

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No= 519/023 / 2024

Rahim Jan

.....Appellant

VERSUS


Inspector General of Police & others

.....Respondents

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Appellant


Rahim Jan

In person

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtukhwa
Service Tribunal

Service Appeal No. 519/023/2024

Diary No. 12820

Dated 16/5/24

Rahim Jan S/o Abdul Halim R/o Civil Colony, Alpurai, District Shangla.

.....Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtoonkhwa at Peshawar.
2. Deputy Inspector General of Police Counter Terrorism Department (CTD), Khyber Pakhtoonkhwa at Peshawar.
3. Deputy Inspector General of Police, Malakand Division at Saidu Sharif Swat.
4. District Police Officer, Shangla.
5. Superintendent of Police, Counter Terrorism Department (CTD), Malakand Region at Swat.

.....Respondents

AMENDED SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 READ WITH ANY OTHER RELEVANT PROVISIONS AGAINST THE IMPUGNED ORDER DATED 15-12-2023, WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE VIDE ORDER DATED 18-09-2020 IMPOSED UPON THE APPELLANT HAS BEEN CONVERTED TO COMPULSORY RETIREMENT VIDE IMPUGNED ORDER 15-12-2023.

PRAYER:

ON ACCEPTANCE OF THIS AMENDED SERVICE APPEAL THE IMPUGNED ORDER DATED 15-12-2023 & 18-09-2020 MAY VERY KINDLY BE SET ASIDE AND THE APPELLANT MAY VERY KINDLY BE RE-INSTATED IN SERVICE WITH ALL BACK BENEFITS. ANY OTHER RELIEF, DEEMED FIT IN THE CIRCUMSTANCES MAY ALSO BE AWARDED IN FAVOR OF APPELLANT AGAINST RESPONDENTS.

Respectfully Sheweth:

The appellant very earnestly seeks permission to plead the grievances at the hand of respondents and seeks legal solace while invoking the constitutional jurisdiction of this Hon'ble court as follows:

Facts leading to this Amended Service Appeal.

1. That, the appellant is the permanent resident of Civil Colony, Alpurai, District Shangla.
2. That, the appellant was initially appointed as constable vide order dated 01-04-1991, and thereafter, was promoted to Head Constable in the year 2011.
3. That, in the year 2011, the appellant passed Departmental Intermediate Examination and after following all the legal and codal fatalities, the appellant was promoted to the post of ASI and thereafter, as per promotion policy and criteria, the appellant was promoted to the post of Sub-Inspector in the year 2014.
4. That, it is pertinent to mention here that on 09-04-2011, the appellant was transferred and posted as Moharrir Malkhana and took over charge, where after, the appellant was transferred and posted as Additional SHO at Police Station Kamach at Shangla in the year 2016 and on 27-02-2017, the appellant was transferred and posted to CTD Malakand at Kabal Swat and from there the

appellant was again transferred to Alpurai and posted as Beat Officer at Police Station Alpurai.

5. *That, in the above mentioned stations, the appellant performed his duty with honesty and to the best satisfaction of his high ups, which is also evident from the service record of the appellant as there is no single complaint of malpractice, corruption and corrupt practices against the appellant.*
6. *That, on 01-06-2020 FIR No. 358 u/s 409/468/420 PPC was lodged and Police Station Alpurai against the appellant and in consequence whereof, the appellant was arrested on 03-06-2020, however the appellant was bailed out vide order dated 03-07-2020.*
7. *That, on 13-05-2020 an inquiry was initiated against the appellant and on 21.05.2020, the appellant was charge sheeted on a very baseless and malafide charges.*
8. *That, the appellant filed a detailed reply to the charge sheet against him and termed all the allegation leveled against the appellant. The Inquiry Officer thereafter submitted his finding report to respondent No. 5 for registration of FIR against the appellant.*
9. *That, after the above proceedings, the respondent No. 4 directed the SHO Police Station Alpurai for registration of FIR against the appellant and*

thereafter trial was initiated against the appellant, and the appellant was convicted by the learned trial Court vide order dated 27-11-2021. Feeling aggrieved from the order ibid the appellant filed an appeal before the learned Court of Sessions Judge, Shangla who allowed the appeal of the appellant vide order / judgment dated 04-10-2022 and all the baseless allegations leveled against the appellant was termed and the appellant was acquitted.

10. *That, after release from Jail, the appellant straightaway went to his duty station i.e CTD Kabal Swat for performing his duties, whereas in Inquiry Officer was deputed for further inquiry, who conducted another inquiry against the appellant and it was suggested by the Inquiry Officer that the appellant be dismissed from service, consequently, the appellant was dismissed from service vide order dated 18-09-2020 by respondent No. 5, thus the appellant filed an appeal to respondent No. 2, which was dismissed on 09-12-2020.*
11. *That, it is pertinent to mention here that the appellant was waiting for the judgment and fate of his criminal case, which was the sole base for dismissal from service and consequently the appellant was acquitted, vide order dated 04-10-2022, the appellant immediately filed a detailed departmental appeal before the respondent No. 1 on 25-10-2022, but unfortunately after laps of statutory period of 90 days, the respondent No.1*

neither allowed the appeal nor rejected the same nor even responded.

