

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

Service Appeal No 275/2024

Aftab Ahmad LHC NO. 1358 District Police Office, Dir Lower.....Appellant.

**VERSUS.**

Inspector General of Police, Khyber Pakhtunkhwa and others.....Respondents.

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(Ibrahim Khan)  
DSP Legal Dir Lower

16-05-2024

Peshawar

S.B.

①

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

Service Appeal No 275/2024

Aftab Ahmad LHC NO. 1358 District Police Office, Dir Lower.....Appellant.

**VERSUS.**

Inspector General of Police, Khyber Pakhtunkhwa and others.....Respondents.

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS.**

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS.**

Khyber Pakhtunkhwa  
Service Tribunal  
Diary No. 12585  
Dated 2/5/24

- 1) That the service appeal is not maintainable in its present form.
- 2) That the appellant has not come to this honourable Service Tribunal with clean hands.
- 3) That the present Service appeal is badly barred by law and limitation.
- 4) That this honorable Service Tribunal has got no jurisdiction to entertain the present service appeal.
- 5) That the appellant has suppressed the material facts from this honorable service tribunal.

**ON FACTS:**

1. Pertains to record, hence needs no comments.
2. Incorrect, plea taken by the appellant is not plausible because every police officer is under obligation to discharge his duty with real and devotion because in this department there is no room lies for any lethargy. Moreover, non receipt of complaint does not mean a clean chit for the future wrong deeds.
3. Incorrect, the appellant was on Escort duty for transportation of under trial prisoners/ accused and on 20.04.2022, under trial prisoner namely Zahoor Khan s/o Rozi Khan r/o Upper Dir charged vide case FIR No. 544 dated 07.08.2016 u/s 302/324/34PPC PS Timergara along with other prisoners were brought by the escort officials to the Sessions court for hearing of their cases. After hearing, the escort officials took the prisoners for boarding in official vehicle and on exit from main gate of judicial complex, the prisoner namely Zahoor was shot dead through fire arm by motorcyclist, while another received bullet injuries. The accused fled away from the spot by leaving the bike. The appellant showed cowardice and even did not bother either to chase the culprits nor made any effort so as to arrest them. Hence, committed gross misconduct and inefficiency in the discharge of his official duties. It is worth to mention here that the culprits fired upon the prisoners in front of police and ran away on main road, which could be chased easily but due to casual attitude of appellant, they made their escape good. In the light of above enquiry was entrusted to Mr. Mushtaq Ahmad SP Investigation. The enquiry officer after fulfillment of all legal and codal formalities recommended the appellant for major punishment. The competent authority on the

recommendation of enquiry officer called the appellant in orderly room and provided him right of self defence to produce any evidence/cogent reasons in his defence. However, he failed to produce even a single iota of evidence in his defence, therefore he was awarded major punishment of reduction in pay by three states which does commensurate with the gravity of misconduct of appellant..( Copy of charge sheet, statement of allegation, enquiry report and punishment order enclosed as annexure "A"- "B"- "C"- "D").

- 4. Correct to the extent that the appellant preferred departmental appeal to the appellate authority. Hence, the appellant was heard in person in orderly room to produce any justification regarding his innocence. But this time too, he failed to adduce any cogent justification in his defence. Therefore the appeal of the appellant was dismissed being devoid of any merit.
- 5. Correct to the extent that the appellant filed revision petition before the Revisionary Authority. The appellant was then treated leniently and the major punishment of reduction in pay by three stages was modified and converted to the minor punishment of stoppage of one annual increment for three years without cumulative effect.
- 6. The appeal of the appellant is liable to be dismissed on the following grounds.

**GROUND**

- A) Incorrect, the stance taken by the appellant is totally ill based because all the orders passed by the respondents are legal and in accordance with law, because the respondent department has no grudges against the appellant.
- B) Incorrect, plea taken by the appellant is totally bereft of any substance because at every stage, the appellant was provided full-fledged opportunity of defending himself but in fiasco.
- C) Incorrect, the appellant has been treated in accordance with law/rules and no violation of the Constitution of Islamic Republic of Pakistan has been committed by the respondents.
- D) Incorrect, stance taken by the appellant is totally devoid of merit because the appellant while performing as escort duty showed cowardice and even did not bother either to chase the culprits nor made any effort so as to arrest them.
- E) Incorrect, proper enquiry has been conducted and opportunity of personal hearing was duly provided to the appellant but he bitterly failed to produce any cogent reasons in his defence. Furthermore no violation of the principle of natural Justice has been made by the respondents, rather the entire proceedings have been carried out in accordance with law.
- F) Incorrect, all the proceedings have been carried out by the respondents in accordance with law/rules and no malafide or ill-will exist on the part of respondents because the respondent department has no grudges against the appellant. Furthermore no violation of the constitution of Pakistan has been committed.
- G) The respondents also seek permission of this honorable Service Tribunal to adduce additional grounds at the time of arguments/ hearing.

