

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 529/2024

Muhammad Ali (SI 117/MR District Police Mardan) presently posted at Nowshera Police.....Appellant

VERSUS

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

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DSP Legal
Mardan

24-06-24

S.B
Peshawar

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

①

Service Appeal No. 529/2024

Muhammad Ali (SI 117/MR District Police Mardan) presently posted at Nowshera Police.....Appellant

VERSUS

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

Para-wise comments on behalf of respondents:

Respectfully Sheweth,

Library No. 13094

PRELIMINARY OBJECTIONS

Dated 31-05-24

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the Hon'ble Tribunal has no jurisdiction to adjudicate the matter.
7. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
8. That the appeal is barred by law and limitation.

REPLY ON FACTS

1. Correct need no comments.
2. Incorrect. Plea taken by the appellant is baseless, because he while posted as In-charge PP Garo Shah Police Station Saro Shah was placed under suspension on the basis of complaint made by one Ishaq s/o Muhammad Wali r/o Khadi Killey, wherein he leveled the following allegations.
 - i. Demanding illegal gratification.
 - ii. Harassing and threatening the complainant.
 - iii. Demanding Arm License from complainant to register FIR to improve progress.
 - iv. Illegal detention.

The matter was preliminary enquired through SDPO Takht Bhai Mardan who held the appellant responsible of such misconduct and recommended to initiate departmental enquiry against him with transferring from PP Garo Shah. On account of aforementioned allegations, the appellant was issued charge sheet and statement of allegations and enquiry was entrusted to the then DSP/HQrs Mardan. The enquiry officer during the course of enquiry recorded statements of all concerned and fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense, but he failed. However, the Enquiry Officer

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recommended the appellant for awarding suitable punishment. Therefore, the appellant was summoned & heard in Orderly Room on 06.01.2021, but he failed to justify his innocence hence, he was awarded major punishment of reduction to the rank of ASI with immediate effect, which does commensurate with the gravity of misconduct of the appellant **(Copy of reduction order is enclosed as Annexure -A)**

3. Correct to the extent that the appellant preferred departmental appeal against the order dated 06.01.2021, which was decided on merit. As the appellant was provided full-fledged opportunity of defending himself before the appellate authority. Therefore, the punishment order of the then District Police Officer Mardan was set aside and warned him to be careful in future **(Copy of order is enclosed as Annexure-B)**

Incorrect. Stance taken by the appellant is baseless because as per Police Rules 1934 adverse remarks has been communicated by the reporting officer into the Annual Confidential Report (ACR) for the year 2021 to the appellant, due to his involvement of corruption and illegal detention of innocent citizen **(Copy of adverse remarks ACR is enclosed as Annexure-C).**

4. Correct to the extent that the appellant preferred representation appeal and he was summoned and heard in detail on 28.12.2023 by providing full-fledged opportunity of defending himself before the appellate authority but he bitterly failed to produce any cogent reasons in his defense. Therefore, the same was rejected and filed.
5. Incorrect. That the orders passed by the competent authority as well as appellate authority are legal and according to law, facts and principles of natural justice, therefore, appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:


- A. Incorrect. Stance taken by the appellant is baseless because as per Police Rules 1934 adverse remarks has been communicated into the Annual Confidential Report (ACR) for the year 2021 to the appellant by the reporting officer and the countersigned officer also agreed with the report of reporting officer due to solid reasons i.e involvement in corruption and illegal detention of innocent citizen.


It is worth to mention here that the then Regional Police Officer who discharged the punishment of appellant he also agreed with the remarks of reporting officer. Incorrect. That the orders passed and letter issued by the competent authority as well as appellate authority are legal and as per law and rules, however, the then Regional Police Officer who discharged the punishment of appellant he also agreed with the remarks of reporting officer, hence liable to be maintained.


