

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No. 665/2024

Anwar Ali APPELLANT

VERSUS


Provincial Police Officer Khyber Pakhtunkhwa Peshawar

..... RESPONDENT

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DATED: 16/09/2024


R CAOMMANDANT
Campus Peace Corps,
University of Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.665/2024.

Anwar Ali.....Appellant.

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... Respondent.

PARA-WISE COMMENTS BY RESPONDENTS NO. 1 to 3

Respectfully Sheweth:-

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 15794

Dated 18-09-24

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 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 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 this Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of merits.

REPLY ON FACTS:-

1. Para to the extent of initial enlistment as Constable in Police department is correct while it is worth mentioning here that the appellant remained inefficient Police officer while performing his official duties in KP Police and showed lethargic attitude and also committed gross misconduct.
2. Pertains to record, needs no comments.
3. Incorrect and misleading. The appellant is concealing real facts from this Hon'ble Tribunal. In fact, the appellant was proceeded against departmentally on the grounds of his willful absence from official duties without prior permission of the competent authority. In this respect, charge sheet coupled with summary of allegations (Annexure A & B respectively) issued to the appellant by the then Commandant, Campus Peace Corps, Peshawar. In order to scrutinize the conduct of the appellant, DSP/ Campus Peace Corps was appointed as enquiry officer with directions to conduct proper departmental enquiry in accordance with law/ rules. The enquiry officer in his enquiry findings submitted that the appellant has been booked by Azad Kashmir Police in trafficking of forged/ Pakistan currency notes. On account of this, case vide FIR No. 05 dated 04.01.2021 u/s 489-B APC PS Sehnsa Azad Kashmir was registered against the appellant (Annexure C). The enquiry officer after fulfillment of all codal formalities, submitted enquiry findings (Annexure D) wherein the appellant was recommended for major punishment. Upon the receipt of the enquiry findings, Final Show Cause Notice (Annexure E) was issued to the appellant. Finally, the departmental proceedings against the appellant was culminated into major punishment of dismissal from service vide order dated 08.03.2020 (Annexure F).

Pertains to the Hon'ble learned Trial Court, but it is worth mentioning here that criminal case proceedings and departmental proceedings are distinct in nature and both can run side by side. One cannot overrule another. Hence the major punishment of dismissal from service awarded to the appellant by the competent authority was quite in accordance with law/ rules and policy. It is also worth mentioning here that the appellant willfully absented himself from lawful duties without any sanction of competent authority. Beside this he was also booked in trafficking of forged/ Pakistan currency notes which was another gross misconduct on part of the appellant. Police is a disciplined Force and in this Force no space is available for the officers/ officials who commit gross misconduct. Hence he was rightly awarded with major punishment of dismissal from service vide order dated 08.03.2020.

- 5. The appellant after his acquittal submitted departmental appeal before the appellate authority i.e. CCPO wherein appellate authority taken detailed report of SP/ Investigation, Peshawar, Peshawar. After fulfillment of all codal formalities, the appellate authority partially accepted the departmental appeal by converting the major punishment of dismissal from service into compulsory retirement from service vide order dated 08.11.2023 (Annexure G).
- 6. Pertains to record, the appellant filed the instant Service Appeal before decision on Revision petition.
- 7. Incorrect as already explained above in detail, the appellant is not aggrieved by the respondents as the respondents fulfilled all codal and legal procedure in accordance with law/ rules and the appellant committed gross misconduct for which he was entitled for major punishment.

REPLY ON GROUNDS

- A. Incorrect. The orders dated 08.03.2020 and 08.11.2023 issued quite in accordance with law/ rules and as well as in accordance with natural justice hence, tenable and no need to be set aside.
- B. Incorrect and misleading, the appellant has been treated in accordance with law/ rules and no violation of any article of Constitution of Islamic Republic of Pakistan, 1973 exists on part of respondents.
- C. Incorrect. The respondent department fulfilled all legal and codal formalities and after adopting the same the appellant was awarded with major punishment of dismissal from service.
- D. Incorrect and misleading, as already explained above in Para No. 3 of Facts.
- E. Incorrect and misleading, as already explained above in Para No. 3 of Facts
- F. The appellant on his departmental appeal was appeared before the appellate authority wherein he badly failed to advance any plausible self defense in his favor. However, the appellate authority taken lenient view and major punishment of dismissal from service was converted into compulsory retirement from service.
- G. Incorrect and misleading, as explained above in detail in preceding Paras.
- H. Incorrect. Proper departmental enquiry has been conducted by treated the appellant in accordance with law/ rules.

