

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 2468/2023**

Sibghat Ullah

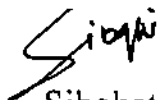
V/S

Police Deptt & etc.

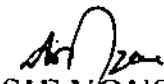
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**APPLICANT**

  
Sibghat Ullah

**THROUGH:-**

  
(M. ASIF YOUSAFZAI)  
Advocate Supreme Court  
Of Pakistan.

  
(SYED NOMAN ALI BUKHARI)  
Advocate, High Court  
Peshawar

  
&  
(HILAL ZUBAIR)  
Advocate Peshawar.

Room No.FR-08. 4<sup>th</sup> Floor.  
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**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 2468/2023**

Sibghat Ullah

V/S

Police Deptt & others.

**REJOINDER ON BEHALF OF THE APPELLANT**

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 17248

Dated 28-10-24

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**ON FACTS:**

1. Incorrect hence denied, the allegation leveled against the appellant were baseless and the replying respondent had not any evidence to proof it, furthermore the appellant was dismissed from service on the charge of that you (S/C Sibghat Ullah) while posted in the office of DPO Khyber, was found indulged in grouping with the convenience of PA Sajid, making interference in the affairs of everyone to extort gratification/money. You also filed anonymous complaints against the staff of DPO/Khyber in order to obtain desired posting. Due to your malicious practice, staff of DPO Khyber & official work has badly suffered and the complaints filed through PMDU brought bad name for police (1-4). Wherein it is pertinent to mention here that the same was challenged before Honorable Service Tribunal and the Honorable Service Tribunal was kind enough to accept the service appeal No. 116/2022 of the appellant and give direction to the replying respondent to conduct the denovo inquiry, later on, the inquiry was conducted and the appellant was exonerated from the above mentioned charges due to non availability of concrete evidence to connect the appellant with the allegations. Copy of charge sheet and inquiry report is attached as Annex-A & A1.
2. Incorrect hence denied while concealment of the fact that the appellant was discharged by the Judicial Magistrate in case of FIR No.

194 dated 17.4.2023 on the basis of weak evidential point of view, that nothing was found against the appellant and allegation level against him was baseless and shows the malafide intentions of the high-ups and dragging the appellant in wrong case. **Copy of the order dated 10.01.2024 is attached as Annex-B.**

3. Incorrect concealment of the fact that inquiry was not conducted according to the E&D Rules, 2011. That the appellant was being the strength of ministerial staff while it is pertinent to mention here that the appellant was not constituted the inquiry and not even given a chance of cross examination.
4. Incorrect hence denied while Para-4 of the appeal is correct. Moreover the charge sheet was never served upon the appellant, while the regular inquiry was conducted against the norms of justice and never give chance of cross examination to the appellant.
5. Incorrect hence denied already explained in above paras.
6. Incorrect hence denied while Para-6 of the appeal is correct.
7. Incorrect hence denied while Para-7 of the appeal is correct.

**GROUND:**

- A. Incorrect. While Para-A of the appeal is correct.
- B. Incorrect. While Para-B of the appeal is correct.
- C. Incorrect. While Para-C of the main appeal is correct.
- D. Incorrect. While Para-D of the main appeal is correct.
- E. Incorrect. While Para-E of the main appeal is correct.
- F. Incorrect. While Para-F of the main appeal is correct.
- G. Incorrect. While Para-G of the main appeal is correct.
- H. Incorrect. While Para-H of the main appeal is correct.
- I. Incorrect. While Para-I of the appeal is correct.
- J. Incorrect. While Para-J of the appeal is correct.
- K. Incorrect. While Para-K of the appeal is correct.
- L. Incorrect. While Para-L of the appeal is correct.

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It is, therefore, most humbly prayed that the main appeal may be accepted as prayed for.

**APPLICANT**

*Sibghat*  
Sibghat Ullah

**THROUGH:-**

*M. Asif*  
(M. ASIF YOUSAFZAI)  
Advocate Supreme Court  
Of Pakistan.

*F. Bukh.*  
(SYED NOMAN ALI BUKHARI)  
Advocate, High Court  
Peshawar.

& *Hilal*  
(HILAL ZUBAIR)  
Advocate Peshawar.

**AFFIDAVIT:**

It is affirmed on oath that the contents of this rejoinder are true and correct and nothing has been concealed from this Tribunal.

