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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 1497/2024.

Shoaib Khan..... (Appellant)

Versus

Government of Khyber Pakhtunkhwa and others..... (Respondents)

INDEX

S.NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	S. NO. OF PAGES
1.	Index	-	1
2.	Para Wise Comments	-	2 to 5
3.	Affidavit	-	06
4.	Authority Letter	-	7
5.	Copy of Charge sheet and statement of allegations	A	08-09
6.	Copy of Enquiry Report	B	10
7.	Dismissal Order	C	11
8.	Copy to the charge sheet reply	D	12
#	Total	-	12

DEPONENT



DSP khyber

CNIC No # 21201-8380857-7

Mobile# 03339262626

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 18122
Dated 20/11/24

Service Appeal No. 1497-P/2024

Shoaib Khan (Appellant)

Versus

Capital City Police Officer Peshawar & others..... (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 & 2.

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTION:-

- a) That the Appellant has got no cause of action to file the present Appeal.
- b) That the Appeal is not based on facts.
- c) That the Appeal is not maintainable in its present form.
- d) That the Appeal is bad for non-joinder and miss-joinder of necessary parties.
- e) That the Appellant has not come to this Honorable Tribunal with clean hands
- f) That the Appellant is estopped by his own conduct to file the instant appeal.
- g) That the Appeal is barred by law and limitation.

FACTS:

- 1. Correct, to the extent that appellant was serving as a constable in police department, however, remaining para pertains to record.
- 2. Incorrect, plea taken by the appellant is not plausible because every police officer is under obligation to perform his duties with zeal and zest and devotion because in this department there is no room lies to any lethargy.
- 3. Incorrect, stance taken by the appellant is totally devoid of merit because excellent record coupled with receiving accommodation certificate class III being award of appreciation as alleged by the

appellant, does not exonerate an officer from the future wrong deeds on the same is not a clean climate.

4. Correct to the extent that appellant was dismissed from service according as the allegation / welled against him have been proved to the hilt through proper procedure as envisaged in the rules.
5. Incorrect and misleading because the appellant while posted at PS Landi Kotal was issued Charge Sheet and statement of allegations, due to his alleged contacts with drug peddlers and providing them with safe passages. However, in this regard departmental inquiry was initiated and the then SP Investigation Khyber was nominated an enquiry officer to dig out the real facts. Appellant submitted his reply to the Charge Sheet and he was also heard in person and his statement was recorded. It was also revealed that he was in frequent contacts with Afghani smugglers and provided them safe passage for the smuggling of drugs and received bribes from them. However, he was found guilty in the inquiry proceedings, hence, dismissed from service after fulfillment all legal and codal formalities (Copy of charge sheet and statement of allegations as attached is **Annexure-A**). (Copy of inquiry report as attached is **Annexure-B**) (Copy of Dismissal Order as attached is **Annexure-C** Enquiry report)
6. First para is pertain to record, however, for the remaining para, appellant was heard in person in orderly room and during personal hearing he was given an opportunity to prove his innocence but he failed to submit any plausible explanation in his defense. Therefore, his departmental appeal was rejected, being bereft of any substance.
7. Incorrect, stance of the appellant is devoid of any legal footing because a full-fledged departmental enquiry was initiated during the course. Which he was provided ample opportunities to produce evidence in his defense but in fiasco. However, after fulfillment of all

legal and codal formalities. He was dismissed from service, which is commensurate with the gravity of the appellant's misconduct. Hence, the appellant is liable to be dismissed on the following ground amongst the others:-

Grounds:-

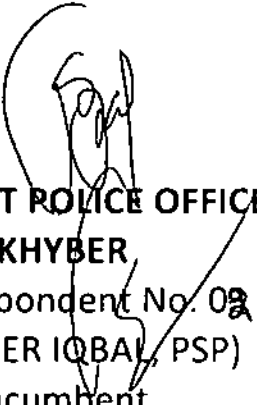
- A. Stance taken by the duly appellant is not plausible because he has duly been treated in accordance with law and fundamental rights as enshrined in the grundnorm because the respondent department has no grudges/ ill-will against the appellant.
- B. Stance taken by the appellant is not plausible because in his case all the proceeding have been conducted according to law and rules.
- C. Incorrect and misleading, both orders are according to law, rules and regulation and was issued after fulfillment of all codal formalities.
- D. Incorrect as already explained in para C.
- E. Incorrect and misleading as already explained in para 5 and 6.
- F. Incorrect, stance taken by the appellant is totally devoid of merit because excellent record coupled with receiving accommodation certificate class III being award of appreciation as alleged by the appellant, does not exonerate an officer from the future wrong deeds on the same is not a clean climate.
- G. Denied and incorrect as already explained in the preceding paras, however, petitioners was posted at police station Landi Kotal, and was found involved in contacts with drug peddler collecting monthlies in his area and for the remaining para need no comments.
- H. Incorrect and misleading both orders of respondents are according to law rules and regulation, as the same were passed after fulfillment of all codal formalities, in light of the same appellant was dismissed from service.
- I. Incorrect, stance of the appellant is devoid of any legal footing because a full-fledged departmental enquiry was initiated during the course. Which he was provided ample opportunities to produce


evidence in his defense but in fiasco. However, after fulfillment of all legal and codal formalities. He was dismissed from service, which is commensurate with the gravity of the appellant's misconduct. Copy of reply to the Charge Sheet is attached as Annexure-D).

- J. Not related hence, Needs no comments.
- K. Incorrect, appellant is not entitled for reinstatement, and back benefits. As the very conduct of appellant is unbecoming of a disciplined police officers.
- L. Respondents will also raise additional grounds at the time of hearing.