The respondent may also be allowed to adduce additional grounds at the time of hearing of instant Service Appeal.

PRAYERS:-

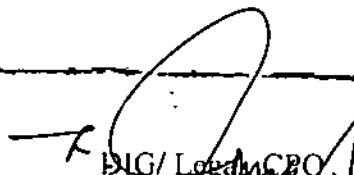
It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merit and legal footing, may kindly be dismissed with cost please.



Commandant,
Campus Peace Corps, Peshawar
(Respondent No. 3)
(Noor Jamal)
Incumbent



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



DIG/Log/CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 1
(DR. MUHAMMAD AKHTAR ABBAS) PSP
Incumbent

2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 665/2024


Anwar Ali..... Appellant.

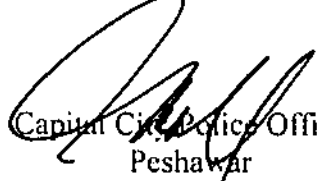
VERSUS

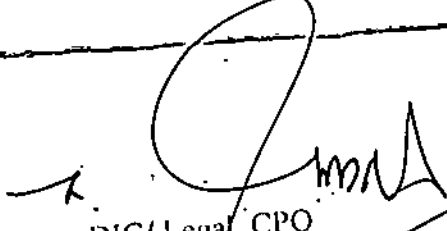
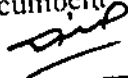
Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar Respondent.

AUTHORITY LETTER

Mr. Inam Ullah DSP/Legal, Peshawar is authorized to submit Para-wise comments/ reply in the captioned Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant case on behalf of respondents No. 1 to 3.


Commandant
Campus Peace Corps, Peshawar
(Respondent No. 3)
(Noor Jamal)
Incumbent


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


DIG/ Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
Respondent No. 1
(DR. MUHAMMAD AKHTAR ABBAS) PSP
Incumbent


5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 665/2024

Anwar Ali..... Appellant.

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... Respondent.

AFFIDAVIT

I, Noor Jamal, Commandant Campus Peace Corps, Peshawar do hereby solemnly affirm on oath that the contents of Para-wise comments on behalf of respondents are correct to the best of my knowledge/ belief. Nothing has been concealed from this Hon'ble Service Tribunal.

It is further stated on oath that in this Para-wise comments, the answering respondents have neither been placed ex-parte nor their defense is struck off.



16 SEP 2024

Commandant,
Campus Peace Corps, Peshawar
(Respondent No. 3)
(Noor Jamal)
Incumbent

(14)

CHARGE SHEET


Whereas I Khan Akber, Commandant CPC, University Campus, Peshawar am pleased that under the relevant rules you Constable Anwar Ali No. 50 of CPC Peshawar, have committed an independent act of gross misconduct of allegation.

And whereas, I am of the view that the allegations if established would call for major minor penalty, as per relevant rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Police Rules, I, Commandant CPC, University Campus, Peshawar hereby charge you on the basis of allegations enclosed mentioned in the enclosed summary of allegations.

I hereby direct you further to put forth a written defence within a stipulated period of this Charge Sheet to the Enquiry Officer, as to why departmental action should not be taken against you of the gross misconduct on your part.

Failure shall be presumed that you have no defence to offer and ex-parte action will be taken against you.


COMMANDANT
Campus Peace Corps,
University of Peshawar

No. / / PA dated Peshawar the / / 2020.

Copy of the above along with Summary of Allegations is forwarded for information and necessary action to the:-

- The Enquiry Officer, that enquiry may be conducted on day-to-day basis without interruption and your findings and grounds thereof be submitted to this office within stipulated period.
- Constable Anwar Ali No. 50 of CPC through reader DSP.

