


FORM OF ORDER SHEET

Court of _____

Appeal No. 1497/2024

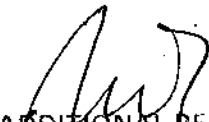
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/09/2024	<p>The appeal of Mr. Shoaib Khan resubmitted today by Mr. Javed Iqbal Gulbela Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 30.09.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Shoaib Khan received today i.e on 13.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of appellant is incomplete be completed according to rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Memorandum of appeal is not signed by the appellant.
- 3- Affidavit is not attested by the Oath Commissioner.
- 4- Appeal has not been flagged/marked with annexures marks.
- 5- Page no. 11 of the appeal is illegible.
- 6- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 775 /Inst./2024/KPST,

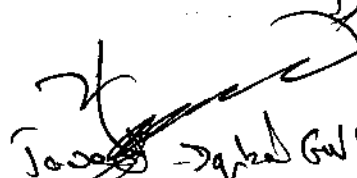
Dt. 13/9 /2024.


ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Javed Iqbal Guibela Adv.
High Court at Peshawar.

Resubmitted Sir.

Re-submitted after removal of objection.


~~Javed Iqbal Guibela~~
(ATC)

19/9/2024

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. 1497/2024

Shoaib Khan

VERSUS

CCPO Peshawar & others

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Dated: 13-09-2024.

Shoaib Khan
Appellant

Through

Javed Iqbal Gulbela
Advocate Supreme Court,
Pakistan.

Saghir Iqbal Gul Bela
Advocate High Court.

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1497/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15779

Date: 13-09-2024

(S) *(M)* **Shoaib Khan (Ex-constable belt no. 1125) District Khyber.**

**6/o Shinwari, Mukhtab Khet, Landi Kotal,
District, Khyber.**

..... Appellant

VERSUS

1. Capital city Police Officer Peshawar.

2. District Police Officer, Khyber.

..... Respondent

s

Appeal u/s 4 of the Khyber Pakhtunkhwa Services Tribunal Act
-1974 against the impugned Office Order No. 991/PA-DPO-
Khyber, Dated: 04-03-2024 of the office of District Police
Officer, Khyber; whereby the Appellant has been illegally
Dismissed from his Service and Departmental Appeal bearing
diary No.120 PA-CCPO/2024 Dated: 21-03-2024 has been
rejected vide impugned Order No. 4985-89/PA/CCP- Peshawar,
Dated: 16-08-2024 of the office of Capital city Police Officer
Peshawar, in a classical, cursory and whimsical manner.

Respectfully Sheweth,

1. That after going through mandatorily required criteria, and after being envisaged with the ordeals and inquisition of selection process, the Appellant got inducted onto the rolls of the prestigious police force of the province, as constable serve the nation for almost for more than twenty years.
2. That the Appellant performed his duty with full zest and zeal and devotion, and it is the reason that the Appellant won appreciation from his high ups, and there is no any sort of soot or sootage against the Appellant.
3. That the Appellant record has always remained excellent and up to the mark, therefore the respondents awarded "Commendation Certificate CC-III" to

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the Appellant as an award of appreciation. (Copy of commendable certificate is annexed as "A").

4. That the Appellant has been dismissed from service vide impugned order No. 991/PA-DPO KHYBER dated 4-3-2024 by the Office of District Police Officer, Khyber, in a classical, cursory and Whimsical manners. (Copy of impugned dismissal from service Order No. 991/PA-DPO dated.04-03-2024 Annexed as "B")
5. That it is pertinent to mention here, that the appellant remained only for one month at Kabalo Mena Post, PS Landi Kotal two years ago from passing of the impugned dismissal order dated 4-3-2024. Therefore, the impugned dismissal order is unwarranted, illegal and based on malafide of respondent.
6. That feeling aggrieved from the impugned dismissal order, the appellant preferred Departmental Appeal bearing Diary No. 120/PA-CCPO Dated: 21-03 -2024 to the Office of Capital City Police Officer, Peshawar, which has been rejected/filed against the merit and law, vide impugned Order No. 4985-89/PA/CCP, Peshawar, Dated: 16-8-2024 (Copies of Department Appeal Dated: 21-3-2024 and impugned Appellate Rejection Order No. 4985-89/ PA/CCP, Peshawar, Dated: 16-8-2024 are annexed as "C & D")
7. That feeling highly aggrieved and having no other remedy, the Appellant approaches this August Tribunal for recognition, acknowledgment and enforcement of his due rights and for reinstatement into service with all back benefits, upon the following grounds inter alia:-

