

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 645/2018

Date of institution ... 15.05.2018

Date of judgment ... 12.04.2019

Ali Shan S/o Toor Gul
R/o Kaghazi Hangu Road, Kohat. ... (Appellant)

VERSUS

1. Commandant FRP, Khyber Pakhtunkhwa, Peshawar.
2. Superintendent of Police, FRP, Kohat Range, Kohat.
3. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
... (Respondents)

APPEAL UNDER SECTION-4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 07.11.2017 PASSED BY RESPONDENT NO. 2 BY WHICH MAJOR PENALTY OF "DISMISSAL FROM SERVICE", AND HIS ABSENCE PERIOD OF 05 DAYS IS TREATED AS ABSENCE FROM DUTY WITHOUT PAY, HAS BEEN AWARDED TO THE APPELLANT AND AGAINST THE ORDER DATED 18.04.2018 PASSED BY RESPONDENT NO. 1 WHEREIN THE REPRESENTATION/DEPARTMENTAL APPEAL FILED BY APPELLANT HAS BEEN DISMISSED.

Mr. Shahid Qayum Khattak, Advocate .. For appellant.
Mr. Riaz Ahmad Paindakheil, Assistant Advocate General .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. AHMAD HASSAN .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Frontier Reserve Police as Constable. He was imposed major penalty of dismissal from service vide order dated 07.11.2017 on the allegation

M. Amin
12.4.2019

of his involvement in criminal case vide FIR No. 265 dated 21.09.2017 under section 9-C CNSA/15AA P.S Usterzai District Kohat for having in possession 1100 gms "Chars" and 01 Pistol (30 Bore) with 17 rounds of the same bore without license as well as absence from duty with effect from 21.09.2017 to 26.09.2017 total absence period of 5 days. The appellant filed departmental appeal on 20.11.2017 but the same was rejected by the departmental authority vide order dated 18.04.2018 hence, the present service appeal on 15.05.2018.

3. Respondents were summoned who contested the appeal by filing of written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Frontier Reserve Police as Constable. It was further contended that the appellant was falsely involved in criminal case FIR No. 265 dated 21.09.2017 under section 9-C CNSA/15AA P.S Usterzai District Kohat. It was further contended that the appellant was hon'ble acquitted by the competent court vide detailed judgment dated 23.03.2018. It was further contended that neither charge sheet, statement of allegation was served upon the appellant nor proper inquiry was conducted nor opportunity of cross examination was provided to the appellant nor any final show-cause notice alongwith copy of inquiry report was issued to the appellant therefore, the impugned order of dismissal from service of the appellant is illegal and liable to be set-aside.

5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Frontier Reserve Police but ~~he~~ ^{she} was involved in case FIR No. 265 dated 21.09.2017 under section 9-C CNSA/15AA P.S Usterzai District Kohat. It was further contended that the appellant also remained absent from duty for a period of five days. It was further contended that the appellant was proved guilty by the inquiry officer and on the basis of inquiry, the competent authority has rightly dismissed him from service.

*M. Anwar
22.4.2019*

6. Perusal of the record reveals that the appellant was serving in Frontier Reserve Police as Constable. He was involved in aforementioned criminal case and also allegedly remained absent for a period of five days therefore, departmental proceeding was initiated against the appellant and after conclusion of departmental proceeding, the appellant was imposed major penalty of dismissal from service vide order dated 07.11.2017 but the record reveals that the inquiry officer has recorded the statement of witnesses during inquiry proceeding namely Rashif S/o Yar Muhammad, Head Constable Zaheer Shah, Constable Mudassir, Constable Farman and Inspector Gul Janan. Copy of statement of those witnesses has been furnished by the representative of the respondent-department at the time of arguments and the same is placed on record, which shows that the inquiry officer has recorded their statements, the inquiry officer has himself put some question on some of the witnesses but has not provided opportunity of cross examination to the appellant therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service with the direction to the respondent-department to conduct de-novo inquiry including opportunity of cross examination to the appellant and also give final show-cause notice alongwith copy of inquiry report and opportunity of personal hearing and defence. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
12.04.2019



(AHMAD HASSAN)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

08.1.2019


Appellant in person and Addl. AG alongwith Ihsanullah, ASI for respondents present.

The representative of the respondents submitted written reply which is placed on file. To come up for arguments on 08.03.2019 before the D.B-II. The appellant may submit rejoinder, if so advised, within 15 days.


Chairman

08.03.2019

Appellant alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Adjourn. To come up for arguments on 12.04.2019 before D.B.


(M. AMIN KHAN KUNDI)
MEMBER


(M. HAMID MUGHAL)
MEMBER

12.04.2019

Counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service with the direction to the respondent-department to conduct de-novo inquiry including opportunity of cross examination to the appellant and also give final show-cause notice alongwith copy of inquiry report and opportunity of personal hearing and defence. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

12.04.2019


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


(AHMAD HASSAN)
MEMBER

13.09.2018

Appellant Ali Shan in person present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. The learned AAG requested for adjournment. Granted. Case to come up for written reply/comments on 01.10.2018 before S.B.


Chairman

01.10.2018

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments on 19.11.2018 before S.B. Notice be also issued to appellant and his counsel for attendance for the date fixed.


(Muhammad Amin Khan Kundi)
Member

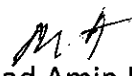
19.11.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Additional AG on behalf of the respondents present. Representative of the respondent-department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. Case to come up for written reply/comments on 08.01.2019 before S.B. Notice be also issued to appellant and his counsel for attendance for the date fixed.


Muhammad Amin Khan Kundi
Member

13.07.2018

Appellant in person present and requested for adjournment. Adjourned. To come up for preliminary hearing on 01.08.2018 before S.B.


(Muhammad Amin Kundi)
Member

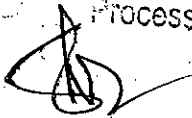
01.08.2018

Appellant Ali Shah in person alongwith his counsel Mr. Shahid Qayum Khattak, Advocate present and heard in limine.

Contends that the respondents imposed major punishment upon the appellant on the charge of his involvement in the narcotics case but in the said case he has been acquitted by the competent court of law.

Points raised need consideration. The appeal is admitted to full hearing, subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 13.09.2018 before S.B. ~~_____~~

Appellant Deposited
Security Process Fee







Chairman

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 645/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/05/2018	<p>The appeal of Mr. Ali Shan presented today by Mr. Shahid Qayyum Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;">  REGISTRAR <u>15/5/18</u> </p>
2-	18/05/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/06/18.</u></p> <p style="text-align: right;">  CHAIRMAN </p> <p>01.06.2018</p> <p>Mr. Shahab Fahim Khattak junior to counsel for the appellant Mr. Shahid Qayyum Khattak, Advocate present and requested for adjournment as senior counsel for the appellant is not in attendance. Granted. To come up for preliminary hearing on 13.07.2018 before the S.B.</p> <p style="text-align: right;">  Chairman </p>

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 645 /2018

Ali Shan Appellant

Versus

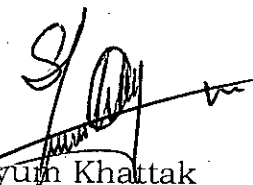
Commandant FRP and others..... Respondents

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Appellant

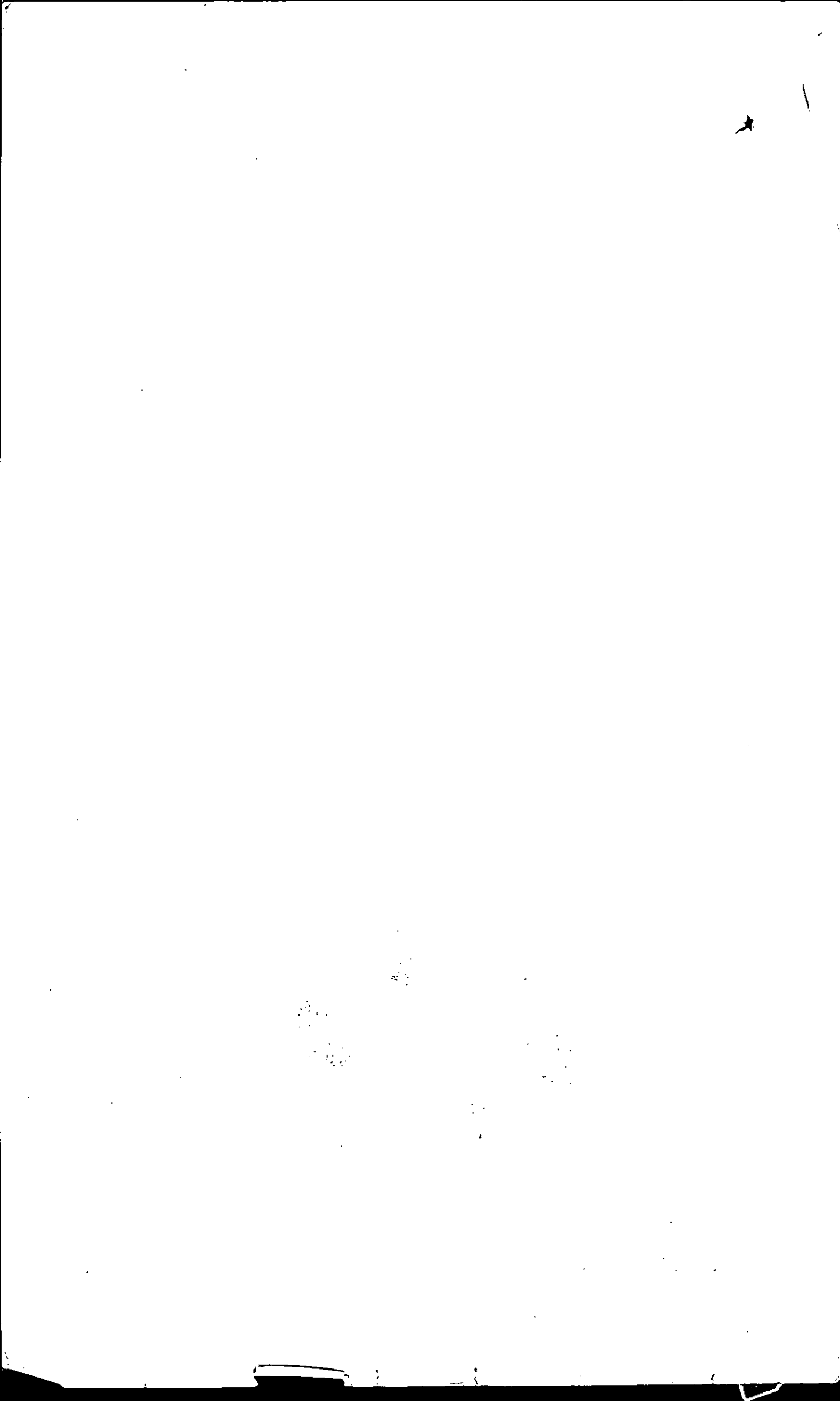
Through


Shahid Qayum Khattak
Advocate, High Court
Peshawar
Mob No. 0333-9195776

Dated: /05/2018

&

Shahab Faheem
Advocate



①

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 645 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 688

Dated 15-5-2018

Ali Shan S/o Toor Gul R/o Kaghazi Hangu Road,
Kohat

Appellant

Versus

1. Commandant FRP, Khyber Pakhtunkhwa, Peshawar
2. Superintendent of Police, FRP, Kohat Range, Kohat
3. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar

.....Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 07/11/2017 PASSED BY
RESPONDENT NO. 2 BY WHICH MAJOR PENALTY OF
"DISMISSAL FROM SERVICE", AND HIS ABSENCE PERIOD OF 05
DAYS IS TREATED AS ABSENCE FROM DUTY WITHOUT PAY,
HAS BEEN AWARDED TO THE APPELLANT AND AGAINST THE
ORDER 18/04/2018 PASSED BY RESPONDENT NO. 1 WHEREIN
THE REPRESENTATION/ DEPARTMENTAL APPEAL FILED BY
APPELLANT HAS BEEN DISMISSED.

