

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Appeal No. 554/2018

Date of Institution ... 17.04.2018

Date of Decision ... 01.04.2019

Sher Rehman Junior Clerk, PQR Office, Audit Cell, Chief Capital Police,  
Peshawar. ... (Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar and four others.  
... (Respondents)

Mr. Hassan Khan Khalil,  
Advocate. ... For appellant

Mr. Kabirullah Khattak,  
Addl. Advocate General ... For respondents.

---

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN  
MR. HUSSAIN SHAH, ... MEMBER

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 12.02.2018 passed by respondent No. 3/Deputy Inspector General of Police (Establishment) Khyber Pakhtunkhwa, whereby, major penalty of dismissal from service was imposed upon him. He is also aggrieved of the order dated 09.04.2018 passed

by respondent No. 2/Deputy Inspector General of Police (H.Qs) Khyber Pakhtunkhwa, through which his departmental appeal was rejected.

2. The facts, as gatherable from memorandum of appeal, are that the appellant was performing duty at the relevant time as Junior Clerk PQR Department and was posted at Audit Cell, Central Police Office, Peshawar. He was implicated by one Amad Khan son of Ayaz Khan R/O Charsadda in a case registered through FIR No. 346 dated 18.08.2017 u/s 420/468/471/170-PPC Police Station Aza Khel, District Nowshera. Consequently, the appellant was suspended from service vide order dated 30.08.2017. Charge sheet was issued to him which was duly replied by the appellant. Later on, an enquiry committee was constituted which, upon conclusion of proceedings, recommended for award of major penalty of dismissal from service to the appellant. In furtherance to the proceedings a show cause notice was issued to the appellant which was duly replied. As a result of the proceedings, the appellant was awarded the impugned penalty. He submitted a departmental appeal on 19.02.2018 which was rejected on 09.04.2018, hence the appeal in hand.

3. We have heard learned counsel for the appellant, learned Addl. AG on behalf of the official respondents and have also considered the available record.

It was the argument of learned counsel for the appellant that the appellant was suspended from service on 30.08.2017 upon registration of criminal case against him. The respondents in the circumstances were

required to have waited for the outcome of judicial proceedings against the appellant. It was also argued that the departmental allegation against the appellant was only regarding the registration of a criminal case and the claim of complaint of the said case. The appellant earned acquittal in the criminal case on 09.01.2019 and by virtue of that the basis of departmental proceedings against him did not remain in field. He relied on judgments reported 2003-SCMR-207, 2013-PLC(C.S) 1059 and 2011-PLC(C.S)1431.

On the other hand, learned Addl. AG contended that the acquittal of appellant was due to concession by the complainant and, as such, it was not attributable to merits of the case of appellant. He further contended that all codal formalities were fulfilled during the proceedings against the appellant, therefore, the impugned order dated 12.02.2018 was not exceptionable.

4. We have gone through the material available on record including a copy of FIR No. 346 dated 18.08.2017, wherein, the complainant Amad Khan son of Ayaz Khan had reported that the appellant impersonated himself as Assistant Commissioner Swabi and disclosed that he could have the complainant appointed in the Police Department as Assistant Sub Inspector. He, therefore, handed over his educational testimonials to the appellant who, in turn, delivered the complainant an appointment order which was found to be fake. Similarly, the perusal of charge sheet suggests that the contents/ allegations in the FIR were reproduced in Para-1 thereof and in para-2 it was noted that the alleged act on behalf of the appellant warranted stern


disciplinary action against him under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. More so, the impugned order dated 12.02.2018 reveals that the only allegation against the appellant was in pursuance of the FIR recorded against him and contained the substance of allegation by the complainant Amad Khan.

