

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1465/2023

Izhar Ali

VS

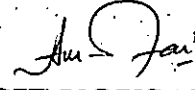
Police Deptt etc.

I N D E X

S.No.	Documents	Annexure	Page No.
1.	Memo of Rejoinder	-----	01-04
2.	Punjab FSL Report	R1	05-06
3.	Post Mortem Report	R2	07-13

APPELLANT

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.


(S. NOMAN ALI BUKHARD)
ADVOCATE HIGH COURT


(HILAL ZUBAIR)
ADVOCATE PESHAWAR

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 0312-9103240

11-03-2024

(1)

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1465/2023

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 11330

Dated 26-02-2024

Izhar Ali Ex-Sub Inspector Fire-Arms,
Section FSL, Khyber Pakhtunkhwa, Peshawar.

APPELLANT

V/S

1. The Provincial Police Officer, Peshawar.
2. The Director Forensic Laboratory, Khyber Pakhtunkhwa, Peshawar.
3. The AIG of Police (Investigation) Khyber Pakhtunkhwa, CPO,
Peshawar.

RESPONDENTS

.....
**REJOINDER ON BEHALF OF APPELLANT TO
THE REPLY OF RESPONDENTS.**
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-5) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Para-1 of appeal is admitted correct, as service record is already in the custody of the respondent department. Moreover the rest of the contention of the respondent department is incorrect.
2. Para-2 of the appeal is admitted correct. Moreover the rest of the contention of the respondent is incorrect for the reason that the inquiry conducted against the appellant is in violation of prescribed rules. Further it is added during inquiry proceeding nothing was produced against the appellant but the recommendation of inquiry officer is based on surmised and conjecture. Therefore the departmental appeal of the appellant was accepted and the denovo inquiry was ordered which is evident from the order dated 02.03.2023.
3. Incorrect hence, while the Para-3 of the appeal is correct. Moreover the proceeding was against the Rules, which was set aside by the

appellate authority on acceptance of the departmental appeal of the appellant.

- 4. Respondent deptt: admitted para-4 of the appeal as correct to some extent. While rest of the contention of the respondent is wrong. Moreover as explained in the above para.
- 5. Para-5 of appeal is correct.
- 6. Correct to the extent of the exoneration of the appellant while, rest of the contention of the respondent department is incorrect and misleading. Moreover, there is no order passed in black and white form to disagree with the inquiry officer by the competent authority and neither any show cause notice was served upon the appellant after ~~neither~~ denovo inquiry nor any punishment was imposed upon the appellant. But incompetent authority wrote letter to third person to offer his comments on inquiry report which has no backing of any law. In response to the opinion the appellant authority review his own order and upheld the punishment which was already set aside by him, so appellate authority is "functus officio" in the instant matter after the passing order dated 02/03/2023. Moreover, it is to be noted that Punjab Forensic Science Agency use the word deformed. So the correction made by the appellant in opinion of his junior is correct (unfired corrected as deformed).copy of record is attached as annexure-R.
- 7. Incorrect, hence denied. While Para of appeal is correct. Furthermore, it is already explained in above mentioned paras. Moreover. The appellate authority has no power to review his earlier order.
- 8. Incorrect. while para-8 of the appeal is correct.

GROUND:

- A) Incorrect. While Para-A of grounds of the appeal is correct. Moreover as explained in above Paras.
- B) Incorrect. While Para-B of grounds of the appeal is correct. Moreover as explained in above Paras.
- C) Incorrect. While Para-C of grounds of the appeal is correct. Moreover as explained in above Paras.
- D) Incorrect. While Para-D of grounds of the appeal is correct. Moreover as explained in above Paras.
- E) Incorrect. While Para-E of grounds of the appeal is correct. Moreover as explained in above Paras.

- F) Incorrect. While Para-F of grounds of the appeal is correct. Moreover as explained in above Paras.
- G) Incorrect. While Para-G of grounds of the appeal is correct. Moreover as explained in above Paras.
- H) Incorrect. While Para-H of grounds of the appeal is correct. Moreover as explained in above Paras. Moreover, the appellants change of opinion of his junior being his duty (technical review) mentioned in SOP. It is pertinent to mention here that the appellants change/correct opinion from unfired to Deform. So the plea taken by the respondent is totally misleading and without any proof. The fact of correction is clear from the record and opinion of the appellant. Moreover the de novo inquiry is also worth perusal which explains the whole situation.
- I) Incorrect. While Para-I of grounds of the appeal is correct. Moreover as explained in above Para-H.
- J) Incorrect. While Para-J of grounds of the appeal is correct. Moreover all the procedure adopted by the respondent department is against the laid down rules and law.
- K) Incorrect. While Para-K of grounds of the appeal is correct. Moreover as explained in above Paras.
- L) Incorrect. While Para-L of grounds of the appeal is correct. Moreover as explained in above Paras. Further it is added that the appellant never concealed anything from the deptt and fulfilled his duty as per law and rules. But the deptt bent upon to remove the appellant to same the blue eyed person.
- M) Incorrect. While Para-M of grounds of the appeal is correct. Moreover as explained in above Paras. It is pertinent to mention here that in transparent de novo inquiry appellant was exonerated.
- N) Not denied by respondents.
- O) Incorrect. While Para-O of grounds of the appeal is correct. Moreover as explained in above Paras. There is no piece of evidence against the alleged allegation but despite that the appellant was awarded punishment.
- P) Incorrect. While Para-P of grounds of the appeal is correct. Moreover as explained in above Paras.
- Q) Incorrect. While Para-Q of grounds of the appeal is correct. Moreover as explained in above Paras.

