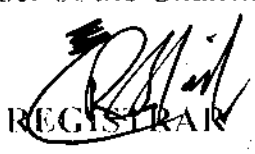


FORM OF ORDER SHEET

Court of _____

Appeal No. 1462/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/09/2024	<p>The appeal of Mr. Khalid Rehman presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 25.09.2024. 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

APPEAL NO. 1462/2024

KHALID REHMAN

VS

POLICE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2	Affidavit	4.
3	FIR	A	5- 6.
4	Arrest Card	B	7.
5	Impugned order	C	8.
6	Trial Court Judgment	D	9- 12.
7	Departmental appeal	E	13.
8	Rejection order	F	14.
9	Wakalat nama	15.

APPELLANT

THROUGH:

M. Zaman Safi
MIR ZAMAN SAFI
ADVOCATE

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1462 /2024

Mr. Khalid Rehman, Constable No.4902, Elite Force,
Police Lines, Kohat.

.....APPELLANT

VERSUS

- 1- The Additional Inspector General of Police, Elite Force, Khyber Pakhtunkhwa, Peshawar.
- 2- The Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 21.10.2024 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 22.08.2024 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal the impugned orders dated 21.10.2024 and 22.08.2024 may very kindly be set aside and the appellant be reinstated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That the appellant was the employee of the respondent department and has served the department as Constable No. 4902 for quite considerable period quite efficiently and upto the entire satisfaction of his superiors.
- 2- That the appellant while performing his duty with dedication and honesty was falsely charged in criminal case Under Section 395PPC/200/201/15AA, FIR No.1043, Police Station City Hangu, vide dated 03.10.2022. That after few days from the chalking of above said FIR, the appellant was arrested by the local police on 10.10.2022 and

after due process he was sent behind the bar. Copies of the FIR and arrest card is attached as annexure.....A & B.

- 3- That the appellant was kept behind the bar and in the meantime the respondent No.2 was issued the impugned order dated 21.10.2022 whereby major penalty of dismissal from service has been imposed upon the appellant without fulfilling the codal formalities as per law and prescribed rules. Copy of the impugned dismissal order is attached as annexure.....C.
- 4- That later on the appellant was released on bail and as such was facing trial in the above mentioned criminal charge whereby the allegations leveled against him could not prove during the course of trial and the Learned Trial Court honorably acquitted the appellant vide judgment dated 27.06.2024. Copy of the judgment of the trial court is attached as annexure.....D.
- 5- That the appellant feeling aggrieved from the impugned order dated 21.10.2022 preferred departmental appeal before the appellate authority but the same has been rejected vide appellate order dated 22.08.2024 by the appellate authority on no good grounds. Copies of the departmental appeal and rejection order is attached as annexure.....E & F.
- 6- That appellant feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others;

GROUND:

- A- That the Impugned orders dated 21.10.2022 and 22.08.2024 are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent on the subject noted above and as such violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondent department acted in arbitrary and mala fide manner while issuing the impugned orders dated 21.10.2022 and 22.08.2024 which are not tenable in eye of law and liable to be set aside.
- D- That charge sheet and statement of allegations has been issued to the appellant before issuing the impugned order dated 21.10.2022.
- E- That no regular inquiry has been conducted in the matter which is necessary as per law and rules and judgments of the Apex Court before taking punitive

actions against any civil servant, therefore, the impugned order dated 21.10.2022 is not tenable in the eye of law and liable to be set aside.

F- That no chance of personal hearing/defence has been provided to the appellant before issuing the impugned order dated 21.10.2022.

G- That no final show cause notice has been served upon the appellant before issuing the impugned order dated 21.10.2022.

H- That the appellant was falsely charged in the above mentioned criminal case and as such there was no solid proof is available against the appellant, therefore, the impugned order dated 21.10.2022 was issued in a hasty and malafide manner, which is not tenable in the eye of law and the same is liable to be set aside.

It is, therefore, most humbly prayed that the appeal of appellant may very kindly be accepted as prayed for.

Dated: 17.09.2024.

APPELLANT

KHALID REHMAN

THROUGH: 
MIR ZAMAN SAFI
ADVOCATE

CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.


DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN; 1973.
- 2- SERVICES LAWS BOOKS.
- 3- ANY OTHER CASE LAW AS PER NEED.

-4-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2024

KHALID REHMAN

VS

POLICE DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



MIR ZAMAN SAFI,
Advocate
High Court, Peshawar

ATTESTED

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03-10-22
M. P. S. S. S.

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ATTESTED

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"C" -8-


ORDER

This order will dispose of the departmental proceedings against Constable Khalid Rehman No (4902) of District Police Kohat on deputation to Elite Force Khyber Pakhtunkhwa.

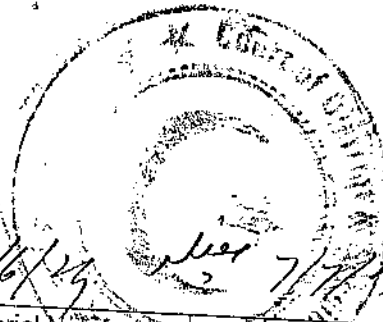
As per information report of Deputy Commandant RRF vide No 1926 RRF dated 12/10/2022, he while posted at RRF Unit No 18 was involved in case FIR No 1643 dated 02/10/2022 at Police Station ... he remained on duty from 14/09/2022 till to date.

