

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 338/2024

Asad Ullah

Ex-Constable 1487,

..... Appellant

VERSUS

1. Regional Police Officer, Kohat
2. District Police Officer, Kohat

..... Respondents

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Deponent

17-10-24

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

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Service Appeal No. 338/2024
Asad Ullah
Ex-Constable 1487,

..... Appellant

VERSUS

1. Regional Police Officer, Kohat
2. District Police Officer, Kohat

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Khyber Pakhtunkhwa
Service Tribunal

Respectfully Sheweth:-
Preliminary Objections:-

Case No. 14424

- i. That the appellant has got no cause of action to file the instant appeal.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appellant is estopped by his own conduct to file the instant appeal.
- iv. That the appeal is not maintainable in its present form, due to misjoinder and nonjoinder of necessary parties.
- v. That the appeal is badly time bared.
- vi. That appellant has concealed the material facts from this Honorable Court.

On Facts:-

1. Pertains to record.
2. That every Police officer/official is required to perform his duty with devotion, honesty and up to the entire satisfaction of the high ups, however, appellant after absorption in Police department proved himself inefficient official.
3. Incorrect, appellant while posted as gunner with Assistant Tehsildar Darra Sub Division Kohat was found involved/arrested on spot in case vide FIR No. 141 dated 02.05.2023 u/s 154/5 Explosive Substance Act, 15-16 AA/7ATA 148, 149 PPC PS Usterzai Kohat, wherein large number of illicit arms/ammunition were recovered from the possession of appellant and his co-accused. Appellant was properly investigated and remanded to judicial lockup, however later on he was released on bail by the Honorable Peshawar High Court Peshawar. The contents of FIR referred above are based on facts and not concocted in nature. **(Copy of FIR is annexure A).**
4. Correct to the extent, that the appellant was issued charge sheet alongwith statement of allegations, to which he submitted his reply, but his plea regarding false implication is not based on facts rather he was arrested on spot and illicit arms / ammunition were recovered from his possession. Moreover criminal and departmental proceedings are two different things, having no bearing on each other. **(Copy of charge sheet & summary of allegation alongwith reply of charge sheet is annexure B & C).**
5. Incorrect, proper departmental inquiry was conducted against the appellant through SDPO Lachi Kohat. During inquiry, the inquiry officer recorded the

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statement of all concerned and provided ample opportunity of defense, but appellant failed to prove himself innocent. The charges against the appellant stands proved during departmental inquiry, therefore, appellant being found guilty was recommended for major punishment by the inquiry officer. **(Copy of inquiry finding is annexure D).**

6. Para No. 6 to the extent of bail and service of Final Show Cause Notice is correct, however the reply of appellant was found unsatisfactory, but before passing final order he was also heard in orderly room on 20.09.2023, but he failed to give any plausible explanation in his defense. Therefore, he was awarded major punishment of dismissal from service. **(Copy of Final show cause notice and dismissal order as annexure E & F).**
7. Correct to the extent that appellant filed departmental appeal against the order of dismissal before the appellate authority, however, the same was examined and rejected by the appellate authority being devoid of merit. **(Copy of order of appellate authority as annexure G).**

Grounds:-

- A. Incorrect, orders passed by the competent authority as well as by the appellate authority are in accordance with the law and rules. Hence are liable to be maintained.
- B. Incorrect, appellant was provided opportunity of self-defense through personal hearing in orderly room but he failed to give any plausible reason in his defense.
- C. Incorrect, proper departmental inquiry was conducted against the appellant during which he was found guilty.
- D. Incorrect, the contents of FIR are based on facts and not concocted/false, moreover criminal and departmental proceedings are two different things, having no bearing on each other.
- E. Incorrect, reply already given above.
- F. Incorrect, as appellant had been arrested on the spot alongwith other Police officials. Therefore, his plea of false implication is not based on facts.
- G. Incorrect, reply already explained.
- H. Incorrect, appellant has been treated in accordance with law and rules.
- I. That respondents also seek permission of this Honorable Tribunal to advance additional grounds at the time of arguments.

PRAYER:-

In view of the above, it is humbly prayed that the appeal devoid of merits, badly time barred by law may graciously be dismissed with costs.



