

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 327/2024


Suhbat Khan, Ex-IHC No-3436 Elite Force.....Appellant

Versus

Deputy Commandant Elite Force Khyber Pakhtunkhwa etcRespondent

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(MIAN NIAZ MUHAMMAD)
DSP Legal
Elite Force, Peshawar

70-10-24
D.B.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Service Appeal No.327/ 2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14633

Dated 31.07.2024

Suhbat Khan, Ex-IHC.3436 Elite ForceAppellant

Versus

Deputy Commandant Elite Force, Khyber Pakhtunkhwa Peshawar

.....Respondent

PARAWISE COMMENTS BY RESPONDENTS

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:-

- a) That the appeal is not based on facts.
- b) That the appeal is barred by law and limitation.
- c) That the appeal is not maintainable in the present form.
- d) That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- e) That the appellant is stopped to file the instant appeal by his own conduct.
- f) That the appellant has not come to this Honorable Tribunal with clean hands.
- g) That the appellant has got no cause of action and locus standi to file the instant Service Appeal.

FACTS:-

- 1- Correct that he was initially inducted as constable in the year 2007 and gradually promoted to the rank of HC.
- 2- Correct to the extent that anonymous complaint was received against the appellant. However a proper enquiry was conducted and the allegation was found true and during the course of enquiry allegations was proved beyond the shadow of doubts against the appellant.
- 3- Pertain to record. Record shows that the appellant was issued with a proper charge sheet couple with summary of allegations and after completion of proper enquiry and proving allegations against him, he was awarded punishment of dismissal.
- 4- Correct, to the extent that the appellant submitted an application for the changings of E.O and in the light of application another impartial officer was deputed with the enquiry officer. So, that to avoid any partiality and injustice against the appellant.


- 5- The appellant was properly served with a charge sheet couple with summary of allegations and after completion of proper enquiry and recommendations of enquiry officer the appellant was awarded the punishment of dismissal. The appeal of appellant is yet be decided.
- 6- Correct that the appellant was with a charge sheet couple with summary of allegation without Show Cause Notice. The departmental appeal is still pending.


Grounds:-

- A- Incorrect. The impugned order dated 10-11-2023 is according to law, facts, and materials on record. Therefore tenable and liable to be maintained.
- B- Incorrect. Regular enquiry against the appellant was conducted in which proper opportunity of defense was provided to appellant including cross-examination and as such the impugned order is liable to be maintained.
- C- Incorrect, the enquiry committee conducted regular enquiry after recording statement of different officials and allegation level against the appellant were established by the enquiry committee.
- D- Incorrect. The enquiry officer recorded statements of different officials and hold responsible the appellant by the enquiry committee.
- E- Incorrect. The appellant was involved in corrupt practices and was punished after conducting regular and proper enquiry.
- F- Incorrect. Hence, denied. As above.
- G- Incorrect, enquiry committee conducted regular enquiry against the appellant and found him guilty.
- H- Incorrect. Hence denied. As above.
- I- Incorrect. In the compliant the name of appellant was mentioned and was punished after conducting regular enquiry.
- J- Incorrect. Enquiry was conducted against the appellant on the basis of that enquiry the appellant was punished.
- K- Incorrect. Hence, denied. As above.
- L- Incorrect. Proper opportunity was given to appellant during enquiry proceeding.
- M- Incorrect. Appellant has been treated accordance with law and rules.
- N- Responsible also seek permission of this Hon'ble Tribunal to advance other grounds and proofs at the time of hearing.

PRAYER:

It is, therefore, humbly prayed that the Appeal of the appellant may kindly be dismissed with cost.


(ABBUS SAMAD) PSP
Deputy Commandant,
Elite Force, Khyber Pakhtunkhwa
Peshawar.
(Respondent No. 01)


OSP-C

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

Service Appeal No. 327/2024

Suhbat Khan Ex-IHC No.3436 Elite ForceAppellant

Versus

Deputy Commandant Elite Force Khyber PakhtunkhwaRespondent

AFFIDAVIT

I, **Abdus Samad Khan Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar responded No. 1**) do hereby solemnly affirmed that the contents of these joint parawise comments on behalf of Respondents No. 1 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

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.