Filed to-day

Registrar

15/5/18
PRAYER

By accepting this service appeal, the punishment awarded to the
appellant through impugned orders dated 07/11/2017 and
18/04/2018 may graciously be set aside by declaring it illegal,
void, unlawful, without authority, based on mala fide, void abinitio
and thus not sustainable and the appellant is entitled for
reinstatement with all back benefits of pay and service.

Respectfully Sheweth;

1. That appellant was serving as constable in FRP Platoon No. 109 District Kohat. On 21/09/2017 appellant while returning back to PS from performing polo duty that one Mr. Rashif Muhammad his co-villager call him from P.S Astarzai telephonically and being his co-village he went to the said P.S wherein the SHO concerned with mala fide intention charged appellant in the criminal case instead of Mr. Rashif Muhammad. The Said Rashif Muhammad has recorded his statement before the I.O to that effect.
2. That respondent No. 2 issued a Charge Sheet alongwith Statement of Allegation and thereafter final show cause notice was issued which was properly replied but the same has not been taken into consideration and passed impugned order dated 07/11/2017 and appellant has been Dismissed from service.
(Copy of documents are attached as Annexure "A" "B" "C" & "D")
3. That appellant filed departmental appeal against the impugned order before worthy respondent No. 1 on 20/11/2017 who vide order dated 18/04/2018 dismissed the same. (Copy of the Representation and order are attached as Annexure " E" & "F")
7. That the appellant feeling aggrieved from the impugned orders hence, filling this appeal on the following amongst other grounds inter alia

GROUND:

- a. That impugned order dated 07/11/2017 and 18/04/2018 passed by respondents are illegal, unlawful, without authority, based on mala fide intention, against the nature justice, violative of the Constitution and Service Law and equally without jurisdiction, hence, the same are liable to be set aside in the best interest of justice.
- b. That both the impugned orders passed by respondents are very much harsh, without any evidence based on surmises & conjectures and is equally against the principle of natural justice.

- c. That respondent No. 2 has not taken into consideration the detail and plausible reply to the show cause notice but brushed aside it without any reason, grounds and without conducting any legal enquiry. Furthermore respondent No. 2 has not adopted proper procedure and passed impugned order which is liable to be set aside.
- d. That no regular inquiry has been conducted for confirming the allegation and scrutinizing the conduct of appellant with reference to the charges therefore, the very foundation of the impugned order was baseless and groundless and not sustainable under the law and rules.
- e. That the allegation leveled against the appellant are baseless, without any proof and cogent evidence and is based on malafide intention and are concocted one. No proper opportunity of personal hearing has been provided to appellant. Respondents have not adopted proper procedure nor any statement of any witness has been recorded.
- f. That previous unblemished record of appellant has not been taken into consideration. Further more mere charge in criminal case is no ground for removal from service, until and unless the charge has been proved against appellant.
- g. That the trial of the criminal case is still pending adjudication before the competent Court of law and pre-trial conviction order of removal from service is not justified.
- h. That both the impugned orders have been passed in violation of law and rules of disciplinary proceedings and principles of natural justice. The authority wrongly and malafidly based the impugned orders on assessments and speculations, therefore the impugned order is bad in law.
- i. That the disciplinary proceedings against appellant suffered from gross infirmities, illegalities and irregularities as no evidence what so ever has been produce or cited in the respondents nor any witness has been examined.

- j. That major penalty of dismissal from service has been passed against appellant without conducting any regular inquiry and without examining any witness in support of the charges. Similarly no documentary evidence was brought on record to substantiate the allegations leveled against appellant, therefore, the impugned orders based on assessment is bad in law and has been passed in violation of settled principles governing the disciplinary action against the Police Officers.
- k. That respondent No. 1 has also not adopted proper procedure while rejecting the same.
- l. That the learned respondent has not taken into consideration that the rules under which the appellant has been charged are not applicable on him which clearly shows that the act of respondent is totally based on discrimination undue victimization beside that the impugned order is suffered from gross infirmities, illegality , based on no evidence totally contradictory to the enquiry and two penalties has been awarded to appellant.
- m. That the entire service record of the appellant is unblemished therefore, the impugned order would be a black stigma on the clean service career of the appellant, therefore, the same is liable to be set aside.

It is, therefore, most humbly prayed that on accepting this service appeal, the punishment awarded to the appellant through impugned orders dated 07/11/2017 and 18/04/2018 may graciously be set aside by declaring it illegal, void, unlawful, without authority, based on mala fide, void abinitio and thus not sustainable and the appellant is entitled for reinstatement with all back benefits of pay and service.

5

Any other relief not specifically prayed for but deem appropriate in the circumstances of the case may also be granted.

Ali Shan
Appellant

Through

Shahid Gayum Khattak
Shahid Gayum Khattak
Advocate, High Court
Peshawar

Dated: /05/2018

& *Shahab*
Shahab Faheem
Advocate

Certified that as per instruction of my client no such appeal has been filed before this Hon'ble Forum.

Shahid Gayum Khattak
Advocate

Affidavit

I, Ali Shan S/o Toor Gul R/o Kaghazi Hangu Road, Kohat do hereby solemnly affirm and declare on Oath that the contents of the above appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Hon'ble Tribunal.

07 MAY 2018

Ali Shan
Deponent



6

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. /2018

Ali Shan Appellant

Versus

Commandant FRP and others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT

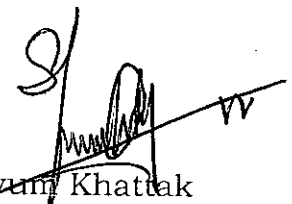
Ali Shan S/o Toor Gul R/o Kaghazi Hangu Road,
Kohat

RESPONDENTS

1. Commandant FRP, Khyber Pakhtunkhwa, Peshawar
2. Superintendent of Police, FRP, Kohat Range, Kohat
3. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar


Appellant

Through


Shahid Qayum Khattak
Advocate, High Court
Peshawar

Dated: /05/2018

Dated 26 / 09 /2017CHARGE SHEET

- I) I, Mian Imtiaz Gul, SP FRP Kohat as competent authority, am of the opinion that you Constable Ali Shan No. 1109 of FRP Platoon No. 109 District Kohat have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.
- a) As intimated vide SP Investigation Kohat office letter No. 5196/GC dated 25.09.2017, you were charged/arrested vide case FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA P.S Usterzai District Kohat for having in your possession 1100 gms "Chars" and 01 Pistol (30 Bore) with 17 rounds of the same bore without licence. Secondly you also remained absent vide DD No. 04 dated 21.09.2017 till date. Previously you had remained absent for 16 days and were awarded punishment for the same but you did not mend your trend. Thus you have committed a gross "Misconduct" as defined in Rule 2 (iii) of Police Rules 1975.
- II). By reason of the above, you seem to be guilty as sufficient materials is placed before the undersigned, therefore it is decided to proceed against you in general police proceeding.
- III). You are; therefore, required to submit your written reply within 07 days of the receipt of this charge sheet to the Enquiry Officer.
- IV). Your written reply, if any, should reach the Enquiry Officer within specific period, failing which it shall be presumed that you have no defense to offer and in case, ex-parte action shall follow against you.
- V). Intimate as to whether you desire to be heard in person or not?
- VI) A statement of allegation is enclosed.

Attested

A. Shan

(Mian Imtiaz Gul)
Superintendent of Police, FRP
Kohat Range, Kohat


8

DISCIPLINARY ACTION

I, Mian Imtiaz Gul, SP FRP Kohat as competent authority, am of the opinion that you Constable Ali Shan No. 1109 of FRP Platoon No. 109 District Kohat, have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATION

1. a) As intimated vide SP Investigation Kohat office letter No. 5196/GC dated 25.09.2017, you were charged/arrested vide case FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA P.S Usterzai District Kohat for having in your possession 1100 gms "Chars" and 01 Pistol (30 Bore) with 17 rounds of the same bore without licence. Secondly you also remained absent vide DD No. 04 dated 21.09.2017 till date. Previously you had remained absent for 16 days and were awarded punishment for the same but you did not mend your trend. Thus you have committed a gross "Misconduct" as defined in Rule 2 (iii) of Police Rules 1975 and have rendered yourself liable to be proceeded against departmentally.
2. For the purpose of scrutinize the conduct of said Constable with reference to the above allegations, SI Noor Ali LO FRP Kohat is appointed as enquiry officer.
3. The enquiry officer shall conduct proceeding in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record it is finding and make with twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.
4. The delinquent official shall join the proceeding on the date, time and place fixed by the officer.

Attested


(Mian Imtiaz Gul)
 Superintendent of Police, FRP
 Kohat Range, Kohat

FINAL SHOW CAUSE NOTICE

9

Annexure - B

Whereas you Constable Ali Shan No. 1109/FRP, while posted in FRP Platoon No. 109 deployed at District Kohat as intimated vide SP Investigation Kohat office letter No. 5196/GC dated 25.09.2017, you were charged/arrested vide case FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA P.S Usterzai District Kohat for having in your possession 1100 gms "Chars" and 01 Pistol (30 Bore) with 17 rounds of the same bore without licence. Secondly you also remained absent w.e.f 21.09.2017 vide DD No. 04 dated 21.09.2017 to 26.09.2017 (total absence period is 05 days). Previously you had remained absent for 16 days and were awarded punishment for the same but you did not mend your trend.

Accordingly departmental Inquiry was conducted against you. The E.O in his finding report has found you guilty of the charges leveled against you and has recommended you for major punishment.

NOW, THEREFORE, I, Mian Imtiaz Gul, Superintendent of Police, FRP Kohat Range, Kohat in exercise of the powers vested in me under the Khyber Pakhtunkhwa Police Rules - 1975 hereby call upon you Constable Ali Shan No. 1109/FRP, through this Final Show Cause Notice to explain your position within 07 days of the receipt of this notice as to why you should not be awarded one or more Major or Minor Punishment as mentioned in Rule (4) of KP Police Rules 1975. In case of non receipt of reply within the stipulated period, an ex-parte action will be taken against you. Also state in writing as to whether you desire to be heard in person or not. Copy of finding report of Enquiry Officer is enclosed herewith.