**PRAYER:**

It is therefore humbly prayed that on acceptance of this Para-wise reply, the appeal may graciously be dismissed with cost.

*Zaid*  
District Police Officer  
Dir Lower  
Respondent No.04  
Zia- Ud-Din Ahmad (PSP)  
Incumbent  
**District Police Officer,  
Dir Lower at Timergara**

*Muhammad*  
Regional Police Officer,  
Malakand at Saidu Sharif Swat  
Respondent No. 03  
**Muhammad Ali Khan (PSP)**  
Incumbent  
**Regional Police Officer,  
Malakand Region,  
Saidu Sharif, Swat.**

*Dr. Muhammad Akhtar Abbas*  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
Respondent No. 02  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
Incumbent  
Dr

(4)

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

Service Appeal No 275/2024

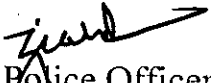
Aftab Ahmad LHC NO. 1358 District Police Office, Dir Lower.....Appellant.

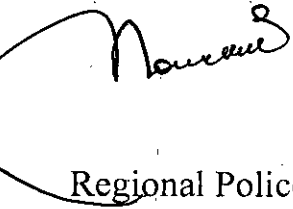
**VERSUS.**


Inspector General of Police, Khyber Pakhtunkhwa and others.....Respondents.

**POWER OF ATTORNEY**

Mr Ibrahim Khan DSP Legal Dir Lower is hereby authorized to appear on our behalf and submit all the relevant documents as required by the Honorable Service Tribunal in the above Service Appeal.

  
District Police Officer  
Dir Lower  
Respondent No.04  
Zia- Ud-Din Ahmad (PSP)  
Incumbent  
**District Police Officer,  
Dir Lower at Timergara**

  
Regional Police Officer,  
Malakand at Saidu Sharif Swat  
Respondent No. 03  
**Muhammad Ali Khan (PSP)**  
Incumbent  
**Regional Police Officer,  
Malakand Region,  
Saidu Sharif, Swat.**

  
DIG/ Legal, CPO  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
Respondent No. 02  
**(DR. MUHAMMAD AKHTAR ABBAS) PSP**  
Incumbent

(5)

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

Service Appeal No 275/2024

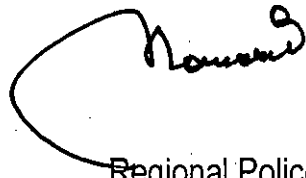
Aftab Ahmad LHC NO. 1358 District Police Office, Dir Lower.....Appellant.

**VERSUS.**

Inspector General of Police, Khyber Pakhtunkhawa and others.....Respondents.

**AFFIDAVIT.**

I, Muhammad Ali Khan Regional Police Officer Malakand do hereby solemnly affirm and declare on Oath that the contents of Para-wise reply is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal. It is further stated on oath that the answering respondents have neither been placed ex-party, nor their defence has been struck off.



Regional Police Officer,  
Malakand at Saidu Sharif Swat  
Respondent No. 03  
**(Muhammad Ali Khan (PSP))**  
Incumbent  
**Regional Police Officer,**  
Malakand, at Saidu Sharif Swat.

**ATTESTED**



22/4

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Annex 'A'

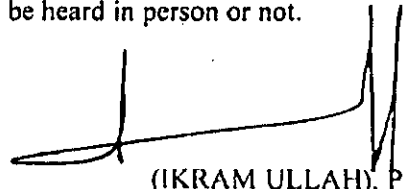
OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

