BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR. Service Appeal No.490/2024.

VERSUS

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

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V DSP/Legal, CCP, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.490/2024.

Ex- Constable Noor Ul Basar No. 7060 of CCP Peshawar......

.... Appellant. Kuyber Pakhtukhwa Karvice Tribunal

VERSUS

Diary No. 15367

Capital City Police Officer, Peshawar and others.....

Respondents. 03.09, 2024

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

- 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 SPO on 08.10.2012 and later on was regularized on 20.05.2020 in the respondent department. However, performance of the appellant during service was not up to the mark. Additionally, record revealed that he was involved in acts of bribery. These filthy actions have not only breached the principles of integrity and duty expected from a member of the force but also severely tarnished the reputation of the entire force. The appellant's behavior had certainly stigmatized the prestige of force, undermining public trust and the credibility of law enforcement. Furthermore, the august apex court has issued numerous judgments affirming that the act of accepting illegal gratification constitutes a grave offense, particularly for civil servants. In cases where a civil servant is found guilty of such an offense, it has been established that they cannot be retained in the civil service.
- 2. Incorrect. The appellant, while posted at Police Station East Cantt, Peshawar, was subjected to departmental proceedings under the Police (Disciplinary) Rules 1975 (as amended in 2014). The charges against the appellant and two other official stemmed from reliable sources revealing that, during the confinement period, the appellant repeatedly contacted the brother of the accused Yasir. This misconduct was personally admitted by the appellant in the memo of appeal. It was further alleged that the appellant and two other official demanded a sum of 1 lakh Rupees and two 9mm pistols. After mutual bargaining, the brother of the confined accused handed over two locally made 9mm pistols to them.
- 3. Incorrect. Proper charge sheet with statement of allegations was issued vide No. 286 /PA, dated 06.11.2023. ASP Hayat Abad was appointed as Enquiry Officer. During the course of Enquiry the appellant was provided full opportunity of self defense, but he failed to adequately defend himself. The Enquiry Officer recorded the appellant's statement and

- examined CCTV footage and statements from eye witnesses. The Enquiry Officer after thorough probe into the matter, found him guilty of the charges leveled against him. (Copy of charge sheet, statement of allegations, and Enquiry report are annexed as A, B & C).
- 4. Incorrect. After meticulously observing all codal formalities and considering the facts and rules involved, the appellant was duly awarded punishment commensurate with his guilt. The appellant filed departmental appeal, which was thoroughly examined and an ample opportunity of hearing was provided to the appellant by appellate authority but the appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected/filed vide No. 1462-69/PA, dated 26.03.2024.(Copy of Order annexed as D).
- 5. That the order of respondents are quite legal in accordance with law/rules and appellant has got no cause of action to file the instant appeal being devoid of merits and limitation hence the same may be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A. Incorrect. The orders passed by the competent authority are just legal, lawful and liable to be upheld.
- B. Incorrect. The allegation against the appellant was established beyond any reasonable doubt. The appellant himself admitted the fact that he made a call the brother of the accused who was currently confined.
- C. Incorrect. Proper departmental enquiry was conducted against him, to unearth the real facts, proper opportunity of personal hearing was provided to him and Enquiry Officer found the appellant guilty of committing misconduct, hence after fulfillment of all codal formalities awarded major punishment of Removal from Service.
- D. Incorrect. The appellant and two other police personnel were found guilty of accepting illegal gratification and two 9mm pistols. This conduct breached both legal and ethical standards and seriously undermines the integrity of the police force. The gravity of his misconduct is deemed intolerable and contrary to the core values of law enforcement. Therefore, it is concluded that the appellant's actions reflect a serious lapse in discipline and integrity, and the disciplinary process was carried out without any injustice.
- E. Incorrect as explained above. Further, the primary duty of police is to protect citizens and maintain public peace. Instead, the appellant engaged in gross misconduct and immoral behavior, which reflects poorly on his suitability as a police officer. After fulfilling all codal formalities the charges leveled against him were proved, hence the appellant was penalized.
- F. Incorrect. The appellant only want to save his skin from misconduct/negligence explained in detail in the above paras. The appellant treated as per law/rules. The charges leveled against the appellant were proved, hence the punishment orders were passed in accordance with facts and rules.
- G. Incorrect. During the course of enquiry, the appellant's Call Data Records (CDRs) were examined, revealing that the appellant had made several contacts with the brother of the confined accused. The appellant admitted these communications, which indicate that he was engaging in negotiations for personal gain. Such actions, as a member of a disciplined force,

2

amount to gross misconduct by involving himself in bribery and corruption. (Copy of CDR is annexed as E)