No. 461 IPA

Dated 24/10 2017

Attested
Ali
Shan

(Mian Imtiaz Gul)
Superintendent of Police, FRP,
Kohat Range, Kohat

محضور جناب ایس پی صاحب ایف آر پی کوھاٹ ریج کوھاٹ

عنوان: جواب فائل شوکا ز نوٹس

جناب عالی!

بحوالہ فائل شوکا ز نوٹس نمبری 46/PA مورخہ 24-10-2017 عرض ہے۔ کہ بروز وقوعہ میں کمال خیل میں پولیو ڈیوٹی سرانجام دینے کے بعد بطرف پولیس لائن حاضری کی رپورٹ کرنے آرہا تھا۔ کہ راستے میں راشف محمد عرف یاسر سکند دیہام نے فون کر کے مجھے تھانہ استرزی آنے کا کہا۔ چنانچہ راشف محمد سے تھانہ استرزی میں ملنے اور بعد میں رپورٹ حاضری کرنے کا سوچ کر میں تھانہ استرزی گیا۔ جہاں راشف کوحوالات میں بند پایا۔ دریافت پر بتایا۔ کہ SHO صاحب نے اس کے قبضہ سے چرس وپستول برآمد کر کے بندر۔ حوالات تھانہ کیا ہے۔

SHO صاحب نے مجھے دیکھ کر راشف محمد کوحوالات سے باہر کرنے اور مجھے حوالات میں بند کرنے کا حکم دے کر میرے خلاف پرچہ کٹوایا۔ اس وقت تک کوئی مقدمہ درج رجسٹر نہ ہوا تھا۔ SHO صاحب کے ساتھ پہلے سے رنجش تھی۔ جس کی وجہ سے موقع پر غنیمت جان کر مجھے ناجائز طور پر مقدمہ میں ملوث کر کے راشف محمد کی بجائے مجھے ملزم ٹھہرایا۔ بدیں وجہ مورخہ 21-09-2017 کو میں اپنی حاضری کی رپورٹ پولیس لائن میں نہ کر سکا۔

راشف محمد نے رہائی پانے کے بعد تفتیشی افسر کو حلفیہ بیان حوالہ کر کے چرس وپستول برآمد شدہ کو اپنی ملکیت ظاہر کیا۔ تفتیشی افسر نے بھی اپنی تفتیش میں واضح طور پر تحریر کیا ہے۔ کہ مقدمہ علت نمبر 265 مورخہ 21-09-2017 جرم CNSA/15AA 9C کے اندراج کے وقت راشف محمد مذکورہ بالا تھانہ استرزی میں موجود تھا۔ انکو آری آفسر نے بھی اپنی رپورٹ میں اس حقیقت کا اظہار کیا ہے۔ مزید یہ کہ راشف محمد کی تھانہ استرزی کے حوالات میں بندش فوٹو گرافس سے بھی واضح ہے۔ جو کہ راشف محمد نے حوالہ تفتیشی افسر بعد رہائی کیے ہیں۔

مجھے بد نیتی کی بناء پر مقدمہ بالا میں ملوث کیا گیا ہے۔ مزید یہ کہ انکو آری افسر نے میرے خلاف موصولہ گناہ ڈاڑی میں لگائے گئے الزامات کی بنیاد پر مجھے چرس فروخت کرنے کا مورد الزام ٹھہرایا ہے۔ لیکن اندر میں بارہ نہ تو کسی غیر جانبدار، لاتعلق شخص کا بیان لیا گیا ہے۔ اور نہ ہی میرے خلاف کوئی دستاویزی شہادت فراہم کر چکا ہے۔

مزید یہ کہ بروز وقوعہ میں جائے وقوعہ پر موجود ہی نہ تھا۔ تو مجھ سے برآمدگی ممنوعہ اشیاء کیسے ہوئی۔ جملہ گواہان استغاثہ SHO کے ماتحت ہونے کی وجہ سے اس کے زیر اثر تھے۔ لہذا انہوں نے میرے خلاف SHO صاحب تھانہ استرزی کے کہنے پر گواہی دی ہے۔ میں ناکردہ گناہ ہوں۔ مجھے قربانی کا بکرا ناجائز طور پر بنایا گیا ہے۔

جہاں تک سابقہ غیر حاضری کا تعلق ہے۔ اندر میں بارہ عرض ہے کہ مجھے اس بناء پر سزا دی گئی ہے۔ دو بارہ اسی موضوع پر سزا یا بی قرین انصاف نہ ہوگی۔

لہذا استدعا ہے کہ میرے خلاف حکمانہ کارروائی داخل دفتر کیے جانے کا حکم صادر فرمائیں۔

مورخہ 03-11-2017

العارض
کنشیل علی شان نمبر 1109 ایف آر پی
پلاٹون نمبر 109 حال FRP لائن کوھاٹ

Attested
Shan

11

ORDER

My this order will dispose off departmental enquiry conducted against accused Constable Ali Shan No. 1109/FRP Platoon No. 109, under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 (Amended in 2014).

The allegations against accused official as intimated by SP Investigation Kohat vide his office letter No. 5196/GC dated 25.09.2017, are that he, while posted in platoon No.109 deployed at District Police Lines Kohat, was charged and arrested in case FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA PS Usterzai District Kohat for having in his possession 1100 gms "Charas" and 01 pistol (30 Bore) with 17 rounds of the same bore without license. Secondly he also remained absent vide DD No. 04 dated 21.09.2017 to 26.09.2017 (total absence period is 05 days). In this regard, proper departmental enquiry was conducted against him through LO FRP Kohat who, in his finding found him guilty of the charges levelled against him and further recommended him to be removed from service. In the light of findings of E.O, he was issued Final Show Cause Notice vide this office No. 461/PA dated 24.10.2017 which was received by him personally on 25.10.2017. In response to which he submitted reply where in he denied the allegation levelled against him and contended that the said "Charas" was not recovered from him rather the same was recovered from his friend Rashid Muhammad who had submitted an affidavit to this effect before the I.O, copy of which was produced by accused official and placed on record.

He was called in OR and heard in person. During personal hearing he repeated the same contention which was given by him in his reply to final show cause notice but he failed to produce any un-rebuttable evidence before the undersigned as well as Enquiry Officer to prove his innocence and false involvement in the present case. It is worth mentioning here that on 21.09.2017 after performing Polio Eradication duty he did not make arrival report in his platoon and thus his absence report was recorded in Roznamcha. Thereafter he was apprehended in the present case.

His Service record perused which revealed that he was appointed as Constable on 14.09.2015. There are 08 bad entries against him with 01 good entry in his credit. As such he has less than 03 years service. After going through the enquiry papers it is evident that the accused official has been found involved in the said case and allegation has been established against him. Moreover an anonymous complaint regarding his involvement in criminal activities was also received in this office during course of departmental enquiry against him which was inquired into by LO and placed on record. It indicates that he does not possess good moral character. Retention of such official in the department will bring bad name for the whole department.

Therefore, I, Mian Imtiaz Gul SP FRP Kohat Range, Kohat in exercise of powers vest in me under Rule 5(5) of Khyber Pakhtunkhwa Police Rules-1975 (Amended in 2014), award him a major punishment of "Dismissal From Service" and his absence period w.e.f 21.09.2017 to 26.09.2017 (05 days) is treated as absence from duty i.e. without pay.

OB No. 795

Dated 07/11/2017

(Mian Imtiaz Gul)
Superintendent of Police, FRP,
Kohat Range, Kohat.

- Copy of above is submitted for favour of information to the:-
1. Worthy Commandant FRP, Khyber Pakhtunkhwa Peshawar for favour of information in continuation to this office order Endst: No. 718 dated 26.09.2017, please.
 2. Pay Officer
 3. Reader
 4. SRC
 5. OHC
- } For necessary action and copy of order be served upon him

(Mian Imtiaz Gul)
Superintendent of Police, FRP,
Kohat Range, Kohat.

Ali

Shan

03

BEFORE THE COMMANDANT FRP, KHYBER
PAKHTUNKHWA PESHAWAR

Subject: APPEAL AGAINST THE ORDER OF SP/FRP KOHAT RANGE
KOHAT BEARING OB NO. 795 DATED 07-11-2017
WHEREBY THE APPELLANT EX-CONSTABLE ALI SHAH NO.
1109/FRP PLATOON NO. 109 WAS DISMISSED FROM
SERVICE AND THE PERIOD OF ABSENCE W.E.F. 21-09-2017
TO 26-09-2017 (05 DAYS) TREATED WITHOUT PAY.

Respectfully Sheweth:

With veneration, the appellant prefers the instant appeal on the basis of the following facts and grounds for your kind consideration:

FACTS:

Briefly stated allegations against the appellant were that he was arrested by Mr. Gul Janan SHO P.S Usterzai Kohat vide case FIR No. 295 dated 21-09-2017 U/S 9C CNSA / 15AA for being found in possession of 1100 grams charras and an unlicensed pistol with 17 rounds of 30 bore.

Secondly that the appellant remained absent from duty w.e.f. 21-09-2017 to 26-09-2017.

On the above allegations, the appellant was proceeded against departmentally which culminated in the dismissal of the appellant and the period of five days absence from duty treated without pay by SP / FRP Kohat Range Kohat vide the impugned order. Hence this appeal.

Attested

AS
Shah

GROUNDS:

- a. That the allegations leveled against the appellant are baseless, incorrect and concocted. The actual facts have been twisted by Gul Janan SHO P.S Usterzai. The real facts are that the appellant was deputed for polio education duty at Kamal Khel, Kohat the appellant had proceeded for the above mentioned duty from police lines Kohat vide naqalmad No. 30 dated 17-09-2017 (copy enclosed)

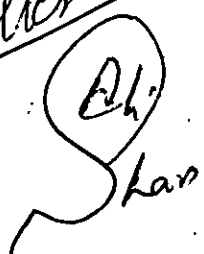
After performing the duty, the appellant was on his way to police lines Kohat when he received a call from Rashif S/o Yar Muhammad the appellant's co-villager to reach P.S Usterzai since he was detained by Gul Janan SHO P.O Usterzai for being found in possession of narcotics and a pistol with rounds licensed in his father name. being co-villager I went to P.O Usterzai to pacify hm and then to come back to police lines Kohat for entering my arrival report in the D.D on 21-09-2017 Reaching there, I found the siad Rashif behind the bars. The said Rashif condemned SHO Gul Janan and used harsh words in respect of the SHO present in the vicinity. The SHO snubbed the appellant for coming after Rashif. On being responded that the appellant had committed no sin by visiting Rashif, the SHO got annoyed and told the appellant that he would teach a lesson to the appellant. Thereafter the SHO released Rashif and registered the case against the appellant to satisfy his ego. The photographs showing Rashif behind the bars in P.S Usterzai are enclosed herewith.

