

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.155/2024.

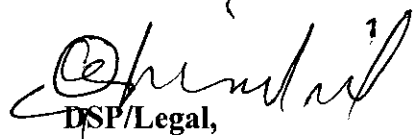
Constable Imran No.2002 of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others..... **Respondents.**

I n d e x

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DSP/Legal,
CCP, Peshawar.
02.07.2024

23-07-24

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Constable Imran No.2002 of CCP Peshawar..... **Appellant.**

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Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others..... **Respondents.**

REPLY BY RESPONDENTS NO. 1, 2&3.

**Khyber Pakhtunkhwa
Service Tribunal**

Respectfully Sheweth:-

Diary No. 13893

PRELIMINARY OBJECTIONS:-

Dated 02-07-24

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file the instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

1. Incorrect. The appellant was appointed as constable in the year 2009 in the respondent department. However, performance of the appellant during service was not up to the mark and earned 07 bad entries involving one Minor punishment on different occasions during his short service span of 14 years. The appellant, as a member of a disciplined force was also found to have committed gross misconduct by illegally selling government property in collusion with criminal individuals. His this egregious act tarnished the reputation of the entire force. (Copy of Punishment details is annexure as A)
2. Incorrect. As already explained vide above para, the service record of the appellant is tainted with numerous bad entries. Rest of the para pertains to his profession as Head Constable.
3. Correct to the extent of the order dated 24.08.2023. Brief facts of the case are that the appellant while posted as Moharrar PS Faqir Abad, Peshawar committed gross negligence and misconduct for selling government property in collusion with certain criminals. This act of selling precious government assets for personal gains badly compromised the integrity of the force. Such actions represent a severe violation of the trust placed in him and undermine the principles of accountability and responsibility expected from his position. As a result of his misconduct, Charge Sheet with Statement of Allegations vide No. 217/PA dated 20.01.2023 was issued to him by the competent authority, and SP Saddar was appointed as the enquiry officer. The enquiry officer after completion of the enquiry proceedings unequivocally found the appellant guilty of the charges, highlighting the gravity of his actions and detrimental impact on the public trust and the reputation of the force. (copy of charge sheet and statement of allegations, Enquiry report are annexure as B, C & D)

4. Incorrect. Upon receipt of the finding report, the competent authority issued a Final Show Cause Notice vide No. 1145/PA dated 22.06.2023. Although the appellant replied to the notice, his reply was found unsatisfactory. Consequently, after completing all codal formalities, he was awarded major punishment of reversion from Head Constable to Constable vide order No. 1622-25/PA dated 24.08.2023 as per law. (copy of FSCN is annexure as E)
5. Incorrect. The appellant filed departmental appeal, which was thoroughly processed and an ample opportunity of personal hearing was provided to the appellant by appellate authority. However, the appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected/filed as per law.
6. Incorrect. The appellant preferred revision petition and without waiting its statutory period of disposal by Review Board, the appellant filed this Service Appeal before the Hon'ble Service Tribunal.

That the appeal of the appellant being devoid of merits and hit by limitation, liable to be dismissed on the following grounds.

