

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 901/2024

Murad Ali Ex-Cook Constable Elite ForceAppellant


Versus

Commandant Elite Force, Khyber Pakhtunkhwa Peshawar and others.....Respondents

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DEPONENT


(MIAN NIAZ MUHAMMAD)
DSP Legal
Elite Force, Peshawar

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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 estopped 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.

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 16040

Dated 25-09-24

FACTS:-

- 1- Pertains to initial appointment of the appellant as cook constable in the year 2013. Rest of the para is incorrect and as he does not take interest in his official duty and even has been returned from training as unqualified from Elite Police Training Centre Nowshera. Moreover being tried he also failed in cooking test, mandatory as per his cadre.
- 2- Incorrect and misleading. In fact, the appellant has been returned unqualified from training in Elite Police Training Centre which shows misconduct on his part.
- 3- The appellant was sent to hotels (Sheraz Ronaq&Serena) for obtaining training in his respective cadre (Cooking). However, he did not take interest and returned without getting relevant experience. **Copy of DD report annexure A.**
- 4- Correct to the extent that the appellant was proceeded departmentally for his misconduct and has been returned unqualified from training in serena hotel and for not taking interest in the official duties.
- 5- Incorrect. Cooking test was conducted through Chief Drill Instructor Elite Force HQrs but he could not qualify, leaching relevant. In this regard, (charge sheet and Summary of allegation) vide no. 394-98/R/SP/HQrs/EF dated 02.02-2024 was issued to him. Mr. Ijaz Abazai DSP HQrs Elite Force Peshawar was appointed enquiry officer. The E.O found him guilty vide his finding report. **(Copy of enquiry is attached as annex B)**
- 6- Incorrect as per the finding report of the Enquiry Officer appellant was duly associated with the enquiry proceedings. (Copy of his reply to charge sheet& Summary of allegation is attached). **(Annex C And D)** Moreover, the enquiry officer in his finding proved the charge against the appellant.

- 7- Correct to the extent that the competent authority issued to Final Show Cause Notice to which he submitted reply. However, same was not found satisfactory.
- 8- Incorrect. All codal formalities were fulfilled but the appellant did not satisfy the enquiry officer. On recommendation of the enquiry officer, major punishment of dismissal from Service was awarded to the appellant is law /rules.
- 9- Incorrect. The appellant got no cause of action to file the instant appeal. Therefore, same is liable to the dismissed on following grounds.

Ground:-

- A- Para is incorrect, departmental appeal of the appellant was processed in proper manner but the appellant without waiting for disposal of the same with in statutory period, filed the instant service appeal which is against the law.
- B- Incorrect. The appellant was duly associated with the enquiry proceedings.
- C- Incorrect. Proper opportunity of hearing was provided to the appellant but he failed to satisfy the enquiry officer.
- D- Incorrect. The appellant was tested in his cadre. However, he failed to qualify same.
- E- Incorrect as already explained in proceeding para.
- F- Incorrect as the appellant was returned unqualified from training organized in Serena Hotel.
- G- As already explained at para No.3 of the facts.
- H- Incorrect. In fact appellant was appeared before the competent authority who during personal hearing confessed that he does not know the job of cooking and has got no experience. Due to which he was proceeded departmentally and after proving his guilt, he was awarded the major punishment of dismissal from service which is in accordance with law. (Annex E)
- I- Incorrect. As explained vide proceeding para.
- J- Incorrect. As explained vide proceeding para.
- K- ✓ Moreover, Class-IV Cooks have been enlisted on these vacant posts and they are getting salaries. There is no vacant post remain in Elite Force KP.)
- L- The answering respondents also are allowed to adhere to additional grounds at the time of hearing before the honorable court.

PRAYER:

It is, therefore, humbly prayed that the appeal of the appellant being devoid of merit may kindly be dismissed with cost please.



**Additional Inspector General /
Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar
(MUHAMMAD WISAL FAKHAR SULTAN) PSP
(Respondent No.1)
(Incumbent)**



**Superintendent of Police, HQrs
Elite Force Peshawar
(SHABBIR HUSSAIN)
(Respondent No.02)
(Incumbent)**

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

In Re:

Service Appeal No. 901/2024

Murad Ali, Ex-Cook Constable No. 231 Elite Force.....Appellant

Versus

Addl: IGP / Commandant Elite Force, Khyber Pakhtunkhwa Respondents

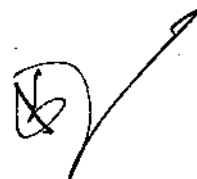
AUTHORITY LETTER

Mian Niaz Muhammad DSP/Legal Elite Force Khyber Pakhtunkhwa is hereby authorized / nominated to submit para-wisè comments and to attend Honorable Tribunal in above-mentioned Service Appeal on behalf of Respondents No. 1 & 2.



(SHABBIR HUSSAIN)

Superintendent of Police, HQrs:
Elite Force, Peshawar.
(Respondent No. 2)



MUHAMMAD WISAL FAKHAR SULTAN) PSP, QPM

Addl: Inspector General of Police / Commandant
Elite Force Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

In Re:

Service Appeal No. 901/2024

Murad Ali, Ex-Cook Constable Elite Force.....Appellant

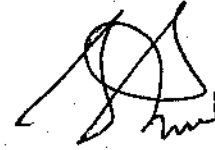
Versus

Addl: IGP / Commandant Elite Force, Khyber Pakhtunkhwa Rspondents

AFFIDAVIT

I Respondent No. 2, Mr. Shabbir Hussain SP/HQrs: Elite Force, do hereby solemnly affirm on oath and declare that the contents of these joint parawise comments on behalf of Respondents No. 1 & 2 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorabel Tribnuanal.

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.



(SHABBIR HUSSAIN)
Superintendent of Police, HQrs:
Elite Force, Peshawar.
(Respondent No. 2)



25 SEP 2024



1
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
HEADQUARTERS, ELITE FORCE, PESHAWAR.



No. // /R, DSP/EF, HQrs

Date: 13 /02/2024.

To: The Superintendent of Police,
HQrs, Elite Force, Peshawar.

Subject: DEPARTMENTAL ENQUIRY AGAINST COOK COSNABLE MURAD
NO.231

Kindly refer to your office Endst: No.394-98/EF, dated Peshawar the
02.02.2024.

In pursuance of your kind directives, the undersigned has completed
enquiry in the above cited case. Its stepwise detail is given below:

ALLEGATIONS:

That the delinquent Cook Constable Murad No.231 has been enlisted as
cook constable in Elite Force, moreover, he was also sent to get experience by virtue of
incapability in respective cadre but he did not take interest and returned without
obtaining any training, which shows a gross misconduct on his part.

PROCEEDINGS:

In this regard, Superintendent of Police, HQrs, Peshawar issued him
Charge Sheet & Summary of Allegations and Deputy Superintendent of Police
Headquarters Elite Force was appointed as enquiry officer.

Charge Sheet & Summary of Allegations was served upon the delinquent
Cook Constable on 02.02.2024, in reply to Charge Sheet & Summary of Allegations the
delinquent Cook Constable appeared before the undersigned in person and recorded
his written statement and was also cross examined (Enclosed)

M. J. C.
DSP-C

FINDINGS:

Keeping in view all the circumstance it has been reflected that the delinquent Cook Constable Murad No.231 was examined in his cadre (Cooking), cooking test was conducted through CDI Elite Force HQrs. He could not qualify and failed. Moreover, Upon perusal vide order No.6789-95/OASI/EF, dated: 18.05.2023, he was sent to EPTC Nowshera as well as vide orders No.1037-43/R, SP/HQrs, EF, dated: 17.11.2023 and No.1044-50/R, SP/HQrs, EF, dated: 17.11.2023 the delinquent Cook Constable was also sent to hotels (Shiraz Ronaq & Serena) for obtaining training in his respective cadre (Cooking) but he did not take interest and returned without getting experience and just passing his time.

CONCLUSION/ RECOMMENDATION:

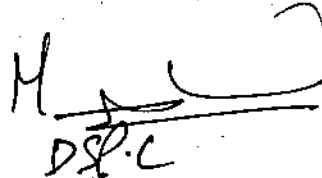
Having gone through the all materials placed on record as under:

- Show Cause Notice,
- Reply to Show Cause Notice,
- Statement of CDI,
- Statement of the delinquent Cook Constable,

The undersigned has reached to conclusion that the delinquent Cook Constable Murad No.231 does not take interest to perform his duty as cook and despite of training he could not cook and not even tried to take interest in cooking. Therefore the charges leveled against him in Charge Sheet are stand proved.



IJAZ ABAZAI
Deputy Superintendent of Police,
HQrs, Elite Force, Peshawar.



DSP.C



OFFICE OF THE SUPERINTENDENT OF POLICE,
HQRS, ELITE FORCE PESHAWAR




CHARGE SHEET


1. Shabir Hussain Shah, Superintendent of Police HQrs, Elite Force, Khyber Pakhtunkhwa Peshawar as competent authority hereby charge you Cook Constable Murad No.231 of Elite Force for the following omission/commission.


You have been enlisted as cook in Elite Force, moreover, you were also sent to get experience by virtue of incapability in respective cadre but you did not take interest and returned without obtaining any training, which shows a gross misconduct on your part.

2. By reason of the above, you appear to be guilty of misconduct under Khyber Pakhtunkhwa Police Rules, 1975, (Amendment 2014) and have rendered yourself liable to all of the penalties specified in the said rules.
3. You are, therefore, directed to submit your defence within 07 days of the receipt of this charge sheet to the enquiry officer.
4. Your written defence, if any, should reach the enquiry officer within the specified period failing which, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
5. You are directed to intimate whether you desire to be heard in person.

امیں نے تک کنسٹیبل مراد 231
شرک و سمری آف ایلیٹس فورس
جو میں اس پر تفتیش کرونگا


SHABIR HUSSAIN SHAH
Superintendent of Police,
HQrs, Elite Force, Peshawar.


A
02-02-2024


DSP-C

16201-1847715-5



OFFICE OF THE SUPERINTENDENT OF POLICE,
HQRS, ELITE FORCE PESHAWAR



SUMMARY OF ALLEGATIONS

1. Shabir Hussain Shah, Superintendent of Police HQrs, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority am of the opinion that Constable Murad No.231 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014).

SUMMARY OF ALLEGATIONS

He has been enlisted as cook in Elite Force, moreover, he was also sent to get experience by virtue of incapability in respective cadre but he does not take interest and returned without obtaining any training, which shows a gross misconduct on his part.

2. For the purpose scrutinizing the conduct of the said Constable, with reference to the above allegation. Mr. Ijaz Abazai DSP/HQrs, Elite Force, Peshawar is appointed as enquiry officer.

3. The enquiry officer shall provide reasonable opportunity of hearing to the delinquent constable, record statement etc. and findings within (25 days) after the receipt of this order.

4. The delinquent Constable shall join the proceedings on the date, time and place fixed by the enquiry officer.

SHABIR HUSSAIN SHAH
Superintendent of Police,
HQrs, Elite Force, Peshawar.

No. 394/98 R/SP/HQrs/EF,

dated Peshawar the 02/01/2024.

Copies to the:-

1. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
2. Accountant, of Elite Force, Khyber Pakhtunkhwa Peshawar.
3. OASI/SRC/ FMC, Elite Force, Khyber Pakhtunkhwa Peshawar.
4. This Charge Sheet and Summary of Allegations to be served upon the delinquent Cook Constable Murad No.231 through reader to DSP/HQrs Elite Force, Peshawar.

(SHABIR HUSSAIN SHAH
Superintendent of Police,
HQrs, Elite Force, Peshawar.

H. J. C.
DSP/C



OFFICE OF THE SUPERINTENDENT OF POLICE,
HQRS, ELITE FORCE PESHAWAR

D. No. 1051

No. 498-505/R, SP/HQr, EF, Date 22-02-24

Commandant Elite Force
ORDER

date 21/02/2024



This order will dispose of the departmental enquiry against the delinquent Cook Constable Murad No.231. That he was enlisted as Cook Constable in Elite Force, moreover, he was also sent to get experience by virtue of incapability in respective cadre but he did not take interest and returned without obtaining any training.

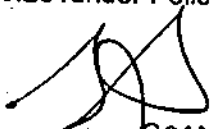
Similarly once again the delinquent Cook Constable Murad No.231 was examined in his cadre (Cooking), cooking test was conducted through CDI Elite Force HQrs but could not qualify and failed.

In this regard Charge Sheet and Summary of Allegations vide No.394-98/R/SP/HQrs/EF dated: 02.02.2024 was issued him and Mr. Ijaz Abazai, Deputy Superintendent of Police, HQrs, Elite Force, Peshawar, was appointed as enquiry officer. Enquiry officer found him guilty during the course of enquiry.

Similarly, the delinquent Cook constable was issued vide final Show Cause Notice No.465-66/R, SP/HQrs, EF, dated: 13.02.2024. Responding to Final Show Cause Notice he submitted his written reply in OR but could not satisfy the undersigned.

Therefore I, Mr. Shabir Hussain Shah, Superintendent of Police, HQrs, Elite Force, Peshawar, being a competent authority in view of the above facts and recommendation of enquiry officer, major punishment "~~dismissal from service~~" is hereby awarded upon the delinquent Cook Constable Murad No.231 under Police Rules 1975 (Amended 2014)


Order announced!


SHABIR HUSSAIN SHAH
Superintendent of Police,
HQrs, Elite Force, Peshawar.

Copy of the above is forwarded for information to the:

1. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Superintendent of Police, HQrs, Elite Force, Peshawar.
3. Accountant, of Elite Force, Khyber Pakhtunkhwa Peshawar.
4. PA to Additional Inspector General of Police, Elite Force, Khyber Pakhtunkhwa, Peshawar,
5. Incharge Kot Elite Force, HQrs: Peshawar,
6. SRC /OASI Elite Force Khyber Pakhtunkhwa, Peshawar.
7. FMC Elite Force Khyber Pakhtunkhwa, Peshawar along with (18Pages).




DSP-C