- b. That the appellant had performed polio enductaion duty till 18;00 hours on 21-09-2017 at Kamal Khel and reached Kohat at 19:00 hours after covering distance of 35/40 KM whereas the time of occurrence mentioned vide FIR No. 295 dated 21-09-2017 U/S 9C CNSA / 15 AA P.S Usterzai

Attested


was 18:30 hours. The spot mentioned in the FIR was Kacha road leading to Sepah which was about 30 K from Kohat. How such a long distance (about 70 KM) from Kamal Khel to the spot could be covered in 30 minutes when appellant had no conveyance at his disposal. The appellant was made an accused in the case by SHO Gul Janan when the appellant started reasoning with SHO in PS Usterzai.

- c. That Rashif named above had submitted an affidavit to the investigation officer of the above mentioned criminal case admitting therein that the narcotics and pistol etc. were recovered from his possession and the appellant was falsely implicated in the criminal case by SHO Gul Janan. The enquiry officer had also mentioned the fact of presentation of affidavit by Rashif to the investigation officer, vide his finding report but failed to summon and examine him during the enquiry proceedings. This established the fact that the departmental enquiry was not conducted properly and fairly by the enquiry officer. Copy of the affidavit submitted by Rashif is enclosed.
- d. That the competent authority i.e. SP / FRP Kohat Range was also influenced by an anonymous dairy submitted against the appellant by unknown person containing false allegation against the appellant. No stance of the involvement of the appellant in any immoral activity or registration of any case in the past against the appellant was quoted therein. The submission of such anonymous complaint during the enquiry proceedings was meaningful intended to harm the appellant. At least someone should have been examined in supprt of the versioin of the anonymous scriber of the complaint or any documentary evidence brought on record by the enquiry officer.
- e. As far as 05 days absence from duty was concerned, it was due to the arrest of the appellant w.e.f. 21-09-2017 to 26-

Attested

 P.H. Khan

(15)

09-2017 during which period the appellant remained in jail and could not make his arrival report in the DD on 21-09-2017 after performing the duty at Kamal Khel. As such the absence of the appellant from duty was not intentional deliberate.

Prayer:

In view of the above submission, it is prayed that by accepting the instant appeal, the impugned order may be set-aside and the appellant re-instated in service from the date of his dismissal. The appellant may also be heard in person please.

Dated: 20-11-2017

Yours Obediently

Af. Shan

Ex-Constable Af Shan S/o Toor Gul
R/o Kaghazai, P.S Cantt Kohat

Attested
Af. Shan

ORDER

(16)

Annexure F

This order will dispose of the departmental appeal preferred by Ex- constable Ali Shan No. 1109 of FRP Kohat Range against the order of dismissal from service passed by SP FRP Kohat Range, Kohat vide Order OB No. 795, dated 07.11.2017. The applicant was proceeded against on the allegations that he while posted in Platoon No. 109 deployed at District Police Line Kohat, was charged and arrested in case FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA PS Usterzai District Kohat for having in his possession 1100 grams "Chars" and 01 Pistol (30 Bore) with 17 rounds of the same bore without license. Besides, he also remained absent from duty vide DD report No. 04 dated 21.09.2017 till to 26.09.2017 for a period of 05 days.

In this regard, proper departmental enquiry initiated against him through Line Officer FRP Kohat Range. After completion of enquiry the Enquiry Officer submitted his findings, wherein he found him guilty of the charges leveled against him and recommended for major punishment of removal from service.

In the light of findings of Enquiry Officer, he was issued Final Show Cause Notice, to which he replied, wherein he denied the allegation leveled against him and contended that the "Chars" was not recovered from his possession rather the same was recovered from his friend namely Rashid Muhammad.

He was called in OR and heard in person by the competent authority. During the course of personal hearing he repeated the same contention which was given by him in his reply to Final Show Cause Notice, but he failed to produce any un-rebuttable evidence before the competent authority as well as Enquiry Officer to prove his innocence.

In the light of recommendation of Enquiry Officer and other material available on record, he was awarded major punishment of dismissal from service vide office OB No. 795, dated 07.11.2017.

Feeling aggrieved against the impugned order of SP FRP Kohat Range Kohat, the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room.

During the course of personal hearing the appellant contended that he is innocent, while the said criminal case has malafidely registered against him. In this regard a denovo (impartial) enquiry was conducted against the applicant through DSP FRP HQ Peshawar to dig out the actual facts.

After conducting denovo enquiry DSP FRP HQ (Enquiry Officer) submitted his findings, wherein he reported that during the course of denovo enquiry the statements of the eye witnesses i.e SHO Mr. Gul Janan alongwith other Police Party were recorded who present on the spot and recovered the Chars from the possession of the applicant. According to the statements of Police Party concerned the said Chars was recovered from the possession of the applicant. So it is abundantly clear that the delinquent official has been found involved in a criminal case with the intent of moral turpitude.

Based on the findings narrated above, I, Muhammad Ijaz Khan, PSP Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected and filed being meritless.

Order Announced.

Commandant

Frontier Reserve Police

Khyber Pakhtunkhwa, Peshawar

No 5791-92 EC, dated Peshawar the 12/4 /2018.

Copy of above is forwarded for information and necessary action to the

1. SP FRP Kohat Range, Kohat. His service record alongwith D file sent herewith

2. Ex Ali Shan No. 1109 S/O Toor Gul, village Kaghazai, Police Station Cantt District Kohat.

Attested
Ali Shan

ابتدائی اطلاع رپورٹ

کنٹر

ڈائٹن (ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شروع و زیر دفعہ ۲۰۱۱ انجری مٹا بظرفیاری

تھانہ استدرزکی -

منبع کو باٹ - 9

تاریخ و وقت وقوع 17/11/21 ، وقت 18:30 بجے

نمبر 265

ابتدائی اطلاع تھانہ درج کوئی ایک تحریری مراسم علیحدہ الیکٹرونک
 عمل جیان 450 کی 1-درجہ کی 1100 کے تحت خارجہ کارڈ پر کئی درجہ کے تحت خارجہ کارڈ
 حکم کنستبلان طلبہ 95 ایلیٹ فورس ، 392 ، فرمان 95 ، دم ڈرگ لوی پولیس تھانہ
 ناکہ بندی کیے ہوئے موجود تھا۔ کہ بوقت بالا ایک جوان جانب سے اپنے علاقہ حیدر آباد سے
 بائیکس کھڑا کرتے ہیں کہ ہاتھ میں ایک لہجہ سٹاک لٹاچ پرنگ سفید بائیکس پر
 گڑھے پیر اور سوکر جو وزن کرتے ہیں 1100 گرام سنگلی۔ حیدر آباد سے اپنے سرگرم
 بارا دیا گیا اس حسی قبول کرہیں سے ایلوڈرہ۔ کیول 30 اور نمبر A-1100
 حیدر آباد سے اپنے کارڈ پر 30 اور نمبر A-1100 کے تحت خارجہ کارڈ
 گرام 30 کے تحت خارجہ کارڈ پر 30 اور نمبر A-1100 کے تحت خارجہ کارڈ
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 کے تحت خارجہ کارڈ پر 30 اور نمبر A-1100 کے تحت خارجہ کارڈ

Attested
 Signature

17-11-21
 9-017

حکومت پاکستان
قومی شناختی کارڈ
14301-3723932-3
علی ارشد گلیم
10/09/1990



75 Rupees ۷۵ روپیہ

بیان صحتی

نکارہ رشف کوہ پور کے ساتھ ساتھ کاندھلی کوہ پور
صحتی بیان / تاہم کہ صحتی بیان 263 حروفہ 219
17

جم 9CCNSA نقارہ استریٹی کوہ پور صحتی
15AA

کے ساتھ ساتھ ساتھ کاندھلی کوہ پور کے ساتھ ساتھ

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نوٹ سالہ صحتی بیان 9CCNSA نقارہ استریٹی کوہ پور کے ساتھ ساتھ
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نقارہ استریٹی کوہ پور کے ساتھ ساتھ

Attested
Shan

بسم الله الرحمن الرحيم
الحمد لله رب العالمين
والصلاة والسلام على سيدنا محمد
النبينا والرسول
الذي بعث في كل قبيلة
نبيًا من قبائلهم
مبينين لآياتهم
وآثارهم
وآثارهم
وآثارهم

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مبينين لآياتهم
وآثارهم
وآثارهم
وآثارهم

14301-3723532.3

Redif

الحمد لله رب العالمين
والصلاة والسلام على سيدنا محمد
النبينا والرسول
الذي بعث في كل قبيلة
نبيًا من قبائلهم
مبينين لآياتهم
وآثارهم
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وآثارهم

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11301-3332485.1

الحمد لله رب العالمين
والصلاة والسلام على سيدنا محمد
النبينا والرسول
الذي بعث في كل قبيلة
نبيًا من قبائلهم
مبينين لآياتهم
وآثارهم
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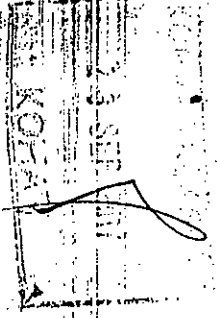
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الحمد لله رب العالمين
والصلاة والسلام على سيدنا محمد
النبينا والرسول
الذي بعث في كل قبيلة
نبيًا من قبائلهم
مبينين لآياتهم
وآثارهم
وآثارهم
وآثارهم



(18) (19)

BEFORE THE SUPERINTENDENT OF POLICE, FRP KOHAT
REGION KOHAT

Subject: REPLY OF THE CHARGE SHEET

Respected Sir,

Kindly with reference to the charge sheet bearing No. 437/PA/FRP dated 26-09-2017, it is submitted that I have been falsely implicated in the case FIR No. 265 dated 21-09-2017 U/S 9C CNSA / 15AA P.S Usterzai by Mr. Gul Janan SHO P.S Usterzai on account of personal grudge. The fact of the matter is that on the relevant day, Rashif Muhammad S/o Yar Muhammad R/o Khadizai, Kohat was apprehended by the said SHO for being found in possession of Narcotics and a pistol. During detention he was asked by the SHO if he knew some policeman of Kaghazai and the said Rashif Muhammad named me. I was requested by Rashif Muhammad to visit him in the PS Usterzai. I received call from Rashif when I was proceeding from Kamal Khel to Kohat after performing Polio duty.


Being my co-villager, I went to PS Usterzai and found Rashif Muhammad behind the bars in the lock-up. The photo is enclosed. By then, no case was registered. The SHO on account of personal grudges, involved me in the case instead of the said Rashif Muhammad and released the said Rashif.

It is worth mentioning that subsequently Rashif produced an affidavit to the SHO stating therein that the seized articles were recovered from his possession and nothing was recovered from the possession of constable Ali Shan but the affidavit presented by Rashif Muhammad was not entertained by Gul Janan SHO P.S Usterzai. The said Rashif still claims the recovery of the items from his possession. He also claimed that the seized pistol was licensed in the name of his father.

The actual facts could be gathered if Rashif Muhammad is personally heard in the matter. Copy of the affidavit presented to SHO P.S Usterzai by Rashif Muhammad is enclosed herewith for perusal.

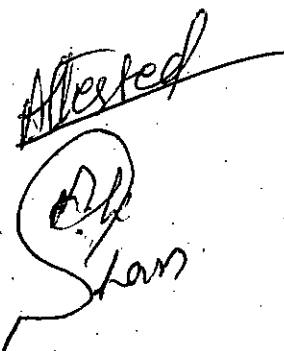
It would be proper if the departmental proceedings are kept pending till the decision of the criminal case against me.