GROUNDS:

- A. That the Appellant is a naturally born bona-fide citizen of Islamic Republic of Pakistan and is fully and equally, on equality basis, entitled to and basic and fundamental rights on enshrined in the fundamental law of the land, interpreted, acknowledge, and enforced by the law of the land and any discrimination or unfettered exercise of discretionary powers public functionaries is always chucked away and chucked down by law and law court of the land.
- B. That it is a cherished principle of law that where a law requires a thing to be done in a particular manner, the same is to be done in that manner and not otherwise.
- C. That the impugned dismissal order as well as the impugned appellate order are illegal, unlawful and void ab initio and liable to be struck down.

- D. That the impugned dismissal order is unwarranted, illogical and against the Rules so therefore not maintainable at all.
- E. That no proper inquiry was ever conducted in case of the appellant, nor the appellant was ever heard in person, nor was ever allowed to cross examine any witness and thus the appellant was condemned unheard.
- F. That the appellant perform his duty with full zest and zeal, and it is the reason that the respondents not only awarded appreciation certificates, but also appreciated his excellent performance, therefore the impugned orders have no locus standi in the eye of laws, and are liable to be set aside.
- G. That the appellant has neither posted at international border in between Pakistan and Afghanistan, nor any duty had been assign to the appellant in respect of the said border, rather the FC Force of Pakistan, Custom Force of Pakistan, Excise and Taxation Force of Pakistan and Pak Army are deputed on the international border and responsible for all type of security including controlling of narcotics activities, terrorism activities etc, therefore the allegations of the smuggling against the appellant are totally false and fabricated and therefore are liable to be set aside.
- H. That not only the dismissal order from service is illegal, unlawful, void-ab-initio but the rejection of departmental appeal by the Respondents are also against the law and rules governing the subject, therefore not sustainable in the eye of law and need to be set aside in the best interest of justice.
- I. That appellant was posted, for one month only at Kabalo Mena Post , PS Landi Kotal, Khyber, two years ago from passing of the impugned Dismissal Order Dated: 04-03-2024. Therefore, the impugned dismissal order is unwarranted, illegal and void-ab-initio as well as based on malafide of respondent, hence liable to be set aside.
- J. That the appellant belongs to a poor family, and is, the only earning hand in the whole family to look after them.
- K. That from every angle the appellant is liable to be re-instated into service with all back benefits.
- L. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is therefore humbly prayed that on acceptance of instant service appeal, the impugned Order No. 991/PA-DPO, Khyber, Dated: 04-03-2024 of the office of District Police Officer, Khyber and impugned Order No. 4985-89/PA CCP , Peshawar, Dated: 16-08-202 of the Office of Capital City Police Officer, Peshawar, may kindly be set aside and by

doing the appellant may kindly be re-instated into service with all back benefits.

Any other relief not specifically ask for may also graciously be extended in favor of the Appellant in the circumstances of the case.

Dated: 13-09-2024

[Signature]
Appellant

Through

[Signature]
Javed Iqbal Gul Bela
(ASC)

Saghir Iqbal Gul Bela
(AHC)

Alamzeb Khan

M.Arif Mohmand
(Advocates)

NOTE:

That as per information of my client, no such service appeal has been moved by the Appellant, prior to this one.

[Signature]
ADVOCATE.

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Shoaib Khan
VERSUS
IGP

AFFIDAVIT

I, Shoaib Khan S/o Naik Zar R/o Shinwari, Mukhtar Khel, Landi Kotal Tehsil Landi Kotal District Khyber Agency), do hereby solemnly affirm and declare on oath that the contents of accompanied Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Shoaib Khan
DEPONENT

CNIC # 21203-7158092-5
Cell No. 0333-1964260

Javid Iqbal Gulbela
Identified by:
Javid Iqbal Gulbela
ASC



Dated
12/09/24

(2)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. _____/2024

Shoaib Khan

VERSUS

CCPO Peshawar & others

ADDRESSES OF THE PARTIES

ADDRESSES OF THE APPELLANTS:

Shoaib Khan (Ex-constable belt no. 1125) District Khyber.

ADDRESSES OF THE RESPONDENTS:

1. Capital city Police Officer Peshawar.
2. District Police Officer, Khyber

Dated: 13-09-2024

Shoaib Khan
Appellant

Through

Javed Iqbal Gulbela
Javed Iqbal Gulbela
Advocate Supreme Court,
Pakistan.