- R) Incorrect. While Para-R of grounds of the appeal is correct. Moreover as explained in above Paras.
- S) Incorrect. While Para-S of grounds of the appeal is correct. Moreover as explained in above Paras.
- T) Incorrect. While Para-T of grounds of the appeal is correct. Moreover as explained in above Paras.
- U) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

[Signature]
APPELLANT

Through:

[Signature]
(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.

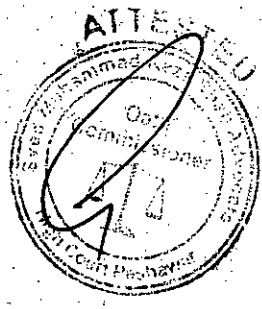
[Signature]
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

[Signature]
(HILAL ZUBAIR)
ADVOCATE PESHAWAR

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able Tribunal.

[Signature]
DEPONENT



1) 3. having three seals } Three 30 bore comic empty
"S" Cont- } now marked C₁ to C₃. (3)

2) 3. having three seals } fifteen 30 bore comic empty.
"S" Cont- } now marked C₄ to C₁₇.

3) 3. having three seals } A plastic ink core in with
"S" Cont- } sticking plaster by the doctor being
one deformed comic bullet now
marked "B"

Mark A

Note: The exhibits were signed by the experts.

4) The microscope examination of the case has led as under:

a) The three 30 bore comic empties marked C₁ to C₃ were fired from one and the same 30 bore weapon, in view of the following major points (a) striker pin marks, breech face marks, and ejector marks etc are similar.

b) The fifteen 30 bore comic empties marked C₄ to C₁₇ were fired from one and the same 30 bore weapon, in view of the following major points (a) striker pin marks, breech face marks, and ejector marks etc are similar.

c) The one deformed comic bullet marked "B" is that of 30 bore.

?

RH 7

Form No _____ NAME Jane Alam
 FATHER'S NAME _____ OR Jan Mohammed
 HUSBAND'S NAME _____ CAST Afghan
 RESIDENCE Zaida
 SEX Male AGE 57-58

DISTRICT Swazi

Body brought by: Shahad b/s Body identified by: Shah Alam s/o Jan Mohammed

Whence brought: Village, Thana, District: PS Zaida village Zaida District Swazi

DATE AND HOUR OF 17/06/99 14:40

Death: Died in ICU Examination of Body _____ Despatch of matter to Chemical Examination _____

Symptoms observed before death: Brought dead **EX 11/11/99**

Information furnished by Police: Firearm injury

N.B. — The Medical Officer will observe the state of all the organs, and when he finds no disease or injury, he should write in the appropriate place the word "Healthy" **16/11/99**

I. EXTERNAL APPEARANCE

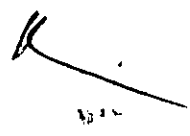
Mark of Ligature on neck and dissection, etc. NIL

Condition of subject stout emaciated, decomposed, etc. Clothing: Sky blue cloth shawl & gamces - blood stained

Laparotomy wound was opened dissection was done. Wounds, bruises, position size, nature. Bullet was recovered, sealed, sanctioned & handed over to police.

1. FAI wound on backside midline 1 cm in length - stitched
 2. wound on anterior midline from Xiphisternum to navel - laparotomy incision - stitched
 3. 1 cm wound on left side of anterior abdomen - stitched
 4. 1 cm wound on right side of anterior abdomen - stitched
- Since there was no ext wound & bullet was not recovered during surgery, X-ray abdomen was done. Bullet was seen in abdomen on X-ray.

[Signature]



पं. पाठक... 788... 10,000... 22.12.2011

Son of Khan Makhdoomkhan 57-50 Sex M Caste Muslim Occupation

Residence Zaida

Date and hour of arrival 09:10am 17-6-2011

No. and date of police docket Shaked 657

No. and date of constable

Date of admission

Date of discharge

Date and hour of report sent to police

Space for particular as to further reference to the case date of giving evidence in court of despatch of articles said to contain position

Particulars of injuries or symptoms, in case of poisoning

First Aid given Patient kept to main OT

Handwritten notes: First Aid given Patient kept to main OT

True Identification marks

1. Nature of Injuries (Multiple fractures, closed) Probable duration

The kind of weapon used or position Suspected in the Case of poisoning

Handwritten mark

آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

15: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

16: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

17: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

18: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

19: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

20: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

21: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

تشریح برائے ایک جویش یا اس کے نزدیک دستیاب ہو۔

22: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

23: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

0313 5628121
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24: آپ کو یہ کہنا ہے کہ اگر آپ کو یہ سہولت ملے گی تو اسے
سہولت ملے گی کہ اگر آپ کو یہ سہولت ملے گی تو اسے