11/7/2024

Deputy Commandant
Elite Force, Khyber Pakhtunkhwa
Peshawar
(Respondent No1)
(**ABDUS SAMAD KHAN**) PSP
Incumbent

M. S. L.
D.P.L.

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

Service Appeal No. 327/2024


Suhbat Khan Ex-IHC No.3436 Elite ForceAppellant

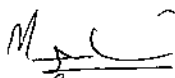
Versus

Deputy Commandant Elite Force Khyber PakhtunkhwaRespondent

AUTHORITY LETTER

I, **Main Niaz Muhammad (DSP) Elite Force Khyber Pakhtunkhwa Peshawar** do hereby solemnly affirmed that the contents of these joint parawise comments on behalf of Respondents No. 1 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


Deputy Commandant
Elite Force, Khyber
Pakhtunkhwa Peshawar
(Respondent No1)
(ABDUS SAMAD KHAN) PSP
Incumbent


DSP-C

Office of the Superintendent of Police,
Elite Force Peshawar Region
Office No. 091-9223617



No. 437

MR SP/PR/EF Date: 6571
Date: 17-10-23

Dated: 17/10/2023

Subject: DEPARTMENTAL ENQUIRY FINDING REPORT AGAINST DELIQUENT IHC SUHBAT KHAN

R/Sir,

Allegations:

It is submitted that this is departmental enquiry against IHC Suhbat No. 3436 of Elite Force Peshawar Region Platoon No.03, who was issued summary of allegations and charge sheet containing the following charges:-

- That he while posted as gunner to Superintendent of Police Elite Force Mardan Region was found involved in corrupt practices.
- That it was established during secret probe that he was receiving illegal gratification from the constables of Mardan Region of Elite Force in lieu of getting them short/long leave.
- That this act is highly objectionable, against the norms of the Police Disciplinary Rules 1975.
- That his act amounts to gross misconduct and liable to be proceeded departmentally.

Proceedings:

1. the undersigned, was officially appointed as enquiry officer by Deputy Commandant Elite Force to conduct a thorough Departmental Enquiry into the aforementioned charges. In order to thoroughly investigate the matter, below mentioned officials were heard in persons and recorded their statements as enclosed for ready reference:-

- 1) Inspector Sardar Hussain Khan, Distt: Commander Elite Force Mardan.
- 2) Inspector Noor Ul Wahab Distt: Commander Elite Force Charsadda.
- 3) SI Gohar Rehman No 361/MR
- 4) Senior Clerk Rooh Ul Amin, PA to SP Elite Force Mardan Region.
- 5) Computer Operator Salamat Khan
- 6) OASI Elite Force Peshawar.
- 7) IHC Suhbat No.3436 (Gunner/alleged)
- 8) IHC Nacem Khan No.2860, Platoon No.27
- 9) IHC Zameen Shah No.698, MHC EF Nowshera.
- 10) IHC Iftikhar Hussain MHC Elite Force Swabi
- 11) HC Shahid Iqbal No.670, Platoon No.23
- 12) HC Intikhab Alam No.2026, MHC EF Charsadda.
- 13) LHC Sibtain No.3802, Platoon No.97
- 14) HC Tahir Khan No.3684, Platoon No.98
- 15) FC Rameez No.4819, Platoon No.22
- 16) FC Muhammad Adil No.1416, Platoon No.23
- 17) FC Ismail No.1474, Platoon No.74
- 18) FC Zakria No.3374, Platoon No.17
- 19) FC Zaheer Abbas No.3848, Platoon No.36
- 20) FC Faris No 3071, Platoon No.35

[Handwritten signature]

Throughout the course of the enquiry and the process of recording statements from relevant officials, it was become evident that the involvement of the accused IHC Suhbat Khan in acts of malpractice and corruption is highly substantiated and irrefutable. However, it was worth noted that none of the individuals was involved in instant matter were willing to provide immediate statements based on the merits of the case, primarily due to their apprehension regarding potential repercussions.

Nonetheless, some individuals voluntarily assumed the risk and submitted their statements with the aim of distancing themselves from IHC Suhbat Khan. In the context of this enquiry proceeding, the undersigned enquiry officer, have made the following observations, which are delineated as follows:-

Findings:-

1. Initially the posting record of the gunners deployed with Mr. Murad Khan Regional Commander Elite Force Mardan were sought from OASI Elite Force Peshawar, which according to the records, none of the gunners was posted with the respective Regional Commander Elite Force Mardan and that IHC Suhbat is without proper order performing duty as gunner with Regional Commander Mardan Region. Moreover, 08 Police Officials noted below including 03 IHCs were deployed in the name of Regional commander's squad, which according to the statement of Moharrar Elite Force Mardan Region, there is no squad for Regional Commander actually exist:-

