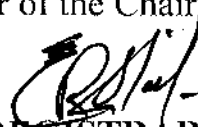


FORM OF ORDER SHEET

Court of _____

Appeal No. 1449/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge.
1	2	3
1-	12-Sep-24	<p>The appeal of Mr. Zaheer Ullah today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 26-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1449 /2024

Zaheer Ullah

VS

Police Department

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01	Memo of Appeal	----	01-05
02	Affidavit	----	06
03	Copies of tickets of the appellant	A	07
04	Copies of charge sheet along with statement of allegations and reply	B&C	08-10
05	Copies of show cause notice and order dard 07.05.2024	D&F	11-12
06	Copy of departmental appeal	F	13
07	Vakalat Nama	-----	14

APPELLANT

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell No.03339390916

&

(SHAKIR ULLAH TORANI)
ADVOCATE

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 1449 /2024

Zaheer Ullah, Ex-Cook Class-IV,
Elite Force, Peshawar.

(APPELLANT)

VERSUS

1. The Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar.
2. The Superintendent of Police, Elite Force, Headquarter Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 07.05.2024, WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM THE SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 07.05.2024 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY KINDLY 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.



RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as cook Class-IV in respondent Department in the year 2016 and since his appointment the appellant was performing his duty with devotion and honesty, whatsoever, assigned to him and no complaint has been filed by his superiors regarding his performance.
2. That the appellant was working at different stations and has assigned to perform his duty at the Bungalow of respondent No.1 at Islamabad and was sent to Karachi on 04.04.2024 by his high ups to perform his duty for some days which is evident from the ticket dated 04.04.2024, however, some miss-happen was occurred during performance his duty at Karachi on which he was directed to go back due to which he took ticket on 17.04.2024 from Karachi to Rawalpindi which is evident from the ticket dated 17.04.2024 of the appellant and after arrival to home at Peshawar on 19.04.2024, he went to Headquarter of Elite force on 21.04.2024 for report on which his high ups directed to perform duty at Headquarter of Elite Force and he was regularly performing his duty at Headquarter of Elite Force and also marked his attendance in the attendance registered. **(Copies of tickets of the appellant is attached as Annexure-A)**
3. That despite performing his duty at Headquarter of Elite Force, charge sheet along with statement of allegation were issued to the appellant in which it was mentioned that *as per vide DD report No.14 dated 17.04.2024 of Elite Force, HQrs Peshawar, you are still absented yourself from place of posting without prior permission from 16.04.2024 till today (29.04.2024), which shows great misconduct on your part.* The appellants submitted detail reply to charge sheet/Statement of allegations in which he denied the allegations and gave the real facts about the allegation. **(Copies of charge sheet along with statement of allegations and reply are attached as Annexure-B&C)**
4. That inquiry was conducted against the appellant in the above allegation in which no opportunity of defense was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination and although the inquiry officer has knowledge about the performance of duty of the appellant at Headquarter of Elite Force, but despite that the inquiry officer hold the appellant the guilty. Even the inquiry report was not provided to the appellant.
5. That final show cause was issued to the appellant on 05/2024, but not mention the exact date, however, the appellant received the show cause notice on 06.05.2024, but the appellant has not given chance to submit reply to show cause notice as on the next day the appellant was

dismissed from service vide order dated 07.05.2024 and his absence period w.e.f 16.04.2024 to 01.05.2024 (total 15 days) was treated as leave without pay, despite the fact the appellant was regularly performing his duty and was dismissed from service on baseless allegation of absence. **(Copies of show cause notice and order dated 07.05.2024 are attached as Annexure-D&E)**

6. That the appellant filed departmental on 17.05.2024 against the dismissal order dated 07.05.2024, which was not responded within the statutory period of ninety days. **(Copy of departmental appeal is attached as Annexure-F)**
7. That the appellant now wants to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUNDS:

- A) That the dismissal order dated 07.05.2024 and not taking action on the departmental appeal of the appellant within the statutory period of ninety days are against the law, rules, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That no opportunity of defense was provided to the appellant during the inquiry proceeding as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, but despite that without conducting proper and regular inquiry the appellant was dismissed from service, which is violation of law and rules and as such the impugned dismissal order dated 07.05.2024 liable to be set aside.
- C) That the appellant was regularly performing his duty at Headquarter of Elite Force and although the inquiry officer has also knowledge about the performance of duty of the appellant at Headquarter of Elite Force, but despite that the inquiry officer hold the appellant the guilty which is against the norms of justice and fair play.
- D) That the appellant was working at different stations and has assigned to perform his duty at the Bunglow of respondent No.1 at Islamabad and was send to Karachi on 04.04.2024 by his high up to perform duty for some days which is evident from the ticket dated 04.04.2024, however, some miss-happen^g was occurred during performance his duty at Karachi on which he was directed to go back due to which he

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took ticket on 17.04.2024 from Karachi to Ralwalpindi which is evident from the ticket dated 17.04.2024 of the appellant and after arrival to home in Peshawar on 19.04.2024, he went to Headquarter of Elite force on 21.04.2024 for report on which his high ups directed to perform duty at Headquarter of Elite Force and he was regularly performing his duty at Headquarter of Elite Force and also marked his attendance in the attendance registered and as such the appellant was never remained absent from his duty, but despite that he was dismissed from service on baseless allegation of absence from duty, which is against the law, rules and facts.