Yours Obediently


Constable Ali Shan
No. 1109

FRP Platoon No. 109, Kohat

Dated: 04-10-2017


Ali Shan

BEFORE THE SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 645/2018

Ex Constable Ali ShanPetitioner.

VERSUS

**1. Addl: IGP/Commandant FRP Khyber
Pakhtunkhwa Peshawar & Others.....Respondents**

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1.	Para-wise Comments		03
2.	Charge sheet	A	01
3.	Final showcase notice	B	01
4.	Enquiry report	C	02
Total			07


RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 645/2018.

Ali Shan Ex-constable No. 1109 FRP, Kohat.....Appellant

VERSUS

1. Commandant, Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.
2. Superintendent of Police,
FRP Kohat Range, Kohat.
3. Government Khyber Pakhtunkhwa, Through
Chief Secretary, Peshawar..... Respondents

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is not maintainable in the present form.
3. That the appellant is stopped by his own conduct to file the instant appeal.
4. That the appellant has no cause of action to file the instant appeal.
5. That the appellant has not come to this Honorable Court with clean hands.
6. That the appellant is trying to concealed material facts from this Honorable Tribunal.
7. That the appeal has not been based on facts.

WRITTEN REPLY ON BEHALF OF RESPONDENTS

RESPECTED SHEWETH:-

FACTS:-

1. Incorrect, as the SP Investigation Kohat intimated vide his office letter No. 5196/GC, dated 25.09.2017 that the appellant while posted in platoon No. 109 deployed at District Police Line Kohat, was charged and arrested in criminal case vide FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA PS Usterzai District Kohat for having in his possession 1100 grams "Chars" and 01 Pital (30 Bore) with 17 rounds of the same bore, without license. Besides, he also remained absent from duty vide DD report No. 04 dated 21.09.2017 till to 26.09.2017 for a period of 05 days.
2. Incorrect that the appellant being a member of discipline force was involved in the above moral turpitude criminal case and in this regard he was proceeded against proper departmentally. The appellant was issued Charge Sheet with Summary of Allegations and thereafter Final Show Cause Notice was also issued by respondent No. 02, to which the appellant replied which was found unsatisfactory, therefore, after fulfillment of due codal formalities he was dismissed form service. (Copy of charge sheet, final show cause notice and enquiry report attached herewith as annexure "A, "B & "C)
3. Correct to the extent that departmental appeal of the appellant was thoroughly examined and rejected on sound grounds.

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be clearly documented and supported by appropriate evidence. This includes receipts, invoices, and other relevant documents that can be used to verify the accuracy of the records.

In addition, the document highlights the need for regular audits and reviews. By conducting periodic checks, any discrepancies or errors can be identified and corrected promptly. This helps to ensure the integrity and reliability of the financial data being recorded.

Furthermore, the document stresses the importance of transparency and accountability. All transactions should be clearly labeled and categorized, making it easy for anyone reviewing the records to understand the nature and purpose of each entry. This level of transparency is essential for building trust and confidence in the financial reporting process.

Finally, the document notes that maintaining accurate records is not only a legal requirement but also a best practice for sound financial management. It allows for better decision-making, budgeting, and overall financial health. By following these guidelines, individuals and organizations can ensure that their financial records are accurate, complete, and reliable.

4. Incorrect the instant appeal may very kindly be dismissed on the following ground.


GROUNDS:-

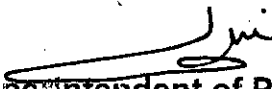
- a. Incorrect and denied. Both the orders dated 07.11.2017 and 18.04.2018 were passed in accordance with law and rules
- b. Incorrect and denied. Orders passed by the respondents were totally based on evidence, suitable, on merit and in accordance with law & rules.
- c. Incorrect and denied. Proper departmental proceedings were initiated against the appellant by issuing Charge Sheet with Summary of Allegations and thereafter Final Show Cause Notice. The appellant was also given chance of personal hearing. Hence, no injustice was done to the appellant throughout departmental proceedings.
- d. Incorrect and denied. Proper departmental enquiry was conducted by appointing SI Noor Ali the then Line Office FRP Kohat as Enquiry Officer to unearth the real facts who conducted enquiry accordingly and submitted his finding report before respondent No. 02, wherein the appellant was found guilty of the charges leveled against him.
- e. Incorrect and denied. The allegations against the appellant were proved and he was found guilty of the charges leveled against him. He was heard in person by respondent No. 02, but his contention was not found satisfactory. Proper departmental proceedings were initiated against him and it is evident from Charge Sheet Final Show Cause Notice.
- f. Incorrect and denied. The appellant had badly blemished service record in just 03 years of his service. However, the unblemished service record does not exonerate a person from the futures wrong deeds.
- g. Departmental and criminal proceedings are two different matters. Each is to be decided on its own merits as held by superior courts in various judgments. He had committed a departmental misconduct which was proved against him and he was awarded punishment for the same.
- h. Incorrect and denied. The orders passed by the respondent were in accordance with law & rules.
- i. Incorrect and denied. Disciplinary proceedings against the appellant were conducted in accordance with proper procedure and in light of law & rules.
- j. Incorrect and denied. Proper departmental enquiry was conducted by appointing SI Noor Ali the then Line Office FRP Kohat as Enquiry Officer to unearth the real facts who conducted enquiry accordingly and submitted his finding report before respondent No. 02.
- k. Incorrect and denied. Proper procedure was adopted by respondent No. 01 and no injustice was done to the appellant.

- l. Incorrect and denied. The appellant was awarded only one major penalty i.e Dismissal from service while his absence from duty with effect from 21.09.2017 to 26.09.2017 total period of 05 days was treated as leave without pay. Moreover, prescribed rules were adopted and applied by the respondents. The act of respondent is not based on discrimination.
- m. Incorrect and denied. The appellant had badly blemished service record in just 03 years of his service.
- n. That any other points, if raised, shall be replied during arguments with permission of Honorable Court.

PRAYERS:-

It is therefore, most humbly prayed that in the light of aforesaid facts/submission the instant service appeal may kindly be dismissed with cost.


Commandant, FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)


Superintendent of Police,
FRP, Kohat Range, Kohat.
(Respondent No. 2)


Home Secretary,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.3)

Handwritten Urdu text at the top of the page, including the number 1109 and the word FRP.

'A'

PA/CH Sheet-2017

No. 437 /PA/FRP

Dated. 26 / 09 / 2017

Handwritten number 4 in a circle.

CHARGE SHEET

I) I, Mian Imtiaz Gul, SP FRP Kohat as competent authority, am of the opinion that you Constable Ali Shan No. 1109 of FRP Platoon No. 109 District Kohat have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.

a) As intimated vide SP Investigation Kohat office letter No. 5196/GC dated 25.09.2017, you were charged/arrested vide case FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA P.S Usterzai District Kohat for having in your possession 1100 gms "Chars" and 01 Pistol (30 Bore) with 17 rounds of the same bore without licence. Secondly you also remained absent vide DD No. 04 dated 21.09.2017 till date. Previously you had remained absent for 16 days and were awarded punishment for the same but you did not mend your trend. Thus you have committed a gross "Misconduct" as defined in Rule 2 (iii) of Police Rules 1975.

II). By reason of the above, you seem to be guilty as sufficient materials is placed before the undersigned, therefore it is decided to proceed against you in general police proceeding.

III). You are, therefore, required to submit your written reply within 07 days of the receipt of this charge sheet to the Enquiry Officer.

IV). Your written reply, if any, should reach the Enquiry Officer within specific period failing which it shall be presumed that you have no defense to offer and in case ex-parte action shall follow against you.

V). Intimate as to whether you desire to be heard in person or not?

VI) A statement of allegation is enclosed.

Handwritten Urdu text and signature of Constable Ali Shan.

(Mian Imtiaz Gul)
Superintendent of Police
Kohat Range, Kohat

Handwritten Urdu text at the bottom, including the number 1109 and FRP, and a mobile number 0332-9553171.

5

"A/1"

DISCIPLINARY ACTION

I, Mian Imtiaz Gul, SP FRP Kohat as competent authority, am of the opinion that you Constable Ali Shan No. 1109 of FRP Platoon No. 109 District Kohat, have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATION

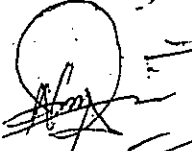
1. a) As intimated vide SP Investigation Kohat office letter No. 5196/GC dated 25.09.2017, you were charged/arrested vide case FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA P.S Usterzai District Kohat for having in your possession 1100 gms "Chars" and 01 Pistol (30 Bore) with 17 rounds of the same bore without licence. Secondly you also remained absent vide DD No. 04 dated 21.09.2017 till date. Previously you had remained absent for 10 days and were awarded punishment for the same but you did not mend your trend. Thus you have committed a gross "Misconduct" as defined in Rule 2 (iii) of Police Rules 1975 and have rendered yourself liable to be proceeded against departmentally.
2. For the purpose of scrutinize the conduct of said Constable with reference to the above allegations, SI Noor Ali LO FRP Kohat is appointed as enquiry officer.
3. The enquiry officer shall conduct proceeding in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record it is finding and make with twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.
4. The delinquent official shall join the proceeding on the date, time and place fixed by the officer.

(Mian Imtiaz Gul)
Superintendent of Police, I
Kohat Range, Kohat

اور انکو جوہر بنا کر کوشش ہے کہ میں آقا کا رولوں نے انکو باجوہر کے جس سے
جو آقا کے سوا کسی حقیقت اور میں نے اس قدر حیرت میں سے انکو کے علاوہ
جس کا کاروبار میں نے بلکہ مال اور دیگر لوگوں اور وقت ان کا کام ہے

میں نے انکو باجوہر میں ہم انکو لاشعور کو سہارا بنا کر انکو باجوہر میں مقبول
بنا کر مگر کام براب و چونکہ علی ایک سنگھ اور میں نے اس سے اور وہ کئی ایسے حالت
انکو باجوہر میں کیا جو ایسا دن بناد کر ایسا کر انکو باجوہر میں کر سکتا ہے
انکو باجوہر میں ہے جو وہ اس وقت ہے کہ انکو باجوہر کا صورت ہے 9/12 کو انکو باجوہر میں
بنا کر دیگر بلکہ انکو باجوہر میں سے انکو باجوہر میں ہے اور انکو باجوہر میں
آخری رقم ہے 81 اور انکو باجوہر میں ہے انکو باجوہر میں ہے قابل مصلحت ہے

اور انکو باجوہر میں دیگر بلکہ انکو باجوہر میں ہے انکو باجوہر میں ہے اس سے
جو وہ سو گیا ہے کہ انکو باجوہر میں ہے انکو باجوہر میں ہے انکو باجوہر میں ہے
مگر انکو باجوہر میں ہے انکو باجوہر میں ہے انکو باجوہر میں ہے انکو باجوہر میں ہے
اور جس میں میں نے انکو باجوہر میں ہے انکو باجوہر میں ہے انکو باجوہر میں ہے
ہے قابل مصلحت ہے انکو باجوہر میں ہے انکو باجوہر میں ہے انکو باجوہر میں ہے
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T.P.P. 10
10/10/17
21

FINAL SHOW CAUSE NOTICE

Whereas you **Constable Ali Shan No. 1109/FRP**, while posted in FRP Platoon No. 109 deployed at District Kohat as intimated vide SP Investigation Kohat office letter No. 5196/GC dated 25.09.2017, you were charged/arrested vide case FIR No. 265 dated 21.09.2017 U/S 9-C CNSA/15AA P.S Usterzai District Kohat for having in your possession 1100 gms "Chars" and 01 Pistol (30 Bore) with 17 rounds of the same bore without licence. Secondly you also remained absent w.e.f 21.09.2017 vide DD No. 04 dated 21.09.2017 to 26.09.2017 (total absence period is 05 days). Previously you had remained absent for 16 days and were awarded punishment for the same but you did not mend your trend.