Enq: No 17 /EB,

Dated 11/05 /2022

CHARGE SHEET

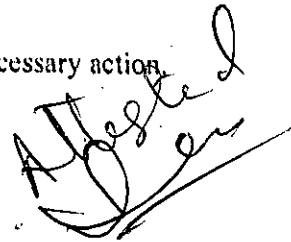
1. I, Ikram Ullah (PSP) District Police Officer, Dir Lower at Timergara as competent authority, under Khyber Pakhtunkhwa Police Rules 1975(amended 2014) hereby charge you LHC Aftab Ahmad No. 1358, committed as follows: -
2. As per finding of preliminary enquiry conducted by DSP Legal Dir Lower, that while you posted on Escort duty for transportation of accused, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat. In which 01 person was killed and one got seriously injured. You were held responsible for negligence in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on your part.
3. By the reason of above you appear to be guilty of misconduct under the Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
4. You are therefore, directed to submit your written reply within (07) days of the receipt of this Charge Sheet to the Enquiry Officer.
5. Your written reply, if any, should reach the Enquiry Officer Mr. Mushtaq Ahmad SP Investigation Dir Lower within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-part action shall follow against you.
6. You are directed to intimate whether you desire to be heard in person or not.
7. A statement of allegation is enclosed.

  
(IKRAM ULLAH), PSP  
District Police Officer  
Dir Lower

No. 4717-18 /EC, Dated 11-05 /2022

Copies to the:-

1. SP Investigation Dir Lower to initiate departmental enquiry against above named Official in the light of attached documents, with in stipulated period.
2. LHC Aftab Ahmad No. 1358, through RI Police Line Timergara for necessary action.



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Annex "B"

**OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA**

Enq: No 17 /EB,

Dated 11/05 /2022

**DISCIPLINARY ACTION**

1. I, Ikram Ullah (PSP), District Police Officer, Dir Lower at Timergara as competent authority as of the opinion that LHC Aftab Ahmad No. 1358, while he posted on Escort duty (Judicial Guard) have rendered himself liable to be proceeded against departmentally as he has committed the following acts/omission as defined in Khyber Pakhtunkhwa Rule 2 (iii) of Police Rules 1975 (amended 2014).

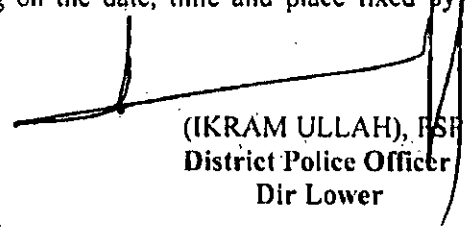
**STATEMENT OF ALLEGATION**

2. As per finding of preliminary enquiry conducted by DSP Legal Dir Lower, that while he posted on Escort duty for transportation of accused, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat. In which 01 person was killed and one got seriously injured. He was held responsible for negligence in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part.

3. For the purpose of scrutinizing the conduct of said officer/official, with reference to the above allegation Mr. Mushtaq Ahmad SP Investigation Dir Lower is appointed as enquiry officer.

4. The enquiry officer shall conducted proceedings in accordance with provisions of Police Rules 1975 (amended 2014) and shall provide reasonable opportunity of defense and hearing to the accused officer, record and submit its findings within 25 days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

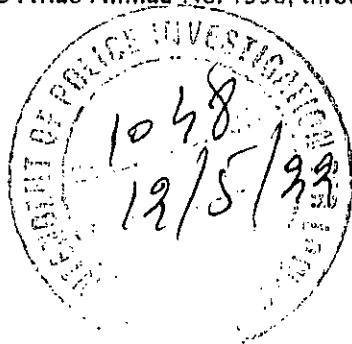
5. The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry officers.

  
(IKRAM ULLAH), PSP  
District Police Officer  
Dir Lower


No 4715-16 /EC, Dated the 11-05 /2022.

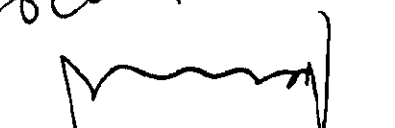
Copies to the:-

1. SP Investigation Dir Lower to initiate departmental enquiry against above named Official in the light of attached documents, with in stipulated period.
2. LHC Aftab Ahmad No. 1358, through RI Police Line Timergara for necessary action.



R  
proceed.

Attested  


  
Superintendent of Police  
Dir Lower



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Anexur "C"

## FINDING REPORT

### AIM.

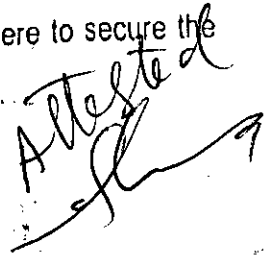
To conduct departmental enquiry against LHC Aftab Ahmad No. 1358 posted at Judicial Guard Police Line in light of the directions of worthy District Police Officer Dir Lower vide charge sheet Enquiry No. 17/EB, dated 11.05.2022.

