

# FORM OF ORDER SHEET

Appeal No. 338/2024

Date of order \_\_\_\_\_ Order or other proceedings with signature of judge \_\_\_\_\_

3

02/03/2024

The appeal of Mr. Asad Ullah resubmitted today by Mr. Taimur Alim Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 04.03.2024. Parcha Peshi is given to counsel for the appellant.


By the order of Chairman

  
REGISTRAR

Appeal No. 1385/2024 which received today i.e on 19.02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1. Appeal has not been flagged /marked with annexures marks.
- 2. Check list is not attached with the appeal.
- 3. Affidavits of the appeal are unattested.
- 4. Affidavit is not attested by the Oath Commissioner.
- 5. Annexure-A of the appeal is illegible be replaced by legible/better one.
- 6. Three copies/sets of the appeal along with annexures i.e. complete in all respect to be prepared and one for each respondent may also be submitted with the appeal.

1385/2024  
20/2/2024

  
20/2/24  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

1385/2024  
20/2/2024

Respected Sir,

1- Removed

2- Removed

3- Removed

4- Removed

5- Removed

Resubmitted after compliance



01/03/2024

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

SERVICE APPEAL NO. 338 /2024

Asad Ullah

VS

Police Department

**INDEX**

S.No.	Documents	Annexure	P. No.
1	Memo of Appeal	-----	01-04
2	Affidavit	-----	05
3	Copies of FIR and order dated 11.09.2023	A&B	06-11
4	Copies of statement of allegations and reply	C&D	12-13
5	Copies of bail order dated 27.07.2023, show cause notice and reply to show cause notice	E,F&G	14-20
6	Copies of order dated 24.09.2023, departmental appeal, application and rejection order dated 16.01.2024	H,I,J&K	21-24
7	Vakalat Nama	-----	25

THROUGH:

APPELLANT

  
TAIMUR ALI KHAN  
(ADVOCATE HIGH COURT)

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

SERVICE APPEAL NO. 338 /2024

Diary No. 11230

Dated 19-02-2024

Asad Ullah, Ex-Constable No.1487,  
District Police, Kohat.

(APPELLANT)

VERSUS

1. The Regional Police Officer, Kohat Region Kohat.
2. The District Police Officer, Kohat.

(RESPONDENTS)

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APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974  
AGAINST THE ORDER DATED 24.09.2023, WHEREBY  
THE APPELLANT WAS DISMISSED FROM SERVICE  
AND AGAINST THE ORDER DATED 16.01.2024  
RECEIVED BY THE APPELLANT ON 31.01.2024,  
WHEREBY THE DEPARTMENTAL APPEAL OF THE  
APPELLANT HAS REJECTED FOR NO GOOD  
GROUND.

Filed-to-day

Registrar

**PRAYER:**

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE  
ORDER DATED 24.09.2023 AND 16.01.2023 MAY  
KINDLY BE SET ASIDE AND THE APPELLANT MAY  
BE REINSTATED INTO HIS SERVICE WITH ALL  
BACK AND CONSEQUENTIAL BENEFITS. ANY  
OTHER REMEDY, WHICH THIS HONORABLE  
TRIBUNAL DEEMS FIT AND APPROPRIATE THAT,  
MAY ALSO, BE AWARDED IN FAVOUR OF  
APPELLANT.

(2)

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant was initially appointed as Khasadar in Khasadar Force and after 25<sup>th</sup> Amendment in the Constitution of Islamic Republic of Pakistan, the Khasadar Force was absorbed in Police Department and the appellant was also absorbed in Police Department as Constable and after absorption in Police department, the appellant has completed all his due training and courses.
2. That the appellant since absorption in Police Department has performed his duty with great devotion and honesty, whatsoever assigned to him and no complaint has been filed against him regarding his performing.
3. That the appellant was falsely implicated in criminal case vide FIR No.141 dated 02.05.2023 U/S 154/5 Exp: Sub Act, 15-16 AA, 7-ATA, 148,179 PPC PS Usterzai, Kohat. The appellant was arrested on spot and was suspended by the respondent department. It is pertinent to mention here that Section-7 of Anti-Terrorism Act from the complete challan/final report was deleted by Honorable Anti-Terrorism Court Kohat Division Kohat on 11.09.2023. **(Copies of FIR and order dated 11.09.2023 are attached as Annexure-A&B)**
4. That on the basis above criminal case, statement of allegations was issued to the appellant in jail from where he replied in which he denied the allegations and clearly mention in his reply the he was falsely implicated in the criminal case and his departmental proceeding may be kept pending till the conclusion of criminal case pending against him. **(Copies of statement of allegations and reply are attached as Annexure-C&D)**
5. That in statement of allegation, SDPO Lachi Kohat was nominated the inquiry officer, but the appellant was never associated in the inquiry proceeding "if so conduct against the appellant" as the appellant has submitted his reply to charge sheet/statement of allegation from Jail and authority have knowledge that the appellant was in Jail, but despite that the appellant was not associated with the inquiry proceeding. Even the inquiry report was not provided to the appellant.
6. That Honorable High court Peshawar granted bail to the appellant on 27.07.2023 and respondent department issued show cause notice to the appellant on 28.08.2023, which was properly replied by the appellant in which he again denied the allegations and stated that he has not committed the offence in which he is charged and mentioned in his reply that he was never associated within the inquiry proceeding. **(Copies of bail order dated 27.07.2023, show cause**