Accordingly departmental Inquiry was conducted against you. The E.O in his finding report has found you guilty of the charges leveled against you and has recommended you for major punishment.

NOW, THEREFORE, I, Mian Imtiaz Gul, Superintendent of Police, FRP Kohat Range, Kohat in exercise of the powers vested in me under the Khyber Pakhtunkhwa Police Rules – 1975 hereby call upon you **Constable Ali Shan No. 1109/FRP**, through this Final Show Cause Notice to explain your position within 07 days of the receipt of this notice as to why you should not be awarded one or more Major or Minor Punishment as mentioned in Rule (4) of KP Police Rules 1975. In case of non receipt of reply within the stipulated period, an ex-parte action will be taken against you. Also state in writing as to whether you desire to be heard in person or not. Copy of finding report of Enquiry Officer is enclosed herewith.

No. 461 /PA

Dated 24/10 /2017

(Mian Imtiaz Gul)
Superintendent of Police, FRP,
Kohat Range, Kohat

ایس ایف اے علی شان کو اس نوٹس پر جواب دینا چاہیے اور اس میں اپنی جگہ پر وضاحت کرنی چاہیے اور اس میں اپنی جگہ پر وضاحت کرنی چاہیے اور اس میں اپنی جگہ پر وضاحت کرنی چاہیے

BA
Shan
0332-9553181
dt. 25-10-17

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 645 /2018

Ali Shan Appellant

Versus

Commandant, FRP and others..... Respondents

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth;

Preliminary objection

That the reply/para-wise comment has not been competently filed and nor any affidavit has been filed in accordance with law nor the same has been properly attested, hence the same has no value in the eyes of law.

Rejoinder to Preliminary objection

Preliminary objection raised by respondents are erroneous, frivolous, based on male fide intention and having no factual and legal backing. Respondents have failed to explain as how the appeal is time barred; how the appeal is not maintainable in the present form; how the appellant has been estopped to filed the instant appeal; why the appellant has no cause of action when he has been awarded punishment and filing appeal is his substantive right and he has aggrieved party hence filed this appeal ; that what material fact has been concealed by the appellant from this Hon'ble Tribunal; who the appeal is not based on facts. No plausible explanation has been given by the respondents. No specific and due objection regarding the controversial question of facts and law involved in the instant service appeal has provided, therefore, appellant is unable to submit proper rejoinder to the preliminary objection raised by the respondents.

Rejoinder to Facts of Reply/ Parawise comments

1. In response to Para No. 1 and 2 of the reply / parawise comments it is submitted that mere charging in criminal case is not a justified ground for awarding of major punishment unless the allegation is proved. Here the appellant has been acquitted by the competent court of the alleged allegation leveled against him, therefore, the impugned order is liable to be set aside. (Copy attached)

2. In response to para No. 3 & 4 it is submitted that appellant being a Civil Servant has wrongly been proceeded with under the Police Rules 1975 nor adopted proper procedure. Further it submitted that proper procedure for disposal of appeal has not been adopted by respondent No. 2 envisages in the N.W.F.P Civil Servants (Appeal) Rules, 1986. Hence, appellant left with no other option but to filed the present appeal.

Rejoinder to the Grounds of Reply/ Parawise comments

- a) Para No. a- c of the reply / parawise comments are incorrect and that of memo of appeal are correct. Both the orders are illegal, unlawful, without authority, based on mala fide, void abinitio. The appellant has been proceeded with the rules and regulation which are not applicable to him nor proper procedure has been adopted by the respondents to determine the guilt of appellant. No evidence whatsoever has been procured against appellant. The statement recorded by the enquiry officer in absence of appellant also support the stance of appellant but the same has been used against appellant with obvious reason that he has been made escape goat to please high ups.

- b) Para No. d- h of the reply / parawise comments are incorrect hence denied. Detail given in the memo of appeal is correct the same has not been properly replied. The appellant has been victimized without conviction in a criminal case which are main allegation

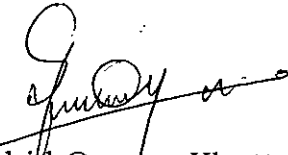
against him. Under the law in opportunity of cross examination of witnesses is the unalienable right of appellant but no opportunity of hearing has been provided to him, even then the statement recorded in his absence also support his stance but still the same has been used against him. The penalty imposed on appellant is only on the basis of surmises and conjunctures without taking into consideration the documents and evidence provided by the appellant. The stance forwarded by the appellant has not been taken into consideration. Whether a person can be penalized only on hearsay evidence and whether this important aspect of the case has been considered by the respondent while awarding punishment to appellant. And whether it is justified under any canon of law that a person has to be penalized on mere charging in criminal case without waiting for his conviction. No evidence whatsoever has been attached against the appellant with the Parawise Comments, which speaks about the veracity of the accusation.

- c) Para No. i- m of the reply / parawise comments are incorrect hence denied. No proper procedure of enquiry or awarding of punishment has been adopted by the respondent. The appellant being Civil Servant has wrongly been proceeded with. It is the ultimate purpose of law and rights guaranteed by the Constitution that no body has to be condemned unheard but here the basic right of the appellant has been violated and he has been condemned unheard, hence both the orders are liable to be set aside in the best interest. The Learned respondent No. 2 has not adopted proper procedure as mentioned in the N.W.F.P Civil Servants (Appeal) Rules, 1986. The question arises that whether there is any evidence regarding the allegation leveled against appellant and whether the punishment awarded to appellant being a civil servant is in accordance with law, rule and regulation. The procedure adopted by the respondents clearly show male fide intention, discrimination and undue victimization of the appellant and the appellant approaches this Hon'ble Tribunal being the final and highest forum of appeal. Moreover, after the acquittal of petitioner by trial court which is proper forum, the allegations against him stands nullified .

It is therefore, most humbly prayed that by accepting this rejoinder and the ground of main appeal the order of respondent No. 1 & 2 may please be set aside.

Appellant

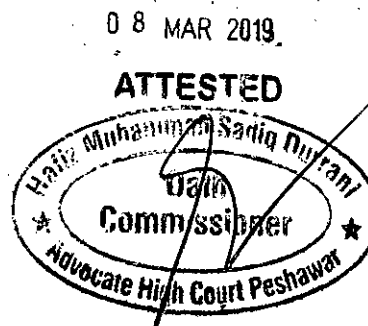
Through



Shahid Qayum Khattak
Advocate, Supreme Court

Dated: /03/2019

Affidavit

I, do hereby solemnly affirm and declare on Oath that the contents of the above rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Hon'ble Tribunal.




Deponent

In the court of Additional Sessions Judge-V/Judge Special Court,
Kohat

Special case No.....53 of 2017
Date of Institution..... 14.11.2017
Date of Decision..... 23.06.2018

State through Inspector Gul Janan Khan SHO, PS Usterzai, Kohat
.....(complainant)

VERSUS

Ali Shan s/o Tor Gul r/o Kaghazai, Kohat

..... (Accused Facing Trial)

Present:

Mr. Zahoor Khan, APP for State

Mr. Faiz Muhammad Khan Advocate, counsel for accused

CASE FIR NO. 265 DATED 21.09.2017 U/S 9-C CNSA & 15 AA OF
POLICE STATION USTERZAI, KOHAT

JUDGMENT

The prosecution story is that on 21.09.2017 the complainant along with constables Zahir Shah, Mudasir Aman, Farman and other police officials had made barricade at Kacha Road leading to Sepaya tribal territory; that at 1830 hours, a young person was coming from tribal territory Sepaya who was stopped on suspicion; that he having an envelope white color in his hand which was searched and chars *Garda* weighing 1100 grams was recovered and on further search one pistol 30 bore No.A-4001 with fixed/spare charger containing 17 live rounds of 30 bore which the accused had tied with his waist was also recovered. From the recovered chars five grams were separated for FSL and sealed into parcel No.1 while

ATTESTED

6/12
COPING

Remaining chargs were sealed in parcel No.2. The contraband along with arms and ammunitions were taken into possession. The accused disclosed his name Ali Shan s/o Tor Gul r/o Kaghazai who was arrested and murasila was drafted, which was sent to the PS for registration of the case, on the basis of instant case FIR Ex-P-A was registered against the accused.

After registration of the case, the case was investigated. During investigation, the investigation officer prepared the site plan and also dispatched the samples to the FSL for chemical examiner report and received report of FSL in affirmative, which was placed on file. The I.O, during investigation, recorded the statements of PWs u/s 161 Cr.P.C. After completion of investigation, complete challan was submitted against the accused for trial by the SHO.

On 13.11.2017, complete challan was received by this Court for the trial against accused. The accused, being on bail, was summoned who appeared before the Court and after compliance of provision of 265-C Cr.P.C, charge was framed against the accused on 30.11.2017, to which the accused pleaded not guilty and claimed trial, therefore, the prosecution was allowed to produce its evidence.

During the trial of the case, the prosecution examined seven PWs. On 26.04.2018, the prosecution closed its evidence and after closing the prosecution evidence, the statement of accused was recorded u/s 342 Cr.P.C. on 09.05.2018. The accused opted to produce one Rashif s/o Yar

 6/18

Muhammad as his defense witness whose statement was recorded as DW-1 on 17.05.2018 and the case was fixed for final arguments.

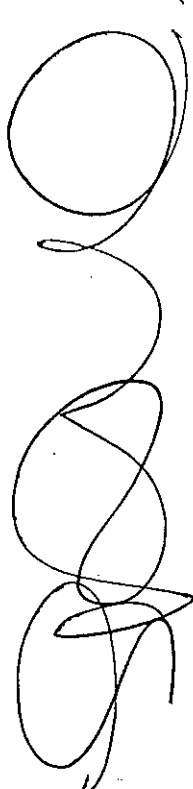
The gist of the prosecution is as under:

PW-1 is the statement of constable Aftab Ahmed LHC who took the samples to the FSL. PW-2 is the statement of Sami ur Rehman MHC who kept the case property in safe custody in Malkhana of the PS. PW-3 is the statement of Gul Janan Inspector/SHO, the seizing officer, who supported the contents of murasila in his statement. PW-4 is the statement of Zaheer Shah HC who is the marginal witness to the recovery memo. PW-5 is the statement of Abdul Hameed No.1104, Moharrir Police Lines, Kohat, who lodged Naqal Mad No.14 dated 21.09.2017. PW-6 is the statement of Azam Khan SI who after receipt of FIR investigated the case and during investigation prepared the site plan on the pointation of complainant, recorded statements of marginal witnesses and other proceedings were conducted. PW-7 is the statement of Raza Khan HC who on the receipt of murasila chalked out case FIR Ex:PA against the accused.