- i. IHC Irshad No.3174
- ii. IHC Iltaf Hussain No.4970 MHC Elite Force Swabi.
- iii. IHC Fayaz Tahir No.2755 Platoon No.31
- iv. FC Zahcer Abbas No.3848 Platoon No.36
- v. FC Muzamil Shah No.2908 Platoon No.28
- vi. FC Tariq No.3071 Platoon No.35
- vii. FC Sabtain No.3802 Platoon No.97
- viii. FC Shams Ul Hadi No.4954 Platoon No.36

2. Upon perusal of the record reveals that Daily diary No.26 dated 26.05.2023 at 23:30 hours was incorporated from the side of IHC Suhbat wherein it was stated that Constables Rameez No 4849 and Adil No.1416 will perform light duty as both the Constables are ill but during course of enquiry it was reveals that it was done for ulterior motive by IHC Suhbat as both the constables verbally admitted monthly payment to IHC Suhbat but did not deposed in statement due to hesitation. It clearly reflects that IHC Suhbat was involved in corrupt practices. As per D.D vide No 07 dated 24-07-2023 (copy enclosed), at 11:45 MM Elite NSR reported that information was received through phone call No.03135928801 from IHC Suhbat and stated that constable Wajid No.473 would perform Dak duty.

3. Constable Ismail No.1474 in his statement has clearly stated that the alleged IHC Suhbat Khan gave free hand to the following Officials who were not performing official duty and persistently are at their respective homes:-

- i. FC Rameez No.4819, Platoon No.22
- ii. FC Adil No.1416, EPTC Nowshera
- iii. FC Sabtain No.3802, Platoon No.07

3. Besides others constable Tahir Khan No.3684 Platoon No.98 deposed that all the RRF Units and Elite Platoons used to collect Rs.500/- per head in each month to pay to IHC Suhbat Khan.

4. Inspector Sardar Hussain, District Commander Elite Force Mardan in his statement also deposed that information report prepared on his behalf and enclosed with the statement of IHC Suhbat has neither handed over to him nor scribbed by him rather the same was submitted to Regional Commander, adding that his fuel card is already in use of Mr. Murad Khan Regional Commander Elite Force Mardan still is in his possession.

5. Inspector Noor Ul Wahab, the District Commander Elite Force Charsadda, provided a clear and formal statement regarding the assessment of personnel strength within the District Commander Elite Force Charsadda. It was ascertained that Constable Sabtain No.3802 was previously assigned the role of gunner under the supervision of SI Gohar Rehman, the than District Commander Elite Force Charsadda. MHC Elite Force Charsadda, IHC Intikhab Alam, reported that the aforementioned constable had previously fulfilled duties as a gunner under the purview of the District Commander in Charsadda. Consequently, it has been determined that he shall continue to serve duty as a gunner under his command. Subsequently, there was a consistent requirement for the said constable to fulfill his duties in this role. However, it was reflected during the course of enquiry that the constable, leveraging certain influences, communicated to Inspector Noor Ul Wahab through higher channels, asserting that he should not have been summoned for duty.

6. SI Gohar Rehman, No. 361/MR, stated in his statement that during his tenure as the District Commander Elite Force in Swabi, Murad Khan, the Regional Commander Elite Force Mardan, directed that FC Sabatin, No. 3802, of Elite Platoon No. 97 District Charsadda be deputed to serve as Gunner to the District Commander Elite Force Charsadda. It was explicitly communicated that the aforementioned FC has to be on leave from gunner duties and was not to be involved in any gunner-related tasks. On the 07-06-2023, SI Gohar Rehman was transferred from District Commander Elite Force Charsadda to Elite Platoon No. 27 District Mardan.

7. Constable Zakaria No.3374 clearly in his stated statement that he has been performing driver duty with the District Commander Elite Force Charsadda for about 08/09 months. As per the orders of High-ups the district commander, has been approved 100 liters of diesel from the Elite headquarters Peshawar for pick-up official vehicle number 9811. On the orders of Moharrar Elite Force Charsadda Intikhab Alam, amount of 50 liters of diesel out of 100 liters were handed over to the IHC Suhbat, Gunner of SP Murad Khan and the same was brought into the notice of the district commander Elite Force Charsadda. Similarly, on the first day of every month, Gunner IHC Suhbat used to pay amount of 50 liters of diesel which would have been around Rs.15000 and if the price of diesel had increased, the price would have been Rs.16000/17000.