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**notice and reply to show cause notice are attached as Annexure-E,F&G)**

7. That on the basis of above baseless criminal case, the appellant was dismissed from service order dated 24.09.2023 and dismissal order dated 24.09.2023 was communicated to the appellant on 02.10.2023. The appellant filed departmental appeal on 01.11.2023 against the dismissal order dated 24.09.2023, which was rejected on 16.01.2024 for no good ground and the rejection order was received by the appellant on 31.01.2024 through application dated 31.01.2024. **(Copies of order dated 24.09.2023, departmental appeal, application and rejection order dated 16.01.2024 are attached as Annexure-H,I&J&K)**
8. That the appellant now wants to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

**GROUND:**

- A) That the impugned orders dated 24.09.2023 and 16.01.2024 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant was never associated with the inquiry proceeding, if so conducted against the appellant, although the appellant submitted his reply to charge sheet from the jail but he was not appeared before the inquiry officer which means that the inquiry was one-sided if so conducted against the appellant, which is clear violation of law and rules and such the impugned orders are liable to be set aside on this ground alone.
- C) That no proper and regular inquiry was conducted against the appellant as the appellant was not appeared before the inquiry officer and neither statements were recorded in his presence nor gave him opportunity of cross examination which is against the rules and rules.
- D) That the appellant was falsely implicated in criminal case and the respondent department should be placed him under suspension till the conclusion of criminal case pending against the appellant under Police Rules 1934 and CSR 194-A, but he was dismissed from service before conclusion of his criminal case pending against him, which is clear violation of Police Rules 1934 and CSR-194-A and as such the impugned orders are liable to be set aside.
- E) That the appellant was falsely implicated in criminal case and mere nominating a person in FIR is presumed to be innocent until proved guilty by the competent court of law, but the appellant was dismissed

from service only on nominating his name in FIR, which is violation of Superior Courts judgment and as such the impugned orders are liable to be set aside.

- F) That the appellant clearly mentioned in his reply to charge sheet that he was falsely implanted in criminal case and his departmental proceeding may be kept pending till the conclusion of criminal case pending against him, but without waiting to the conclusion of criminal pending against him, the appellant was dismissed from service. Which is against the norms of justice and fair play.
- G) That the appellant has right of fair defence under Article-10-A of the Constitution of Pakistan which was not observed by the inquiry committee during inquiry proceeding, which is clear violation of Article-10-A of the Constitution of Pakistan.
- H) That the appellant has not been treated in accordance with law and rules and has been condemned unheard throughout.
- I) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that on the acceptance of this appeal, the order dated 24.09.2023 and 16.01.2024 may kindly be set aside and the appellant may be reinstated into his service with all back and consequential benefits. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also, be awarded in favour of appellant.

*Asad Ullah*

**APPELLANT**

Asad Ullah

THROUGH:

*Taimur Ali Khan*

**(TAIMUR ALI KHAN)**

**ADVOCATE HIGH COURT**

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

**SERVICE APPEAL NO. \_\_\_\_\_/2024**

Asad Ullah

VS

Police Department

**AFFIDAVIT**

I, Asad Ullah, Ex-Constable No.1487, District Police, 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.

*Asad Ullah*  
**DEPONENT**





## ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

تھانہ استرزی ضلع کوہاٹ

تاریخ 02.05.23 وقت 20:00 بجے

علت نمبر 141

1	تاریخ و وقت رپورٹ	02.05.23 وقت 21:00 بجے
2	نام و سکونت اطلاع دہندہ مستغیث	چا کیدگی پرچہ 02.05.23 وقت 22:00 بجے
3	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو	جابر خان SHO 0335-9966066
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت	PPC 148/149 4/5 EXP SUB ACT/ 15-16AA-7 ATA
5	نام و سکونت ملزم	شارع عام بالقابل مرئی چیک پوسٹ بفاصلہ 10/12 کلومیٹر جانب شمال از تھانہ
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان	1) ندیم خان ولد عبدالکریم (۲) بصیر خان ولد عباس خان 3) اسد اللہ ولد نصر اللہ (۴) اجمل صادق حبیب آفریدی 5) سید اسماعیل حسین ولد سید تسلیم حسین
7	تھانہ سے روانگی کی تاریخ و وقت	برسیدگی مراسلہ بطور سیشنل رپورٹ پر چھوڑ دیا جاتا ہے۔
8		بطور سیشنل رپورٹ