The learned APP for the State argued that the accused is arrested red handed along with the huge quantity of chars and being a single accused substitution is a rare phenomena, that the samples were taken from the contraband that were in safe custody of the police, which was timely sent to the FSL, that the FSL report is in positive which supports the version of prosecution, that the case property was produced before the Court, which

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27/10

was exhibited, that the association of the private witnesses is not necessary which has been specifically excluded by Section 25 of the CNSA, that the official witnesses are good witnesses and their evidence cannot be discarded only on the ground that they are police officials, that the PWs are consistent in their statements who supported the recovery from the accused, the learned APP lastly argued that the prosecution has proved the case against the accused beyond any shadow of doubt.



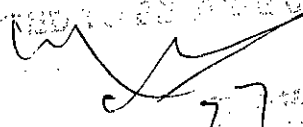
On the other hand, learned counsel for accused opposed the arguments of learned APP for the State and argued that the prosecution witnesses are not consistent in their statements and there are major contradictions on material points in the statements of prosecution witnesses, which create doubts in the case of prosecution, that the samples were sent to the FSL on 24.09.2017, which was not received by the FSL on the same date and was received on 25.09.2017, which affected the authenticity of FSL report, that the alleged contraband is planted against the accused who had come to the PS against one Rashif s/o Yar Muhammad who is neighbor of accused who has called the accused to reach PS Usterzai as the police had brought him from his house and had also brought the licensed pistol 30 bore with rounds belonging to his father, that the version of the accused is supported by the defense witness and photographs available on file, that the case of prosecution is full of doubts, the benefit of which may be extended to the accused.

ATTESTED BY THE JUDGE
 27/6/18

Arguments of learned APP for the State and learned counsel for the accused heard and available record perused.

The case of the prosecution is that the complainant had made barricade at Kacha Road leading to Sepaya tribal territory and the accused was coming towards them from tribal territory who was stopped and the chas *Garda* along pistol 30 bore was recovered from his possession. After cautious analysis of prosecution story and material on record it would evince that it is not appealable to a prudent mind that the accused who is also a police constable, allegedly having chas in his hand and as per statement of PW-4, was at a distance of 30 yards from the police who could make his escape good after seeing the police shall proceed towards the Police who had made barricade, so that the police may register a case against him, which makes the story of the prosecution not believable. Furthermore, the accused was on Polio Duty on 21.09.2017 as stated by PW-5 Abdul Hameed No.1104 Moharrir Police Lines, Kohat, therefore, when on 21.09.2017 the accused was on Polio Duty then his presence, arrest and recovery of contraband and pistol at the place of occurrence is also doubtful.

Besides that there are also material contradictions in the statements of prosecution witnesses which has rendered the statement of prosecution witnesses unworthy of any credit. PW-4 stated in his cross examination that he was told by the SHO to put a barricade as there were some prior information about the accused however, the complainant has not mentioned in the murasila Ex:PW-3/2 regarding any prior information and if there was

ATTESTED

 27/09/17

any prior information then the complainant was required to call private witnesses to witness the recovery which is omitted in the present case. PW-3 Gul Janan Inspector stated in his cross examination that he has not mentioned the affixation of three stamps with monograms on the parcels in the recovery memo as well as in the murasila whereas the recovery memo Ex:PW-3/1 shows that three stamps with monogram of "IG" have been affixed on the parcels which negates the contents of murasila and recovery memo. PW-3; Seizing Officer further stated that the murasila and recovery memo are not in his hand writing who has been negated by PW-4 Zaheer Shah IHC who stated that the SHO first drafted the murasila which was sent to the PS, which makes the presence of the seizing officer on the spot and recovery of contraband by him from accused doubtful. Furthermore, the Seizing Officer further stated that he has sealed the arms and ammunitions into parcels after it was examined by the Arms Expert while the report of Arms Expert EX-PW-6/5 shows that the Arms Expert examined the arms on 22.09.2017 whereas, as per statement of PW-4, who stated in his cross examination that the parcel Ex:P-2, which bears the signature of SHO prepared on 21.09.2017 and the stamps are intact on the parcels, which further negates the version of complainant. The samples were sent to the FSL vide road certificate Ex:PW-1/1 on 24.09.2017 whereas the application, vide which the samples were sent to the FSL, bears date of road certificate as 25.09.2017 and the sample was received in the FSL on 25.09.2017 on the next date. It is not explained in the statement of PWs that why the parcel

ATTACHED TO THE CASE COPY

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No.01 was not deposit in the FSL on the same date i.e 24-09-2017 on which the sample was dispatched to the FSL which also put a dent in the case of prosecution and raise a question mark on the authenticity of FSL report.

The accused, during his statement u/s 342 Cr.P.C took the defense plea that in fact his co-villager one Rashif s/o Yar Muhammad r/o Kaghazai who is his neighbour called him from PS Usterzai that he has been brought by the police to the PS along with a licensed pistol 30 bore in the name of his father and being the said Rashif his neighbor, he went to PS Usterzai to meet the above named Rashif who was confined in the lockup of PS Usterzai. That in the meanwhile, Gul Janan SHO came there and snubbed the accused on his visit to the PS due to which oral altercation took place between the accused and complainant, which resulted the registration of instant FIR against the accused. The accused produced Rashif as his defense witness and recorded his statement as DW-01. The plea of the accused is fully supported by the defense witness DW-1. The defense plea of the accused and statement of DW-1 could not be shattered by the prosecution during cross examination of DW-1. Furthermore, the defense plea of the accused is also supported by the photograph Ex:DW-1/2 of Rashif DW-1 which has been drawn when Rashif DW-1 was in the lockup and the accused had come to the police station after he was called by Rashif. The defense plea is further supported by the fact that the pistol is licensed in the name of Yar Muhammad, as stated by the accused in his defense plea and DW-1, which has been returned to the said Yar Muhammad vide order dated

ATTESTED
27/6/18

10.04.2018 and the license of the said pistol Ex:DW-1/1 is also available on file.

The initial burden of proof of the offence against the accused was on the prosecution however the prosecution badly failed to discharge its initial burden of proof as the story of prosecution and statement of the prosecution witnesses are not worth reliable. The accused through his defense evidence and material brought on record fully proved his innocence in the case which can be relied upon particularly when the prosecution case is full of doubts.

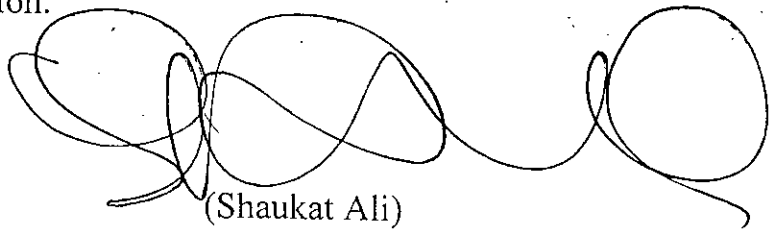
It is not essential that there should be many circumstances creating doubts in the case of prosecution even a single circumstance that create a reasonable doubt in a prudent mind regarding the guilt of accused then the accused shall be entitled to such benefit not as a matter of grace or concession but as a matter of right. In the case against accused, there are numerous doubts, the benefit of which shall be extended to the accused as a matter of right as it is better that ten guilty persons escape than that one innocent suffer.

As sequel to the above discussion, the prosecution has failed to bring home the guilt of the accused beyond any reasonable shadow of doubt therefore; the accused is acquitted in the instant case from the charges leveled against him by extending him the benefit of doubt. The accused is on bail, his sureties are discharged from the liabilities of bail bonds. The case property i.e. contraband be kept intact till the expiry of period of

appeal/revision and where after the same be dealt according to law. The pistol 30 bore along with live rounds has already been returned to the original licensee, its sureties are also discharged from the liabilities of bail bonds.

File be consigned to District Record Room Kohat after necessary completion and compilation.

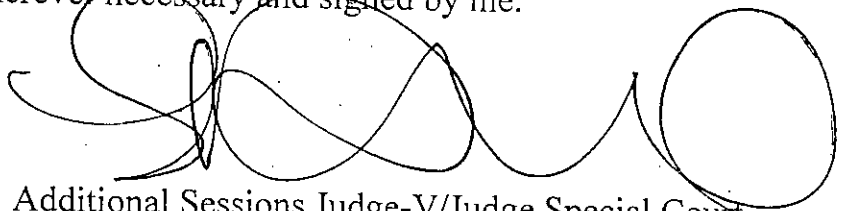
Announced
23rd June, 2018



(Shaukat Ali)
Additional Sessions Judge-V/Judge Special Court,
Kohat

CERTIFICATE

Certified that this judgment consists of -09- pages. Each page has been read, corrected wherever necessary and signed by me.



Additional Sessions Judge-V/Judge Special Court,
Kohat

ATTACHED TO THE ORIGINAL COPY

COPYING

47/18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 239

In Service Appeal No. 645/2018

Dated 12-2-2019

Ali Shan

Versus

P.P.O & Others

Put up to the Court with
rehabilitate appeal.


R/S/14

APPLICATION FOR EARLY HEARING IN THE
CAPTIONED CASE WHICH IS FIXED FOR
08/03/2019.

Respectfully Sheweth,

1. That the above mentioned Appeal is pending before this Hon'ble Service Tribunal and fixed for 08/03/2019.
2. That the applicant has been removed from services on the basis of a criminal case pending against him which has been decided and he has been acquitted from the charges.
3. That the applicant being a sole bread earner of his family and is facing serious financial concerns rendering him in great distress and mental agony.

4. That the applicant being innocent in instant case and due to his financial crisis the instant matter being of urgent nature, need to be fixed by this Hon'ble' Forum as early as possible.

It is, therefore, humbly prayed that on acceptance of this Application that the case may kindly be heard as soon as possible to meet the end of justice.

Dated: 09/02/2019

12/02/2019

Shan
Appellant

Through

Shahid
SHAHID QAYUM KHATTAK
Advocate, High Court,
Peshawar.

AFFIDAVIT:-

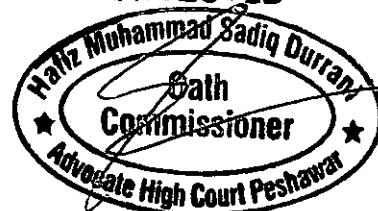
I, the appellant/ applicant do hereby solemnly affirm and declare on Oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed herein.