PRAYERS:

Keeping in view the above-stated facts, and circumstances, it is the humbly prayed that the instant appeal being devoid of merits may kindly be dismissed with cost please.


DISTRICT POLICE OFFICER
KHYBER
 Respondent No. 02
 (MAZHER IQBAL, PSP)
 Incumbent


CAPITAL CITY POLICE OFFICER
PESHAWAR
 Respondent No. 01
 (Qasim ALI KHAN, PSP)
 Incumbent

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 1497/2024.

Shoaib Khan (Appellant)

Versus

Government of Khyber Pakhtunkhwa and others..... (Respondents)

AFFIDAVIT

I, Mazhar Iqbal, District Police Officer, Khyber (Respondent No. 03) do hereby solemnly affirm on oath that the contents of accompanying Reply to the instant Service Appeal are correct to the best of my knowledge and belief. Nothing has been concealed from this Hon'ble Tribunal.

It is further stated on oath that in this Service Appeal, the answering respondents have neither been placed ex-parte nor their defense is struck off.



20 NOV 2024

District Police Officer,
Khyber
Respondent No. 3
(Mazhar Iqbal, PSP)
Incumbent

A handwritten signature in black ink, appearing to be "Mazhar Iqbal", written over the typed name and title.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 1497 /2024.

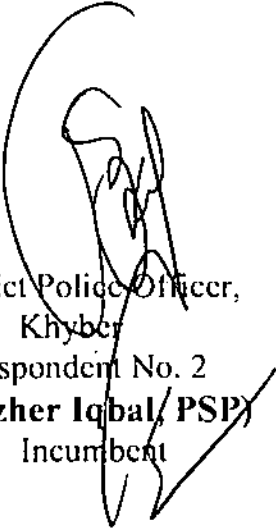
Shoaib Khan (Appellant)

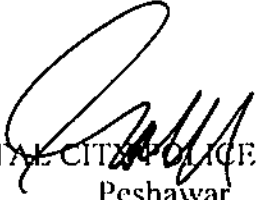
Versus

Capital City Police Officer Peshawar & others (Respondents)

AUTHORITY LETTER

Mr. Mazhar Khan DSP, Khyber is authorized to submit Para-wise comments/ reply in the instant Service Appeal in the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar and also to defend instant Service Appeal on behalf of respondent No. 01 and 02.


District Police Officer,
Khyber
Respondent No. 2
(Mazher Iqbal, PSP)
Incumbent


CAPITAL CITY POLICE OFFICER
Peshawar
Respondent No.01
(Qasim ALI KHAN, PSP)
Incumbent

(8)

Annex (A)

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



No. 7845/PA-DPO Khyber

Dated: 25/10/2023

CHARGE SHEET UNDER SECTION 40(a) OF POLICE RULES 1975

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

"As per learned sources, reportedly you, FC Shoab Khan No. 1125 of District Police Khyber while posted at PS Landi Kotal, have been involved in contacts with narcotics peddlers and smugglers. That you have provided safe passage to the narcotics smugglers in 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.



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

Copies to

- 1. SP (in-charge) of the office of Inquiry
- 2. HRMS and Security Branch for record. Pasillo (s) update
- 3. FC Shoab Khan No. 1125 for information and compliance

Attended by
DPO Khyber
[Signature]

District Khyber.
091 5862033, 091-5864478

OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER

Tel: 091-5862033



No. FB-2/PA-DPO Khyber

Dated: 25/10/2023

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

I, Capt. E Saleem Abbas Kulachi (PSP), District Police Officer, Khyber, as a competent authority, believe that FC Shoaib 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 Shoaib Khan No. 1125 of District Police Khyber while posted at PS Landi 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(iii) 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 FC Shoaib Khan No. 1125 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 Shoaib 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. E SALEEM ABBAS KULACHI (PSP)
DISTRICT POLICE OFFICER,
KHYBER

*Accepted
by DPO
Khyber
Mazhar*

Copies to

- 1. SP Inv. Khyber for [unclear] of [unclear]
- 2. HRMIS and Services [unclear] Branch for record. Profile (s) update

District Khyber.
091 5862033, 091-5864478

(10)

Annex (B)



**SUPERINTENDENT OF POLICE
INVESTIGATION DISTRICT
KHYBER**

Phone No.0917259003

No. 115 /PA-Inv Khyber

Dated: 14/02/2024

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 Shoaib Khan No. 1125 of District Police Khyber while posted at PS Landi 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.

Enquiry proceedings:

During the course of the enquiry, the delinquent was issued with Charge Sheet. He submitted his reply. Then 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 Shoaib 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 Shoaib Khan No. 1125 may kindly be awarded with suitable punishment.

Submitted please

(5)

Kamal Hussain

KAMAL HUSSAIN
Superintendent Of Police Investigation
District Khyber

Attended by
OSP Khyber
Mazhar

(11)

Annex (C)



OFFICE OF THE
DISTRICT POLICE OFFICER
KHYBER

Tel: 091-5862033 Fax: 091-5864478
Email: dpokhyber1@gmail.com



No. 991 /PA-DPO Khyber

Dated: 04/03/2024

DISMISSAL ORDER

FC Shoab 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 (P&D) Rules 1975 (With Amendments - 2014).

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

OB No. 307 /dated 04/03/2024
No. 992-95 /PA - DPO Khyber
Copies to:

1. DSP HQs, Khyber
2. OHC, DPO Khyber for Record
3. Accountant, DPO Khyber for Stoppage of Pay
4. Service Record Branch/HRMIS for Service Record, Good/Bad Entries

Accepted by
DPO
Khyber
[Signature]

