

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.156/2024.

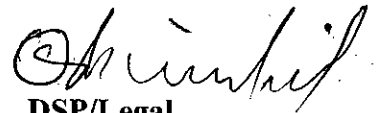
Constable Shad Muhammad No.5562 of CCP Peshawar..... **Appellant.**

VERSUS

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

I n d e x

S.NO	DOCUMENTS	Annexure	PAGES
1.	Reply		1 to 3
2.	Authority		4
3.	Affidavit		5
4.	Copy of list	A	6
5.	Charge Sheet	B	7
6.	Statement of allegations	C	8
7.	Enquiry Report	D	9-12
8.	FSCN	F	13
9.	Copy of FIR	G	14


DSP/Legal,
CCP, Peshawar.
02.07.2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.156/2024.

Constable Shad Muhammad No.5562 of CCP Peshawar..... **Appellant.**

VERSUS

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

REPLY BY RESPONDENTS NO. 1, 2&3.

**Khyber Pakhtunkhwa
Service Tribunal**

Respectfully Sheweth:-

Diary No. 13894

PRELIMINARY OBJECTIONS:-

Dated 02-07-2024

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 15 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 Madad 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.

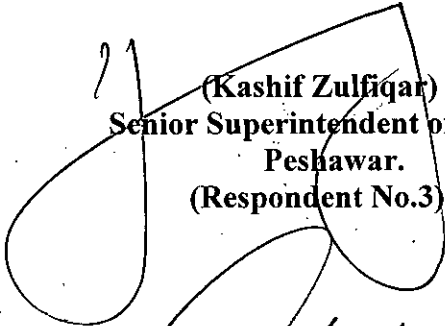
REPLY ON GROUNDS:-


- 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:-p

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 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)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.156/2024.

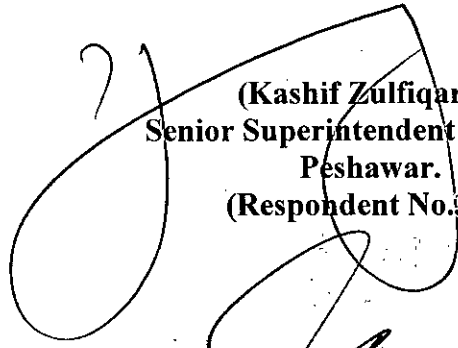
Constable Shad Muhammad No.5562 of CCP Peshawar..... **Appellant.**


VERSUS

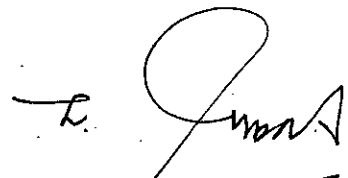
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others..... **Respondents.**

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)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.156/2024.

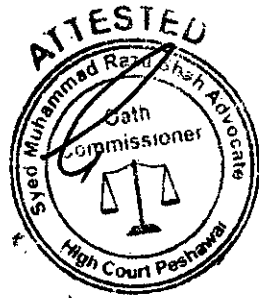
Constable Shad Muhammad No.5562 of CCP Peshawar..... **Appellant.**

VERSUS

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

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.



10 2 JUL 2024

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

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

6

1. Name of Official **Shad Muhammad NO.5562 S/O Fazal Rehman**
R/O Moh. Landy Daudzai Agra Payan PS Daudzai Distt; Peshawar
2. Date of Birth 12.09.1988
3. Date of enlistment 10.08.2009
4. Education FA
5. Courses Passed Recruit
6. Total qualifying service 14 years .01 months & 15 days
7. Good Entries NIL

Bad Entries (L.W.O Pay, E/Drill & Warning)

- 01.02 days leave without pay vide OB No.3218 dt:15-10-2009
- 02.01 days leave without pay vide OB No. 282 dt:20-01-2011
- 03.02 days leave without pay vide OB No.2922 dt:03-08-2011
- 04.01 days leave without pay vide OB No.2892 dt:01-08-2011
- 05.01 days leave without pay vide OB No.588 dt:11-02-2013
- 06.01 days leave without pay vide OB No.46 dt:02-01-2013
- 07.02 days leave without pay vide OB No.3201 dt:16-09-2013
- 08.01 days leave without pay vide OB No.1886 dt:29-05-2013
- 09.01 days leave without pay vide OB No.604 dt:21-02-2014
- 10.05 days leave without pay vide OB No.3351 dt:26-09-2013
- 11.02 days leave without pay vide OB No.3223 dt:16-09-2013
- 12.01 days leave without pay vide OB No.844 dt:22-02-2017
- 13.01 days leave without pay vide OB No.4708 dt:27-12-2017
- 14.02.days leave without pay vide OB No.193 dt:12-01-2018

08. Minor Punishment

Awarded minor punishment suspension closed to police vide OB No 123 date 13.01.2023
Awarded minor punishment is hereby Discharged from service vide OB No.535
Date.16.02.2010

09. Major Punishment

Nil

10. Punishment (Current)

Awarded major punishment of Reversion/Reduction in rank from Head Constable to Constable vide No.1622-25 PA dated 24.08.2023

Total leave at his credit

676

Availed leaves

95

Balance

581

~~PA~~ 10/9/2023
CRC

PA

Attested
[Signature]

W/CCPO



(7)

SUPERINTENDENT OF POLICE

SADDAR DIVISION, CAPITAL CITY POLICE, PESHAWAR

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

No. 1658- /PA. Dated 09/01 2022

To: The Senior Superintendent of Police
Operations Peshawar.