8. All the allegations made by accused IHC Suhbat in his written statement/ reply of charge sheet were thoroughly investigated, therein it was found that the accused official made false statements to divert the enquiry in his defense as well as during the course of enquiry on written application of accused IHC Suhbat Khan, DSP Headquarters Elite Force Mr. Ijaz Abazar was additionally appointed as co-enquiry officer vide letter No. 13841-IVFF dated 26-09-2023.

9. Throughout the course of the inquiry, it has been presumed from all the testimonies that the various instances of corruption and unauthorized transfer postings predominantly commenced subsequent to the appointment of Mr. Murad Khan as the Regional Commander Elite Force in Mardan. It is implausible that he remained entirely oblivious to the occurrences of illegal transfer postings and corrupt practices. It is indeed remarkable that, over this protracted duration, the Regional Commander Elite Force Mardan Region neither has instigated any legal measures against these illegal transfers/postings nor communicated relevant information higher authorities.

10. During the course of enquiry, it was noted through a comprehensive assessment that Regional Commander Elite Force Mardan Region was engaged in corrupt practices with his gunner IHC Suhbat, especially while involving subordinates within his jurisdiction for receiving bribe etc, presents a situation fraught with uncertainty. Consequently, a substantial portion of the Elite Force personnel stationed within the Mardan Region harbor the belief that such corrupt practices was facilitated with the tacit support of senior ranking officers of Elite Force Khyber Pakhtunkhwa.

11. A Special Branch report regarding Regional Commander Elite Force Mardan Mr. Murad Khan and accused Official IHC Suhbat has also been sought from Special Branch.

12. During tracing the records of CDRs of all the officials who were transferred/posted illegally were also investigated, which proved that Officials of SP Squad were present in their native villages thorough out the period. (Summary of all cellular data are enclosed).

13. As far as Mr. Murad Khan, SP Elite Force Mardan Region is concerned, during the inquiry it has also been clearly revealed that the Regional Commander Mardan has a weak supervision due to the following reasons:-

- a. For so long, his gunner has been inciting the entire elite force for corruption through various means, why no action has been taken against him.
- b. If this corruption is only a personal act of his gunner IHC Suhbat, then why didn't SP Murad Khan know about the increase or decrease in the Elite personnel during the inspection of the districts in such a long time? Whereas the office of Regional Commander Murad Khan has informed the higher officials in all these informal visits that the strength of Elite Force throughout the region is complete.
- c. For what purpose the SP Elite Mardan Region took possession of the monthly petrol card from Inspector Sardar Khan, District Commander Elite Mardan Region.

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- c. For what purpose the SP Elite Mardan Region took possession of the monthly petrol card from Inspector Sardar Khan, District Commander Elite Mardan Region

- d. As why was IHC Suhbat posted as a gunner with him (Murad Khan) without formal orders?
- e. As a Gunnar IHC Suhbat has made all the appointments in Mardan region on his authority. why SP Murad Khan was not responsive of it?
- f. That during the inquiry. accused IHC Suhbat blamed constable Ismail No. 1474 of using forged signature of Regional Commander Mardan. which was later proved to be false, why neither this act brought to the notice of the higher officers in time before the inquiry nor SP Elite Mardan himself as the Regional commander take any action against FC Ismail at that time?

14. The police department functions primarily as an institution dedicated to upholding regulations and maintaining discipline. Within this framework, where senior officers are duty-bound to abide by the law, it is imperative that subordinates possess the right to abstain from any unlawful activities and, rather, have the prerogative to report such transgressions to their higher-ranking authorities. Being an Inquiry Officer, I hereby submit the following recommendations of Lower Subordinates for the initiation of separate departmental proceedings. These proceedings are warranted due to the direct or indirect involvement of certain individuals in acts of corruption:-


- a. IHC Irshad No.3174 Platoon-28
- b. IHC Fayaz Tahir No.2755 Platoon-31
- c. MHC Intikhab Alam No. 2026, MHC Elite District Charsadda.
- d. MHC Altaf Hussain No.4970, MHC District Swabi.
- e. FC Tariq No.3071 Platoon-35
- f. FC Shams Ul Hadi No.4954 Platoon-36
- g. FC Sabtain No. 3802 Platoon-97
- h. FC Zaheer Abbas No.3848 Platoon-36
- i. FC Muzamil No. 2908 Platoon-28
- j. FC Wajid No.473 Platoon-22

Conclusion:


After going through the statements of all concerned and other connected material available on record it has been clearly stand proved during the course of enquiry that accused IHC Suhbat has committed the offences of corrupt/malpractices and the charges framed against him are fully established.

Submitted Please:

Inquiry Officer,


(ATTA MUHAMMAD)
Superintendent of Police,
Elite Force, Peshawar Range.