ابتدائی اطلاع نیچے درج کرو:

اس وقت ایک تحریری مراسلہ منجانب جابر خان SHO بدست محبوب خان ASI بطور سیشنل رپورٹ موصول ہو کر جس کا متن ذیل ہے۔ محرر تھانہ استرزی بذریعہ مختصر اطلاع ملی کہ ضلع اور کڑئی سے براستہ سپاہ روڈ بھاری اسلحہ ایمویشن بذریعہ سفید گاڑی دہشت گردی / تحزیب کاری کسی غرض سے درہ آدم خیل سہگل کیا جائے گا اطلاع کی تصدیق کر کے سینئر افسران کے نوٹس میں لاکر میں معہ محبوب الرحمن ASI، احمد نواز HC، اجوید خان LHC کنشیل سختی بادشاہ 181، کنشیل جاسم 888، کنشیل خان نعیم 1589 اور دیگر نفری پولیس نے بمقام بالا پر سخت ناکہ بندی کی اور نفری کو ترتیب دیکر بوقت 20:00 بجے اور کڑئی کی جانب سے ایک سفید پک اپ نمبری TSD-13 آکر بغرض چیکنگ رکوائی گئی گاڑی کی ڈرائیونگ سیٹ پر بیٹھے ہوئے سفید پرچہ جات میں ملبوس شخص نے اپنا نام ندیم خان ولد عبدالکریم ساکن بایہ تحصیل ملی ٹنگ ضلع کوہاٹ بتلایا جبکہ ڈرائیور کے ساتھ فرنٹ سیٹ پر بیٹھے شخص نے اپنا نام بصیر خان ولد عباس خان سکند شادی پور تحصیل گمبٹ ضلع کوہاٹ بتلایا جو پولیس کی وردی شلوار قمیص میں ملبوس تھا اور انسپکٹر کا عہدہ لگائے ہوئے تھا پک اپ کی باڈی میں دو مسلح اہلکاران جو شلوار قمیص برنگ سیاہ پولیس وردی میں ملبوس تھے اور جن کے ساتھ ایک سفید پرچہ جات میں ملبوس شخص کو موجود پا کر مسلح اہلکاروں کو غیر مسلح کر کے بدریافت اپنا نام اسد اللہ ولد نصر اللہ سکند عمر حسین سیرا کی درہ آدم خیل اور اجمل صادق ولد محمد حبیب آفریدی سکند بستی خیل سرہ میلہ درہ آدم خیل بتلائے جبکہ سفید پرچہ جات میں ملبوس شخص نے اپنا نام سید اسماعیل حسین ولد سید تسلیم حسین سکند کلاہ زہدار تحصیل لوہر ضلع اور کڑئی بتلایا، پک اپ کی باڈی کی سرچ کرتے وقت ذیل غیر قانونی بھاری ہتھیار برآمد ہوا۔ (1) 13 عدد ہینڈ گرنیڈ F1



7

ساخت زندہ جو چھوٹی پلاسٹک بوری میں بند ہیں، (۲) ایک عدد RPF-7 (راکت لانچر) (3) 18 عدد شیپز RPG-7، (4) 30 پیٹی انٹی کارٹوس 85 عدد کل 2550=85x30 اوپن حالت میں 12.7 کارٹوس 260 عدد، (5) 20 عدد RPG-7 بوسٹرز (6) ایک عدد انٹی شیپز 12.7 بوری (7) ایک عدد 12.7 گن اوپن حالت میں (8) ایک عدد ہیٹ بکس 12.7 (پیٹی) (9) ایک عدد SMG نمبری H-35055/1969 روس سافت فل ہٹ کنٹینیل اسد اللہ (10) ایک عدد SMG فولڈنگ ہٹ نمبری 48003948 چائے سافت کل 04 عدد میگزین اور کل 99 عدد کارٹوس 7.62 بوری کنٹینیل اجمل ملزمان بالا ماسوائے سید اسماعیل حسین سرکاری ملازمین میں جو لیوں خاصہ دار سے پولیس میں ضم ہوئے ہیں اپنے اختیارات کا ناجائز استعمال کرتے ہوئے سرکاری گاڑی میں بوردی عماری ہتھیار جو دہشت گردی میں استعمال ہوتا ہے دہشت گردی کی نیت سے درہ آدم خیل سمگل کرنے کے مرتکب ہوئے بعد از BDU ملاحظہ جملہ بھاری ہتھیار بروئے فرد بشمول گاڑی سرکاری مذکور بروئے فرد قبضہ پولیس میں کر کے ملزمان کو مرتکب جرائم بالا کا پا کر حسب ضابطہ گرفتار کئے جا کر مراسلہ بدست محبوب خان بطور سپیشل رپورٹ ارسال تھانہ ہے۔ بعد اندراج مقدمہ تفتیش حوالہ KBI سٹاف کی جائے۔ دستخط انگریزی جابر خان SHO تھانہ استریزی مورخہ 02.05.2023 کاروائی تھانہ آمدہ مراسلہ حرف بہ حرف درج بالا ہو کر پرچہ جرائم بالا کا چاک ہو کر نقل پرچہ مقدمہ مراسلہ بغرض تفتیش حوالہ KBI سٹاف کیا جاتا ہے۔ پرچہ گزارش ہے۔

