rules 2011 (Section 7) with immediate effect.

[Signature]
DISTRICT POLICE OFFICER,
KHYBER

No. 2811 /PSO Khyber, dated Khyber
Copies to all concerned for further necessary action.

31/8/2021

[Signature]
Attested by
Dsp AAC

(14) Annex (E)

Better Copy

D(10)

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER

ORDER

Constable Masood Rehman S/o Abdul Manan of Police Jamrud Distract Police Khyber remained involved in illegal activities due to which he was suspended and closed to Police Line. Later on he was arrested by Swabi Police Lahore Police Station with ICE and a proper FIR was registered against vide No. 605, dated 30.08.2021 u/s 11BCNSA. The undersigned being a competent authority under Govt Servant Service and efficiency Rules 2011 issued a Show Cause Notice with the opportunity to be heard in person which the defaulter official did not avail.

In reply of the Show Cause Notice the defaulter constable failed to submit any cogent reply regarding the allegations leveled against him consequently a comprehensive ground check was conducted which revealed that the defaulter constable is deeply involved in drugs peddling which was confirmed by his arrest by Swabi Police. The undersigned is satisfied that the allegations leveled against him are factual.

It is therefore, his involvement in illegal activities drugs peddling and to eliminate the criminals within Police Department, the defaulter constable is hereby m awarded major punishment of dismissal from service under Khyber Pakhtunkhwa E&D Rules 2011 (Section 71 with immediate effect.

DISTRICT POLICE OFFICER
KHYBER

No. 2811/PSO Khyber, dated Khyber 31.08.2021.

Copies to all concerned for further necessary action

~~MA~~
MA
DSP
HON