

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.654/2024.


Ex-Constable Hammad Ali of CCP Peshawar..... **Appellant.**

VERSUS

Capital City Police Officer, Peshawar and others. **Respondents.**

I n d e x

| S.NO | DOCUMENTS | Annexure | PAGES |
|------|----------------|----------|-------|
| 1. | Reply | | 1-4 |
| 2. | Authority | | 5 |
| 3. | Affidavit | | 6 |
| 4. | Copy of letter | A | 7 |


DSP/Legal, 11/10
CCP, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.654/2024.

Ex-Constable Hamad Ali of CCP Peshawar..... **Appellant.**

VERSUS

Capital City Police Officer, Peshawar and others..... **Respondents.**

REPLY BY RESPONDENTS NO. 1 to 2.

Respectfully Sheweth:-

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 16657

Dated 11-10-24

PRELIMINARY OBJECTIONS:-

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file the instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Hon'ble Tribunal.
7. That the appeal is not maintainable in its present forum being devoid of any merit.
8. The appellant has no right to file an appeal under Section 04 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, as he is not considered a civil/government servant.

REPLY ON FACTS:-

1. Incorrect. The appellant was identified one of the illegal and ghost employee enlisted fraudulently and illegally by a Mafia in CCP Peshawar. As per Police Act 2017, recruitment shall be made in accordance with the procedures and requirements outlined in Section 34 of the Act provides that:-

34. Initial recruitment of Constables.--(1)The post of Constable shall be filled in by initial recruitment at the District level by the head of district police through a selection process conducted by an accredited testing agency approved by the Provincial Police Officer.

But the appellant did not follow the same for recruitment. Copy of appointment order dated 08.04.2022 as annexure "A" by the appellant having No. 4469-78, dated 08.04.2022, is fake/bogus.

2. Incorrect. In compliance with the direction of DIG/HQrs: Khyber Pakhtunkhwa, vide letter No. 101/PA/DIG/HQrs: dated 21.08.2023, a scrutiny committee was constituted, wherein the appellant was found to be a ghost/illegal employee. A facts finding enquiry was conducted, and the enquiry committee, after examining the issue in detail, concluded that the appellant was fictitiously recruited by a mastermind in Accounts Branch who was siphoning salary from the national exchequer in his name. The mastermind of this scheme employed tactics such as illegally hiring namesakes of previously dismissed police employees and recruiting illegal, and ghost employees through fake orders and OB entries. They also used fake transfer

orders to start their salaries illegally from AG Office. During the enquiry, attempts were made to contact the appellant for enquiry proceedings but he did not appear before the enquiry committee. Efforts to contact him directly proved unsuccessful, and local authorities, including the SHO Badaber, reported that, due to ongoing enmity, the appellant's family had been relocated to an undisclosed location of city area Peshawar. Additionally, attempts to reach the appellant's brother, Yasir, for further assistance were also unfruitful; Yasir repeatedly declined to cooperate and claimed that the appellant was deputed as a gunner with the Accountant General (Liaqat Ali) at the AG Office Peshawar. After a thorough probe into the matter, the enquiry committee found the appellant to be an illegal, ghost employee.

3. Incorrect. After completion of inquiry proceedings, the enquiry committee found the appellant to be an illegal/ghost employee. The Supreme Court of Pakistan, in its judgment in Civil Petition No. 4057/2021 and CM Appeal No. 01/2022, declared such illegal employment in a government department as invalid when no pre-requisite criteria were followed. For reference, Para 03 of the judgment is reproduced below:

3. " Having heard learned counsel for the parties and going through the impugned judgment and on the basis of the comments filed by the Government of Khyber Pakhtunkhwa, it appears that at the time of appointing the petitioner no process was followed and the principle of transparency and open competition was entirely ignored. The petitioner was appointed in violation of law and the rules and even if the termination later does not mention so, it is clear and obvious from the record that this was indeed the case. Further no vested right to claim continuation of service has been pleaded or shown."

Therefore, after completing all codal procedures, the appellant was found to be an illegal/ghost employee and he was rightly removed from the police records.