- C. Incorrect. Plea taken by the appellant is ill based, because adverse remarks has been communicated as per law, rules and principles.
- D. Incorrect. Plea taken by the appellant is not plausible because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover excellent ACRs does not mean a clean chit for the future wrong deeds.
- E. Incorrect. Plea taken by the appellant is baseless, because the respondents have no personal grudges against the appellant and the whole proceedings were carried out as per law and rules.
- F. Incorrect. Plea taken by the appellant is not plausible because letter No. 1700/23 dated 27.06.2023 was issued as per Police Rules regarding adverse remarks and the appellant was informed in this context and he was received the said letter on 05.07.2023, besides, the appellant preferred departmental appeal and he was summoned and heard in detail on 28.12.2023 by providing full-fledged opportunity of defending himself before the appellate authority but he bitterly failed to produce any cogent reasons in his defense. Therefore, the same was rejected and filed **(Photo copy of duly signed letter and rejection order are enclosed as Annexure-D & E).**
- G. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

PRAYER:-

Keeping in view the above stated facts and rules it is most humbly prayed that the appeal of the appellant being devoid of merit may kindly be dismissed with costs please.


District Police Officer, Mardan.
(Respondent No. 3)
(ZAHOOR BABAR)^{PSP}
Incumbent


Regional Police Officer, Mardan.
(Respondent No. 2)
(NAJEEB-UR-REHMAN BUGVI)^{PSP}
Incumbent


DIG/Legal CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS)^{PSP}
Incumbent

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

Service Appeal No: 529/2024

Muhammad Ali (SI 117/MR District Police Mardan) presently posted at Nowshera Police.....Appellant

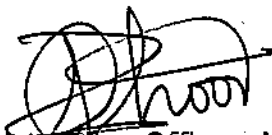
VERSUS

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

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honorable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/*cost*




District Police Officer, Mardan.
(Respondent No. 3)
(ZAHOOR BABAR)^{PSP}
Incumbent

31 MAY 2024



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Phone No. 0927-6230160 & 0927-6230161
Facsimile No. 0927-6230162

Annexure A
5

ORDER ON ENQUIRY OF SI MUHAMMAD ALI SQ. MARDAN

This order will dispose of a departmental Enquiry under Police Rule 107, initiated against the subject official, under the allegations (in whole period) in PP Gara Shah (now Police Lines Mardan), a preliminary enquiry was conducted by DSP Takht-Bhal on application of one Braiq son of Muhammad Wali, resident of Hab. Khatt, who presented the following allegations against him:

1. Demanding of illegal gratification
2. Harassing and threatening the complainant
3. Demanding Arm License from complainant to register FIR to impede progress.
4. Illegal detention.

The DSP Takht-Bhal after fulfilling necessary process, submitted his findings to this office vide his office letter No 806/SI dated 25-07-2020, holding responsible SI Muhammad Ali of misconduct and recommended to initiate departmental action against him with transferring from PP Gara Shah.

To ascertain real facts, SI Muhammad Ali was proceeded against departmentally through Mr. Gulshed Khan DSP/HQrs Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.525/PA dated 24-07-2020, who (E.O) after probing into the matter, submitted his Finding Report to this office vide his office letter No.440/HQrs dated 11-09-2020, holding responsible SI Muhammad Ali of misconduct and recommended for suitable punishment.

Final Order

SI Muhammad Ali was heard in OR on 06-01-2021 and was given opportunity to clarify his position, but failed. He has multiple contacts with the brother of the complainant before and after registration of FIR. He has threatened the applicant's brother and his conduct during the whole episode is not clear, bringing a bad name to Police Force, therefore awarded him major punishment of reduction to the rank of ASI with immediate effect. Exercise of the power vested in me under Police Rules-1975.

OB No. 30

06/01/2021

(Signature)
Dr. Farid Ullah PSP
District Police Officer
Mardan

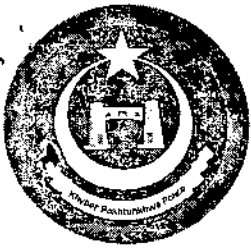
Copy forwarded for information & n/action to:-

1. The Regional Police Officer Mardan, please.

(Signature)

Copy forwarded for information & n/action to:-

1. The Regional Police Officer Mardan, please.
2. The D.O & H.O. Police Office Mardan.
3. The OSI (Police Office) Mardan with ...