*Sibghat*  
**DEPONENT**

Sibghat Ullah

*Fuad Daraz Khan*

*Fuad Daraz Khan*  
28/10/20

CHARGE SHEET

P-4

A  
= (4)

I, Sr: Superintendent of Police, Coordination, Capital City Police Peshawar, as a competent authority, hereby, charge Senior Clerk Sibghatullah for the following irregularities.

DPO Khyber reported vide his office letter No. 1050/PSO dated 02.04 2021 that you (S/C Sibghatullah) while posted in the office of DPO Khyber, was found indulged in grouping with the convenience of PA Sajid, making interference in the affairs of everyone to extort gratification/money. You also filed anonymous complaints against the staff of DPO/Khyber in order to obtain desired posting. Due to your malicious practice, staff of DPO Khyber & official work has badly suffered and the complaints filed through PMDU brought bad name for police.


This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

  
SENIOR SUPERINTENDED OF POLICE,  
COORDINATION, PESHAWAR

~~ATTESTED~~

K-3A

~~No. 128/PA-Coord~~  
~~19.11.2021~~

**DISCIPLINARY ACTION**

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Senior Clerk Sibghatullah has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

(5)

**STATEMENT OF ALLEGATION.**

DPO Khyber reported vide his office letter No. 1050/PSO dated 02.04.2021 that he (S/C Sibghatullah) while posted in the office of DPO Khyber, was found indulged in grouping with the convenience of PA Sajid, making interference in the affairs of everyone to extort gratification/money. He also filed anonymous complaints against the staff of DPO/Khyber in order to obtain desired posting. Due to his malicious practice, staff of DPO Khyber & official work has badly suffered and the complaints filed through PMDU brought a bad name for police.

This amounts to gross misconduct on your part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and DSP. HAZAR is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

SENIOR SUPERINTENDED OF POLICE,  
COORDINATION, PESHAWAR

No. 131- /PA/Coord: dated Peshawar the 19/04/ 2021.

1 Tayyab Jan DSP/1531 is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

1997/2021/Miner/Office Peshawar PAKISTAN

**ATTACHED**

AT #1 (6)

**PENDING REPORT IN DE-NOVO DEPARTMENTAL ENQUIRY AGAINST EX-SENIOR CLERK SIBGHAT ULLAH**

1. "DPO Khyber reported vide his office letter No. 1050/PSO dated 02.04.2021 that you Syed Sajid Ali Shah stenographer while posted at DPO Khyber Office found indulged in grouping with convenience of Stenographer Syed Sajid Ali Shah making interference in the affairs of everyone to extort gratification/money. You also filed anonymous complaints against the staff of DPO Khyber in order to obtain desired posting. Due to this malicious practice, staff of DPO Khyber and official work has badly suffered and complaints filed through PMDU brought bad name for police."

(B) PROCEEDINGS During the Enquiry proceedings the alleged official was called, heard in person and his written statement recorded. Besides, relevant documents produced were also attached with file. Brief is mentioned hereunder:-

1. STATEMENT OF SENIOR CLERK SIBGHAT ULLAH.  
He in his statement denied the allegations leveled against him and rather stated that the charges of corruption were not even proved against him. He further stated that he was not provided ample opportunity for his self defense during the re-departmental enquiry, conducted against him by the then SSP Investigation, Peshawar. It is worth mentioning that in-spite of the recommendations of the E.O (DSP HQrs) that the allegations were not proved against him, the a re-enquiry was entrusted to SSP Investigation and he was then found guilty of the charges with mala-fide intention. He further requested that he is the sole supporter of his family and is currently under dire financial crisis. He requested that justice be meted out to him. His statement is attached vide F/A.

2. FINDINGS  
In view of the above recorded statements, events and other material available on record the undersigned concluded the following:-

- (i). The first departmental enquiry was conducted by the then DSP HQrs, he in his finding report concluded that the prime witness in the matter, Adnan, the then PSO to DPO Khyber, was called time and again but he deliberately avoided his appearance before the E.O for the reason only known to him. That both the officials have already been closed to Police Lines upon the under discussion complaint. The E.O DSP HQrs, recommended that the inquiry in hand may be filed.
- (ii). The then SSP Coordination didn't agree with the finding report and he ordered a re-enquiry to be entrusted to the then SSP Investigation, Peshawar. The E.O found the delinquent official guilty and eventually he recommended that he wants to go against the recommendation of the first E.O i.e. DSP HQrs. He further recommended that S/C Sibghat Ullah may be awarded Major or Minor Punishment as the case may be.