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

Memo: Please refer to your office diary 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-MAS; 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 Roznamcha 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

- (8)
7. So far, 08 rickshaws have been recovered but in scarp form an engine and other valuable material has been stolen. 01 carry van and one rickshaw are still unrecovered which recommends for a criminal proceeding.

It was concluded by ASP Faqirabad during preliminary enquiry that the alleged officials MASI/Imran and AMHC Shad Muhammad are guilty of gross negligence and misconduct as they tried to illegally sell the govt. property in collusion criminal individuals. Proper criminal case vide FIR No.74, dated: 14.01.2023 u/s 409/118-CT Police Act 2017, PS Faqirabad was lodged against the accused.

Proceedings:

- Charge sheet along-with summary of allegations served upon the alleged officials.
- They submitted their replies and placed on file.
- Statements of all concerned obtained.
- Perusal of relevant documents

Statement of IHC Imran Khan No. 2002:

He stated that scraps were lying in the premises of PS Faqirabad and in consultation with SHO PS Faqirabad, it was decided to shift the scraps from PS Faqirabad to Ware House PS Daudzai due to lack of space and security issues. On 08.01.2023 he while going to home on one day leave (shabbashi), told AMHC Shad Muhammad to dispatch all the scraps to PS Daudzai loaders through Transit Receipt 04/21. Same night at about 09:00 hours, AMHC Shad Muhammad telephonically informed that Incharge Ware House Daudzai is not receiving the scraps whereas Tie Rod of one Crain is also damaged. Therefore, he was told to park the scraps in the place where case properties of PS Khazana lying, whereas necessary correspondence shall be made for obtaining permission. On return from leave (shabbashi) correspondence was being made and, in this regard, a report was also incorporated in the daily dairy No.53, dated: 11.01.2023, PS Faqirabad by him and all the scraps were brought back to PS Faqirabad. In this regard, PSRMS DD attached which cannot be tempered. However, he along-with AMHC Shad Muhammad were placed under suspension and sent to quarter guard for 24 hours. Next day, case vide FIR No.74, dated: 14.01.2023 u/s 409/118-CT Police Act 2017, PS Faqirabad was lodged against them. He managed BBA from the Court. Furthermore, a judicial inquiry on the criminal complaint u/s 200 Cr.P.C of complainant Saleem and Hamayun was conducted by the Court of JMIC Salman Nadar, wherein the Court ordered to lodge FIR against SHO/ASHO PS Faqirabad.

Attested



(9)

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 scraps shall be shifted from PS Faqirabad to PS Daudzai Ware House tomorrow in loaders. On 08.01.2023, all the scraps 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 scraps. He was replied that the said scraps 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 scraps 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 scraps 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 Daudzai warehouse 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 scraps

Attested


rickshaws to Sajid@Palawankabari, whereas, 02x body/scrap rickshaws were recovered from his warehouse at Khar 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/HC Inran 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 n/s 409/118-CT Police Act 2017, PS Faqirabad has been lodged against the alleged officials HC Inran 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 dar-wipark 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 Inran and HC Shad appears to be on their own by-passing 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 scrap 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 HC Inran 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



Handwritten notes and signatures at the top of the page, including names like 'Sajid', 'Zafar', and 'Shad'.



رہا قبول ہے۔ میرا سر سے دلوارہ پہنچا ہے۔ اور میرا دستہ نہیں ہے۔ جو اس کا کام ہے۔ کہ میں نے ہمیشہ اپنی زندگی بھر ایسا ہی کیا اور حالہ فنان سے میرا کام ہی ہے۔

اب ہر حال سے خود نام لکھنا اور درخواست ہے کہ میرے دفتر کے لئے اپنی کوکھ میں دفتر کے میری حوصلہ افزائی کی جاوے۔ تاکہ میں مستقبل میں بھی اس کی رہائی تکمیل اور ادارہ کے لئے سفیدی سے انجام دیتا ہوں

محمد امجد

تاج حکم شاد شمر 5562 / HC
ڈپٹی کمشنر محترم محکمہ فستق آباد، حال لولہس، لاہور

Attested



shafiq

BASOP

cedding aga



13

OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS),
PESHAWAR
Phone. 091-9213054

No. 1145 /PA

Dated Peshawar the 22/106, 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 **HC Shad Muhammad No. 5562** while posted as **Madad 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.


HAROON RASHID KHAN (T.S.P) (SP)
Senior Superintendent of Police
(Operations) Peshawar

Attested