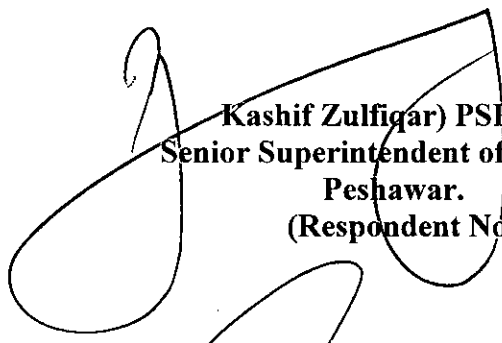
REPLY ON GROUNDS:-

- A. Incorrect. The appellant was treated as per law/rules. Furthermore, no violation of the Constitution of Pakistan 1973 has been done by the respondents and the punishment was in consonance with the gravity of misconduct. The CCTV footage of PS Faqirabad further corroborates the misconduct, showing that nine rickshaws and one carry van were loaded and moved out from the premises of PS Faqirabad.(Copy of FIR is annexed as F)
- B. Incorrect. The competent authority completed all codal formalities before imposing the major punishment as per law. The appellant was provided ample opportunity for self-defense but unfortunately, he failed to adequately defend himself against the charges.
- C. Para is totally incorrect and misleading as the appellant was issued Charge Sheet with Statement of Allegations due to his involvement in the aforementioned misconduct/allegations. He received and replied to the Charge Sheet which reply, however, was unsatisfactory. Proper departmental proceedings have been conducted against him under Police Rules 1975, (amended 2014). As a member of a disciplined force, the appellant was expected to uphold high standards of conduct and integrity. However, he committed gross misconduct by engaging in the unlawful sale of government properties.(copy of charge sheet reply is annexure as G)
- D. Incorrect. A detailed departmental enquiry was conducted against the appellant in accordance with law /rules governing such proceedings. The enquiry officer conducted a thorough probe into the matter and concluded that the charges against the appellant were proved. Throughout the proceedings, the appellant was provided full opportunity for defense and personal hearing, but he failed to prove his innocence. After meticulously observing all codal formalities and considering the facts and rules involved, the appellant was duly awarded punishment as per law.
- E. Incorrect. The appellant availed the opportunity of hearing however, he failed to advance any plausible explanation in his defense.


- F. Incorrect as explained above.
- G. Incorrect. The whole enquiry proceedings were initiated purely on merit and in accordance with law/rules. The appellant was afforded full opportunity of self-defense during the proceedings. However, he failed to explain any plausible explanation in his defense.
- H. Incorrect. As already explained vide preceding paras.
- I. That the replying respondents may also be allowed to adduce additional grounds before this Hon'ble Tribunal at the time of arguments.

PRAYERS:-

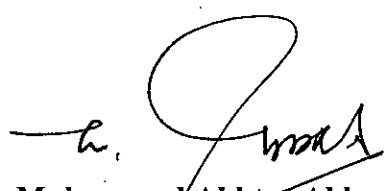
It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merit and legal footing, may kindly be dismissed with cost please.



**Kashif Zulfiqar) PSP
Senior Superintendent of Police,
Peshawar.
(Respondent No.3)**



**(Qasim Khan) PSP
Capital City Police Officer,
Peshawar.
(Respondent No.2)**



**Dr. Muhammad Akhtar Abbas (PSP)
DIG/Legal
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.01)**

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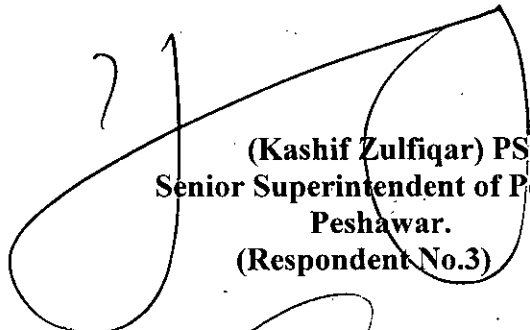
Constable Imran No.2002 of CCP Peshawar..... **Appellant.**


VERSUS

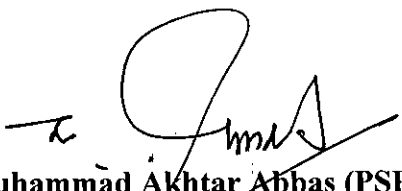
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others..... **Respondents.**

AUTHORITY.

We respondents are hereby authorize Mr.Inam Ullah DSP legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.


**(Kashif Zulfiqar) PSP
Senior Superintendent of Police,
Peshawar.
(Respondent No.3)**


**(Qasim Ali Khan) PSP
Capital City Police Officer
Peshawar.
(Respondent No.2)**


**Dr. Muhammad Akhtar Abbas (PSP)
DIG/Legal
For Provincial Police Officer,
Khyber, Pakhtunkhwa, Peshawar.
(Respondent No.01)**

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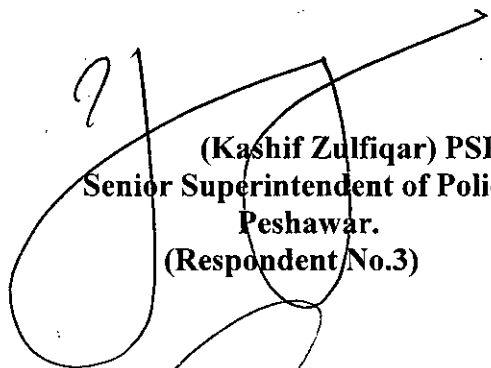
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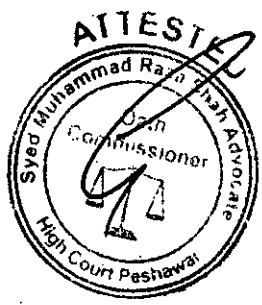
AFFIDAVIT.