B 8

IN THE COURT OF JUDGE, ANTI-TERRORISM  
COURT, KOHAT DIVISION, KOHAT.

Case No.91 of 2023

The State

VS

1. Nadeem Khan S/o Abdul Kareem R/o Paya Fateh, Bilitang, Kohat.
2. Baseer Khan S/o Mobash Khan R/o Shadi Pur, Gumbat Kohat.
3. Asad Ullah S/o Nasrullah R/o Sheraki, Dara Adam Khel, Kohat.
4. Ajmal Sadiq S/o Muhammad Habib R/o Bosti Khel, Sra Mela, Dara Adam Khel, Kohat.
5. Syed Ismail Hussain S/o Syed Tasleem Hussain, R/o Kalaya, Zeran, District Orakzai.
6. Syed Wajid Hussain S/o Saidan Khan R/o Asghari Mela, Meta Khan Kohat.
7. Jawad Hussain S/o Jalal Hussain R/o Kraiz presently Meta Khan Kohat.

ORDER-02  
11/09/2023

Sr. PP (Hayat Ullah Jan) for the State and Accused Nadeem and Baseer in custody present.

2. This Order is directed to dispose of question of jurisdiction U/S-23 of Anti-Terrorism Act 1997. On last date of hearing, a Notice thereunder was given to the prosecution.
3. The above name accused in custody along with co-accused on bail are charged in in case FIR No. 141, dated 02/05/2023 U/S-15/16 KP Arms Act 2013 read with Section-148/149 PPC read with Section-4/5 KP Explosive Substance Act 2013 read with Section-7 of Anti-Terrorism Act 1997 of PS: CTD Kohat.

AW  
11/9

ATTESTED TO BE TRUE COPY  
EXAMINER  
11/9/2023

4. BRIEF FACTS OF THE CASE ARE THAT ON .....  
 the local police receive information that heavy arms and  
 ammunitions are being transported by suspects persons in  
 official vehicle to Dara Adam Khel, District Kohat for the  
 purpose of terrorism; That the complainant along with other  
 police official made Nakabandi at relevant time/place and  
 intercepted an official pickup No. TSD-13; That on search of  
 the vehicle heavy arms and ammunitions i.e (2) 13 hand  
 grenades alive F1 type packed in a small sack, (2) one RPG-7  
 Rocket Launcher (3) 18 RPG shell (4) 30 boxes of 12.7 bore  
 rounds, each box contains 85 rounds, total 2550 and open i.e.  
 without boxes 260 rounds of 12.7 bore (5) 20 RPG-7 boosters  
 (6) one anti stand of 12.7 bore (7) one 12.7 bore Gun (8) one  
 bullets box "Patta" 12.7 bore (9) One Russian made full-butt  
 SMG No. H.35055/1696 (10) one China made folding butt  
 SMG No. 48003948 alongwith 04 magazines containing 99  
 rounds of 7.62 bore were recovered from the vehicle; that the  
 seized arms and ammunition were taken into possession and all  
 the persons on board namely (i) Nadeem Khan, (ii) Baseer  
 Khan, (iii) Asad Ullah, (iv) Ajmal Sadiq and (v) Syed Ismail  
 Hussain were arrested, accordingly.

A2  
 11/19

5. Arguments heard and record perused.

ATTESTED TO BE TRUE COPY

.....  
 .....

.....  
 .....

6. Whether mere recovery of huge quantity of Arms and Ammunitions without use attracts an Offence punishable under Section-7 of Anti-Terrorism Act 1997?

7. The local police of Peshawar, vide FIR No. 235 dated 19.8.2014 under sections 15/17 AA read with Section 7 ATA recovered twenty eight Pistols of 30 bore, four rifles of 12 bore, 1820 rounds of 7.62 bore and 66 packets containing 3300 rounds of 30 bore from secret cavities of the Car. Vide judgement dated 30/05/2016 passed by learned Judge, Anti-Terrorism Court-II, Peshawar, the accused was convicted and sentenced under the law. By judgement dated 13/10/20216 (Cr. A No. 416-P/2016 Shasim Khan vs The State) the Hon'ble Peshawar High Court held that mere recovery of huge quantity of ammunition does not attract an offence of Terrorism.