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2021

Dated ___ / ___ /2021

No. ___ /PA

ORDER ON ENQUIRY OF SI MUHAMMAD ALI NO. MR/117

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted as In-charge PP Garo Shah (now Police Lines Mardan), a preliminary enquiry was conducted by ASP Takht-Bhai on an application of one Ishaq son of Muhammad Wali resident of Hadi Khally, who presented the following allegations against him:-

1. Demanding of illegal gratification.
2. Harassing and threatening the complainant.
3. Demanding Arm License from complainant to register FIR to improve progress.
4. Illegal detention.

The ASP Takht-Bhai after fulfilling necessary process, submitted his findings to this office vide his office letter No.806/ST dated 15-07-2020, holding responsible SI Muhammad Ali of misconduct and recommended to initiate departmental action against him with transferring from PP Garo Shah.

To ascertain real facts, SI Muhammad Ali was proceeded against departmentally through Mr. Gulshed Khan DSP/HQrs Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.323/PA dated 24-07-2020, who (E.O) after probing into the matter, submitted his Finding Report to this office vide his office letter No.440/HQrs dated 11-09-2020, holding responsible SI Muhammad Ali of misconduct and recommended for suitable punishment.

Final Order

SI Muhammad Ali was heard in OR on 06-01-2021 and was given opportunity to clarify his position, but failed. He has multiple contacts with the brother of the complainant before and after registration of FIR. He has threatened the applicant's brother and his conduct during the whole episode is not clear, bringing a bad name to Police Force, therefore, awarded him major punishment of reduction to the rank of ASI with immediate effect. in exercise of the power vested in me under Police Rules-1975.

OB No. _____

Dated ___ / ___ 2021.


Dr. Zahid Ullah
District Police Officer
Mardan

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The Regional Police Officer Mardan, please.
- 2) The P.O & E.C (Police Office) Mardan.
- 3) The OSI (Police Office) Mardan with () Sheets.

Annexure B

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ORDER.

This order will dispose off the departmental appeal preferred by Muhammad Ali No. 117/MR of Mardan District against the order of District Police Officer, Mardan, whereby he was awarded major punishment of reduction in rank from Sub Inspector to ASI vide OB No. 30 dated 06.01.2021 by the District Police Officer, Mardan. The appeal was proceeded against departmentally on the allegations that while posted as in-charge Police Post Garo Shah (Police Station Saro Shah), a preliminary enquiry was conducted by Sub Divisional Police Officer (SDPO) Takht Bhai Mardan on the application of one Ishaq son of Muhammad Wali resident of Haji Kandi wherein the said Ishaq has leveled the following allegations against the appellant:-

1. Demanding illegal gratification.
2. Harassing and threatening the complainant.
3. Demanding Arm License from complainant to register FIR to improve progress.
4. Illegal detention.

The Sub Divisional Police Officer (SDPO) Takht Bhai, Mardan after fulfilling necessary process, submitted his findings to District Police Officer, Mardan, holding him responsible the delinquent Officer of misconduct and recommended to take departmental action against him with transferring from Police Post Garo Shah.

To ascertain real facts, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegation and Deputy Superintendent of Police Headquarters, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to District Police Officer, Mardan, wherein he held him responsible the delinquent Officer and recommended for suitable punishment.

The delinquent Officer was called in Orderly Room on 06.01.2021 heard him in person by the District Police Officer, Mardan, but he failed to present any cogent reasons in his defense. He has multiple contacts with the brother of the complainant before and after registration of FIR. He has threatened the applicant's brother and conduct during the whole episode was biased, bringing a bad name to Police. For this reason, therefore, awarded him major punishment of reduction in rank from Sub Inspector to substantive rank of ASI by the District Police Officer, Mardan vide OB No. 30 dated 06.01.2021.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 15.04.2021. The enquiry Officer DSP Headquarters Mardan was also summoned to get his point of view who has admitted that the delinquent Officer did not give any favour to the accused party and had proceeded on merit.

From the perusal of the enquiry file and service record of the appellant it has been found that the allegations of misconduct cannot be substantiated against him.