- H. Incorrect. During the course of the enquiry, the Enquiry Officer recorded statements from the appellant, eyewitnesses, and reviewed CCTV footage. The enquiry officer thoroughly examined all evidence and testimonies collected/presented. The enquiry report revealed that the appellant was indeed involved in illegal act of contacting the brother of the confined accused. Therefore, the appellant was rightly awarded major punishment of removal from service.
- I. Incorrect. After completion of all codal formalities he was awarded major punishment as per rules ibid.
- J. Incorrect. The appellant was treated as per Law/Rules, and no violation of law has been committed by the replying respondents.
- K. That the answering respondents also seek permission of this Hon'ble Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

Kèeping in view the above stated facts & reasons it is, most humbly prayed that the appeal of the appellant being devoid of merits and limitation, may kindly be dismissed with costs please.

Superintendent of Police

(Zarar Anmad) Respondent No.3) Incumbent

Capital City Polite Officer,

Peshawar.

(Qasim Ali Khan) PSP (Respondent No.02)

Incumbent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.490/2024.

Ex- Constable Noor Ul Basar No. 7060 of CCP Peshawar..... Appellant

VERSUS

Capital City Police Officer, Peshawar and others...... Respondents

AUTHORITY.

We respondents are hereby authorize <u>Mr.Inam Ullah</u> 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.

Superintendent of Police HQrs: Pethawar. (Zafar Ahmad) (Respondent No.02) Incumbent

Capital City Folice Officer,

Peshawar.

(Qasim Ali Khan) PSP (Respondent No.01)

Incumbent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.490/2024.

Ex- Constable Noor Ul Basar No. 7060 of CCP Peshawar...... Appellant.

VERSUS

Capital City Police Officer, Peshawar and others...... Respondents

AFFIDAVIT.

We respondents No. 01 & 02 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.

Superintendent of Police HQrs: Pesnawar.

> (Zafar Ahmad) (Respondent No.02) Incumbent

Capital City Part Officer,

(Qasim Ali Khan) PSP (Respondent No.01)

Incumbent

CHARGE SHEET

- Whereas I am satisfied that a formal enquiry as contemplated by Efficiency & Disciplinary Rules 1975 is necessary & expedient,
- 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.
- Now therefore, as required by Rule 6 (1) of the said Rules, I, Lt Cdr ® Kashif Affali Ahmad Abbasi, PSP,SSP Operations, Peshawar hereby charge you the following police officials under Efficiency & Disciplinary Rule 1975 on the allogations mentioned in the enclosed Summery of Allegations.
 - ASI Nazar Gul Khan PS East Cantt
 - Constable Azeem No. 5256 PS East Cantt ii.
 - Constable Noor ul Basar No. 6070
 - And I hereby direct you further under the said Rule to put forth written defence within 7. iii. 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.
 - And in case your reply is not received within the specific period, it shall be presumed that you have no defense to offer and ex-parte action will be taken against you.

Statement of Allegation is enclosed.

(Lt Cdr @ KASHIF AFT AB AHMAD ABBASOPS? Senior Superintendent of Police (Operations) Peshawar

286 IPA dated Poshawar the 66/11/12023

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

Allosted

- 1. Lt Cdr ® Kashif Aftab Ahmad Abbasi, PSP,SSP Operations Peshawar as competent authority, am of the opinion that the following police officials have rendered themselves liable to be proceeded against departmentally as they have committed the following acts/omission within the meaning of the Khyber Pakhtunkhwa (E&D) Rules, 1975.
 - i. ASI Nazar Gui Khan PS East Cantt
 - ii. Constable Azeem No. 5256 PS East Cantt
 - iii. Constable Noor ul Basar No. 6070

STATEMENT OF ALLEGATIONS

- A preliminary enquiry conducted by SDPO Cantt vide his office memo No. 2467/PA dated 01.11.2023 that in light of the directions the accused namely Yasir Khan s/o Shakeel Khan t/o Masho Khel Badaber, Peshawar was rearrested by the surveillance team and was confined at Police Station East Cantt.
- It has been learnt through reliable sources that during the confinement period ASI Nazar Gul Khan and Constable Azeem No. 5256 contacted the brother of the accused Yasir and demanded 01 lac Rupces and 02 9-MM Pistols of which after mutual bargaining the brother confined accused handed over two 9MM (local made) pistols to ASI Nazar Gul Khan and Constable Azeem
- Being a part of disciplinary force their this act is highly objectionable and renders them
 liable for disciplinary proceedings under (E&D) Rules, 1975.