4. Incorrect. In fact, the appellant, being an illegal/ghost employee, has no right to file a departmental appeal under the applicable law and rules. The appellant's status as an illegal/ghost employee disqualifies him from seeking any legal recourse through a departmental appeal.
5. Incorrect as explained above.
6. That the appellant being ghost/illegal employee. Therefore, the appeal of the appellant being devoid of merits, liable to be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A. Incorrect. The appellant's status as an illegal and ghost employee represents a serious breach of the principles enshrined in the Constitution of the Islamic Republic of Pakistan. Such unauthorized employment within a government department contravenes the foundational principles of legality and integrity that the Constitution upholds.
- B. Incorrect. The order passed by the respondent is strictly in accordance with law/rules. The appellant was found illegal/ghost employee during the course of enquiry and was recruited illegally, unlawfully and was void ab-initio.

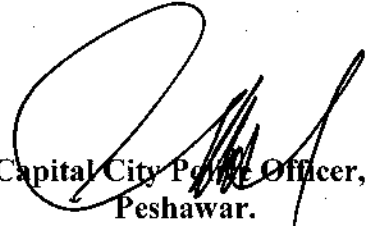
- C. Incorrect as explained in detail in the above para. Furthermore, during the scrutiny, it was discovered that the appellant was an illegal employee who had been fraudulently siphoning salary from the national exchequer. The recruitment order was found to be bogus, and the proper procedures for recruitment were not followed. The proceedings revealed that the appellant was enlisted illegally through fraudulent means.
- D. Incorrect as explained above. Furthermore, after thorough inquiry into irregularities in police department recruitment, there is a consistent pattern of fake orders, bribery, and bypassing necessary procedures like written test, medical test, training and physical check-ups in the recruitment process. Multiple individuals have confessed bribery for their appointment orders. Their service rolls and belt numbers have been found to be fraudulent. The appellant was also identified as an illegal/ghost employee in course of the inquiry. The appellant remained involved in the fraudulent process. Similarly, a letter was issued to Addl: IGP (HQrs) Khyber Pakhtunkhwa, Peshawar vide No. 523-25/PA SSP-Coord, dated 05.01.2024 for disciplinary action against the Masterminds. (Copy of letter is attached).
- E. Incorrect as above. However, the appellant was treated in accordance with the applicable laws and regulations, and no violations of law/rules have been committed by the respondent department. The appellant is alleged to be an illegal/ fraudulent employee, he does not possess the right to pursue any claims related to this matter.
- F. Incorrect. The appellant was not a legally employed government employee. He badly violated law & rules fixed for recruitment of Constable. Furthermore, a thorough inquiry was conducted by the inquiry committee, which proved beyond any shadow of doubt that the appellant is a ghost/illegal employee.
- G. Incorrect as explained above. Furthermore, as the appellant was not a legitimate government employee, there was no requirement to follow Police Rules 1975 amended 2014 procedures, such as issuing a charge sheet with a statement of allegations or providing a final show cause notice before the issuance of the impugned order.
- H. Incorrect as explained in the proceeding paras.
- I. Incorrect. The appellant was treated in accordance with law/rules and no violation of Articles 4 and 25 of the Constitution of Pakistan, 1973, by the responding department. The appellant, being an illegal employee, was found to be fraudulently siphoning salary from the national exchequer, an action explicitly prohibited by the Constitution of Pakistan.
- J. Incorrect as explained above. However, the appellant's status as an illegal and fraudulent employee represents a serious breach of the principles enshrined in the Constitution of the Islamic Republic of Pakistan. Such unauthorized employment within a government department fundamentally contravenes the principles of legality and integrity upheld by the Constitution.
- K. That the replying respondents may also be allowed to adduce additional grounds before this Hon'ble Tribunal at the time of arguments.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merit and legal footing, may kindly be dismissed with cost please.



**Superintendent of Police,
HQrs: Peshawar.
(Noor Jamal)
(Respondent No.01)
Incumbent**



**Capital City Police Officer,
Peshawar.
(Qasim Ali Khan) PSP
(Respondent No.02)
Incumbent**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.654/2024.

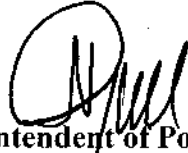
Ex-Constable Hamad Ali of CCP Peshawar..... **Appellant.**


VERSUS

Capital City Police Officer, Peshawar and others..... **Respondents.**

AUTHORITY.

We respondents are hereby authorize **Mr.Inam Ullah** DSP legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.


Superintendent of Police
HQrs: Peshawar.
(Noor Jamal)
(Respondent No.02)
Incumbent


Capital City Police Officer,
Peshawar.
(Qasim Ali Khan) PSP
(Respondent No.01)
Incumbent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.654/2024.