### ALLEGATION

In preliminary enquiry carried out by DSP- Legal, the delinquent official posted on Escort duty committed negligence in incident of firing took place on 20.04.2022 in front of the main gate at judicial complex Balmbat wherein one under trial prisoner was killed and one injured and the delinquent official failed to chase/arrest the accused.

### PROCEEDING

Spot inspection of the place of occurrence was carried out by the undersigned in order to point out the deficiency/ negligence committed by the delinquent official. Briefly narrated that on 20.04.2022 under trial prisoner namely Zahoor Khan s/o Rozi Khan r/o Upper Dir involved in case vide FIR No. 544 dated 07.08.2016 u/s 302/324/34PPC PS Timergara including other prisoners were brought in proper custody of Police officials to the District Courts for the purpose of attending hearing before the honorable court of Sessions Judge. After attending the court and completion of process, the Escort officials took the prisoners for boarding in official vehicle parked across the road outside the main gate. Upon exit from small gate, the bike riders appear and suddenly fired upon the prisoner namely Zahoor putting to death, while other prisoner namely Haider Ali received injuries. The accused left the Motor Cycle on the Spot and fled away. Case vide FIR No. 25 dated 20.04.2022 u/s 302/324/109/114/34/202/212 PPC PS Balmbat was registered. Latter on total 09 accused nominated /charged in the FIR and among them 05 accused arrested, while the remaining accused including principal accused is still at large. Motive was previous enmity. The delinquent official was called and heard in person. He in his statement stated that he along with other Escort officials brought 04 under trial prisoners from Jail to attend the hearing before court of Sessions Judge. After attending court, the prisoners in custody of Police officials were on the way and upon exit from small gate, the motor cycle riders fired upon prisoner Zahoor putting him to death, while injured another one. He stands there to secure the remaining under trial prisoners. He was cross examining properly on every angle.

Attested  


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OBSERVATION

After gone through the statement of concerned official, spot checking and other factors, it is observed that transportation of prisoners i.e. pick and drop is not standard in the prevailing situation like militancy and changing of the modus operandi of criminals. The offenders freely hit the prisoner in front of police and run away on main road openly, which could be chase able easily. The delinquent official did not bother to chase the culprits nor effected firing to pressurize them despite the fact that total 13 officials including levies personnel's were present on the spot at the time of incident which clearly shows inefficiency and negligence on his part.

RECOMMENDATION.

Keeping in view the above facts and circumstances, it is recommended that the delinquent official has committed negligence as he neither fired upon accused nor chased the accused and failed to respond timely. Therefore he is recommended for major punishment if agreed please.

Superintendent of Police,  
Investigation Dir lower.

He is hereby Punished  
with reduction of pay  
in three stages.

02/06/2022

Attested

(10)

Ameem

"D"



*[Handwritten signature]*

**OFFICE OF THE  
DISTRICT POLICE OFFICER  
DIR LOWER**

CamScanner

**ORDER**

1. This order will dispose of the departmental enquiry against LHC Aftab Ahmad No.1358, as per finding of preliminary enquiry conducted by DSP Legal Dir Lower, that while he posted on Escort duty for transportation of accused, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat. In which 01 person was killed and one got seriously injured. He was held responsible for negligence in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part.
2. Therefore, he was issued charge sheet/ statement of allegation and Mr. Mushtaq Ahmad SP Investigation Dir Lower was appointed as enquiry officer, to conduct proper departmental enquiry against him and submit his finding report.
3. The enquiry officer, during the course of enquiry recorded the statements of all concerned as well as the official concerned and recommended him for major punishment.
4. He was called in Orderly Room on 02-06-2022 for personal hearing and full opportunity was given to him to explain his position but he badly failed to produced any cogent reason in his self defense nor satisfy the undersigned.
5. Therefore I, Ikram Ullah (PSP) District Police Officer, Dir Lower in exercise of power vested under (E & D) Rules 1975, with Amendment-2014, agreed with the finding of enquiry Officer and awarded a major punishment of "Reduction in pay by three stages" to LHC Aftab Ahmad No.1358, with immediate effect.

**ORDER ANNOUNCED**

\*\*\*\*\*

OB No. 456

Dated 03-06/2022

*[Handwritten signature]*

(IKRAM ULLAH), PSP  
District Police Officer  
Dir Lower

No. 5431-32 /EB,

Copy for information and necessary action to the:-

1. Pay Officer Local Office.
2. OHC Local Office.

*Attested*  
*[Handwritten signature]*

SUR

Entry made in  
S. Roll. & Reg. Des. P/S