Attsted

CHARGE SHEET

Whereas li. Khan Akber commandant CPC. University campus Peshawar, am satisfied that under the relevant rules your constable Manzoor No. 132 of CPC Peshawar have committed and indiscipline action as per enclosed summary of allegations.

And whereas. I am of the view that the allegations if established would call for major minor penalty as per relevant rules.

Now therefore, as required by rule 6 (1) (a) & (b) of the said police rules, 1. Commandant CPC University campus, Peshawar hereby charge you on the basis of allegation enclose mentioned in the enclosed summary of allegations.

I hereby direct your further to put forth a written defense within a stipulated period of this charge sheet of the enquiry officer as to why departmental action should not be taken against your of the gross misconduct on your part.

Failure shall be presumed that your have no defense to offer and ex-parte action shall be taken against you.

CAOMMANDANT
Campus Peace Corps,
University of Peshawar

No. _____/PA dated Peshawar the ____/____ 2021

Copy of the above along with summary of allegation is forwarded for information and necessary action to the :-

1. The Enquiry Officer that enquiry may be conducted on day-to-day basis without interruption and your findings and grounds thereof be submitted to this office within stipulated period.
2. Constable **Constable Manzoor No. 132 of CPC through reader DSP.**

Dr.
Attested


SUMMARY OF ALLEGATION

You, Constable Anwar Ali No. 50 of CPC Peshawar, formal departmental proceedings are required under Police (Efficiency & Disciplinary) Rules 1975 on account of committing the following irregularities/omissions:

1. That you are involved in criminal case vide FIR No. 05 dated 04.01.2021. u/s 489 B PPC PS Selmsa Azad Kashmir.
2. So, you have committed a gross misconduct and renders yourself liable for disciplinary proceedings under the Police Efficiency & Disciplinary Rules, 1975.

For the purpose of scrutinizing the conduct of aforesaid police official with reference to the above allegations, DSP CPC is appointed as an Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), will provide reasonable opportunity of hearing to the accused/Official and will make recommendations for appropriate action in case of guilty or otherwise against the accused official.


COMMANDANT
 Campus Peace Corps,
 University of Peshawar.

No. /

dated Peshawar the

11.1.2021


 Attested

SUMMARY OF ALLEGATION

You Constable Manzoor No. 132 of CPC Peshawar, formal departmental proceedings are required under Police (Efficiency & Disciplinary Rules 1975) on account of committing the following irregularities / omissions.

1. That you are involved in criminal case vide FIR No 05 dated 04-01-2021 U/S 489 B PPC Ps Schmsa Azad Kashmir.
2. So, you have committed a gross misconduct and renders yourself liable for disciplinary proceedings under the Police Efficiency & Disciplinary Rules, 1975. For the purpose of scrutinizing the conduct of aforesaid police official with reference to the above allegations, DSP CPC is appointed as an Enquiry Officer under Rule 544) of Police Rules 1975.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), will provide reasonable opportunity of hearing to the accused Official and will make recommendations for appropriate action in case of guilty or otherwise against the accused official.

CAOMMANDANT
Campus Peace Corps,
University of Peshawar

No. _____/PA dated Peshawar the ____/____ 2021

ms.
Attested

Attested

Handwritten text in Urdu, likely a list of items or a report. It includes various numbers and names, such as 'LEA 2937', 'LEA 2970', and 'LEA 2930'. The text is written in a cursive style and is somewhat difficult to read due to the handwriting.