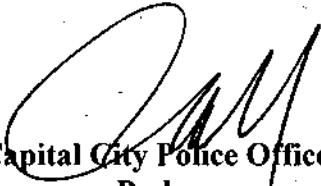
Ex-Constable Hamad Ali of CCP Peshawar..... **Appellant.**

VERSUS

Capital City Police Officer, Peshawar and others..... **Respondents**

AFFIDAVIT.

I respondent No. 02 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of my knowledge and belief and nothing has concealed/kept secret from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off.


Capital City Police Officer,
Peshawar.
(Qasim Ali Khan) PSP
(Respondent No.02)
Incumbent





OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Phone No. 091-9213757

No. S23-25/PA-SSP-Coord:

Dated Peshawar the 5/01/2024

To The Addl: Inspector General of Police,
Headquarter, Khyber Pakhtunkhwa, Peshawar.

Subject: **DISCIPLINARY ACTION AGAINST OFFICIALS FOR FRAUDULENT
AND ILLEGAL RECRUITMENTS**

Memo:

Please refer to your office letters No. 124/PA/DIG/HQs, dated 24.10.2023, 159/PA/DIG/HQs dated 01.12.2023 and 163/PA/DIG/HQ dated 5.12.2023 regarding identification of ghost employees.

In pursuance of above, an exercise to identify ghost/illegal employees was carried out in CCP and District Khyber in which it surfaced that from 2019 to 2021, a mafia was involved in recruiting illegal/fake/ghost employees through fake orders/documents in CCP/Khyber. This mafia used to first recruit these individuals through fake/illegal means and then transfer some of them to District Khyber. They were also involved in issuance of their salaries in connivance with their counterparts in AG office. An enquiry was ordered through a committee headed by SSP/Coordination, CCP Peshawar. During enquiry the following facts transpired;

2. A total of 28 individuals were illegally recruited by this mafia bypassing necessary recruitment procedures like advertisement, medical tests, training, and physical check-ups etc. The individuals recruited as such were called by the Enquiry Committee and they confessed bribery in their appointment as they did not go through any ETEA or other examination nor attained any training etc. Their Service Rolls, Order Book entries and Belt Numbers have also been found to be fraudulent. Through this process, a large sum of money was pocketed from the individuals in return for their illegal recruitment at the first hand, and afterwards their two years (2019-2021) salaries were also retrieved in the form of arrears by this mafia involved in these illegal recruitments.

3. It was observed that the Service Rolls of these illegal employees were entered through fake Order Book in 2019; however, according to statements of these employees, their salaries started from 2021 and as such the salaries were withdrawn by the delinquent officials as arrears for themselves.

4. The findings indicated that a network comprising of Muhammad Aslam, the then OS, CCP, SC Shahid Ali, the then APO/Pay, CCP, SC Syed Tahir Shah, the then Pay Officer CCP, Peshawar bypassed mandatory procedures of recruitment and manipulated the record for their personal gain. The gang opened multiple bank accounts in the name of various private individuals as well as on

*Am
Attested*

their own names and in some instances two personal numbers are being used to draw salaries of the ghost employees.

5. Tactics such as reinstating fake namesake of previous Police employees was used for syphoning out salaries from Government exchequer by this mafia. For example, SC Shahid fraudulently recruited his private driver namely Akbar Khan Son of Essa Khan CNIC 17301-1462718-9. He was recruited in place of one Akbar Khan son of Yar Muhammad who was Police Constable and dismissed in 2008 and now working in a private factory in Industrial Estate Hayatabad. SC Shahid's private driver having same name as was of the "re-instated" as being the dismissed Akbar Khan and the driver was receiving salary in his account and having "19 years government Service" to his credit despite not working for a single day in the department. A total of 28 such officials (Ghost = 12 + illegally recruited = 16) have therefore been struck off from the strength of Peshawar Police.

6. It is therefore, requested that departmental proceedings against the delinquent officials may kindly be initiated for gross misconduct, illegal recruitments, loss to the national exchequer for personal gains and harming reputation of police department as they have been transferred from CCP Peshawar and now are serving in other units. The Enquiry Committee Report/Findings consist of (28) pages are enclosed herewith for ready reference, please.

SSP COORDINATION
FOR CAPITAL CITY POLICE OFFICER
PESHAWAR

Copy to: -

1. The Deputy Inspector General of Police, Headquarter KPK, Peshawar.
2. PSO to Inspector General of Police, Khyber Pakhtunkhwa.

Amir
Attested