District Police Officer,
Kohat

(Respondent No. 2)

(MUHAMMAD OMER KHAN) PSP



Regional Police Officer,
Kohat

(Respondent No. 1)

(SHER AKBAR) PSP, S.St

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 338/2024
Asad Ullah
Ex-Constable 1487,

..... Appellant

VERSUS

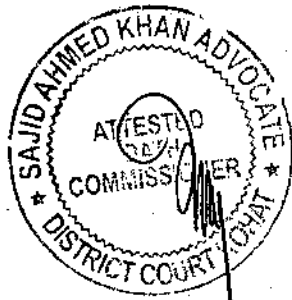
1. Regional Police Officer, Kohat
2. District Police Officer, Kohat

..... Respondents

AFFIDAVIT

I, Muhammad Omer Khan, District Police Officer, Kohat Respondent No. 2 do hereby solemnly affirm and declare on oath that the contents of objection petition are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.

It is further stated on oath that in this appeal, the opposing respondents has neither been placed ex-parte nor their defence has been struck off.



Muhammad Omer Khan
District Police Officer,
Kohat
(Respondent No. 2)
(MUHAMMAD OMER KHAN) PSP

Handwritten header text, possibly a title or reference number, written in Arabic script.

02/05/2023

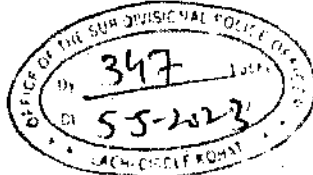
M.H. Al-Hadi

Main body of handwritten text in Arabic script, containing several lines of a letter or report.





No. 2159-60/PA

Office of the
District Police Officer,
Kohat

Dated 03-5-/2023

CHARGE SHEET

1. **MR. JAMIL UR REHMAN, DISTRICT POLICE OFFICER, KOHAT**, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you **Constable Asad Ullah No. 1487** rendered yourself liable to be proceeded against, as you have omitted the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

- i. You while posted as gunner with Assistant Tehsildar Dara Sub Division Kohat was found involved / arrested in criminal case FIR No. 141 dated 02.05.2023 u/ss 4/5 Exp: Sub Act, 15-16 AA, 7-ATA, 148,149 PPC PS Usterzai.
- ii. Your above act shows in-efficiency, irresponsibility and professional gross misconduct on your part being a member of discipline force.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07days of the receipt of this Charge Sheet to the enquiry officer.

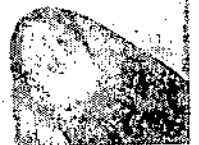
Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.

Attested
Asad Ullah

Seen

Sub-Divisional Police Officer,
Lachi Circle Kohat

DISTRICT POLICE OFFICER,
KOHAT


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Office of the
District Police Officer,
Kohat

No. 2159-60/PA

Dated 03-5-2023

DISCIPLINARY ACTION

1. **MR. JAMIL UR REHMAN, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Constable Asad Ullah No. 1487** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

- i. You while posted as gunner with Assistant Tehsildar Dara Sub Division Kohat was found involved / arrested in criminal case FIR No. 141 dated 02.05.2023 u/ss 4/5 Exp: Sub Act, 15-16 AA, 7-ATA, 148,149 PPC PS Usterzai.
- ii. Your above act shows in-efficiency, irresponsibility and professional gross misconduct on your part being a member of discipline force.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **SDPO Lachi, Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

**DISTRICT POLICE OFFICER,
KOHAT**

No. 2159-60/PA, dated 03-5- /2023.

Copy of above to:-

- 1. **SDPO Lachi, Kohat** :- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.

The **Accused official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

Attested
Saleem

Sub Divisional Police Officer
Lachi Circle Kohat

Annex - C
P-7

(8)

Attested
Sub. Division Office
Lahore
E.O.

Before the District Police Officer, Kohat

Subject: Explanation to the Charge Sheet

Respected Sir,

Since appointment and after the entrustment of the duties to the police which is being had headed, administered and supervised by good self, and the under signed has never been proceeded adverse to the good conduct the action adverse as such can be made a bar for disciplinary action.

The criminal proceedings narrated FIR as referred on the bases of allegations, therein the under signed has been issued the notice under reply which can there after cause penal and departmental adverse action but to submit that the contents of FIR differs them the conduct undersigned of under signed. The narration therein that the car was driven by one Nadeem Khan.