2.	For the purpose of scrutiniz	ing the conduct	of afore s	aid police	official	in the said	episode :	whi
referen	ce to the above allegations _	<u> </u>	Nay	CD		is appointe	ed as Eng	ui:5
Officer	under Efficiency & Discipli	nary Rule 1975.	· [•				

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

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

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OFFICE OF THE ASSISTANT SUPERINTENDENT OF POLICE, HAVATABAD SUE-DEVISION, PESHAWAR.



EINDING REPORT U/R 6 (5) OF POLICE RULES 1975, AGAINST ASI NAZAR GULEMAN, FC AZEEM No. 5256 & FC NOOR UL BASAR No. 6070 OF PS EAST CANTE.

Please refer to your office Endt: No. 286/E/PA, dated 06.11.2023; pertaining to departmental enquiry against the following officials:-

- 01. ASI Nazar Gui Khan PS East Cantt:
- 02. Consiable Azeem No. 5256 PS East Cantr.
- 03. Constable Noor UI Basar No. 6070

STATEMENT OF ALLEGATION:

As per preliminary enquiry carried out by DSP Cantt: Circle Peshawar vide his office Memo: No. 2467/PA, dated 01.11.2023 into allegations that during the confined period of accused Yasir at PS East Cantt:, ASI Nazar Gul Khan, FC Azeem No.5256 and FC Noor Ul Basar No. 6070 contacted the brother of accused and demanded 01 Lack Rupees and 02x 9-MM Pistols, in which after mutual bargaining, brother of accused handed over two 9-MM Pistols to ASI Nazar Gul and FC Azeem.

Their above act speaks volume of misuse of the official powers in the discharge of duties and render them liable for disciplinary proceedings under Police (Efficiency & Disciplinary) rules, 1975.

PROCEEDINGS:

- 1. The alleged officials were summoned to the office of the undersigned.
- Records and evidence related to the case were examined during the meeting.
- 3. Personal hearings were conducted for each alleged official, both individually and collectively, to gather information and ancover the facts.
- Additionally, the brother and father of the accused Yasir from the accused party were personally heard and their statements were recorded. They stated that they had received the price/amount for the pistols.

FINDINGS:

Having gone through relevant record, evidence of video recordings/CCTV footage, statement of the alleged Police officials, statements of the eye witnesses, followed by cross examination following are the findings of the matter:-

- 1. ASI Nazar Gul Khan denies asking for any illegal gratification or involvement in any wrongdoing related to the family members of accused. (Written statement attached).
- 2. FC Azeon denies meeting the accused Yasir, refutes the ellegations against him, and claims that his earlier statement to the DSP Canti was recorded under pressure. (Written statement attached).
- 3. FC Noor-Ul-Basar denies any illegal or corrupt intentions, stating that he merely informed the family of accused and was unaware of the consequences of such phone calls. He also mentions not being briefed about the sensitivity of lock-up duty. (Written materials attached).
- 4. Video footage was examined, showing that police officials visited an Arms Company of civilian clothing, but no illegal exchange or transaction was observed. (USB attached)
- 5. The accused party admits in their written statements that they received the price of pistors and do not wish to pursue further action on their complaints. (Written statements attached).

6. After a thorough examination of records, call detail records (CDRs), video footage, and written statements, it is concluded that due to the negligence of the alleged officials, secreey was compromised. And it is also established that Azeem has received pistols from accused Yasir. Moreover, information about the presence of a key accused was disclosed to his family. Although there is no evidence of money being asked, however the negligence of the officials has been established.

In the light of above circumstances, the allegations leveled against CONCLUSION: delinquent officials have been proved and they stand guilty of the charges, hence the undersigned agree with the preliminary enquiry.

RECOMMENDATIONS:

In view of above, the undersigned being Enquiry Officer, recommend the delinquent officials for major punishment of Time Scale for period mentioned against their names:

01 year ASI Nazar Gul Khan 01 year FC Noor Ul Basar No. 6070 02 years FC Azcem No. 5256

All relevant documents are enclosed herewith.

NAYAB PAMLAN (PSP) Assist: Superintendent of Police, Hayatabad: Sub-Division, Peshawar.

Worthy Senior Superintendent of Police, Operations Peshawar.

43 /E/St, dated Peshawar the



OFFICE OF THE CAPITAL CITY POLICE OFFICER, **PESHAWAR**

Phone No. 091-9210989 Fax: No. 091-9212597

ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Noor-ul-Basar No. 6070, who was awarded the major punishment of "dismissal from service" under KP PR-1975 (amended 2014) by SSP/Operations, Peshawar vide order No. 2106-11/PA, dated 15.12.2023.