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Ann-A



DISTRICT POLICE OFFICER KHYBER



COMMENDATION CERTIFICATE

CC-III

Granted to

Shraib Khan PS Landi Kotla

for his good performance of duty with cash reward Rs. _____

JAVED IQBAL GU-BEL
Supt. Police, District Police
(ASCP # 5317)

DISTRICT POLICE

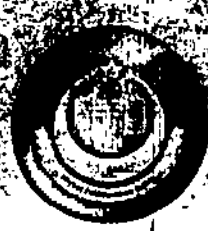
No. 6544 /PSO-Khyber,
Date: 04/10/2022

*District Police Officer
Khyber*



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Ann-B



OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER



TEL: 091-5862033 Fax: 091-5864478
Email: dpokhyber@gmail.com

No. 991

PA-DPO Khyber

Dated: 04/03/2024

DISMISSAL ORDER

FC Shoaib Khan No. 1125 of District Police Khyber, while he was posted at PS Landi Kotal was issued with Charge Sheet No. 7895/PA-DPO Khyber dated 25/10/2023 due to his alleged contacts with drug peddlers and providing them with safe passages.

Thus, a departmental inquiry was initiated against him. During the inquiry proceedings he was given the chance to produce written documentary proof in his defense and appear before the Inquiry Officer. He availed both but failed to submit anything in his defense. Local sources revealed that while he was posted at Kabalo Mena Post, PS Landi Kotal he is in contacts with international smugglers. That, he had been using a WhatsApp Afghani number for contacts with these smugglers and had been providing them with safe passages also. It is further added that, the number under his usage is present in WhatsApp group of international smugglers. It is pertinent to mention that the post under his command was near Pak-Afghan international border. Thus, he was found guilty and recommended to be awarded with major punishment.

The undersigned, as per the recommendation of the inquiry officer, being the competent authority is satisfied about his involvement in criminal abetment and drug peddling and in order to maintain discipline in the force hereby awards the delinquent official with Major Punishment of Dismissal from Service as per Section 4-b(iv) of Police (E&D) Rules 1975 (With Amendments 2014).

SALEEM DARRAN KULACHI
DPO Khyber

SALEEM DARRAN KULACHI (PSP)
DISTRICT POLICE OFFICER,
KHYBER

OB No. 307 / dated 04/03/2024
No. 992-93 / PA-DPO Khyber
Copies to:

Ann-C

محکمات جنات کیسٹل پولیس آفیسر صاحب پنڈ اور

درخواست برائے نوکری بحالی

Dy: No.	120	PA CCPO
Di:	31/3/24	
Encl:		

جناب عالی!

موردہ گزارش ہے کہ سائل ضلع خیر مہاڈو لڑکھول کے ایک نہایت شریف خاندان سے تعلق رکھتے ہیں (20 سال خردی میں آسٹریا ہلاک ہوئی حکایت کا موقع تک نہیں دیا ہے اور نہ کسی کوئی میں غلط کیا ہے۔ کہ سائل تین روزہ میں پیکر خٹک اس اگے کلبوینہ پولیس پوسٹ پر حقیقت کیا تھا جہاں پر سائل نے حکایت ایک دستار دار پولیس آفسر کو دی۔ لیکن ان کے تقریباً ایک سال بعد کہ لکھنؤ کے سائل نے سائل کے خلاف جعلی الزامات لگا کر کہ یہ خلیات فروش و سگرت بیسٹھ لاپرواہ ہے۔ جس کے سلسلے میں آسٹریا ہلاک نے سائل کے خلاف بحوالہ چارج شیٹ نمبری 7895/P-DPO Khyber مورخہ 125/10/2023 نوکری منسوخ کی۔

