

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

Service Appeal No. 5195/2021

Inayat Ali Amjid Sub-Inspector presently posted at District Police, Peshawar.

.....Appellant

The Provincial Police Officer, Governemnt of Khyber Pakhtunkhwa and others.

.....Respondents

I N D E X

S.No.	Description of documents	Annexure	Pages
1.	Reply of Respondents	-	1-3
2.	Affidavit	-	04
3.	Statement of allegation and charge sheet	A	05-06
4.	Copy of enquiry report	B	07
5.	Copy of Police rules of 1975	C	08


Inspector Legal,
Nowshera

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Inayat Ali Amjid Sub-Inspector presently posted at District Police, Peshawar.

.....Appellant

V E R S U S

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Mardan Region-I, Mardan.
3. District Police Officer, Nowshera.

.....Respondents

PARAWISE REPLY ON BEHALF OF RESPONDENT NO. 01 TO 03

Respectfully Sheweth: -

That the respondents submitted as under: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appeal is badly barred by law and limitations.
3. That the appellant has been estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

On Facts

1. Initial part of the para pertains to enlistment/appointment of appellant in Police Department as ASI hence, needs no comments while regarding rest of the para it is stated that each and every Police Officer/Official is under obligation to perform his duty with devotion and upto the entire satisfaction of his high-ups.
2. Para pertains to subsequent promotion of appellant to the rank SI and his further postings hence, needs no comments.
3. Incorrect. Prior to the registration of case vide FIR No. 209 dated 08-08-2019 u/s 337-A(I)(II)/336/455/34 PPC Police Station, Misri Banda, Mst: Aisha time and again approached appellant, as he was posted as SHO Police Station, Misri Banda, for redressal of her grievances to take action against accused Inzimam s/o Zamanat Khan r/o Nandrak but he failed to do so, which resulted in the aforementioned FIR as the said lady sustained grievous injuries.
4. Para already explained above.
5. Incorrect. Appellant was duly served with charge sheet and Statement of Allegations vide No. 117/PA, dated 16-08-2019. Moreover, in order to scrutinize conduct of the appellant, enquiry was conducted through the then ASP

Nowshera Cantt.: Enquiry Officer in his findings highlighted that appellant failed to protect the victim when the matter was reported to him. His casual response resulted in the above mentioned FIR. (Copy of statement of allegations and charge sheet is annexure "A" and Copy of Enquiry Report is annexure "B").

- 6. Incorrect. Appellant had been issued proper Charge Sheet with Statement of Allegations and proper enquiry was conducted. On the recommendation of enquiry officer, appellant was awarded minor punishment of forfeiture of approved service for 02 years.
- 7. Correct to the extent that appellant moved departmental appeal before respondent No. 02 whereupon punishment order of the appellant was converted into forfeiture of 01 year approved served.
- 8. Correct to the extent that appellant moved Revision Petition before respondent No. 01, however, the same was rejected as appellant had not offered any new defense in his personal hearing.
- 9. Incorrect. Orders dated 12-09-2019, 08-11-2019 and 22-03-2021 are legal and in accordance with law/rules, hence, liable to be maintained on the following grounds: -

GROUND

- A. Incorrect. That appellant has been treated in accordance with law/rules and none of his rights have either been denied or violated by the respondents.
- B. Incorrect. It is evident from the orders of respondent No. 01 & 02 that he was heard in person.
- C. Incorrect. Charge Sheet with statement of allegations was issued and served upon the appellant.
- D. Incorrect. Copy of enquiry report has been provided to the appellant which has been annexed by him as annexure-C in the appeal.
- E. Incorrect. Plea of the appellant that he entered the matter in o daily diary is not plausible as the same matter lead to the registration of aforementioned FIR.
- F. Incorrect. Plea of the appellant is not plausible because even if no cognizable offence had been committed by the accused, when the matter was report to him, he could have taken the preventive measures against the accused.
- G. Incorrect. As the matter itself was as clear as daylight therefore no witnesses were required to be examined. Besides, appellant was provided opportunity to defend himself during enquiry proceeding but he failed to give any plausible reasons in his defense.
- H. Incorrect. In his findings, the enquiry officer has clearly mentioned that appellant failed to protect the victim when the matter was reported to him and


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his casual response resulted in the incident as reported in case vide FIR No. 209 dated 08-08-2019 u/s 337-A(i)(ii)/337-F(ii)/336/455/34 PPC.


- I. Incorrect. That the penalty so imposed on the appellant commensurate with the gravity of misconduct of appellant hence, liable to be maintained.
- J. Incorrect. Police Officer/Official are not proceeded against departmentally under E & D Rules rather are proceeded against under the Khyber Pakhtunkhwa, Police Rules 1975, wherein one of the minor punishments is forfeiture of approved service upto 02 years. (Copy of relevant part is annexure "C").
- K. The respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.

Prayers

Keeping in view of the above stated facts, it is, most humbly prayed that the appeal of the appellant being badly barred by law and devoid of legal force, may very kindly be dismissed with cost.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No.1


Regional Police Officer,
Mardan Region-I, Mardan.
Respondent No. 02


District Police Officer,
Nowshera.
Respondent No.03

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.....Appellant


V E R S U S


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2. Regional Police Officer, Mardan Region-I, Mardan.
3. District Police Officer, Nowshera.