Based on the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, hereby set-aside the order of District Police Officer, Mardan and warned him to be careful in future.

Order Announced.

Regional Police Officer,
Mardan.

No. 2114 IES Dated Mardan the 22-4-2021.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo. No. 45/LB dated 10.02.2021. His service record returned herewith.

OB-796
27-4-2021

DSP Regional / EC
for inspection
Mardan

DSP Ley
Mardan

POLICE DEPARTMENTDISTRICT MARDAN

Annual Confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors and Inspectors for the year ending 31st December, 2021.

Name, Provincial or Range No., Rank and Grade.	SI Muhammad Ali No. 117/MR
Father's Name	Essa Khan
Where and on what duties employed during the past 12 months.	01-01-2021 to 18-01-2021 Police Lines Mardan 19-01-2021 to 07-07-2021 ASHO PS Sheikh Maltoon 08-07-2021 to 31-12-2021 ASHO PS Takht-Bhai
Class of Superintendent of Police's Report, i.e. 'A' or 'B' or 'C'	'C'
Is he honest?	No
Remarks by: - (1) Superintendent of Police (2) Deputy Inspector-General of Police	<p>He was awarded major punishment for corruption. He is incorrigible.</p> <p>(Dr. Zaid Ullah) PSP District Police Officer Mardan</p> <p>DSP Mardan</p>
<p>I agree 'C'</p> <p>(Yaseen Farooq) PSP Regional Police Officer Mardan</p>	

Amne kude D 8

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

2023

Tel No. 0937-9230109 & Fax No. 0937-9230111
E-mail: dpmrdn@gmail.com

No. 1700

Dated: 27/7/23

To

The Regional Police Officer,
Mirpur.

Subject:

REPRESENTATION OF SI MUHAMMAD ALI NO. 117/2023
AGAINST ADVERSE REMARKS ISSUED FOR SI NO. 117/
21-01-2021 TO 3-2-2022.

Memor-


Kindly refer to your good office Diary No.1700 dated 27-06-2023, on the subject noted above

Duplicate copy, duly served upon Si Muhammad Ali No 117/2023 of Mardan Police on 05-07-2023 along-with his Representation & other relevant documents, response thereto for expunction of his adverse remarks, is enclosed herewith for your necessary action.

Submitted, please.

Sd/- (3)

(Najesh-ur-Renana) 11/07/2023
District Police Officer, Mardan


DSP Mardan
Mardan

Better copy



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2023

No. _____/PA

Dated _____ / _____ /2023

To

The Regional Police Officer,
Mardan.

Subject:

**Representation of SI Muhammad Ali No. 117/MR against
adverse remarks in his A.C.R, for the period 01.01.2021
to 31.12.2021.**

Memo:-

Kindly refer to your office Diary No.1700/ES, dated 07.06.2023
on the subject noted above.

Duplicate copy duly served upon SI Muhammad Ali No. 117/MR
of Mardan Police on 05.07.2023 alongwith his Representation & other relevant
documents requesting therein for expunction of his adverse remarks, is enclosed
herewith for onward necessary action.

Submitted, please.

Encls: (10)

**(Najeeb-ur-Rehman Bugvi) PSP
District Police Officer, Mardan.**



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OFFICE OF THE
GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR.
Phone: 091-9210927 Email: genpol@kpkpo2@gmail.com

No. SI/ 1700 /23, dated Peshawar the 27 /05 /2023.

27/05/2023

To: The Regional Police Officer, Peshawar.
Subject: ACR/COMMUNICATION OF ADVERSE REMARKS

Memo:
In the Annual Confidential Report on the working of Sub Inspector Muhammad Ali No. MR/117 for the period from 01.01.2021 to 31.12.2021 it has been mentioned that:-

Reporting Officer Remarks

Class of Report..... "C"
Is he honest..... "No"

[Handwritten signature and initials]

Remarks of Reporting Officer

He was awarded major punishment for corruption. He is incorrigible.

Remarks of Countersigning Officer

"I agree "C"

The above adverse remarks may please be conveyed to the official concerned in order that he may remedy the defects. Representation if made should be sent not later than one month from the date of receipt of this communication.