صدر ایجنسی خاں ویر عبدالکلام
شیر عالم ویر جان قمر قمر
قونہ رس ۱۹۹۲، پتہ لاہور، پاکستان

Normal

III. THORAX

1. Walls, Ribs and cartilages	Normal
2. Pleura	Normal
3. Larynx and trachea	Normal
4. Right Lung	Normal
Left Lung	Normal
Pericardium and heart	Normal
Blood vessels	Normal

AS

Injury	Nature of Deformity
Normal	

VI. REMARKS BY MEDICAL OFFICER

In my opinion cause of death is injury to pancreas & major blood vessels leading to excessive bleeding.

Probable time that elapsed —
(a) between injury and death:

06-07 hours approx

(b) between death and Post-Mortem.

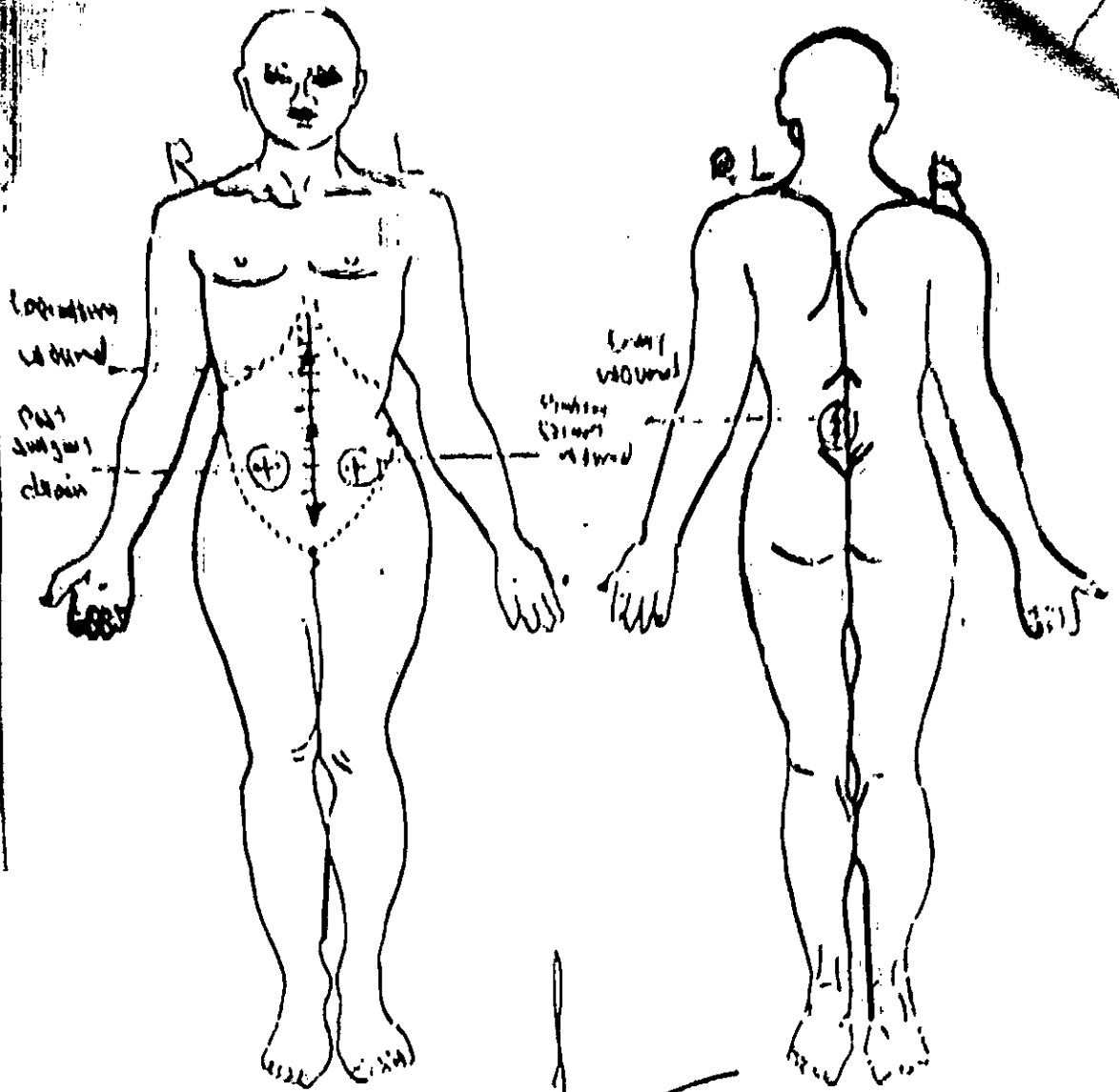
10-20 minutes approx

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 MEDICAL OFFICER
 U.S. ARMY
 1951

PLANES OF THE BODY FOR LOCATING INJURY

JAN 6 1964



[Handwritten signature]

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ATLANTA POLICE DEPARTMENT