We respondents No. 2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of my knowledge and belief and nothing has concealed/kept secret from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off.



**(Kashif Zulfiqar) PSP
Senior Superintendent of Police,
Peshawar.
(Respondent No.3)**


**(Qasim Ali Khan) PSP
Capital City Police Officer
Peshawar.
(Respondent No.2)**



02 JUL 2024

6

Muhammad Imran Khan NO.2002 S/O Shazaman
Wali Abad beroon yaka Toot PS Subrub Distt: Peshawar

- 1. Name of Official R/O
- 2. Date of Birth 01-04-1980
- 3. Date of enlistment 19-07-2007
- 4. Education BA
- 5. Courses Passed Recruit
- 6. Total qualifying service 16 years .03 months & 07 days
- 7. Good Entries NIL

Bad Entries (L.W.O Pay, E/Drill & Warning)
 01.01 days leave without pay vide OB No.316 dt:08.02.2008
 02.01 days leave without pay vide OB No. 1687 dt:21.06.2008
 03.01 days leave without pay vide OB No.3268 dt:22.10.2008
 04.01 days leave without pay vide OB No.3456 dt:04.11.2008
 05.01 days leave without pay vide OB No.2017 dt:25.06.2009
 06.05 days leave without pay vide OB No.2221 dt:25-08-2006

08. Minor Punishment

- 1. Awarded minor punishment of stoppage 01- year annual increment without cumulative effect vide OB No1176 date 13.03.2017 is hereby re-instated in service with immediate effect
- 2. Awarded minor punishment Censure vide OB No.1177 date 13.03.2017 furthermore they are hereby re-instated in service with immediate effect
- 3. Awarded minor punishment suspension with immediate effect and close to police line vide OB No 123 date 13.01.2023
- 4. Awarded minor punishment of forfeiture of 01 year approved service vide PA No 371-75 date 10.02.2021 He is re-instated in service

09. Major Punishment

NIL

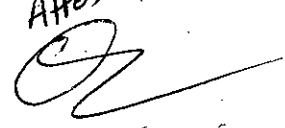
10. Punishment (Current)

Awarded major punishment of Reversion/ Reduction in rank from Head Constable to Constable with immediate effect vide PA No.1622-25 dated 24/08/2023

<u>Total leave at his credit</u>	<u>Availed leaves</u>	<u>Balance</u>
780	105	675

PA

W/CCPO

Attested


CRC
26/10/20

CHARGE SHEET

7

1. Whereas I am satisfied that a formal enquiry as contemplated by Police Rules 1975 is necessary & expedient.
2. And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.
3. Now therefore, as required by Rule 6 (1) of the said Rules, I, Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP Operations, Peshawar hereby charge you **IHC Imran Khan No. 2022 Moharrar and HC Shad Muhammad No. 5562 AMHC Police Station Faqirabad** under Rule 5 (4) of the Police Rules 1975 on the allegations mentioned in the enclosed Summary of Allegations.
4. And I hereby direct you further under Rule 6 (I) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet as to why the proposed action should not be taken against you and also stating at the same time whether you desire to be heard in person.
5. And in case your reply is not received within the specific period, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.
6. Statement of Allegation is enclosed.

(Lt Cdr @ KASHIF AFTAB AHMAD ABBASI)PSP
Senior Superintendent of Police
(Operations) Peshawar

No. 217 /PA dated Peshawar the 20/01/2023

Copy of the above is forwarded to the Enquiry Officer for initiating proceeding against the above named officer.

P.A
Call them to serve CS

Pisces
SP/ Saddam

Attested

... report No. 53 dated ...
... He had no bad intentions in this ...
... deliver the case property vehicles to the ...

(8)

SUMMARY OF ALLEGATIONS


I, Lt Cdr ® Kashif Aftab Ahmad Abbasi, PSP, SSP/Operations Peshawar as competent authority, am of the opinion that **IHC Imran Khan No. 2022 Moharrar and HC Shad Muhammad No. 5562 AMHC Police Station Faqirabad** has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.