In front seat one Mr. Baseer Khan was sitting who were disclosed to be the police officers while the under signed with one Constable Ajmal sadiq, were sitting in that named seats, had nothing seen nothing in the backyard of the car. Yet the matter is to be proceeded, tried and then decided including the role attributed as such has not been specified in the FIR.

In the circumstances as referred since the explanation as well as the statement of allegations are premature therefore, the matter be kept in obedience till the conclusion of the criminal proceedings by letting the under signed to perform his duties in accordance to the entrustment as such and be obliged.

Thank your Sir,

Your Obediently

Handwritten signature/initials

Constable Asadullah
No 1487
Central Prison Mardan, KPK
Dated 24 May 2023

L. I. ATTESTED
Handwritten signature
Senior Assst Supdt
Central Prison Mardan
24/5/23

Attested
Handwritten signature

Annex - D

P-8

A



OFFICE OF THE
DY. SUPERINTENDENT OF POLICE,
LACHI CIRCLE KOHAT

Email: dsp.lachi@gmail.com Phone: (0922) 550010

No. 399 /SDPO Lachi dated 17.08.2023 (82 pages)

Departmental Enquiry Report.

Ref.

1. Charge sheet No.2159-60/PA dated 03.05.2023 in the name of Constable Asadullah Khan No. 1487. Page-1-2
2. Charge sheet No. 2155-56/PA dated 03.05.2023 in the name of Constable Baseer Khan No. 1734. Page-34-35
3. Charge sheet No.2157-58/PA dated 03.05.2023 in the name of Constable Ajmal Sadiq No. 1464. Page-53-54
4. Charge sheet No.2161-62/PA dated 03.05.2023 in the name of Constable Nadeem Khan No. 1470. Page-63-64
5. FIR No. 141 dated 02.05.2023 U/S 4/5 Exp Sub:Act-15-16AA-7ATA -148/149 PPC P.S Usterzai. Page-4
6. Order OB No.400 dated 03.05.2023 and No.2150/PA dated 03.05.2023. Issued by District Police Office Kohat. suspension order of the above named officials. Page-5
7. A letter No.180/SDPO Lachi dated 08.05.2023 was issued to Superintendent of Jail Kohat. for service of charge sheets upon all the 04 accused charged in above FIR. Page-6
8. A letter No.191/ SDPO Lachi dated 15.05.2023 was issued by this office to Superintendent of Jail Mardan for service of charge sheets upon the accused as reportedly they were shifted to Mardan Jail. Page-7
9. Reply from Constable Asadullah No.1487 confined in Central presence Mardan KPK received in placed at page 8.
10. Statement of Muhammad Akbar Oll P.S Usterzai placed at page.12 and he stated that all the 4 accused are culprits of the offences mentioned in the FIR and he produced copies of investigation carried out by him, which are available at page 13 to-31:
11. Statement of Mehboob Khan ASI PS Usterzai annexed at page 32.
12. Statement of LHC Ahmad Nawaz Incharge Marai Check post placed at page 33.

Attested
Nadeem

Sub Divisional Police Officer
Lachi Circle Kohat

B

- 13. Personal information of accused Baseer Khan is placed at page 36.
- 14. Letter No.2940/WE dated 24.07.2023 issued by the Superintendent of Jail Kohat placed at page 39.
- 15. Reply of Baseer Khan 1724 to charge sheet placed at page 40.
- 16. Letter No.328/SDPO Lachi dated 06.07.2023 is placed at page 46.
- 17. Letter No.275/SDPO Lachi dated 06.06.2023 was issued to SP Jail Mardan.

Page-47, 77

- 18. Letter No. 9780/WE dated 11.07.2023 issued by SP Jail Mardan.

Page-48

- 19. Letter No.9779/WE dated 11.07.2023 issued by SP Jail Mardan.

Page-49

- 20. Letter No.328/SDPO Lachi dated 06.07.2023 issued by this office to SP Jail Mardan.

Page-46

- 21. Personal information of Ajmal Sadiq placed at page 55.

- 22. Letter No.8244 dated 25.05.2023 issued by Superintendent of Jail Mardan to District Police Officer Kohat.