He was suspended vide No 1925 RRF dated 12/10/2022 and issued Charge Sheet along with Summary of Allegations vide No 1914-15 RRF dated 10/10/2022. Deputy Commandant RRF and Acting DSP Elite Force Kohat Region was appointed as inquiry officer. The inquiry officer conducted the enquiry proceedings and reported that the said constable was posted at RRF Unit No 18 and transfer order was issued on 08/09/2022 but he remained absent from duty. On 03/10/2022 Adnan No Gail Road residence of Zarka Noori District Karak posted as Manager Superv. of LPG Plant Shako Banda Hanru registered a robbery case FIR against the 04 unknown persons including FC Khalid Rehman No 4902. Later on local police arrested them and they confessed that a robbery was planned in Kamran Road near PTB Manso Phatak in front of Senior Civil Judge Hanru and recovered amount of Rs 3,25,782/- in the form of Proof and the Motor car No. 404 LA. The defaulter constable habitual absentee and habitual defier of Orders and RCF. His conduct is undisciplined and stigma on the face of Police department. Inquiry officer recommended that there is no doubt left of the said constable involvement in the said case and he is guilty in the said robbery.

Therefore, the Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar recommends to impose the major penalty of dismissal from service in the department for his involvement in the said crime.


TARIQ IQB
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

- 1. District Police Officer Kohat for information
 - 2. Deputy Commandant RRF Khyber Pakhtunkhwa Peshawar w.r to his office letter No 1925 RRF dated 12/10/2022.
 - 3. Acting Deputy Superintendent of Police Elite Force Kohat w.r to his office letter No 1926 RRF dated 20/10/2022.
- Sub C Kohat Elite Force Khyber Pakhtunkhwa Peshawar
Elite Force Khyber Pakhtunkhwa Peshawar
Elite Force along with complete departmental copies file No- (49)
Deputy Commandant RRF, 12/10/2022.



9FORM "A"

"D"

-9-

FORM OF ORDER SHEET

Court of SCJ (Judl)/JM Section 30 Cr.PC, Hangu.

Case No.16/S. 30 of 2023

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27/6/24

Handwritten notes

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	
<p>Order No. 16</p> <p><i>Handwritten signature</i></p> <p>27/6/24</p>	<p>27/06/2024</p>	<p><i>Handwritten notes</i> 395/20/2023 3/10/22 no 1093</p> <p>Accused are on bail alongwith counsel present. APP for the state present.</p> <p>2- Through this order the case of the prosecution is to be disposed under section 249-A Cr.P.C.</p> <p>3- Brief facts of the case are that the complainant lodged FIR against unknown accused for commission of dacoity for the act of robbery of amount of RS 65 lac rupees on the day of occurrence i.e. 03.10.2022 at about 03:40-4:50 night. As per narration of the story of FIR, the complainant alongwith other persons were sleeping who heard some noise of breaking of doors of account office. When he woke up, he saw four persons. The four-persons were standing in the veranda they directed them to go into the room while their other co-accused entered into the account office. After sometimes, he and his other colleagues came out of the room after they observed silence. They rushed to the account and found that the thieves had robbed the locker of the account by taking 65 lac rupees. Later on, the accused were charged by the complainant by recording his statement U/S 164 Cr.P.C. However, compromise was held between the parties and the accused were bailed out by the court on the basis of compromise. It is also pertinent to mention that the amount so alleged in the FIR at initial stage of 65 lac rupees was rectified as Rs. 3938782/-.</p>

CERTIFIED
24/7/24
EXAMINED
COPYING AGENCY HANGU

Contd. O-16

27/06/2024

4- Trial was commenced. Charge was framed against the accused and trial was commenced. Four PWs i.e. the complainant, investigation officer, the learned Judicial Magistrate and official witnesses who had incorporated Murasila into FIR were examined. After recording the said witnesses, the learned counsel for the accused submitted application U/S 249 A Cr.P.C. Notice given to the prosecution.

4- Arguments heard record perused

5- It is to observe that the accused were charged for the offence who jointly committed an offence of dacoity by robbing of an amount of Rs. 3938782/-. The accused were charged for the robbery of an amount Rs. 3938782/-. In this respect, the accused were charged by the complainant U/Sec 164 Cr.P.C, who were later arrested and the impugned amount was recovered from their possession while one of the accused confessed his guilt whose statement was recorded U/S 164/34 Cr.P.C before the court. Charged was framed against the accused and prosecution was allowed to produce its evidence.

6- The complainant was examined as PW -01, the investigation officer as PW-02 and the learned Magistrate as PW-03.