12. *That, being aggrieved and dissatisfied from the order dated 18-09-2020, the appellant filed Service Appeal No. 519/2023 before this Hon'ble Court, it is pertinent to mention here that the respondents have converted the dismissal from service order to compulsory retirement vide order dated 15-12-2023, hence feeling aggrieved from the said order too, the appellant moved an application for filing of amended Service Appeal before this Hon'ble Court and the appellant was allowed as per order dated 06-05-2024 to file amended appeal before this Hon'ble Court.*

13. *That, as per order dated 06-05-2024 of this Hon'ble Court the appellant is going to file the instant amended Service Appeal against both the orders dated 15-12-2023 & 18-09-2020 passed by the respondents inter alia on the following grounds; moreover, all the annexed documents already submitted with Service Appeal No. 519/2023 be treated as part & parcel of the instant amended Service Appeal and that documents may kindly be considered as all annexures mentioned in the instant amended Service Appeal.*

GROUNDS:

- i) *That, it is settled preposition of law that before passing any order with respect of*

imposition of major penalty (whether termination, dismissal or compulsory retirement) the employer department / authority is required to conduct regular inquiry, but erroneously the appellant has been treated otherwise, hence needs indulgence of this Hon'ble Court.

- ii) *That, the so called inquiry proceedings have been conducted at the back of the appellant as the appellant has never been associated with any inquiry proceedings, therefore, the whole proceedings conducted by the respondents in nullity in the eye of law.*
- iii) *That, a cursory look of the impugned order dated 18-09-2020 and 15-12-2023 would reveals that the appellant has been charged for commission of serious crime for missing ammunitions and gross negligence, but the charges leveled against the appellant has been declared null and void and the appellant has been acquitted by the competent Court of law of the Country.*
- iv) *That, the law of land and rules governing the subject has framed a proper procedure to be followed while commencing disciplinary proceedings i.e issuance of charge sheet, statement of allegation and show cause notice etc, and deviation from the same would be nullity in the eyes of law. But in*

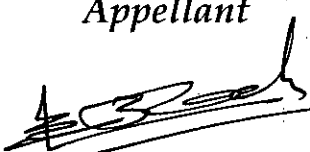
case of the appellant, the appellant has been treated otherwise, hence this Hon'ble Tribunal needs to declare the whole proceedings conducted against the appellant as void-ab-initio.

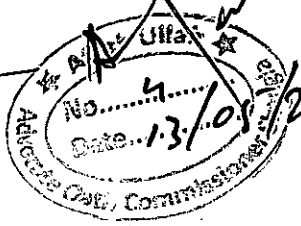
- v) *That, the allegations leveled against the appellant by the respondents are totally baseless and is against the law, which have no leg to stand upon. It is necessary to mention here that one Muhammad Nawaz ASI was exonerated and the appellant was deliberately made guilty against the facts and material available on file.*
- vi) *That, the respondents have violate a century old principle audi alteram partem as the appellant has been condemned unheard, it is also well settle principle of law "that no one should be condemn unheard", but the golden principle of law have also been violated, hence this single ground is sufficient to held entitled the appellant and the appellant be re-instated will all back benefits.*
- vii) *That, the appellant has an unblemished service career spreading over 29 years and through his whole career of service the appellant never earned any adverse findings /remarks from his superiors.*

- viii) *That, the appellant has not been treated equally and in accordance with the constitution of the Islamic Republic of Pakistan 1973.*
- ix) *That, the appellant has not been treated in accordance with law and rules on the subject noted above and such the respondents violated Article 4 and 25 of constitution of Pakistan 1973.*
- x) *That, the entire proceeding has been conducted in derogation of law and rules.*
- xi) *That, the impugned orders of respondents are whimsical, capricious and founded on surmises and conjectures.*
- xii) *That other grounds not specifically raised will be argued with the prior permission of this Honorable Court at the time of arguments.*

It is, therefore, very humbly prayed that on acceptance of this amended service appeal the impugned order dated 15-12-2023 & 18-09-2020 may very kindly be set aside and the appellant may very kindly be re-instated in service with all back benefits. Any other relief, deemed fit in the circumstances may also be awarded in favor of appellant against respondents.