Page-58

- 23. Reply to charge sheet by Constable Ajmal Sadiq No.1464 is placed at page-59

- 24. Personal information of Constable Nadeem Khan No.1470 placed at page-65.

- 25. Letter No.8266/WE dated 26.05.2023 issued by Jail Mardan to District Police Office Kohat.

Page.68

- 26. Reply to charge sheet by Constable Nadeem Khan No. No. 1470 received and placed at page 69.

CONCLUSION:

FIR No.141 dated 02.05.2023 u/s 44/5 Exp Sub:Act-15-16AA-7ATA -148/149 PPC P.S Usterzai was lodged by SHO Jabir Khan of PS Usterzai on red handed arrest of the accused 1. Constable Nadeem Khan NO.1470 s/o Abdul Karim 2. Constable Baseer Khan No.1734s/o Mabash Khan 3. Constable Asadullah No.1487 s/o Nasrullah 4. Constable Ajmal Sadiq No.1464 s/o Muhammad Habib 5. Civilian Syed Ismail Hussain s/o Syed Tasleem Hussain. all 4 are Police officials except accused Syed Ismail and recovered:-

Sub Divisional Police Office
Lachi, District Kohat

- I. Hand Grenads-13.
- II. Rocket Launcher/RPG-07=1
- III. Shells= 18
- IV. Rounds= 2550 (12.7 bore)
- V. Open Rounds of 12.07 bore= 21.
- VI. RPG-7 boosters= 20
- VII. Iron stand 12.7 bore= 1
- VIII. 12.7 bore Gun= 1

Attested
Saleem

- X. Bullet Box 12.7 bore= 1
- XI. SMG = 2
- XII. 4 Magzines/ Chargers.

99 rounds 7.62 bore and arrested accused and Pickup No. TSD-13 was also taken into Police custody being used in the arms and explosive transportation by the accused.

Their replies found un-satisfactory. In light of statement, record and report of seizing officer SHO Jabir Khan, witnesses, Investigation Officer Akbar Khan and huge recovery of arms and explosives. the accused Police officials (1) Constable Asadullah No. 1487 (2) Constable Baseer Khan No. 1734 (3) Constable Ajmal Sadiq No. 1464 (4) Constable Nadeem Khan No. 1470 appointees of Darra Adam Khel. Kohat Police have found committed the offenses mentioned in the FIR and they have demonstrated inefficiency, irresponsibility, professional gross misconduct, in-disciplined and unlawful acts being members of Police force. therefore. they are recommended for awarding Major Penalty please.

Enclosed total 82 Pages
duly numbered, stamped and
signed by E.O.

W/DPO Kohat.

Attested
Nadeem

(Enquiry Officer)
DSP Lachi, Kohat
Sub Divisional Police Officer
Lachi, Kohat

Annex - 'E'

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OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-920116 Fax 920125
No 4969 /PA dated Kohat the 28/8 /2023

FINAL SHOW CAUSE NOTICE

I, Mr. Farhan Khan PSp, District Police Officer, Kohat as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you Constable Asad Ullah No. 1487 as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 2159 - 60/PA dated 03.05.2023.
- ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

- a. You while posted as gunner with Assistant Tehsildar Dara Sub Division Kohat was found involved / arrested in criminal case FIR No. 141 dated 02.05.2023 u/s 4/5 Exp: Sub Act, 15-16 AA, 7-ATA, 148,149 PPC PS Usterzai.
- b. Your above act shows in-efficiency, irresponsibility and professional gross misconduct on your part being a member of discipline force.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules *ibid*.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.

Attested
Asad Ullah
11-07-2023

DISTRICT POLICE OFFICER,
KOHAT

0333-1589571 - 11-07-2023

Annex "P"
P-12

DISTRICT POLICE OFFICER,
KOHAT



ORDER

This order is passed on the departmental enquiry against Constable Asad Ullah No. 1487, (hereinafter called **accused official**), under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that he while posted as gunner with Assistant Tehsildar Dara Sub Division Kohat was found involved / arrested in criminal case FIR No. 141 dated 02.05.2023 u/ss 4/5 Exp: Sub Act, 15-16 AA, 7-ATA, 148,149 PPC PS Usterzai.