سائل نے انگریزی آفسر کو زبانی و تحریری طریقہ بیان دی کہ سائل پر لگائے گئے الزامات سرسبز سن گورنمنٹ ہسپتال اور کچھ لکھنؤ کی طرف ایک سٹیشن پر سائل اب بھی سٹیشن پر لگائے گئے ہیں۔ سائل نے بھی کسی خلیات فروش یا سگرت بیسٹھ کے ساتھ کوئی معاملہ نہ رہا جس کے ساتھ سائل نے پولیس پوسٹ خٹک لڑکھول میں خلیات سگرت کا الزام ہے تو یہ بھی سرسبز سگرت ہے۔ کہ خلیات سگرت جیل پوسٹ کیا تھا انہیں پلڈ پر جو پلڈ لگا گیا ہے وہ ان کے سہارے ڈاکر رہی و اختراعات فرسٹ کور (FC) کیا تھا ہے۔ سائل نے پولیس آفسر ان بھی پلڈ کے نزدیک نہیں چھوڑتے پلڈ سے ایسے اور لکھنؤ نوڈل کی بات ہے۔ مذکورہ انگریزی میں سائل کے خلاف ایسا کوئی شواہد موجود نہیں جس سے سگرت خلیات کے کردار و حصے میں کوئی شک نہیں ہے۔ لیکن ان سب کے باوجود بھی سائل کے خلاف جعلی الزامات اور چند لکھنؤ کی جانب سٹیشن کے بیاد پر سگرت کا الزام کرتے ہوئے بحوالہ چارج شیٹ نمبری 991/PA-DPO Khyber مورخہ 04/03/2024 نوکری سے برخاست کیا۔

آپ صاحبان سے بذریعہ درخواست عاجز و استغاثہ کی حالت ہے کہ سائل کو ایسی نوکری پر بحال کرنے کا حکم صادر کیا جائے تاکہ سائل فرانس سائل بحالی دعا کرے گا۔

میں گزارش ہوگی

الغرض

مستند حوالہ سے تیار
آپ کا تابع احکم سابقہ کا کیسٹل شیب ڈال

نمبر 1125

چارج تحصیل لڑکھول میں ضلع خیر
رابطہ نمبر 0345-5886186

Handwritten signatures and dates including '04/07/2024' and '04/07/2024'.

JAVEU ICBN...
Supreme Court of Pakistan
KARACHI



(10)
Ann-D

**OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR**

Phone No. 091-210989 Fax: No. 091-9212597

ORDER

This order will dispose of the departmental appeal preferred by Ex-Constable Shoaib No. 1125, who was awarded the major punishment of "dismissal from service" under CP PR-1975 (amended 2014) by DPO Khyber vide order No. 991/PA, dated 04.03.2024.

2- Brief facts leading to the instant appeal are that the de-aulter Constable Shoaib posted at PS Landi Kotal, District Khyber was proceeded against departmentally on the charges that he was found involved in contacts with drug peddler, collecting monthlies in his area and there were running hotspot in his area for drug activities but he failed to operate against them.

3- He was issued Charge Sheet and Summary of Allegations by DPO Khyber, SP/Investigation. Khyber was appointed as Enquiry Officer to scrutinize the conduct of the accused official. The Enquiry Officer after conducting departmental enquiry submitted his findings in which he was recommended for major punishment. The competent authority in light of the findings of the Enquiry Officer awarded him the major punishment of dismissal from service.

4- He was heard in person in Orderly Room. During personal hearing, he was given an opportunity to prove his innocence. However, he failed to submit any plausible explanation in his defense. Therefore, his appeal for setting aside the punishment awarded to him by DPO Khyber vide order No. 991/PA, dated 04.03.2024 is hereby rejected/filed.

"Order is announced"

[Signature]
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 4985-57 /PA/CCP, dated Peshawar the 16 / 08/2024

Copies for information and necessary action to the:-

1. District Police Officer Khyber, along with complete inquiry file.
2. DSP/IQrs Khyber.
3. Accountant & OASI Khyber.
4. Official concerned.

[Signature]
SUPREMACY OFFICER
PESHAWAR

Better Copy

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER
Tel: 091-5861033

Better Copy

No.7895/PA-DPO Khyber

dated 25/10/2023

CHARGE SHEET UNDER SECTION i(a) OF POLICE RULES 1975

1. I, Capt. @ Saleem Abbas Kulachi (PSP), District Police Officer, Khyber as a competent authority hereby charge FC Shoaib Khan No. 1125 of District Police Khyber as per the following allegations:

"As per learned source reportedly you FC Shoaib Khan 1125 of District Police Khyber while posted at PS Landi Kotal have been involved in contact with narcotics peddlers and smugglers. That you have provided safe passage to the narcotics smugglers your area of jurisdiction and remained involved in contacts with them. In return you received bribes from them. Such corrupt activities and criminal abetment come under the meaning of Misconduct."

2. By the above-mentioned reasons, you appear to be guilty of Misconduct as per police Rules 1975 and that you have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
3. Therefore, you are directed to submit your written defense within 07 days of the receipt of this Charge Sheet to the Inquiry Officer as the case may be.
4. Your written defense, if any should reach the inquiry officer within the specified period, failing to which it shall be presumed that you have no defense to put in and, in that case, ex-parte action shall follow against you.
5. State, whether you desire to be heard in person or not.