- Brief facts leading to the instant appeal are that the defaulter Constable was . proceeded against departmentally on the charges that in light of the directions, the accused namely Yasir Khan s/o Shakeel r/o Masho Khel Badaber, Peshawar was arrested by the surveillance team and was confined at PS East Cantt; till further orders. During the confinement period, the defaulter Constable contacted brother of the accused namely Yasir and demanded 01 Lac Rupces and two 09-MM (Local made) Pistols. After mutual bargaining, brother of the accused i.e. Yasir, handed over two 09-MM (Local made) Pistols to ASI Nazar Gul and Constable Azcem.
- He was issued Charge Sheet and Summary of Allegations by SSP/Operations, Peshawar, ASP/Hayatabad, Peshawar was appointed as Enquiry Officer to scrutinize the conduct of the accused official. The Enquiry Officer after conducting departmental enquiry submitted his findings in which he was recommended for major punishment. The competent authority in light of the findings of the Enquiry Officer awarded him the major punishment of dismissal from service.
- He was heard in person in Orderly Room. During personal hearing, he was given an opportunity to prove his innocence. However, he failed to submit any plausible explanation in his defense. Therefore, his appeal for setting aside the punishment awarded to him by SSP/Operations, Peshawar vide order No. 2106-11/PA, dated 15.12.2023, is hereby

rejected/filed.

"Order is announced"

CAPITAL CITY POLICE OFFICER PESHAWAR

No. 1469-69 /PA/CCP, dated Peshawar the

03/2024

Copies for information and necessary action to the:-

- SSP/Operations Peshawar.
- 2. SP/HQrs:, Peshawar.
- 3. AD/IT CCP Peshawar. .
- 4. EC-II, AS & Pay Officer.
- FMC along with complete Fouji Missal.

FC Noor-ul-Basar, No. 6070.

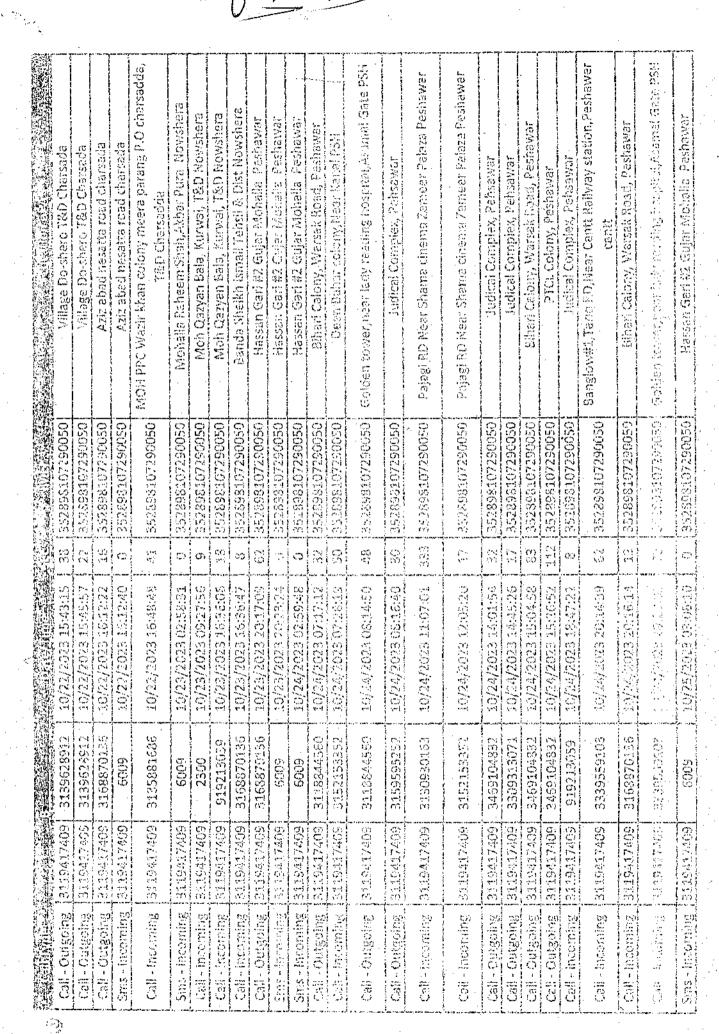
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Golden tower, near lady reading hospital, Asamai Gate PSH

Banda Sheikh Ismaii Tehsil & Dist Nowshera

Moh Qazyan Bala, Kurwai, T&D Nowshera

Mouza Chona-Guijar, Yana Dista Peshawar

Mouza Choha-Gujjar, Teh& Disti Peshawar

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