The above act shows in-efficiency, irresponsibility and professional gross misconduct on his part being a member of discipline force

The accused official was served with charge sheet alongwith statement of allegation and SDPO Lachi, Kohat was appointed as enquiry officer to probe into the matter according to the Rules Ibid. The accused official was associated with the proceedings and afforded ample opportunity of defense by the enquiry officer. On conclusion of proceedings, the reply was found unsatisfactory. In light of statement, record and report of seizing officer SHO, witnesses, investigation officer and huge recovery of arms and explosive, the accused official has found committed the offenses mentioned in the FIR and he has demonstrated inefficiency, irresponsibility, professional gross misconduct and unlawful acts being a member of disciplined force. The enquiry officer established charge / allegation framed against the accused official and held him guilty and recommended for major punishment.

In view of above, Final Show Cause Notice alongwith relevant record was served upon the accused official, to which he did not submit plausible reply. He was called in orderly room held in this office on 20.09.2023, heard in person, wherein he failed to submit plausible explanation.

In view of above and available record, I, came to the conclusion that the accused official bringing bad name to the whole department. Therefore, in exercise of powers conferred upon me under the Rules Ibid I, **Farhan Khan District Police Officer, Kohat, impose a punishment of dismissal from service** from the date of his suspension. Kit etc be collected & report.

DISTRICT POLICE OFFICER,
KOHAT

OB No. 809
Date 25-9-2023
No 5536-37 /PA dated Kohat the 24-9-2023.

Copy of above to the:-

1. Reader/SRC/OHC/L.O & Pay officer for necessary action.

Anwar "G"
P-13

ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Asad Ullah No. 1487 of district Kohat against the order of District Police Officer, Kohat whereby he was awarded major penalty of dismissal from service vide OB No. 802 dated 25.09.2023. Brief facts of the case are that the accused official while posted as gunman with Assistant Tehsildar, Dara Sub Division, Kohat was found involved / arrested in criminal case vide FIR No. 141 dated 02.05.2023 u/s 4/5 Exp: Sub: Act /15/16AA/7ATA/148/149PPC PS Usterzai.


Proper departmental enquiry proceedings were initiated against him and SDPO Lachi Kohat was nominated as Enquiry Officer. The Enquiry Officer after fulfillment of codal formalities submitted his findings wherein the appellant was found guilty of the charges leveled against him. He was, therefore, recommended for major penalty under the relevant rules.

Keeping in view the recommendations of the Enquiry Officer and the above cited circumstances, the delinquent official was awarded major punishment of dismissal from service under the relevant rules by the District Police Officer, Kohat vide OB No. 802 dated 25.09.2023.

Feeling aggrieved from the order of District Police Officer, Kohat, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in the office of the undersigned on 09.01.2024. During personal hearing the appellant did not advance any plausible explanation in his defense.

Foregoing in view, I, Sher Akbar, PSP, S.St, Regional Police Officer, Kohat, being the appellate authority, am of the considered opinion that the allegations leveled against him have been fully established. The punishment of Dismissal from Service, awarded by District Police Officer, Kohat to the appellant is justified and, therefore warrants no interference. Hence, appeal of Ex-Constable Asad Ullah No. 1487 is hereby rejected, being devoid of substance and merit.

Order Announced
09.01.2024


Regional Police Officer,
Kohat Region

No. 492 /EC, Dated Kohat the 16 /01/2024

Copy forwarded to District Police Officer, Kohat for information and necessary w/r to his office Memo: No. 8195/LB, dated 26.12.2023. His Service Record and Fauji Misal are returned herewith.

Attested
Adnan
CHESRE
57/1/2024
District Police Officer,
Kohat

324
18/1/24

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 338/2024
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Ex-Constable 1487,

..... **Appellant**

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1. Regional Police Officer, Kohat
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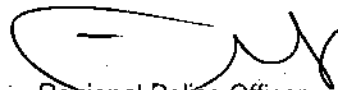
..... **Respondents**

AUTHORITY LETTER

Mr. Usman Ali Khan, DSP Legal Kohat is hereby authorized to file the parawise comments and any other registered documents in the Honorable Tribunal on behalf of respondents / defendant and pursue the appeal as well.



District Police Officer,
Kohat
(Respondent No. 2)
(MUHAMMAD OMER KHAN) PSP



Regional Police Officer,
Kohat
(Respondent No. 1)
(SHER AKBAR) PSP, S.St