8. In case of *Abdur Rauf* (2017 P Cr. L J 1096 Peshawar) the Hon'ble Peshawar High Court held that mere possession of the explosive substance without use, as contemplated in the Third Schedule attached to Anti-Terrorism Act, does not fall within the sphere of such schedule attached with the Act 1997.

9. In present case the local police of P/S Usterzai taken into possession heavy arms and ammunitions which were being transported to Dara-Adam Khel in official vehicle by the accused under an assumption to be used for the purpose of terrorism. In view of admitted fact that such arms and

Handwritten signature and date: 11/9

ammunition were not yet used for the purpose of any offence (terrorism) and the law is absolutely clear on the subject that mere recovery of huge quantity of arms and ammunitions does not attract *Anti-Terrorism Act 1997*, hence *Section-7* thereof from the complete challan/final report stands deleted, in circumstances. The remaining offences U/S-15/16 KP Arms Act 2013 read with Section-148/149 PPC read with Section-4/5 KP Explosive Substance Act 2013 are triable by the learned court of competent jurisdiction of *District Kohat*. The case in hand is, therefore, transferred under *Section-23 ibid* to the learned Sessions Judge, *District Kohat* for further proceedings.

10. The Moharrir of the Court is directed to transfer the record along with a copy of this Order to the learned Sessions Judge, without any delay. The accused named above in custody shall be produced before the learned Sessions Judge, Kohat on 18/09/2023.

File of this court be consigned to record room.

ORDER ANNOUNCED.  
September 11<sup>th</sup>, 2023.

*Aurangzeb* 11/9  
(AURANGZEB)  
Judge Anti-Terrorism Court,  
Kohat Division Kohat

ATTESTED TO BE TRUE COPY





No. 2159-60/PA

Office of the  
District Police Officer,  
Kohat

Dated 03-5-2023

**DISCIPLINARY ACTION**

1. **MR. JAMIL UR REHMAN, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Constable Asad Ullah No. 1487** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

**STATEMENT OF ALLEGATIONS**

- i. You while posted as gunner with Assistant Tehsildar Dara Sub Division Kohat was found involved / arrested in criminal case FIR No. 141 dated 02.05.2023 u/ss 4/5 Exp: Sub Act, 15-16 AA, 7-ATA, 148,149 PPC PS Usterzai.
- ii. Your above act shows in-efficiency, irresponsibility and professional gross misconduct on your part being a member of discipline force.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **SDPO Lachi, Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

  
DISTRICT POLICE OFFICER,  
KOHAT

No. 2159-60/PA, dated 03-5-2023.

1. Copy of above to:-  
**SDPO Lachi, Kohat** :- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. The **Accused official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

Before the District Police Officer, Kohat

Subject: Explanation to the Charge Sheet

D  
13

Respected Sir,

Since appointment and after the entrustment of the duties to the police which is being had headed, administered and supervised by good self, and the under signed has never been proceeded adverse to the good conduct the action adverse as such can be made a bar for disciplinary action.

The criminal proceedings narrated FIR as referred on the bases of allegations, therein the under signed has been issued the notice under rep[ro] which can there after cause penal and departmental adverse action but to submit that the contents of FIR differs them the conduct undersigned of under signed. The narration therein that the car was driven by one Nadeem Khan.

In front seat one Mr. Baseer Khan was sitting who were disclosed to be the police officers while the under signed with one Constable Ajmal sadiq, were sitting in that named seats, had nothing seen nothing in the backyard of the car. Yet the matter is to be proceeded, tried and then decided including the rôle attributed as such has not been specified in the FIR.

In the circumstances as referred since the explanation as well as the statement of allegations are premature therefore, the matter be kept in obedience till the conclusion of the criminal proceedings by letting the under signed to perform his duties in accordance to the entrustment as such and be obliged.

Thank your Sir,

Your Obediently

Constable Asadullah  
No 1487  
Central Prison Mardan, KPK  
Dated 24 May 2023

E (14)

**JUDGMENT SHEET**  
**IN THE PESHAWAR HIGH COURT,**  
**PESHAWAR**  
**JUDICIAL DEPARTMENT**  
**JUDGMENT/ORDER**



**Cr.MBA No.2787-P/2023**

**Title : Asadullah Verus The State.**

**Date of hearing: 27.7.2023**

**Petitioner by : Mr.Ali Azim Afridi  
advocate.**

**The State by : Mr,Jalaluddin Akbar Azam  
Gara, AAG**

**WIQAR AHMAD, J:-** *Vide my detailed order of even date in connected Cr.Misc. Bail Petition No. 2631-P/2023 titled Ajmal Sadiq Vs The State, this bail petition is allowed and the accused/petitioner Asadullah is admitted to bail provided he furrishes bail bonds in the sum of Rs.8,00,000/- (Rupee Eight lacs) with two sureties, each in the like amount to the satisfaction of the learned Illaqa/Duty Magistrate/trial court concerned, who shall ensure that the sureties*