5. We have also gone through the departmental enquiry report submitted by Mr. Hukam Khan, DSP/Enquiry & Inspection, CPO Peshawar and Rehmatullah DSP/PAS, CPO, Peshawar, wherein, it was noted that in the reply submitted by appellant in respect of charge sheet he claimed that criminal case registered against him was fake and the complainant himself submitted an Affidavit before the Addl. Sessions Judge-IV District Nowshera wherein it was stated that the accused was not involved in the present case and on the basis of such statement the court had confirmed the BBA of appellant. The enquiry report also reveals that the appellant was cross-examined by the enquiry committee, wherein, it was stated that one Kamran Salahud Din R/O Chuha Gujar was behind the incident. During the proceedings the statement of Hidayatullah, ASI Investigation staff P.S Azakhel was also recorded. The said witness stated about the recording of criminal case against the appellant and further that the appellant had secured bail before arrest which was confirmed by the trial court. It is a notable fact that besides the appellant and Hidayatullah, ASI none other was examined by the enquiry committee. So much so, that the report did not reveal regarding any attempt for including the complainant of FIR Amad Khan in the

proceedings. The said complainant was, for all intents and purposes, a star witness in the proceedings against the appellant.

5. We were also provided with the record of the case No. 92-2 instituted on 01.02.2018 and decided on 09.01.2019 in the court of Judicial Magistrate-II Nowshera. The record suggested that the complainant Amad Khan appeared before the court and in his cross-examination clearly admitted that there was no eyewitness of the occurrence and that the accused has fully satisfied him regarding his innocence. That, he had no objection if the accused (appellant) facing trial was acquitted as he did not want to prosecute him anymore.

There is also another aspect of case in hand. Interestingly through the judicial proceedings against the appellant commencing from registration of FIR to his acquittal on 09.1.2019, the consideration for commission of alleged impersonation and forgery resulting in fake appointment order of complainant, did not come to limelight. Similar was the case in the departmental proceedings against the appellant. It is also a fact that the departmental allegations levelled against the appellant were squarely based on the contents of FIR dated 18.08.2017 and nothing more. In the said context the acquittal of the appellant is not denied by respondents which, undoubtedly, created certain rights in favour of appellant.

 6. For what has been discussed above, we allow the appeal in hand and remit the matter to official respondents for initiating denovo enquiry against

the appellant also keeping view the facts and circumstances discussed herein before. The enquiry shall be concluded within a period of ninety days from the date of receipt of copy of instant judgment. Needless to note that the appellant shall be given fair opportunity, in accordance with law, for defending his cause. The issue of back benefits in favour of appellant shall follow the outcome of denovo enquiry proceedings.

Parties are left to bear their respective costs. File be consigned to the record room.



(HUSSAIN SHAH)  
MEMBER


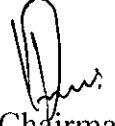


(HAMID FAROOQ DURRANI)  
CHAIRMAN

ANNOUNCED

01.04.2019

59418

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
5	01.04.2019	<p><u>Present.</u></p> <p>Mr. Hassan Khan Khalil, .. For appellant Advocate</p> <p>Mr. Kabirullah Khattak, ... For respondents Addl. Advocate General</p> <p>Vide our detailed judgment of today, we allow the appeal in hand and remit the matter to official respondents for initiating denovo enquiry against the appellant. The enquiry shall be concluded within a period of ninety days from the date of receipt of copy of instant judgment. Needless to note that the appellant shall be given fair opportunity, in accordance with law, for defending his cause. The issue of back benefits in favour of appellant shall follow the outcome of denovo enquiry proceedings.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <p> Member</p> <p> Chairman</p> <p><u>ANNOUNCED</u> 01.4.2019</p>

20.11.2018

Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Abdur Rehman, DSP (Legal) for the respondents present. Written reply submitted. Case to come up for rejoinder and arguments on 09.01.2019 before D.B.



Muhammad Amin Khan Kundi  
Member

09.01.2019

Clerk to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Clerk to counsel for the appellant requested for adjournment that counsel for the appellant is not available today. Adjourned. To come up for rejoinder and arguments on 15.02.2019 before D.B.



Member




Member

15.02.2019

Learned counsel for the petitioner and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 01.04.2019 before D.B



(Hussain Shah)  
Member



(Muhammad Amin Khan Kundi)  
Member



27.06.2018 Learned counsel for the appellant. Preliminary arguments heard.

The appellant (Junior Clerk) has filed the present service appeal against the order dated 12.02.2018 whereby he was awarded major punishment of dismissal from service. The appellant also challenged the order dated 9.4.2018 whereby his departmental appeal was rejected.