7- The record suggest that the occurrence was unseen. As per the statement of the complainant he had seen four persons involved in the commission of offence. They were muffled faces. The complainant also admitted the contents of the affidavit through which he had stated that the accused were unknown and they were not going to charge them anymore. In the circumstances, heavy

9

27/6/24

Contd. O-16	27/06/2024	<p>burden was upon the prosecution to continue its case through with strong collection of strong evidence. Two important witnesses were examined i.e. the investigation and the learned Magistrate. As per the statement of the investigation officer, no identification parade was conducted and it was not probed further to connect the accused in the commission of the offence through an unbreakable chain of evidence. The investigation officer did not investigate whether the recovered amount was the same currency as was stolen one. Interestingly, the accused Samad Habib who confessed his guilt confessional statement received just a meager amount of Rs.45000/- (forty-five thousand) while only 23000/- (twenty-three thousand) was recovered out of huge amount of Rs. 3938782/- from his possession.</p> <p>8- The prosecution has the only base of its case is the confessional statement of the one of the accused however, it could not corroborate it stance through statement of investigation officer and there is hardly any probability that the case of the prosecution witnesses would corroborate to bring its stance beyond any reasonable doubt. The case of prosecution has not established any ocular account and in absence of ocular account, the circumstantial evidence is needed to be proved while in this regard, investigation officer was examined but his statement showed numerous doubts like why identification was not conducted, whether the recovery of the impugned amount was made of the same currency as stolen, how confessional statement of the only accused was made from whom meagre amount was recovered. In the circumstances, there is hardly</p>
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(C)

27/6/24

24/7/24

Contd. O-16

27/06/2024

any probability of the case of accused to be convicted, hence the accused are hereby acquitted of the charges leveled against them under section 249-A Cr.P.C. Accused are on bail; hence, their sureties are absolved from the liabilities of bail bonds. Case property be dealt in accordance with law after the expiry of prescribed period for appeal/revision.

9- File be consigned to record room after its necessary completion and compilation.

Announced
27/06/2024

(Signature)
27/6/24

(Asif Raza Khattak)
SCJ (Judl)/JM Section 30 CrPC,
Hangu.

(21)

3/6/24
20/7/24
22/7/24
29/7/24
31/7/24
31/7/24

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MCB : 0333 9667 548

NIC : 141076485 449-5

پتھریل سرکاری عمارت لاہور 4952

29 27 : 29 24

میں نے سرکاری عمارت لاہور میں رہنا شروع کیا ہے۔
 یہاں پر تمام سہولتیں دستیاب ہیں اور یہاں پر
 تعلیم اور طبی سہولتیں بھی دستیاب ہیں۔
 یہاں پر رہنا بہت ہی سہول ہے اور یہاں پر
 تمام سہولتیں دستیاب ہیں۔

تاریخ

حکومت پاکستان



No. 12733-38/EF

Office of the Addl: Inspector General of Police,
Elite Force Khyber Pakhtunkhwa, Peshawar



Dated: 22/08/2024

ORDER

This order will dispose of the departmental appeal preferred by Ex-Constable Khalid Rehman No. 4902 who was awarded the major punishment of "Dismissal from Service" by Deputy Commandant Elite Force Khyber Pakhtunkhwa, Peshawar vide order No. 12016-23 dated 21.10.2022.

Short facts leading to the instant appeal are that as per information report of Deputy Commandant RRF vide No. 1936/ RRF, dated 12.10.2022, he while posted at RRF Unit No. 18 was charged in case FIR No. 1043.dated:03.10 .2022 u/s 382 PPC Police Station City, District Hangu and also remained absent from lawful duty w.e.from 14.09.2022 to the date of passing dismissal order.

He was placed under suspension and proceeded against departmentally through DSP Elite Force Kohat. The enquiry officer has submitted his findings wherein he reported that the accused constable has confessed his guilt before the civil judge in his statement recorded u/s 164 Cr.P.C. The accused official has also been found absent and addict of Charas and Ice. The enquiry officer has recommended him guilty of the charges mentioned in the charge Sheet. The competent authority in light of the recommendation of the enquiry officer awarded him the above major punishment.

He feeling aggrieved preferred the instant appeal for reinstatement in service along with copy of court order requesting therein that the honorable court has acquitted him of the charge leveled against him under section 249-A Cr. P.C. and praying that he belongs to a poor family and his service was a lonely source of income for his family.

He was called in OR and was heard in person. His appeal along with enquiry file perused. He failed to submit any plausible justification in his defence. Similarly nothing was found on file to prove his innocence. Therefore, his appeal for reinstatement in service is hereby rejected being also time barred for 01 year and 09 months.

-sd-

(MUHAMMAD WISAL FAKHAR SULTAN) PSP, QPM
Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar

Copy to the:

1. Regional Commander Elite Force D.I.Khan Region.
2. SP HQrs: Elite Force Peshawar.
3. EC / OASI Elite Force Peshawar.
4. SRC/EMC with complete inquiry files.

ATTESTED

(ABDUSAMAD) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa
Peshawar

22/8

AKK
2/8

. 15-

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2024

Muhalid Rehman

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Department

(RESPONDENT)
(DEFENDANT)

I/We Muhalid Rehman

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** 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 cost. 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.

Dated. ____ / ____ /2024

Muhalid Rehman

CLIENT

Mir Zaman Safi

ACCEPTED

MIR ZAMAN SAFI
ADVOCATE

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0333-9991564
0317-9743003