**SALEEM ABBAS KULACHI (PSP)
DISTRICT POLICE OFFICER
KHYBER**

Copy to:

1. SP Inv Khyber for imitation of Inquiry.
2. HRMIS and Service Record Profile (s) update.
3. FC Shoaib Khan No. 1125 for information and compliance.

OFFICE OF THE
DISTRICT POLICE OFFICER,
KHYBER
Tel: 091-5862033



(12)
Am - E - 4

No. 789/CPA-DPO Khyber

Date: 25/10/2023

**DISCIPLINARY ACTION UNDER SECTION 5(3) OF POLICE RULES
1975**

I, Capt. @ Saleem Abbas Kulachi (PSP), District Police Officer, Khyber, as a competent authority, believe that FC Shoab Khan No. 1125 of District Police Khyber has rendered himself liable to be proceeded against as he committed the mentioned below allegations within the meaning of Police Rules, 1975 (With Amendments - 2014).

STATEMENT OF ALLEGATIONS UNDER SECTION 6 (1(a)) OF POLICE RULES 1975

As per learned sources, reportedly FC Shoab Khan No. 1125 of District Police Khyber while posted at PS Land, Kotal, has been involved in contacts with narcotics peddlers and smugglers. That he had provided safe passage to the narcotics smugglers in his area of jurisdiction and remained involved in contacts with them. In return, he received bribes from them. Such corrupt activities and criminal abetment come under the meaning of Misconduct as per section 2(i.i) and render him liable for punishment under section 3(b) of Khyber Pakhtunkhwa Police Rules, 1975 (With Amendments - 2014), respectively.

To probe into the above-mentioned allegations against the said accused _____ is hereby nominated as the Inquiry Officer under Section 5(4) of the Khyber Pakhtunkhwa Police Rules 1975 (With Amendments - 2014).

The Inquiry Officer shall in accordance with the provision of Police Rules, 1975, provide reasonable opportunity of hearing to the delinquent official, record the findings, and make immediate recommendations whether to punish or to take other appropriate action against the delinquent official.

FC Shoab Khan No. 1125 of District Police Khyber are directed to appear before the Inquiry Officer on the date, time and place fixed by the Inquiry Officer.

Capt. @ SALEEM ABBAS KULACHI (PSP)
DISTRICT POLICE OFFICER,
KHYBER

Copies :-

- 1: SP Inv. Khyber & _____ of Inquiry
- 2: HRMIS and Ser _____ for record. Pr _____ (s) update

SALEEM ABBAS KULACHI
DISTRICT POLICE OFFICER
(AGG. 537)

**SUPERINTENDENT OF POLICE
INVESTIGATION DISTRICT
KHYBER**

Phone No.0917252003



E/I

No. 115 /PA-Inv Khyber

Date: 14/02/23

To: The District Police Officer,
Khyber.

Subject: FINDING OF ENQUIRY AGAINST THE CONSTABLE FC SHOAB KHAN NO. 1125

Respected Sir,

It is submitted that the matter was probed thoroughly and the following steps have been followed during the course of enquiry.

Allegations in the Order:

It is alleged in the order issued by DPO Khyber, Vide No. 7895/PA-DPO Khyber dated 25/10/2023, As per learned sources, reportedly FC Shoab Khan No. 1125 of District Police Khyber while posted at PS Mandi Kotal, has been involved in contacts with narcotics peddlers and smugglers. That he had provided safe passage to narcotics smugglers in his area of jurisdiction and remained involved in contacts with them. In return, he received bribes from them. Such corrupt activities and criminal abetment come under the meaning of Misconduct.

Enquiry proceedings:

During the course of the enquiry, a delinquent was issued with Charge Sheet. He submitted his reply. When he was called to appear before the inquiry officer, he was heard in person and his statement was recorded. Further ground check through local sources it was revealed that he was involved in these illegal activities and also involved in contacts with Afghani smugglers and provided them safe passage for the smuggling of drugs and received bribes from them.

Conclusion:

- FC Shoab Khan No. 1125 could not provide any solid evidence in his defense. However he was found guilty of involved in these illegal activities.

Recommendation:

Keeping in the view of the above, it is kindly recommended that

- FC Shoab Khan No. 1125 may kindly be awarded with suitable punishment.

Submitter please

Subscribed
14/02/23

(5)

Kamal Hussain

**KAMAL HUSSAIN
Superintendent Of Police Investigation
District Khyber**