**JUDGE**

Date of hearing & announcement  
of Judgment .....27.7.2023

Date of Preparation and  
Signing of Judgment .....27.7.2023  
(Ishaq Shah) (SB) Hon'ble Mr. Justice Wiqar Ahmad

CERTIFIED TO BE TRUE COPY  
BY: MINISTER  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
the Constitution of Pakistan Act 1973  
07 AUG 2023

**JUDGMENT SHEET**  
**IN THE PESHAWAR HIGH COURT,**  
**PESHAWAR**  
**JUDICIAL DEPARTMENT**  
**JUDGMENT/ORDER**



Cr.MBA No.2631-P/2023

Title : Ajmal Sadiq Verus The State.

Date of hearing: 27.7.2023

Petitioner by : Mr.Muhammad Ibrahim Khan  
advocate.

The State by : Mr,Jalaluddin Akbar Azam  
Gara.

.....  
**WIQAR AHMAD, J-** *Through this single order recorded in instant bail petition, I am going to dispose of connected bail petition No.2787-P/2023 filed by co-accused Asadullah, as both have arisen out of the same FIR.*

2. *Accused/petitioners Ajmal and Asadullah have filed these bail petitions for their release on bail in case FIR No.141, dated 2.5.2023, under Sections 15/16 AA/148/149 PPC,4/5 ESA & 7 ATA of Police Station CTD, Kohat, as the same relief was declined to them by the learned Judge Anti-Terrorism Court, Kohat*

**ATTESTED**  
**EXAMINER**  
Peshawar High Court

Division at Kohat, vide his consolidated order dated 5.7.2023

2. As per prosecution version, highlighted in the FIR in question, on 25.2.2023, the local police on receipt of spy information qua smuggling of huge quantity of arms and ammunitions to Darra Adamkhel from Orakzai, laid naka/andi on the Road and started checking the vehicles when in the meantime a white Pick-up bearing Registration No. TSP-13 came there which was stopped. It was driven by one Nadeem Khan, its front seat was occupied by one Baseer Khan who was in police uniform while its rear seats were occupied by Ajmal and Asadullah, accused/petitioners herein, both wearing Police Uniforms, whereas third person duly armed disclosed his name as Syed Ismail Hussain. Search of the vehicle resulted into recovery of huge quantity of arms and ammunitions, detailed in the FIR. Accordingly, all the persons mentioned above were arrested and a criminal case vide FIR referred to above was registered against them.

3. I have heard arguments of the learned counsel for the parties and have gone through the record with their valuable assistance.

ATTESTED  
EXAMINER  
Peshawar High Court

4. Admittedly, both the accused/petitioners are police Officials who were performing their official duties with one Subedar Major Baseer Khan, main accused in the case and at the relevant time they were with him in the said official Pick-up. Twist came in the case when after registration of criminal case against the accused/petitioners and other co-accused, one Khaista Akbar, Naib Tehsildar recorded his statement under Section 164 Cr.P.C. on 5.6.2023 to the effect that co-accused Baseer Khan, who was performing his duties as Subedar Major, requested him to give him his official Pick-up in question along with Driver for proceeding to Darra Adam Khel in connection with his personal matter. He further stated in the said statement that on the request of said Baseer Khan (main accused in the case), he handed over his official Pick-up to Baseer Khan along with driver Nadeem. The accused/petitioners were police officials performing their duties in the company of said Subedar Major Baseer Khan at the relevant time. In the light of this statement of Khaista Akbar, conscious knowledge of the present accused/petitioners qua presence of arms and ammunitions in the vehicle in question is

ATTESTED  
EXAMINER  
Peshawar High Court

requiring further probe qua their guilt. In backdrop of these facts, accused/petitioners deserve the concession of bail.

5. Resultantly, this bail petition is allowed and the accused/petitioner Ajmal Sadiq is admitted to bail provided he furnishes bail bonds in the sum of Rs.8,00,000/- (Rupees Eight lacs) with two sureties, each in the like amount to the satisfaction of the learned Illaqa/Duty Magistrate/trial court concerned, who shall ensure that the sureties are local, reliable and men of means.

6. While parting with the order, it is made clear that the above observations of this court are tentative in nature which shall not effect or influence judicial mind of the learned trial court in any manner at the trial stage.

JUDGE

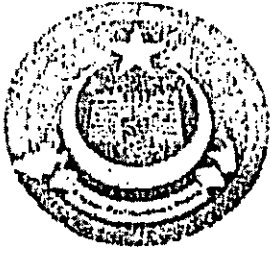
Date of hearing & announcement of Judgment ..... 07.7.2023

Date of Preparation and Signing of Judgment ..... 07.7.2023

(Gabeq Shah) (C) Hon'ble Mr. Justice Wiqar Ahmad

CERTIFIED TRUE COPY  
Peshawar High Court, Peshawar  
07 AUG 2023

4474  
Date of presentation of application ..... 07-08-23  
No of pages ..... 12  
Copy of .....  
Total ..... 68-20  
Date of ..... 07-08-23  
Date of ..... 07-08-23  
..... W. S. P.