Shan
Deponent

14301-7669150-7
0332-9553171

12 FEB 2019

ATTESTED






جناب عالی

معروض عدت ہوں کہ عورت ۱۹/۰۹ کو تقریباً شام ۷ بجے میں پولیس ڈیوٹی سے فارغ ہو کر میرے دوست راشف کمرہ پاسر نے کال کیا اور بتلایا کہ مجھے کو پولیس نے تالاب عورت میں پکڑا لے جلدی آگئے۔ پس میں جاؤں وقت تالاب عورت پہنچ گیا وہاں پر ظہیر HC سے مل کر اپنے دوست راشف کے بارے میں بات کر گیا۔ بات چیت کے دوران HC ظہیر کے ساتھ تلخ مباحث ہوئی۔ اس کے بعد HC ظہیر نے میرے دوست پاسر کو چھوڑ کر من سائل کو بلک اپ سرکار گاڑی میں بیٹھا کر مکان لے گیا اور مجھے بندہ سوالات کر کے میرے خلاف FIR درج کیا۔ میں حلفاً اور قرآن پان پر قسم اٹھاتا ہوں کہ نہ تو مجھ سے ظہیر نے چرسا نہ لیا گیا ہے اور نہ یہ چرسا میرا تھا۔ بلکہ میں تو اپنے دوست پاسر کے پیچھے مددگار کے لیے گیا تھا۔

پس اس بیان سے جو قطعاً سچ ہے


 Ali Khan
 EX کنٹریل علی شان ۱۱۰۹ کوپاٹ
 ۹۵۳۳۱۷۱ - ۵۳۳۲

بیان ازاں مسی راسف عرف یاسر ولد یاز محمد، سکنہ گاندھاری کونجاٹ۔

جناب عالی!

بدراقت بیان ہوں کہ مورخہ 21⁰⁹/₂₀₁₇ کو میں پیدل بجابت سید کے علاقہ
عظیم آباد تھا۔ وہاں پر میں نے دوکانہ اطالیہ عرف تاج سے مبلغ 1800 روپے
کا چرس خرید کر اور چرس کے ساتھ والد کے نام کا بسول نمبر A4001
بھی موجود تھا۔ بمقام سید کے تالاب ٹور میں پولیس والے حصہ کنٹینل

ظہیر نے مجھے کھڑا کر کے چرس سے چرس اور بسول ہوا مد کیا۔

اس دوران میں نے عید کے دوست علی شان کو کال فون کیا۔ کیونکہ وہ میرا
دوست تھا۔ علی شان جاتے وقت میرا ہنسا۔ اور میں سرکاری پولیس حوالہ

میں بیٹھا تھا۔ علی شان نے ظہیر HC کے ساتھ چھو گھنٹو پو گیا۔ علی شان اور

ظہیر آپس میں بات کر کے بعد ازاں پتہ نہیں ان لوگوں کے درمیان کیا باتیں

ہو گئی۔ جس پر ظہیر نے مجھے گاڑی سے اتار کے عسکر سائیکل پر سوار کر کے

عید کے بیچ پولیس کنٹینل بیٹھا کر کے تھانہ اسٹریٹ کی طرف روانہ کیا۔ تھانہ

اسٹریٹ سے کچھ فاصلہ پہنچے SHD مل جان خان آ گیا۔ ظہیر HC نے SHD

صاحب کے آنے کے شام عید کے بیچ سے کنٹینل اتارا اور مجھے چھوڑ دیا۔ اور علی شان

کو تھانہ اسٹریٹ لے گئے۔ بعد ازاں مجھے پتہ چلا کہ علی شان کیلاف SHD

صاحب نے FIR راز کر آیا ہے۔

(Handwritten signature)

راسف عرف یاسر ولد یاز محمد

9631681-333

سہا۔ کیا آپ کے ساتھ فرس و پستول کے برآمدگی کے بارے میں نشانے کوئی تھی؟

نہیں بلکہ مجھے بتلایا کہ میں پولیس والوں سے اس وقت مل گیا ہوں کہ اس نے مجھ کو اس وقت لیا ہے

ج۔ ۱۔ کیا میں سے قبل آپ سے کوئی بیان بیان کیا گیا ہے؟
ج۔ ۲۔ جی ہاں جھانگ مارواڑی میں کوہاڑ میں آگے چلا گیا تھا جوں جوں میں لکھنؤ میں لگا ہوا تھا

سہا۔ کیا میں سے قبل آپ سے کوئی بیان بیان کیا گیا ہے؟
ج۔ ۱۔ علی نشان خلیفہ بیانی ہے کہ فرس اور پستول اس کی نہیں اور یہی اس سے
بتلایا گیا ہے بلکہ اس کے دوست سے بتلایا گیا ہے

ج۔ ۲۔ قسم کیا ہے کہ یہ جھوٹ ہے اس وقت میں مل گیا ہوں کہ اس نے مجھ کو اس وقت لیا ہے
سول روٹ کو ان کا بتلایا کہ میں نے اس سے اس کا پتہ بتلایا ہے
کہ ذرا پہلے میں نے یہ فرمایا ہے اس نے مجھ کو نہیں بتلایا اور
بتلایا۔ دیکھو کہ عدالت میں شروع ہے۔

بیان اوزان کنیشن عدتہ 382 مل کھانہ اسٹورڈ

میں تھا اسٹورڈی SHO صاحب نے ساتھ گنر کے ڈیڑی ہر ایک آدے دے دیا تھا میں
کھانہ اسٹورڈ میں جو جو رکھا SHO صاحب گل جتان نے جو ماٹ میں علی عثمان
ملنے کنیشن کو لایا اور ہمیں بتلایا اس کے ساتھ ایک ٹکڑو چرسن بر آف
ہوا ہے۔ تطہیت پولیس کنیشن میں نے انکاوی کہ ان کے خلاف 9CN میں
پرچہ دے دیں۔ بلکہ 9B میں پرچہ دے کر سونڈ ملنے کنیشن ہے اور اس کا
کنیشن آگے فریڈ کان SHO صاحب کے ہمراہ دفتر میں بیٹھے تھے انہوں نے
کنیشن پر پرچہ اور آگے اور فرد پر چھو سے دستخط کیے ہیں اس لیے
خلع بیان ہے جو کہ درست ہے۔

الو
کنیشن عدتہ اقبال 382 کھانہ اسٹورڈی
380 8012 - 0306

لیکھا علی

بیان از ان کنیشن فرماں 95 حال نمبر SHO گل خان خان تھا KDA کو صاف

جہاں مال!

مدربان بیانی صورت کہ جس تھا نہ اس سرزنی میں اس پندر گل خان
کے ساتھ تختیت نمبر و یونی سرانام و رہا تھا حال میں اب بھی تھا KDA کے SHO
گل خان خان کے ساتھ تختیت نمبر و یونی سرانام و رہا تھا۔ بروز وقوع
میں SHO صاحب کے سرانہ جانے وقوع پہنچے۔ تو H طیب شاہ نمبر 136
نے مشن علی شان و لا طور گل کو پہنچ کر بتایا کہ اس کے ساتھ افسوں
نے جس میں مقدر 11000 گرام پلٹری ہے جس پر صاحب SHO گل خان نے عدلیہ
حکم کر کے من کنیشن کے سپرد کیا تاکہ تھاں میں مقدمہ رجسٹرڈ کیا جائے جس
میں نے مقدمہ تھاں کے نمبر H4 رجسٹرڈ خان کے سپرد کیا تاکہ مقدمہ درج
رجسٹر ہو افسوں نے عدلیہ نمبر 265 مورخ 09/19/91 مجرم QCCNSA تھاں
استرڈی مقدمہ درج رجسٹر کیا گیا۔
1500

کنیشن فرماں 95 تھاں KDA کو یونی ڈسٹری
0336-1595801

نمبر موقع کنیشن 44 علی شان و لا طور گل اگلا تھا یونی
اور اس کے نمبر 1 تھا 9۔

ج 1۔ وہ آگلا تھا اور کالے سفید شاہر میں اس کے ساتھ مقدمہ تھا۔
ج 2۔ علی شان کو آپ لوگوں کے سامنے آنے سے طیب نے روک کر لیا۔
ل یا آپ کے آنے سے قبل اس نے پلٹر کر رکھ کر لیا تھا؟

ج 3۔ چونکہ وہاں بے نامہ بنری تھی اور H طیب شاہ وہاں پہنچ کر فریڈ
پہراہ موجود تھا۔ جنہوں نے علی شان سے جس کی ریکورڈ اور نمبر بتا کر لیا۔

ج 4۔ کیا آپ علی شان و لا طور گل کو جانتے ہیں؟

ج 5۔ جی ہاں علی شان ریکورڈ کورس قائم ہے اور اس وقت جب اس کو H
طیب شاہ نے SHO صاحب کے پاس لایا جس میں لایا۔ تو P1 نمبر
کے خاطر میں نے SHO صاحب کو دیکھ کر نہ ہی درج اس کی تھیں علی شان
SHO صاحب کے ساتھ گشتی کرنے کے ساتھ و پنا نام اور پلٹر و دست نہ
بتانے سے جھگڑنے لے اتر آیا۔ حالانکہ میں نے مذمت خود سمجھا یا تم اس سے
اپنی نوازل کو بیچ رہا ہے لیکن اس نے مجھ کو کہا کہ میں تو کر نہیں کیا جا سکتا۔

10-1

کیا اس وقت کوئی اس کا دوست یا کوئی ساتھی اس کے ہمراہ ہیں؟

ج ۱۔ اس وقت پر موقع کوئی دیگر شخص نہیں تھا۔ البتہ ہم تاکہ ہڈی کے حاف کا بے صورتے رہا موٹر سائیکل سوار اور چند پیدل رشتہ داروں کو جس جگہ تلاش کرتے چیک کیا۔ جن کے پاس کچھ بھی نہیں تھا۔ مجمع علی شان نے خود بتلایا کہ موٹر سائیکل سوار کوئی ساتھی تھا جس کو میں نے چھوڑ کر خود یہ جہز سے یا آؤ میں نے اسے کیا تاکہ اس ہڈی کو لے آؤ اس پر SHO صاحب سے کہہ کر مقدمہ درج کر لیا جائیگا میں اس نے مجھ سے کہا وہ میرا گھر آئی ہے اور دوستوں میں اس کی تفصیل نہیں بتاؤں گا۔

سین ۵۔ کیا آپ کے ساتھ کوئی دوسرا گٹر تھا؟

ج ۱۔ جی ہاں نیشنل عدسٹر ڈیوٹی پر تھا۔

سین ۶۔ اس کے بعد فرد کی تکمیل کیا ہوئی؟

ج ۱۔ تمام میں فرد کی تکمیل ہوئی جب تاکہ ہڈی پر SHO صاحب نے فرسٹ لکچر کر کے دیا۔

سین ۷۔ کیا یہ درخت صلیب تاکہ ہڈی پر ظہیر اور نیشنل علی شان نے درخت نکل کر امی ہوئی؟

ج ۱۔ ظہیر جب علی شان کو پکارا SHO صاحب نے سپرد کیا تو اس نے محبت پولیس والے اس کے ساتھ فری کی اسد یاد کی صلیب میں گوارہ صفوں۔ دیگر اس نے با علی شان نے ظہیر کے ساتھ کوئی تلوار وغیرہ مارتے نہیں کیا۔