Points raised need consideration. Admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within seven (10) days, thereafter notices be issued to the respondents for written reply/comments on 08.08.2018 before S.B.


Appellant Deposited  
Security & Process Fee

08.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 04.10.2018 before S.B.




Member

  
Muhammad Amin Khan Kundi  
Member

04.10.2018

Appellant in person and Mr. Ziaullah, Deputy District Attorney for official respondents No. 1 to 3 present. None present on behalf of private respondents No. 4 & 5 therefore, notice be issued to them for attendance and filing of written reply. Representative of the official respondents is also not in attendance therefore, notice be issued to the official respondents with the direction to direct the representative to attend the court and submit written reply positively on the next date. Adjourned. To come up for written reply/comments on 20.11.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

**Form-A**  
**FORM OF ORDERSHEET**

Court of \_\_\_\_\_

Case No. 554/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17/04/2018	<p>The appeal of Mr. Sher Rehman presented today by Mr. Hassan Khan Khalil Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 17/4/18</p>
2-	19/04/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/04/18</u>.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
	30.04.2018	<p>None present on behalf of appellant. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 27.06.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA,  
PESHAWAR**

Service Appeal No. 554 /2018

Sher/Rehman

Versus

Inspector General of Police K.P.K & others

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5.	Copies of charge sheet and statement of allegations		E & F	13-14
6.	(Copies of final Show Cause Notice and Reply thereof		G & H	15-17
7.	Copy of the office order No. 803-12/E-V dated 12.02.2018		I	18
8.	Copies of the departmental appeal dated 20.05.2018 and dismissal order No. 1951-59/E-V dated 09.04.2018		J & K	19-21
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Appellant

Through

Dated: - 16.04.2018

(HASSAN KHAN KHALIL)

Advocate, Peshawar.

Office: -

, Bilour Plaza, Peshawar Saddar.

①

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA,  
PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 554 /2018

Diary No. 580

Dated 17/04/2018

*Sher Rehman* Junior Clerk, PQR Office, Audit Cell, Chief  
Capital Police Peshawar.

.....Appellant

Versus

- 1). Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
- 2) ✓ Deputy Inspector General of Police, <sup>HQs</sup> Khyber Pakhtunkhwa,  
Peshawar.
- 3) ✓ Additional Inspector General of Police/ Establishment  
Khyber Pakhtunkhwa.
- 4). Mr. Hukam Khan Deputy Superintendent of Police E & I,  
CPO, Peshawar.
- 5). Mr. Rehmat Ullah Khan Deputy Superintendent of Police, E  
& I, CPO, Peshawar.

.....Respondents

=====

**APPEAL UNDER SECTION 4 OF THE SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE OFFICE  
ORDER No.803-12/E-V DATED 12.02.2018,  
WHEREBY THE APPELLANT WAS AWARDED  
MAJOR PENALTY OF DISMISSAL FROM  
SERVICES WITH IMMEDIATE EFFECT AND  
ALSO AGAINST THE ORDER NO.1951-59/E-V,  
DATED 09.04.2018, WHEREBY THE  
DEPARTMENT APPEAL OF THE APPELLANT  
WAS DISMISED.**

=====

Filed to-day  
Registrar  
17/4/18

**PRAYER IN APPEAL:-**

ON ACCEPTANCE OF THE INSTANT APPEAL, THE ORDER DATED 12.02.2018 AND ORDER DATED 03.10.2017, 09.04.2018, MAY KINDLY BE SET ASIDE AND THE RECONDENTS MAY PLEASE BE DIRECTED TO RE-INSTATE THE APPELLANT TO HIS POST WITH ALL BACK BENEFITS.