F 19

OFFICE OF THE  
DISTRICT POLICE OFFICER,  
KOHAT

Tel: 0922-920116 Fax 920125  
No 4969 /PA dated Kohat the 28/8 /2023

**FINAL SHOW CAUSE NOTICE**

1. 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 **Constable Asad Ullah No. 1487** as follow:-
- 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. 2159 - 60/PA dated 03.05.2023.
  - ii. 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. You while posted as gunner with Assistant Tehsildar Dara Sub Division Kohat was found involved / arrested in criminal case FIR No. 141 dated 02.05.2023 u/s 4/5 Exp: Sub Act, 15-16 AA, 7-ATA, 148,149 PPC PS Usterzai.
    - b. Your above act shows in-efficiency, irresponsibility and professional gross misconduct on your part being a member of discipline force.
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, 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.

  
DISTRICT POLICE OFFICER,



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**BEFORE THE PSP DISTRICT POLICE OFFICER, KOHAT.**

**Reply to the Final Show Cause.**

Respected sir,

1. Prior to the present show cause notice reply to the charge sheet has been submitted which is yet to be proceeded upon and the undersigned is to be subjected of the inquire which is yet to be conducted as till now the undersigned has never been intimated about any kind of proceedings which are to be conducted in reference to the charge sheet having been responded at the relevant time.
2. It is submitted that the undersigned was charge under Section 4/5 Explosives Substances Act- read with Section 15-16 AA and 7ATA read with Section 148,149 PPC vide FIR No. 141PS Usierzai Kohat on 2/5/2023, the date on which the undersigned was arrested, so a prudent mind cannot believed that on a subsequent date 3/5/2023 Inquiry Officer or Inquiry Committee was constituted, he/they proceeded, recorded statements, collected material and made recommendation, vide which the undersigned was sustained accused, who, after being arrested on 2/5/2023, was released on bail on 27/7/2023, yet to go to the trial and get proved himself innocent.
3. With utmost respect, in a single day the proceedings and recommendation are not possible yet to submit that the undersigned was on duty, not known about any kind of explosives or anything illegal from a vehicle owned by a person not present on the spot nor being sustained as offender.

**Replies:**

- 1.a. Respectfully I submit that I have never committed an offence nor being charged for, that is why I was released by the Honble; High Court and I am yet to go through the trial to prove myself innocent.
- b. Incorrect, with utmost respect it is submitted that I have not committed any offence, adverse to my duties. I have been involved illegally; the status of alleged involvement is to be determined by the learner Trial Court.
2. Your honor is competent to pass any order but with sympathetic submission that the undersigned has committed no offence.

It is therefore requested that the proceedings as alleged against the undersigned may kindly be withdrawn; he may be re-instated on his service with all back benefits, in the ends of Justice.

Constable.... Asadullah  
No. ....1487

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## ORDER

This order is passed on the departmental enquiry against Constable Asad Ullah No. 1487, (hereinafter called accused official), under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that he while posted as gunner with Assistant Tehsildar Dara Sub Division Kohat was found involved / arrested in criminal case FIR No. 141 dated 02.05.2023 u/ss 4/5 Exp: Sub Act, 15-16 AA, 7-ATA, 148,149 PPC PS Usterzai.

The above act shows in-efficiency, irresponsibility and professional gross misconduct on his part being a member of discipline force

The accused official was served with charge sheet alongwith statement of allegation and SDPO Lachi, Kohat was appointed as enquiry officer to probe into the matter according to the Rules Ibid. The accused official was associated with the proceedings and afforded ample opportunity of defense by the enquiry officer. On conclusion of proceedings, the reply was found unsatisfactory. In light of statement, record and report of seizing officer SHO, witnesses, investigation officer and huge recovery of arms and explosive, the accused official has found committed the offenses mentioned in the FIR and he has demonstrated inefficiency, irresponsibility, professional gross misconduct and unlawful acts being a member of disciplined force. The enquiry officer established charge / allegation framed against the accused official and held him guilty and recommended for major punishment.

In view of above, Final Show Cause Notice alongwith relevant record was served upon the accused official, to which he did not submit plausible reply He was called in orderly room held in this office on 20.09.2023, heard in person, wherein he failed to submit plausible explanation.

In view of above and available record, I, came to the conclusion that the accused official bringing bad name to the whole department. Therefore, in exercise of powers conferred upon me under the Rules Ibid I, Farhan Khan District Police Officer, Kohat, impose a punishment of dismissal from service from the date of his suspension. Kit etc be collected & report.