1	کے نام سے	میں
2	کے نام سے	میں
3	کے نام سے	میں
4	کے نام سے	میں
5	کے نام سے	میں
6	کے نام سے	میں

05/21

اعمالیہ اور ترقیاتی کاموں کے لیے

32

میں

میں

2

ماہنامہ پاکستان کے موروثی اداروں کے درمیان
 جو رابطہ ہے۔ اس کے لیے
 یہ مسائل کو حل کرنے کے لیے
 کارکنوں کی مدد سے
 ضروری اور اثر پذیر ہو رہی ہے۔

اس کی مدد سے
 سوشل ورکرز اور دیگر
 اداروں کی مدد سے
 ایک نیا دور کی ابتداء
 ہو رہی ہے۔ اس کے لیے
 ضروری ہے کہ
 اتحادیوں کے درمیان
 رابطہ قائم رہے۔
 اس کے لیے
 ضروری ہے کہ
 اتحادیوں کے درمیان
 رابطہ قائم رہے۔
 اس کے لیے
 ضروری ہے کہ
 اتحادیوں کے درمیان
 رابطہ قائم رہے۔

5/5/54
 یونس مہدی

Handwritten signature
 Attached

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(B)

FINDING REPORT U/R 6(v) OF THE KPK POLICE RULES 1975 (Amended 2014) Against Constable Manzoor NO.132 and Constable Anwar Ali No.50

The inquiries under subject were referred to this office in the capacity as inquiry officer, vide Endsts No. 80-81/ PA& 177-78 dated 28.01.2021, respectively, in order to ascertain the factum of alleged charge / misconduct, against both the accused constables.

2. As both the departmental inquiries, involve the same and identical charge / facts, therefore, are being processed out through this single finding report, for disposal on one and same order, by Competent Authority.

3. Short facts are that both accused constables, posted to CPC University of Peshawar remained absent from 03/01/2021 without any plausible cause hence both of them were issued show cause notices which were answered with no plausible explanations, hence this departmental proceedings against them. In meanwhile, they were reported to have been booked by Azad Kashmir Police in trafficking of forged / fake Pakistan currency notes.

4. The accused constables were charge sheeted u/r. 5(4) of the Rules 1975 to which they submitted their replies, professing themselves as innocents but with no satisfactory explanation to be relied upon.

5. The Undersigned deemed it expedient to detail an officer to Azad Kashmir in order to unearth reality of registration of case against both accused constables, on request, the worthy commandant vide order No 311/PA dated 15/02/2021, detailed Jaffar Khan OII for verification and statements of concerned officials of PS Sehnsa Azad Kashmir, to reach real conclusion / factuality.

6. OII Mr Jaffar khan within the meaning of order 26 Civil Procedure Code proceeded to Azad Kashmir, collected relevant documents and recorded statements of following witnesses.

- a. Tariq Mehmood SHO PS Sehnsa.
- b. SI Aurangzed Incharge PP Holad.

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Attested

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7. Both the above officers vehemently disclosed recovery of forged Pakistani Currency of RS: 297000/- from the subject accused constables, on which case U/S 489-B APC vide FIR 05 dated 04/01/2021 PS Sehnsa Azad Kashmir against them had been registered.

8. The available materials and documentary evidence on record prima facie link/connect both accused constables not only with respect to long absence from lawful duties but also indulged themselves in the commission of an offence of moral turpitude.

9. In circumstances, the act of misconduct has been proved against both accused constables namely Manzoor & Anwar Ali, beyond any reasonable doubt, therefore, they are recommended to be awarded major penalty, contained u/r 4(1)(b) of Police Rules 1975 (Amended 2014)

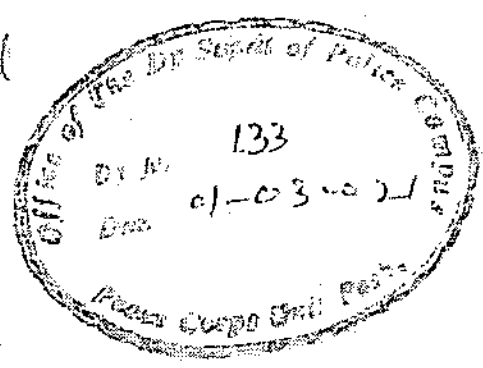
All relevant record is enclosed herewith.

Worthy Commandant

*PA
for process*

*10
02.03.21*

Niaz Muhammad
DSP Campus/Inquiry Officer



Attested

14

FINAL SHOW CAUSE NOTICE

I, Khan Akber, Commandant, Campus Peace Corps, University Campus, Peshawar as competent authority, under the Khyber Pakhtunkhwa Police Rules, 1975 do hereby serve you, Constable Anwar Ali No. 50 of this unit as follows:

That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.