- E) That show cause notice was issued to the appellant on 05.2024 without mentioning the exist date, however, the appellant received the show cause notice on 06.05.2024 and without giving chance of reply the show cause to the appellant, he was dismissed from service on the next day vide order dated 07.05.2024, which means that the appellant has been punished in slipshod manner without adopting the proper procedure, which shows the malafide on the part of the respondent department.
- F) That the appellant submit detail reply to the charge sheet in which he denied the allegation and gave the real facts about the issue, but without observing the reply to charge sheet and without conducting proper inquiry about the allegation, the appellant was dismissed from service on baseless allegation of absence which is against the norms of justice and fair play.
- G) That the appellant has legal right to give him proper opportunity of defense under Article-10-A of the Constitution of Pakistan, but no proper opportunity of defense was provided to the appellant, which is against the spirit of Article 10-A of the Constitution.
- H) That the appellant has been condemned unheard and has not been treated according to law and rules and has been punished on baseless allegation of absence and as such the impugn orders dated 07.05.2024 is liable to be set aside.
- I) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the acceptance of this appeal, the order dated 07.05.2024 may please be set aside and the appellant may kind be reinstated into service with all back and consequential benefits. Any other remedy which this Honorable Tribunal deems fit and appropriate that may also be awarded in favour of appellant.

Zaheer Ullah

APPELLANT

Zaheer Ullah

THROUGH:

(Tasimur Ali Khan)

ADVOCATE HIGH COURT

&

SHAKIR ULLAH TORANI

ADVOCATE

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2024

Zaheer Ullah

VS

Police Department

AFFIDAVIT

I, Zaheer Ullah, Ex-Cook Class-IV, Elite Force, Peshawar, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.

Zaheer Ullah
DEPONENT

A (7)

0311-1124488

SAFEWAYS // SHALIMAR
 SERVICES

AIR CONDITION LUXURY COACH AIR CONDITION LUXURY COACH

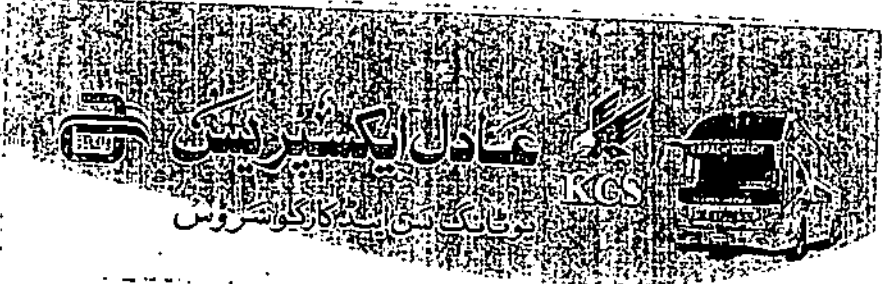
New Bank Al-Falah Lane (Jinnah Road, Ferozshah, Rawalpindi)
 Ph: 031-5162517, Mob: 0333-5658634, 0345-5658634

Fun No: 0306 From: کراچی
 Seat No: 35
 Coach No: _____
 Date: 11/4/24 Time: 11:15 PM
 Smoking is Prohibited
 by The Firm

Information for Reservation	
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215220	بک
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215101	بک
520140	بک
0221-0223900	بک

ٹاشی یا اور دیگر تفریبات کیلئے کارڈز یا اسٹیکس بھی پر دستیاب ہیں

مکاتل ایکسپریس
 بوسٹنگ سروسز



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0002683
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3-3-2024

3-3-2024

21/03/2024

Handwritten notes in Urdu script, including a signature and date.

SHABIR HUSSAIN SHAIKH
SUPERINTENDENT OF POLICE
HONS. ELITE FORCE, PESHAWAR

1. As per vide OD report no. dated 17.02.2024 of the Force, Peshawar, you are still absented yourself from place of posting without permission from 16.02.2024 till today which shows a great misconduct.
2. By reason of the above you appear to be guilty of misconduct under Civil Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in the said rules.
3. You are, therefore, directed to submit your excuses within seven days of the receipt of this Charge Sheet to the Enquiry Officer.
4. 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 and in that case ex-parte action shall be taken against you.
5. You are directed to intimate to me, if you desire to be heard in regard to a statement of allegation if any.

I, Shabir Hussain Shaikh, Superintendent of Police Hons. Elite Force, Peshawar, as competent authority, hereby charge you with the above.

Handwritten initials 'B' and a circled number '8'.