STATEMENT OF ALLEGATIONS

- i) As reported by SP City vide his office memo No. 134/Reader dated 17.01.2023.
- ii) In the preliminary enquiry conducted by ASP Faqirabad that the alleged officials MASI Imran and AMHC Shad Muhammad of Police Station Faqirabad are guilty of gross negligence and misconduct as they tried to illegally sell the government property in collusion criminal individuals.
- iii) Being a disciplinary force their this act is highly objectionable on their part and renders them liable for disciplinary proceedings under Police (E&D) Rules, 1975.

2. For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations **Mr. Malik Habib SP Saddar** is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

3. The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.


(Lt Cdr ® KASHIF AFTAB AHMAD ABBASI)PSP
Senior Superintendent of Police
(Operations) Peshawar

Attested




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(9)

SUPERINTENDENT OF POLICE

SADDAR DIVISION, CAPITAL CITY POLICE, PESHAWAR

E-mail: readersp76@gmail.com Phone: 091-9330330

No. 1658- /PA, Dated 09/06/2022

To: The Senior Superintendent of Police
Operations Peshawar.

Subject: DEPARTMENTAL ENQUIRY AGAINST IHC IMRAN KHAN NO. 2002
AND HC SHAD MUHAMMAD NO. 5562

Memo: Please refer to your office dairy No. 217/PA, dated 20.01.2023, followed by diary
No.281/R, No. 297/R, dated: 24.01.2023 and No. 386/PA dated: 25.01.2023.

Statement of allegations:

According to statement of allegations/charge sheet, the alleged officials MASI / IHC Imran Khan No. 2002 Ex-MASI PS Faqirabad and HC Shad Muhammad No. 5562 Ex-AMHC PS Faqirabad were found guilty of the gross negligence and misconduct as they tried to sell the government property in collusion with criminal individuals.

Findings of the preliminary enquiry: -

Fact finding enquiry was carried out by the concerned supervisory officer, salient facts of the subject enquiry as under: -

1. CCTV footage of PS Faqirabad shows that 09 rickshaws and one carry van (Suzuki Bolan) was loaded and moved out from PS at 14:16 hrs and 16:25 hrs on Sunday 8th Jan 23.
2. AMHC Shad Muhammad can be seen supervising this process while footage shows SHO Faqirabad was also present in PS when this happened.
3. Sentry at warehouse of PS Daudzai stated that only 02 x rickshaws came for submission, which he refused to submit. No other property reached at PS Daudzai for submission but instead shifted to a scarp dealer's shop near Mufti Mehmood Markaz, Ring Road.
4. Muharrar staff was able to show entries of only 02 rickshaws in Register No. 19 which suggests that the colluders intended to submit only 02 rickshaws and sell off the rest of the property.
5. Statements of accused as well as their facilitators show only 02 rickshaws and sell off the rest of the property.
6. It also appears that the Roznameha was tempered by MASI Imran to record entry vide DD No.53 in back date. Also, that entry in Register No 21 is suspicious as Shad Muhammad AMHC says he did not write it despite his signature.

Attested

Statement of HC Shad Muhammad No. 5562:

He deposed in his statement that on 07.01.2023, he was asked by Muharrar Imran that all the scarps shall be shifted from PS Faqirabad to PS Daudzai Ware House tomorrow in loaders. On 08.01.2023, all the scarps were sent to Ware House PS Daudzai through Loader Driver Saleem vide Transit Receipt No. 04/21 as per permission of SHO Faqirabad Insp: Zafar Khan. Next day, ASP Faqirabad called him to his office and asked about the scarps. He was replied that the said scarps were sent to Ware House PS Daudzai but they refused to collect, which are now present at Police Station Faqirabad. ASP Faqirabad ordered SI Sajid Khan ASHO to check the scarps which were found present in the premises of PS Faqirabad. On same evening, he along-with Muharrar Imran were placed under suspension and sent to quarter guard for 24 hours. Later-on, he along-with Muharrar Imran and loader drivers were charged in case vide FIR No.74, dated: 14.01.2023 u/s 409/118-CT Police Act 2017, PS Faqirabad. He managed BBA from the Court which was later-on confirmed, whereas a Judicial Inquiry was conducted by the Court on the complaint of Saleem and Hamayun co-accused, charged in the said case, wherein it was ordered by the Court to lodge FIR against Insp: Zafar Khan SHO and SI Sajid of PS Faqirabad.

