

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.2602/2023.

MISC Appli No 409 / 2024

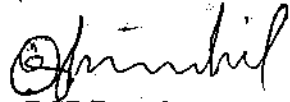
1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, Saddar , Peshawar.

VERSUS

Muqadar Khan Ex-Levi of CCP Peshawar.

**I n d e x**

S.NO	DOCUMENTS	Annexure	PAGES
1.	Application		1
2.	Affidavit		2
3.	Copy of scanned reply	A	3

  
DSP/Legal,  
CCP, Peshawar.

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.2602/2023.**

*Misc Appli No.409/2024*

1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, Saddar, Peshawar.

**Khyber Pakhtunkhwa  
Service Tribunal**

Registry No. 13003

Dated 27-05-2024

**VERSUS**

Muqadar Khan Ex-Levi of CCP Peshawar.

**APPLICATION FOR SETTING ASIDE EX-PARTE DATED 06.05.2024 AND  
RESTORING RIGHT OF FILING PARA-WISE COMMENTS.**

**Respectfully Sheweth:-**

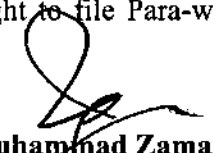
1. That, above captioned Service Appeal filed by the appellant namely Muqadar Khan Ex-Levi for reinstatement in service which is fixed for 15.07.2024.
2. That the case was fixed for reply whereas the respondents prepared reply and the representative of the respondents duly attended the proceedings and submitted reply, structured according to the points raised in the service appeal. However, it seems that there was an unfortunate setback as the internet connection at the institution branch was not functioning during this crucial phase of the process. (copy of reply is annexure as A)
3. That, this Hon'ble Tribunal issued ex-parte order dated 06.05.2024 without taking into consideration the stance of Police Department, which is not in accordance with natural justice.
4. That, from ex-parte order the answering respondents are deprived of their right of defense.
5. That, the para-wise comments accordingly prepared and are ready for submission.
6. That, respondent department always complied with the directions of Hon'ble Courts in litter and spirit.
7. That feeling aggrieved the respondents seek right for restoration to file Para-wise comments on the following grounds.

**Grounds:**

- A) That the valuable rights of the department/respondents are involved with the instant Service Appeal.
- B) That the application is within time and there is no disobedience on the part of respondents.
- C) That there is no legal bar in acceptance of the application in hand.
- D) That the delay was not intentional but due to the above justified reasons, the respondents will show punctuality in future.
- E) That according to the rules of natural justice, Anti-alteram-partem, no one cannot be condemned unheard.

**PRAYER:**

It is therefore, most respectfully prayed that on acceptance of this application the ex-parte proceedings against the respondents may be set aside and right to file Para-wise comment may kindly be restored, please.

  
(Muhammad Zaman)  
Superintendent of Police,  
Saddar, Peshawar.

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.2602/2023.**


1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, Saddar, Peshawar.

**VERSUS**

Muqadar khan Ex-Levi of CCP Peshawar.

**AFFIDAVIT**

I, Muhammad Zaman Superintendent of Police Saddar, Peshawar, do hereby solemnly affirm on oath that the contents of accompanying application for restoration of right of submission of Para-wise comments, on behalf of respondent department are correct to the best of our knowledge and belief. Nothing has concealed/kept secret from this Hon'ble Tribunal.

  
**Muhammad Zaman)**  
**Superintendent of Police,**  
**Saddar, Peshawar**



127 MAY 2024

3 A

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No.2602/2023.**

Ex- Levi Constable Muqadar Khan of CCP Peshawar..... Appellant.

**VERSUS**

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

**REPLY BY RESPONDENTS NO. 1 & 2.**

Khyber Pakhtunkhwa  
Service Tribunal

Page No. 12541

Date 6/5/24

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. Pertains to record.
2. Incorrect. The appellant underwent departmental proceedings based on allegations of involvement in a criminal case Vide FIR No. 66 dated 22.01.2020, under sections 302/34 Pakistan Penal Code (PPC) Police Station Mattani, Peshawar.
3. Incorrect. Involvement in a criminal case of committing culpable homicide is a heinous offence and being a member of disciplined force he was liable to be proceeded departmentally hence he was issued Charge Sheet with statement of allegations vide No. 01/E, PA, dated 06.02.2020.
4. Incorrect. The SDPO/Saddar was appointed as Enquiry Officer, who conducted a thorough departmental enquiry into charges leveled against the appellant. Subsequently, the Enquiry Officer found the appellant guilty of charges and recommended punishment accordingly. Furthermore, it is well established principle of administrative law that criminal proceedings and departmental proceedings are two different entities and can run side by side having no bearing on each other.
5. Incorrect. The Competent Authority after receipt of the findings issued him final show cause notice vide No. 01/E/PA, dated 30.12.2020, after completion of all codal formalities he was awarded major punishment of dismissal from service under Police Rules 1975 amended 2014. (Copy of FSCN is annexed as A).
6. Incorrect. After completion of all codal formalities he was awarded major punishment of dismissal from service. Being member of disciplined force, Involvement in a heinous criminal case of committing murder is a cognizable offence, therefore, during departmental

*[Handwritten signature]*

**ETIO  
PARK**

06.05.2024

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S.A = 2602/2023 - Reply - 192.

Received

Aravind

Attest  
[Signature]

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 2602 /2023



Mr. Muqaddar Khan s/o Sher Bahader, Ex-Constable  
PS, Hassan Khel, district Peshawar.

(Appellant)

VERSUS

1. The Capital City Police Officer Peshawar
2. The Senior Superintendent of Police (Saddar Division) CCP,  
Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18.01.2021 WHEREIN THE APPELLANT WAS AWARDED MAJOR PENALTY OF DISMISSAL FROM SERVICE, NEVER COMMUNICATED TO THE APPELLANT BUT RECEIVED BY THE APPELLANT AFTER RELEASE FROM JAIL AND AGAINST THE REJECTION ORDER DATED 01.11.2023 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 18/01/2021 AND 01.11.2023 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

TESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

9-5-24



Appeal No. 2602/2023  
Muzadder Khan vs Govt

6<sup>th</sup> May, 2024

1. Junior to counsel for the appellant present. Mr. Arshad Azam,  
Assistant Advocate General present.

2. On the previous date, Mr. Qisro Khan, Inspector was present and had sought time for submission of reply. Today, nobody is present on behalf of respondents nor reply has been filed. Therefore, respondents are placed ex-parte. To come up for arguments on 15.07.2024 before D.B. P.P given to the appellant's counsel.

\*Mutazem Shah\*

**ATTESTED**  
*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*[Signature]*  
(Kalim Arshad Khan)  
Chairman

Date of Presentation of Application 08-5-23  
Number of ~~Words~~ page 2  
Copying Fee 10/-  
Urgent ✓  
Total 10/-  
Name of Copy Shahjad  
Date of Completion 08-5-23  
Date of Delivery of Copy 27-5-24