DISTRICT POLICE OFFICER  
KOHAT

OB No. 802  
Date 25-9-2023

No 5536-37 /PA dated Kohat the 24

Copy of above to the

1. Reader/SR

2)

2)

1022/23

①

**BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT.**

**DEPARTMENTAL APPEAL.**

Dear Sir,

It is submitted that order dated 24.09.2023 passed by the District Police Officer Kohat is competent authority towards the dismissal of the appellant against the charges yet to be tried and proved. However, having a further probe the appellant has been released on bail. It is to submit that presently the appellant is innocent and there is no adverse material on the basis of which major penalty as dismissal from service can be accorded.

The appellant has not been subjected to any departmental enquiry as narrated in law nor been personally heard or any reply of the appellant has ever been considered.

It is further to submit that the appellant has a blame less service at his credit nor there is any adverse entry in his service book on the basis of which any illegality or violation can be attributed to him, therefore, the order of dismissal is in fact nullity in the eyes of law.

The appellant has a family to support and the outcome as salary is the only source of their financial support.

It is sympathetically requested that the order impugned, referred above may kindly be set aside and the appellant may kindly be reinstated with all back benefits in the ends of justice.

Dated.01.11.2023

(ASAD ULLAH)  
EX-CONSTABLE.  
Belt # 1487

(23)

مجلس عالی

گزارش ریاست محترم - سال ۱۳۵۶

دستورالعمل و ضوابط - R.P.O.

در تمام این موارد - شرح

سال و در تمام این موارد - شرح

مجلس عالی - شرح

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العرض

1457  
A. S. S. S. S.

Handwritten notes and signatures at the bottom of the page.

جانب عالی

گزارش و قیاسات کے ساتھ رقم لکھنے سے ڈسٹریکٹ

سے جانب RPO کو رقم اپنی کتابت جو مستحق ہے۔

سے RPO سے کتب و دستاویزوں کی کاپیاں

کرنے سے صادر فرمائیں۔

31/1/24

الغافل

کنوینشن ایسوسی ایشن 1487

PO  
for inspection

SD

31-1-2024

ORDER

*KL*

This order will dispose of the departmental appeal preferred by **Ex-Constable Asad Ullah No. 1487** of district Kohat against the order of District Police Officer, Kohat whereby he was awarded major penalty of dismissal from service vide OB No. 802 dated 25.09.2023. Brief facts of the case are that the accused official while posted as gunman with Assistant Tehsildar, Dara Sub Division, Kohat was found involved / arrested in criminal case vide FIR No. 141 dated 02.05.2023 u/s 4/5 Exp: Sub: Act /15/16AA/7ATA/148/149PPC PS Usterzai.

Proper departmental enquiry proceedings were initiated against him and SDPO Lachi Kohat was nominated as Enquiry Officer. The Enquiry Officer after fulfillment of codal formalities submitted his findings wherein the appellant was found guilty of the charges leveled against him. He was, therefore, recommended for major penalty under the relevant rules.

Keeping in view the recommendations of the Enquiry Officer and the above cited circumstances, the delinquent official was awarded major punishment of dismissal from service under the relevant rules by the District Police Officer, Kohat vide OB No. 802 dated 25.09.2023.

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 09.01.2024. During personal hearing the appellant did not advance any plausible explanation in his defense.

Foregoing in view, I, **Sher Akbar, PSP, S.St, Regional Police Officer, Kohat**, being the appellate authority, am of the considered opinion that the allegations leveled against him have been fully established. The punishment of Dismissal from Service, awarded by District Police Officer, Kohat to the appellant is justified and, therefore warrants no interference. Hence, appeal of **Ex-Constable Asad Ullah No. 1487** is hereby **rejected**, being devoid of substance and merit.

Order Announced  
09.01.2024

*[Signature]*  
Regional Police Officer,  
Kohat Region

No. 492 /EC, Dated Kohat the 16 /01 /2024

Copy forwarded to District Police Officer, Kohat for information and necessary w/r to his office Memo: No. 8195/LB, dated 26.12.2023. His Service Record and Fauji Misal are returned herewith.

\*\*\*\*\*

*CHE/SRE*  
*FD misal*

*[Signature]*  
District Police Officer  
Kohat  
17/1/24

322  
19/1/24

10/01

25  
23

**VAKALAT NAMA**

NO. \_\_\_\_\_/2024

IN THE COURT OF KP Service Tribunal Peshawar

Asad Ullah (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Department (Respondent)  
(Defendant)

I/We, Asad Ullah

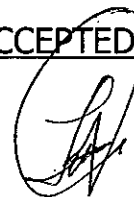
Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel 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 \_\_\_\_\_/2024

Asad Ullah  
(CLIENT)

ACCEPTED



**TAIMUR ALI KHAN**  
Advocate High Court

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