Statement of ASI Abdul Latif, MASI PS Daudzai:

ASI Abdul Latif MASI Daudzai stated that on 08.01.2023, he was on one day leave (shabbashi), whereas ASI Tahirullah AMHC PS Daudzai was on duty. He informed that scraps Rickshaws have been brought to PS Daudzai through loaders for parking in the Ware House of PS Daudzai but Izhar I/C Ware House is not ready to receive the scraps without permission of the SP HQrs: Peshawar.

Statement of FC Izhar I/C Ware House PS Daudzai:

FC Izhar No. 1225 I/C Ware House PS Daudzai stated that on 08.01.2023, two scraps Rickshaws were received from PS Faqirabad to Ware House PS Daudzai in a loader Rickshaw, who were informed that the scarps cannot be collected without permission of the SP HQrs: Peshawar.

Findings: -

During the course of inquiry, following facts came to fore: -

- a. I/C Ware House PS Daudzai has confirmed in his written statement that only 02x Rickshaws were received to PS Daudzai whereas, no other property reached at PS Daudzaiwarehouse for submission.
- b. According to DD report No. 14, dated: 12.01.2023 of PS Faqirabad, submitted by Insp: Zafar Khan Ex-SHO Faqirabad the alleged officials had handed over 09x scarps


Attested



rickshaws to Sajid@Palawankabari whereas, 02x body/scarps rickshaws were recovered from his warehouse at Ring Road.

- c. According to Police Rules 1934, Chapter. 22, Clause 7, a Station Clerk is responsible for safe custody of all government property, whereas it was reported by Insp: Zafar Ex-SHO Faqirabad vide DD No. 18, dated: 17.01.2023 of PS Faqirabad that the alleged officials MASI/IHC Imran Khan No.2002 and HC Shad Muhammad No. 5562 have sold the government property in collusion of criminal individuals.
- d. A criminal case vide FIR No.74, dated: 14.01.2023 u/s 409/118-CT Police Act 2017, PS Faqirabad has been lodged against the alleged officials IHC Imran Khan No. 2002 Ex-MASI PS Faqirabad and HC Shad Muhammad No. 5562 Ex-AMHC PS Faqirabad which is put in Court.

Recommendations: -

Although warehouses are meant to dump/park all those case properties or unclaimed properties, which are under trial or confiscated but there is a legal procedure provided in Police Rules. In present episode, act of Ex-Muharrar Imran and HC Shad appears to be on their own bypassing the legal formalities for some ulterior motives. Case properties which were loaded from police station to be transported to warehouse without adopting legal procedure landed up in a local scrap dealer godown, which were later recovered by SHO Faqirabad and scarp dealer admitted to have purchased it from the afore officials. Criminal case has been registered which is subjudice before the competent court of law but there is no bar in proceedings against government officials on the charges of misconduct if the evidence is sufficient enough. From the perusal of record, statement of concerned officials, I as enquiry officer find Ex-MASI PS Faqirabad IHC Imran khan # 2002 and HC Shad Muhammad # 5562 AMHC PS Faqirabad guilty of the charges.


(Malik Habib Khan) E.O
Superintendent of Police,
Saddar Division

Attested




No. 1144 /PA

Dated Peshawar the 22/06, 2023

FINAL SHOW CAUSE NOTICE
(Under Police Disciplinary Rules, 1975)

1. I, Senior Superintendent of Police, Operations, Peshawar as competent authority, under the Police disciplinary Rules 1975, do hereby serve you ASI Imran Khan while posted as Moharrar PS Faqirabad as follows:-

2. (i) That consequent upon the completion of enquiry committee conducted against you by SP Saddar, who found you guilty of the charges for which you were given the opportunity of personal hearing.

(ii) Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said officers; I am satisfied that you have committed the follow misconducts:

You have been **found guilty** of the charges already communicated to you vide this office bearing No. 217/PA dated 20.01.2023.

3. As a result thereof I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.

4. You are, therefore, require to Show Cause as to why the aforesaid penalty should not be imposed upon you.

5. If no reply to this notice is received within 7-days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

6. You are at liberty to be heard in person, if so wished.

[Handwritten signature]
22/6/23
[Handwritten signature]

[Handwritten signature]
HAROON RASHID KHAN (T.S.PSP)
Senior Superintendent of Police
(Operations) Peshawar

Attested
[Handwritten signature]

Signatures of Copyist & Date	
Dated of Preparation	20/06/23
Dated of Delivery	20/06/23

Arshad

14-1-23
INSP SHORAH

[Illegible handwritten notes in Urdu, possibly describing a case or investigation.]

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