Co-Inquiry Officer,


(IJAZ KHAN BAZAI)
Deputy Superintendent of Police,
HQrs, Elite Force K.P, Peshawar.

SUMMARY OF ALLEGATIONS

I, Abdus Samad, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that IIC Subbat Khan 3436 posted at platoon No.3 performing duty as gunner to SP Elite Force Mardan Region has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Khyber Pakhtunkhwa Police Rules, 1975 (Amended 2014).


SUMMARY OF ALLEGATIONS

- a) That he while posted as gunner to SP/Elite Force Mardan Region remained involved in corrupt practices.
- b) That it has been established during secret probe that he has been receiving receiving illegal gratification from the constables of Mardan Region of Elite Force in lieu of getting them short/long leave.
- c) That his this act is highly objectionable, against the norms of the Police disciplinary Rules 1975
- d) That your act amounts to gross misconduct and liable to be proceeded against departmentally.

1. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Atta Mohammad Khan SP Peshawar Region is appointed as Enquiry Officer.

2. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused official; record statements etc and submit findings within (07 days) of the receipt of this order.

3. The accused shall join the proceedings on the date, time, and place fixed by the Enquiry Officer.


 (ABDUS SAMAD) PSP
 Deputy Commandant,
 Elite Force Khyber Pakhtunkhwa
 Peshawar.

No. 13281-87/EF, dated Peshawar the: 15/08/2023.

Copy of the above is forwarded to the:-

1. Office Superintendant Elite Force Peshawar.
2. Accountant Elite Force Khyber Pakhtunkhwa Peshawar.
3. OASI/EC/SRC, Elite Force Khyber Pakhtunkhwa Peshawar.

CHARGE SHEET

I, **Abdus Samad, Deputy Commandant, Elite Force Khyber Pakhtunkhwa, Peshawar** as competent authority hereby charge you **IIC Subbat Khan No.3436** while posted to platoon No.3 gunner to SP/EF Mardan as under:-

- a) That you while posted as gunner to SP/Elite Force Mardan Region remained involved in corrupt practices.
- b) That it has been established during secret probe that you have been receiving illegal gratification from the constables of Mardan Region of Elite Force in lieu of getting them short/long leave.
- c) That his this act is highly objectionable, against the norms of the Police disciplinary Rules 1975
- d) That your act amounts to gross misconduct and liable to be proceeded against departmentally.


1. By reason of the above, you appear to be guilty of misconduct under the Khyber Pakhtunkhwa Police Rules, 1975 (Amended 2014) and have rendered yourself liable to all or any of the penalties specified in the rules.

2. You are therefore, directed to submit your defence within 07 days of the receipt of this charge sheet to the enquiry officer.

3. 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 in that case ex-parte action shall be taken against you.

4. You are directed to intimate whether you desire to be heard in person.

5. A statement of allegations is enclosed.


(ABDUS SAMAD) PSP
 Deputy Commandant,
 Elite Force Khyber, Pakhtunkhwa
 Peshawar.



Appeal No. 327/2024
Subbat Khan vs Govt


ORDER
11th July, 2024




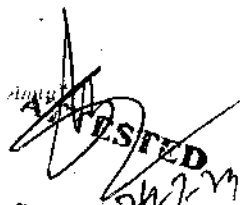
Learned counsel for the appellant present. Mian Niaz Muhammad, DSP (Legal) alongwith Mr. Riaz Ahmad Paindakhel, Assistant Advocate General for the respondents present.

Available on the record is C.M No. 427/2024 submitted by the respondents for setting-aside ex-parte proceedings initiated against them by this Tribunal vide order dated 29th April, 2024. Learned counsel for the appellant stated at the bar that he is having no objection on acceptance of the said application. In this respect, written endorsement of learned counsel for the appellant was obtained at the margin of order sheet. Considering the contention of the respondents and in the interest of justice, C.M No. 427/2024 is allowed and ex-parte proceedings initiated against respondents stand set-aside. Respondents are directed to positively submit reply/comments within a fortnight. To come up for arguments on 10.10.2024 before the D.B. Parcha Peshi given to the parties.

Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 11th day of July, 2024.


(Muhammad Akbar Khan)
Member (Executive)


(Aurangzeb Khattak)
Member (Judicial)

*Naem Amir

EXAMINER
Kyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 23/7/24
Number of Words 150
Copying Fee 50
Urgent 50
Total 100
Name of Copyist ---
Date of Completion of Copy 24/7/24
Date of Delivery of Copy 24/7/24