On going through the findings & recommendations of the enquiry officer, the material on record and other connected papers including your defense before the enquiry officer.

I am satisfied that you have committed the following act/omission specified in Police Rules 1975:


- i. That you **Constable Anwar Ali No. 50** involved in criminal case vide FIR No. 05 dated 04.01.2021, u/s 489/B PPC PS Sehensa Azad Kashmir.
- ii. That you have been found "guilty" on account of above mentioned misconduct.

As a result thereof, I, **Commandant CPC**, as Competent Authority, have tentatively decided to impose upon you the penalty of **minor/major** punishment under Police Disciplinary Rules 1975 for the said misconduct you committed.

Therefore, you are, required to **Final Show Cause** as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

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

A copy of the finding of the enquiry officer is enclosed.


COMMANDANT
Campus Peace Corps,
University of Peshawar

No. 411 /PA dated Peshawar the 02/03/2021.

Attested

Copy to all official concerned.

FINAL SHOW CAUSE NOTICE

I, Khan Alber Commandant Compas Peace Corps University Campe. Posteara somponent adhonty, maler the Kleber Plus Police Rates, 1975 do hereby serve you Constable Manzoor No. 132 of this unit as follows.

That consequent upen the completion of enquiry conducted against you by the enquiry office for which you were given opportunity of hearing.

On going through the findings & recommendations of the enquiry officer, the material and other connected papers including your defense before the enquiry officer

I am satisfied that you have committed the following act/omission specified in Police Rules 1974

That you **Constable Manzoor No, 132** involved in criminal case vide FIR No. 05 dated 04.01.2021, u/s 489/B PPC PS Sehensa Azad Kashmir.

- i. That you have been found "guilty" on account of above mentioned misconduct.
- ii. That your have found "guilty" on account of above mentioned miscondeuct.

As a result thereof. 1, **Commandant CPC**, as Competent Authority, have tentatively decided to impose upon you the penalty of minor/major punishment under police disciplinary Rules 1975 for the said misconduct you committed.

Therefore, you are, required to **Final Show Cause** as to why the aforesaid penalty et he imposed upon you and also intimate whether you desire to be heard in person.

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

A copy of the finding of the enquiry officer is enclosed.

CAOMMANDANT
Campus Peace Corps,
University of Peshawar

No. _____/PA dated Peshawar the ____/____ 2021

Copy to all official concerned.

Jaw
Attested

ORDER

1. Constable Anwar Ali No. 50 who while posted at CPC University Campus Peshawar, is involved in criminal case vide FIR No. 05 dated 04.01.2021, u/s 489/B PPC PS Sehnsa Azad Kashmir. He was proceeded against departmentally on account of misconduct mentioned above.


2. Charge sheet along with summary of allegations vide No. 306/PA dated 11.02.2021 was issued to him and DSP CPC was appointed as Inquiry Officer, who after conducted a thorough probe into the allegations, has submitted his findings vide No. 133 dated 01.03.2021. Wherein he held the accused official guilty of the charges leveled against him.

Showense Notice vide this office No. 410/PA dated 02.03.2021 to put forward his reply or heard him in person, wherein he did not provide any solid proof or reason.

3. Finding of the enquiry officer along with connected record revealed that the accused official is guilty. In the circumstances, I Khan Akber Afridi Commandant Campus Peace, Corps University of Peshawar, being competent under Police Rules 1975, do agree with the findings of the enquiry officer.

Therefore, the accused Constable Anwar No. 50 is hereby awarded the Major punishment of dismiss from service with immediate effect.

Order announced on dated 08.003.2021.


COMMANDANT
Campus Peace Corps,
University Campus Peshawar

OB No. 73 / ~~74~~ dated 08/03/2020

No. 67-69 /PA dated Peshawar, the 08 03 2020.

Copy for information and necessary action to:

1. The Capital City Police Officer, Peshawar.
2. DSP CPC, Peshawar.
3. ECO/LO/ACCOUNT/OASI, CPC.
4. Official concerned.

Su.
Attested