Appellant


Rahim Jan



BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 519/023/2024

Rahim Jan S/o Abdul Halim R/o Civil Colony, Alpurai, District Shangla.
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VERSUS

1. *Inspector General of Police, Khyber Pakhtoonkhwa at Peshawar.*
2. *Deputy Inspector General of Police Counter Terrorism Department (CTD), Khyber Pakhtoonkhwa at Peshawar.*
3. *Deputy Inspector General of Police, Malakand Division at Saidu Sharif Swat.*
4. *District Police Officer, Shangla.*
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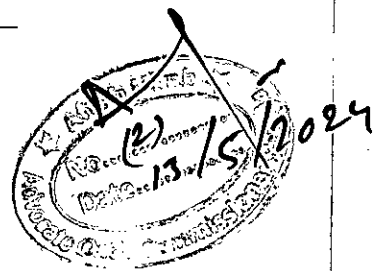
.....Respondents

CERTIFICATE

It is certified that no such amended Service Appeal is pending before this Hon'ble Court, however earlier the appellant had filed Service appeal No. 519/2023 before this Hon'ble Court, where after, the appellant has been allowed to file amended Service Appeal vide order dated 06-05-2024 passed in Service Appeal No. 519/2023.

DEPONENT


Rahim Jan



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

Service Appeal No 519/023 / 2024

*Rahim Jan S/o Abdul Halim R/o Civil Colony, Alpurai, District Shangla.
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- ① ~~6.~~ *Inspector General of Police, Khyber Pakhtoonkhwa at Peshawar.*
- ② ~~7.~~ *Deputy Inspector General of Police Counter Terrorism Department (CTD), Khyber Pakhtoonkhwa at Peshawar.*
- ③ ~~8.~~ *Deputy Inspector General of Police, Malakand Division at Saidu Sharif Swat.*
- ④ ~~9.~~ *District Police Officer, Shangla.*
- ⑤ ~~10.~~ *Superintendent of Police, Counter Terrorism Department (CTD), Malakand Region at Swat.*

.....Respondents

AFFIDAVIT

I, Rahim Jan S/o Abdul Halim R/o Civil Colony, Alpurai, District Shangla, do hereby solemnly affirm and declare on oath that all the contents of this Service Appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

DEPONENT



Rahim Jan

In person



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

Service Appeal No- 519/023/2024

*Rahim Jan S/o Abdul Halim R/o Civil Colony, Alpurai, District Shangla.
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.....Respondents

ADDRESSES OF THE PARTIES

ADDRESS OF THE APPELLANT

Rahim Jan S/o Abdul Halim R/o Civil Colony, Alpurai, District Shangla

CNIC:- 15501-6052363-7

Cell: 0341-9857768

ADDRESSES OF THE RESPONDENTS

1. *Inspector General of Police, Khyber Pakhtoonkhwa at Peshawar.*
2. *Deputy Inspector General of Police Counter Terrorism Department (CTD), Khyber Pakhtoonkhwa at Peshawar.*
3. *Deputy Inspector General of Police, Malakand Division at Saidu Sharif Swat.*
4. *District Police Officer, Shangla.*
5. *Superintendent of Police, Counter Terrorism Department (CTD), Malakand Region at Swat.*

APPELLANT



Rahim Jan



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-SI Raheem Jan No, 804/M.

The petitioner was awarded major punishment of dismissal from service by SP/CTD, Malakand vide order Endst: No. 2512-16/CTD/MKE, dated 18.09.2020 on the allegations that he while posted as VC DFU, CTD PS Alpuri, District Shangla was accused for the commission of a criminal offence vide case No. 358, dated 01.06.2020 u/s 409/420/468 PPC Police Station Alpuri District Shangla.

As per comments of DIG/CTD, Khyber Pakhtunkhwa, another enquiry was also carried out by the District Police Shangla in which the petitioner was also declared guilty.

His revision petition was discussed in Appellate Board meeting dated 28.10.2021 wherein the Board directed to conduct de-novo enquiry vide this office order Endst: No. S/4011-20/21, dated 29.10.2021.

In the de-novo enquiry it was concluded that no specific ground was found which could indicate the innocence of Ex-SI Raheem Jan. But having regard to the long service of the delinquent official and taking a lenient view it is recommended that the punishment of dismissal from service awarded by SP/CTD Malakand be converted into compulsory retirement on humanitarian grounds.

He has been acquitted of the charge by the Session Judge MCTC Shangla vide judgment dated 04.10.2022.

The Appellate Authority i.e. DIG/CTD, KPK filed his instant appeal vide order Endst: No. 15276-81/20/CTD dated 09.12.2020.

Meeting of the Appellate Board was held on 16.03.2023, wherein the petitioner was present and heard in detail.

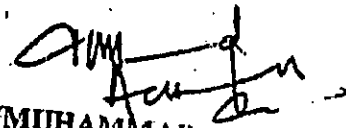
In the light of recommendations of de-novo enquiry, Members of the board have taken unanimous decision and the punishment of dismissal from service being converted into compulsory retirement on humanitarian grounds in respect of Ex-SI Raheem Jan.

Sd/-
AWAL KHAN, PSP
Additional Inspector General of Police,
HQs: Khyber Pakhtunkhwa, Peshawar.

No. SI/ 2855-60/23, dated Peshawar, the 15-12-2023

Copy of the above is forwarded to the:

1. Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
2. SP CTD Malakand Region.
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: E-III, CPO Peshawar.


(MUHAMMAD AZHAR) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar