

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

Service Appeal No. 903/2024

Sham Ul Wahab Ex-Cook Constable Elite Force .....Appellant

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**

Diry No. 16043

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. 404-08/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. 903/2024

Shams Ul Wahab, Ex-Cook Constable No. 559 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-wise 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. 903/2024

Shams Ul Wahab, Ex-Cook Elite Force.....Appellant

Versus

Addl: IGP / Commandant Elite Force, Khyber Pakhtunkhwa ..... Respondents

**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 Tribunal.

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

DSRC

31-01-24  
mm. 4. H5

Attested

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



No. 15 /R. DSP/EF. HQrs

Date: 13 /02/2024.

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

Subject: DEPARTMENTAL ENQUIRY AGAINST COOK CONSTABLE SHAMS UL  
WAHAB NO.559

Kindly refer to your office Endst: No.404-8/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 Shams Ul Wahab No.559 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)

DSP: C



FINDINGS:

Keeping in view all the circumstance it has been reflected that the delinquent Cook Constable Shams Ul Wahab No.559 was examined in his cadre (Cooking), cooking test was conducted through CDI Elite Force HQrs. He could not qualify and failed. Moreover, Upon parusal vide order No.6789-95/OAS/EF, dated: 18.05.2023, he was sent to IPTC Nowshera as well as vide orders No.1037-43/R, SP/HQrs, EF, dated: 17.11.2023 and No.1044-80/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.


He also takes advantage of medical documents on medical grounds and usually makes excuses to escape from his responsibility.


CONCLUSION/ RECOMMENDATION:

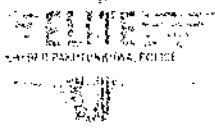
Having gone through the all materials placed on record as under:

- 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 Shams Ul Wahab No.559 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

I, Shabir Hussain Shah, Superintendent of Police HQrs, Elite Force, Khyber Pakhtunkhwa Peshawar as competent authority hereby charge you Cook Constable Shams Ul Wahab No.559 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.

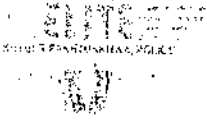
SHABIR HUSSAIN SHAH  
Superintendent of Police,  
HQrs, Elite Force, Peshawar.

میں نے ایسا چارج شیٹ و سمر آف الیکشن  
درست طور پر وصول کر لیا ہے۔

الف شمس العتاب

02-02-2024

M. C.  
DSP.C



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 Cook Constable Shams Ul Wahab No.559 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. 404.8 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 Shams Ul Wahab No.559 through reader to DSP/HQrs Elite Force, Peshawar.

  
DSP.C

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



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



**FINAL SHOW CAUSE NOTICE**

I, Shabir Hussain Shah, Superintendent of Police HQrs, Elite Force, Peshawar, as competent authority, under Khyber Pakhtunkhwa Police Disciplinary rules, 1975 (Amendment 2014) do hereby serve upon you Cook constable Shams Ul Wahab No.559 of Elite Force as follow:

That you have been enlisted as cook constable 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.

1. Ongoing through the finding and recommendation of the enquiry officer, the material placed on record, I am satisfied that you have committed the omission/commission specified in Police Rules and charges leveled against you have been established beyond any doubt.
2. As a result therefore, I, Shabir Hussain Shah, Superintendent of Police HQrs, Elite Force, Peshawar as competent authority have tentatively decided to impose major penalty upon you, under Police Rules of the said ordinance.
3. You are, therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within stipulated time 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 shall be taken against you.

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

No. 467-68 /R, SP/HQrs, EF,

Date: 13/02/2024

This final show cause notice served upon the delinquent Cook constable Shams Ul Wahab No.559 through reader to DSP HQrs, Elite Force, Peshawar and report this office.

منہا ایسا فائل بنوکار درست طور پر وصول کیا

DSP C