The acknowledgement as token of the receipt of this memo: may be obtained from him on the attached duplicate copy of this communication and returned to this office for record in his Character Roll Dossier.

*CC: Mr. Khan
To Comptroller
of Suburban
Administration
on 27/05/23
for record.*

(AFSAR JAN)
Registrar

For Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.



0-2023-0012-Work-Index-2-14-2023

**DSP Legal
Mardan**

[Handwritten notes]

10

Police No. 99

GS & PD. NWFP. 1677 (F.S. 1000 P of 100 - 7.3.1994/47)

No. 13-17

POLICE DEPARTMENT

DISTRICT MARDAN

Annual Confidential Report on the working of Assistant: Sub-Inspectors, Sub-Inspectors and Inspectors for the year ending 31st December, 2021.

Name, Provincial or Range No. Rank and Grade.	SI Muhammad Ali No.117/MR
Father's Name	Essa Khan
Where and on what duties employed during the past 12 months.	01-01-2021 to 18-01-2021 Police Lines Mardan 19-01-2021 to 07-07-2021 ASHO PS Sheikh Maitoon 08-07-2021 to 31-12-2021 ASHO PS Takht-Bhai
Class of Superintendent of Police's Report, i.e. 'A' or 'B' or 'C'.	C
Is he honest?	A+
Remarks by: - (1) Superintendent of Police (2) Deputy Inspector-General of Police	<p>He was awarded major punishment for corruption.</p> <p>He is incorrigible.</p> <p style="text-align: right;">/</p> <p style="text-align: right;"><i>[Signature]</i> (Dr. Zahid Ullah) PSP District Police Officer Mardan</p> <p style="text-align: center;">DSP Legal Mardan</p>
<p>I agree. 'C'</p> <p><i>[Signature]</i> (Yaseen Farooq) PSP Regional Police Officer Mardan</p>	



OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR.
Phone: 091-9210927 Email: secretbranchcpo9@gmail.com

No. SI/ 441-449/24.

dated Peshawar the 13 / 03 / 2024

ORDER

This order pertains to the representation preferred by SI Muhammad Ali No. MR/117 for the expunction of adverse remarks contained in his ACR for the period from 01.01.2021 to 31.12.2021. Comments of the Reporting Officer were also obtained.

After going through the relevant record, comments of the Reporting Officer and material on ground the Competent Authority has rejected & filed the representation preferred by the applicant. He was heard in detail on 28.12.2023. He was given opportunity to explain his position. Perusal of the record showed that he was awarded "C" ACR/PIR on merit.

Sd/-
(AWAL KHAN) PSP
Addl: Inspector General of Police,
Headquarters, Khyber Pakhtunkhwa,
Peshawar.

Endst: No. & date even:

Copy of above is forwarded for information and necessary action to the:-

1. Regional Police Officer, Mardan.
2. District Police Officer, Mardan.
3. Office Superintendent Secret with the direction to place the Order in the Original Dossier of the applicant.

(Signature)
Per Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

(Signature)
**DSP Legal
Mardan**

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

12

Service Appeal No. 529/2024

Muhammad Ali (SI 117/MR District Police Mardan) presently posted at Nowshera Police.....Appellant

VERSUS

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

AUTHORITY LETTER.

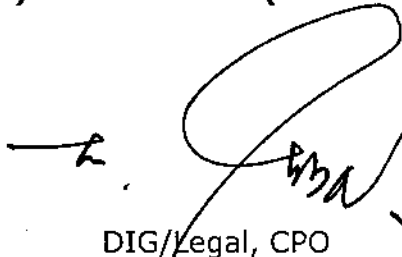
Mr. Atta-ur-Rehman Deputy Superintendent of Police Legal Mardan is hereby authorized to appear before the Honorable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



District Police Officer, Mardan.
(Respondent No. 3)
(ZAHOOR BABAR)^{PSP}
Incumbent



Regional Police Officer, Mardan.
(Respondent No. 2)
(NAJEEB-UR-REHMAN BUGVI)^{PSP}
Incumbent



DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS)^{PSP}
Incumbent