CHARGE SHEET

OFFICE OF THE SUPERINTENDENT OF POLICE,
HONS. ELITE FORCE PESHAWAR





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

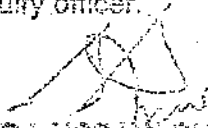


SUMMARY OF ALLEGATIONS

I, Shabir Hussain Shah, Superintendent of Police HQrs, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, am of the opinion that Class IV Zaheer (Cook) has rendered himself liable to be proceeded against departmentally as he has committed the following acts and omissions within the meaning of Civil Services (Efficiency & Disciplinary) Rules, 2011.

SUMMARY OF ALLEGATIONS

1. As per vide DD report No.12, dated: 17.04.2024 of Elite Force, HQrs, Peshawar, he is still absented himself from place of posting without prior permission from 18.04.2024 till todate, which shows a great misconduct on his part.
2. For the purpose of scrutinizing the conduct of the said delinquent Class-IV with reference to the above allegations Mr. Ijaz Abazai, DSP/HQrs, Elite Force, Peshawar is appointed as Enquiry Officer.
3. The Enquiry Officer shall, in accordance with the provision of the said Ordinance shall provide reasonable opportunity of hearing to the delinquent Class-IV record statements etc. and submit findings within (25 days) after the receipt of this order.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry officer.

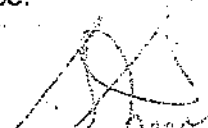

SHABIR HUSSAIN SHAH
Superintendent of Police
HQrs Elite Force, Peshawar.

No. 1007-11 R/SP/HQrs/EF,

dated Peshawar the 29 10/4/2024.

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 Class IV Zaheer (Cook) through reader to DSP/HQrs, Elite Force.


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



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



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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 Class-IV Zaheer (Cook) of Elite Force as follow:

That as per DD report No.14, dated: 17.04.2024 of Elite Force HQrs, Peshawar, you absented yourself from place of posting without prior permission from 16.04.2024, whereas you reported your arrival as per DD report No.54 dated: 01.05.2024, (Total: 15 days) which amount to gross misconduct on his 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 replay 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: 1030-31 /R,SP/HQrs, EF,

Date: 105/2024

This final show cause notice served upon the delinquent Class-IV Zaheer (Cook) through reader to DSP HQrs, Elite Force, Peshawar and report this office.

06-05-24 Zahidullah



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



No. 1033-16/R, SP/HQr, EF.

date: 02/05/2024

ORDER

This order will dispose of the departmental enquiry against the delinquent Class-IV Zaheer (Cook). That as per DD report No.14, dated: 17.04.2024 of Elite Force HQrs, Peshawar, the delinquent class-iv (cook) absented himself from place of posting without prior permission w.e. from 16.04.2024 to 01.05.2024 (Total: 15 days).

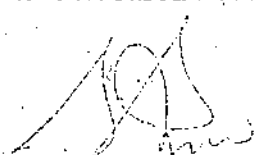
In this regard Charge Sheet and Summary of Allegations vide No.1007-11/R/SP/HQrs/EF dated: 29.04.2024 was issued him and Mr. Ijaz Abazai, Deputy Superintendent of Police, HQrs, Elite Force, Peshawar, was appointed as enquiry officer. Enquiry officer found him guilty during the course of enquiry.

Similarly, the delinquent cook was issued vide final Show Cause Notice No. 1030-31/R, SP/HQrs, EF, dated: 06.05.2024. 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 Class-IV Zaheer (Cook) under Police Rules 1975 (Amended 2014)

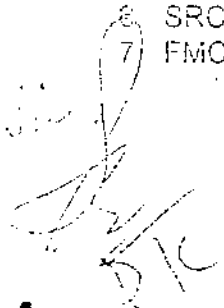
Moreover, absence period w.e. from 16.04.2024 to 01.05.2024 (Total: 15 days) are hereby treated without-pay

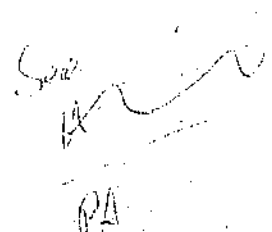
Order announced!


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. Accountant Elite Police Training Centre, Nowshera.
5. PA to Additional Inspector General of Police, Elite Force, Khyber Pakhtunkhwa, Peshawar,
6. SRC /OASI Elite Force Khyber Pakhtunkhwa, Peshawar.
7. FMC Elite Force Khyber Pakhtunkhwa, Peshawar along with (15 Pages).




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VAKALAT NAMA

NO. _____/2024

IN THE COURT OF KP Service Tribunal, Peshawar

Zahed Ullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Department (Respondent)
(Defendant)

I/We, Zahed Ullah

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT AND SHAKIR ULLAH TORANI ADVOCATE**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2024

Zahed Ullah
(CLIENT)

ACCEPTED

Taimur Ali Khan
TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916
&

SHAKIR ULLAH TORANI
Advocate Peshawar
BC-22-4994
03409146056