**RESPECTFULLY SHEWETH:**

1. That the appellant was serving in the police department as Junior Clerk of PQR department who was posted at Audit Cell, CPO, Peshawar.
2. That the appellant was performing his duties in the department for the last more than 8 years, up to the entire satisfaction of his superior Officers. He performed his duties with zeal and devotion and enjoyed unblemished record and spotless record. There were no adverse remarks or complaint available in his entire service record.
3. That the appellant was involved malafidely by one Amad Khan S/O Ayaz Khan resident of Charsadda, in a fabricated and concocted case FIR No.346 dated 18.08.2017 under sections 420/468/471/170 PPC. (Copy of the FIR is attached herewith as *Annexure "A"*).
4. That on the basis of the FIR referred to above, the appellant was suspended from services vide Order No. 4892-4902/E-V dated

30.08.2017 and Show Cause Notice / Charge Sheet was handed over to him, which was properly replied by the appellant. (Copies of Suspension Order No. 4892-4902/E-V dated 30.08.2017 and Show Cause Notice / Charge sheet and Reply are attached herewith as **Annexure "B", "C" & "D"** respectively).

5. That later on, charge sheet and statement of allegations were handed over to appellant wherein, an Enquiry Committee, Consisting of Respondent No. 4 and 5 was constituted. (Copies of charge sheet and statement of allegations are attached herewith as **Annexure "E" and "F"**).
6. That on the conclusion of Enquiry, Enquiry Committee recommended for awarding major penalty of dismissal from service, consequently trial Show Cause Notice was issued to the appellant, which was property replied by the appellant. (Copies of final Show Cause Notice and Reply thereof are attached herewith as **Annexure "G" and "H"**, respectively).
7. That later on, respondent No. 3 awarded major penalty to the appellant on the recommendation of Enquiry Committee and he was ordered to be dismissed form his service vide office Order No. 803-12/E-V. (Copy of the office order No. 803-12/E-V dated 12.02.2018 is attached herewith as **Annexure "I"**).
8. That against the above-mentioned impugned order the appellant submitted his departmental appeal on dated 20.02.2018, to the respondent No. 1, which was filed by respondent No. 2 vide

impugned Order No. 1951-59/E-V dated 09.07.2018. (Copies of the departmental appeal dated 20.05.2018 and dismissal order No. 1951-59/E-V dated 09.04.2018 are attached herewith as **Annexure "J" & "K"**, respectively).

9. That being aggrieved from the above-mentioned both the orders, the appellant having no other efficacious remedy available to him but to approach this Hon'ble Tribunal on the following grounds inter-alia.

**GROUND:-**

- A). That the impugned Orders dated 12.02.2018 and dated 09.04.2018 are illegal, unlawful, void ab-initio and against the rules on the subject matter, hence untenable and liable to be set aside.
- B). That the complainant of the FIR referred to above, has already submitted affidavit in the competent court of law, during the Pre-arrest bail proceeding, wherein he has exonerated the appellant from the charges leveled against him. (Copy of the affidavit is attached herewith as *Annexure "L"*).
- C). That on the basis of the said affidavit, the learned court of Additional Sessions judge, confirmed the pre-arrest bail petition of the appellant but unfortunately the factum of exoneration was inadvertently not mentioned in the confirmation order. (Copy of the Pre-arrest bail confirmation order is attached herewith as *Annexure "M"*).
- D). That the order of dismissal from services is pre-mature in nature as the charge leveled against the appellant has yet to be proved in the

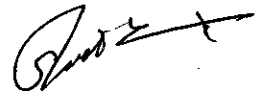
5

competent court of law, after appraisal of evidence, hence the appellant is entitled to be re-instated to his services.

- E). That due to the aforesaid reason, appellant is highly hopeful of his acquittal in the court of law during trial of the FIR mentioned above.
- F). That no full-fledge Enquiry was conducted in the matter and the same is against the provision of Police Rules, which is summary in nature as there is nothing to justify the findings of Enquiry Committee, while no witness was examined in the support of allegation leveled against the appellant.
- G). That the appellant has rendered spotless and unblemished service in the police department and there are no adverse remarks against him in his ACR.

For the afore mentioned reasons, It is, therefore, humbly prayed that on acceptance of instant Appeal, the impugned orders dated 12.02.2018 and dated 09.04.2018 may kindly be set aside and the appellant may graciously be re-instated to his services with all back benefits.