.....Respondents

AFFIDAVIT

We the respondents No. 1,2&3 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No.01


Regional Police Officer,
Mardan Region-I, Mardan.
Respondent No. 02


District Police Officer,
Nowshera.
Respondent No.03

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Amex «A»

DISCIPLINARY ACTION

I, **Mansoor Aman, PSP**, District Police Officer, Nowshera as competent authority am of the opinion that **SI Inayat Ali Amjad** has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Rules, 1975.

STATEMENT OF ALLEGATIONS

Whereas, **SI Inayat Ali Amjad**, while posted as SHO Police Station, Misri Banda badly failed to take proper action against accused Inziam s/o Zamanat Khan r/o Nandrak because the victim lady Mst: Aesha time and again approached him for redressal of her grievances, which resulted in registration of case FIR No. 209 dated 08.08.2019 u/s 337 A(i)(ii)F(ii)/336/455/34 PPC PS Misri Banda. The said lady sustained grievous injuries due to his lethargic and negligent attitude, which shows his inefficiency and lack of interest in official duties and amounts to grave misconduct on his part and rendered him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules, 1975.

For the purpose of scrutinizing the conduct of the said accused official with reference to above allegations, **Mr. Tassawar Iqbal, ASP Cantt Nowshera**, is hereby nominated as Enquiry Officer.

The Enquiry Officer shall in accordance with the provision of Police Rules, 1975, provide reasonable opportunity of hearing to the defaulter official, record his findings and make immediate recommendations as to punish or other appropriate action against the defaulter official.

SI Inayat Ali Amjad is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

- Sd -
District Police Officer,
Nowshera.

No. 117 /PA,
Dated 16.08 /2019.

CHARGE SHEET

1. I, **Mansoor Aman, PSP** District Police Officer, Nowshera, as competent authority, hereby charge **SI Inayat Ali Amjad** as per Statement of Allegations enclosed.
2. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
3. You are, therefore, required to submit your written defense within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
4. Your written defense, if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
5. Intimate whether you desire to be heard in persons.

-Sd-
District Police Officer,
Nowshera.

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Annex B

1

ENQUIRY REPORT AGAINST SI INAYAT ALI AMJID SHO PS MISRIBANDA.
ALLEGATION:

Whereas, SI Inayat Ali Amjid while posted as SHO PS Misri Bnada badly failed to take proper action against accused Inzimam s/o Zamanat Khan r/o Nandrak because the victim lady Mst: Aesha time and again approached him for redressal of her grievances, which resulted in registration of case FIR No.209 dated 08.08.2019 u/s 337(A)(i)(ii)/336/455/34-PPC PS Misri Bnada. The said lady sustained grievous injuries due to his lethargic and negligent attitude, which shows to grave misconduct on his part and rendered him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules 1975.

PROCEEDINGS:

The officer under enquiry was heard in person and his statement was recorded wherein he submitted that elders of the locality along Mst: Aesha came to PS Misri Banda. Mst Aesha told that she had been in relationship with Inzimam for three years and promised to marry her but did not do so. On this she decided to live with Zamin Khan in presence of elders. As far as her injury is concerned a case has been registered vide FIR No. 209 dated 8.8.2019 u/s 337A(i)(ii)/337F(ii)/336/455/34 PPC PS Misri Banda against accused inzimam who secure BBA in the case and showed unawareness of the incident. Zamin Khan father of Mst Aesha stated that he was present/asleep at home when Aesha come she was injured. There is no eyewitness in this case. He further added that he did no act of indiscipline. However case is pending investigation and all out efforts are being carried out to dig out the real facts. He requested for filing of charge sheet.

FINDINGS:

The undersigned after enquiry has arrived at conclusion that the delinquent police officer SI Inayat Ali Amjid failed to protect the victim when matter was reported to him. His casual response resulted in the incident as reported in case vide FIR No. 209 dated 08.08.2019 u/s 337A(i)(ii)/337F(ii)/336/455/34 PPC. Therefore he is recommended to be punished with forfeiture of service up to (02) years if agreed

-sd-

Assistant Superintendent of Police,
Circle Cantt Nowshera

No. 931 / St:

Dated 5/8/2019.

Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police Officer.

(iv) 'Punishment' means a punishment which may be imposed under these rules by authority as indicated in Schedule I.

3. **Grounds of punishment.-**

Where a Police Officer, in the opinion of the authority-

- a) Is inefficient or has ceased to be efficient; or
- b) Is guilty of misconduct; or
- c) Is corrupt or may reasonably be considered corrupt because-
- (i) He is or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources of property disproportionate to his known sources of income; or
- (ii) He has assumed a style of living beyond his ostensible means; or
- (iii) He has a persistent reputation of being corrupt; or
- (d) Is engaged Or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is, therefore, prejudicial to national security, the authority may impose on him one or more punishments.

4. **Punishments.-**

1. The following are the minor and major punishments, namely:---

(a) **Minor punishments-**

- (i) Confinement of Constables and Head Constables for 15 days to Quarter Guards;
- (ii) Censure;
- (iii) Forfeiture of approved service up to 2 years;
- (iv) With holding of promotion up to one year;
- (v) Stoppage of increment for a period not exceeding 3 years with or without cumulative effect;

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(iv) Fine up to Rs15000/- as per schedule-I.

(b) **Major punishments-**

- (i) Reduction in rank/pay;
- (ii) Compulsory retirement;
- (iii) Removal from service; and
- (iv) Dismissal from service.

2. (a) Removal from service does not but dismissal from service does, disqualify for future employment.

(b) Reversion from an officiating rank is not a punishment.

❖ Amended vide Notification No: 3859/Legal, dated 27/08/2014 issued by IGP, KPK