**ATTACHED**

- (iii). Subsequently, FSCN was issued against him and then he was awarded Major Punishment of removal from service by the then SSP Coordination.
- (iv). He submitted an appeal before the then CCPO Peshawar and his punishment of removal of service was converted into "forfeiture of approved service of two years and no benefit is granted for the intervening period"
- (v). This office vide letter No. 601/PA dated 31.07.2024 twice requested the DPO Khyber through the SSP Coordination to provide any evidence against the above official to proceed further in the enquiry, however, no response to the letter received so far.
- (vi). PC Adnan was directed to appear in this office on 02.08.2024. However, he didn't turn up as he has no evidence to present. This office again vide letter No. 6625/PA dated 11.09.2024 called him on 12.09.2024 but he didn't turn up.
- (vii). In this connection, letter issued from CPO vide No. 4740-850/E-V dated 29.08.2017 pertaining to delegation of power of Disciplinary Action is of worth perusal.
- (viii). It is also pertinent to note here that Ex-Senior Clerk Sibghat Ullah was dismissed from service by the then CCPO Peshawar in another enquiry vide order Endstt No. 1879-88/PA dated 02.05.2023.

**(D) CONCLUSION**

After going through pros and cons of the enquiry papers and other material available on record it can be fairly concluded that the charges Ex-Senior Clerk Sibghat Ullah not established due to non-availability of concrete evidence to connect him with allegations. However, his supervisory officer i.e. the then DPO Khyber was not satisfied from his conduct which renders him negligent; therefore the punishment awarded to him by the then W/CCPO in the instant enquiry may be retained, if agreed, please.

*no charge sheet on negligence.*

**SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR**

**ATTACHED**



IN THE COURT OF  
DAULAT KHAN JUDICIAL MAGISTRATE-DI/MTMC,

PESHAWAR

**Order....**  
10/01/2024

APP for the state present. Accused not present despite on bail.

Fact of the case are that that complainant Hamayun Khan SI charged the accused with the allegations that the had issued clearance certificate having Bogus signature of SP Security on the direction of accused Sibghat Ullah posted as Sr. Clerk at PAL officer after contacted with the constable Intizar Shah Belt No. 5281 and obtained Sr. No.538 and 537. Thus the accused was charge in the instant case FIR No. 194, dated 17-06-2022 u/s 420/468/471 PPC/118 (c)(d) Police Act registered at PS East Cantt. Accused was arrested and later released on bail.

The case was registered and after conclusion of investigation the challan was submitted by the prosecution for trial however later on submitted an application with the request to discharge the accused u/s 4C II of Prosecution Act 2005 as the evidence collected by the Investigation officer is weak by evidentiary point of view.

AP

(9)

Record transpires that the complainant Hamayun Khan ISI PAL office though reported that accused had issued clearance certificate to the Afghan national having bogus signatures on the basis of which DD No. 11, dated 12/06/2022 was registered and inquiry was initiated and after completion of inquiry instant case FIR No. 194 was registered however the prosecution submitted the application u/s 4CII for withdrawal of case wherein he prayed that no eye witness are available in support of prosecution case; that no FSL report is available in respect of signatures in question of SP Security; that during investigation it has not been verified through authentic evidence as to whether the telephonic contact was made by the accused for obtaining issuance/obtaining fake certificate; that as per allegations the certificates were provided by one "Zargi" however during the whole investigation he has not been interrogated as to who had facilitated him in obtaining the certificates; that the beneficiaries of certificates did not charge the accused, rather they admitted that the certificates were provided by Zargi; that on whole case file link or relationship has been established between the accused and Zargi, hence in such scenario the case cannot be proved. Record shows that though accused has been nominated by the complainant in the

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instant case yet there is nothing on record, neither there is any statement of the cogent witnesses are recorded.

In the attending circumstances, the evidence collected so far is weak from evidential point of view which will not result the conviction of accused rather further proceeding in the case would be just a futility, therefore while agreeing with the opinion of prosecution, the request of prosecution stands allowed. The subject case is allowed to be cancelled u/s 4C(ii) of the Prosecution Act, 2005. Therefore, accused *Sibghat Ullah s/o Najeeb Ullah charged in case FIR No. 194, dated 17-04-2023 w/s 420/468/471 PPC/118 (c)(d) of PS East Can is discharged w/s 4C-II of Prosecution Act, 2005*. His sureties are discharged from the liabilities of bonds.

File be consigned to the Record Room after its completion and compilation.

**Announced**  
08/01/2024

  
(DAULAT KHAN)  
JMIC-IX/MTMC, Peshawar

Al

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