Any other relief deemed fit by this Hon'ble Tribunal under the circumstances, may also graciously be granted in favor of the appellant.



 Appellant  
(Sher Rehman)

Through

(HASSAN KHAN KHALIL)  
Advocate, Peshawar.

Dated: -16.04.2018



6

**CERTIFICATE:**

Certified that as per information furnished by my client no such like service appeal on the subject has earlier been filed in this Hon'ble Tribunal.

ADVOCATE 

7

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA,  
PESHAWAR**

**Service Appeal No. \_\_\_\_\_/2018**

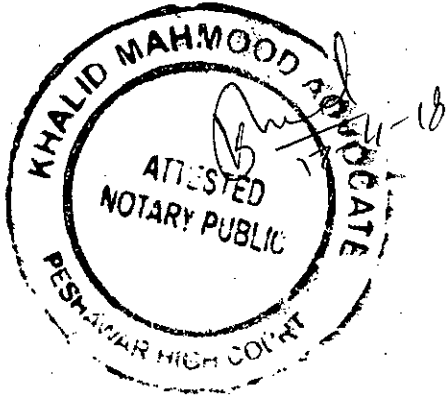
Sher Rehman

Versus

Inspector General of Police K.P.K & others

**AFFIDAVIT**

I, Sher Rehman Junior Clerk, PQR, Audit Cell, CPO Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying appeal are true and correct, to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.



DEPONENT





OFFICE OF THE *Annet B.*  
 INSPECTOR GENERAL OF POLICE  
 KHYBER PAKHTUNKHWA  
 CENTRAL POLICE OFFICE  
 PESHAWAR  
 Ph: 091-9210545 Fax: 091-9210927  
 E-Mail: - OSEstabV@gmail.com

No. *4892-4902* /E-V

Dated, Peshawar the *30/8* August 2017.

ORDER

Consequent upon the involvement in case FIR No. 346 dated 18-08-2017 u/s 420-468-471-170 PPC Police Station Azza Khel, District Nowshera Junior Clerk Sher Rahman of Audit Cell CPO is hereby placed under suspension with immediate effect.

*(Signature)*  
 (Arif Shafiq Khan) PSP  
 AIG/Establishment,  
 For Inspector General of Police,  
 Khyber Pakhtunkhwa,  
 Peshawar.  
*29/8/17*

Ends: No. & date even.

Copy forwarded to the: -

- Addl: Inspector General of Police HQ: Khyber Pakhtunkhwa, Peshawar.
- Deputy Inspector General of Police, H.O.s, CPO Peshawar.
- Deputy Inspector General of Police, Finance & Procurement, CPO Peshawar to its Memo No. 650 AC, dated 23-08-2017.
- PA to Assistant Inspector General of Police: Estt. CPO Peshawar.
- Director Audit Cell, CPO Peshawar.
- Registrar CPO, Peshawar
- Office Supdt: Secret CPO Peshawar.
- In-Charge Central Registry Cell CPO, Peshawar.
- Accountant CPO Peshawar

**ATTACHED**

Annex (C)



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE,  
KHYBER PAKHTUNKHWA,  
CENTRAL POLICE OFFICE,  
PESHAWAR

Ph: 091-9210545 Fax: 091-9210927

### CHARGE SHEET

I, Arif Shahbaz Khan, AIG/Establishment CPO Peshawar as competent authority, under Rule 5(b) of Khyber Pakhtunkhwa, E&D Rules, 2011 hereby charge you Junior Clerk Sher Rahman posted at Audit Cell CPO as follows:-

- i. That he represented himself as Commissioner Swabi and handed over a fake appointment order of ASI in Police Department to Mr. Amad Khan s/o. Ayaz Khan r/o Charsadda road Peshawar and proper case vide FIR No. 346 dated 18-08-2017 u/s 420-468-471-170 PPC Police Station Azza Khel District Nowshetra has been registered against him, which amounts to gross misconduct on his part and is punishable under the said Rules.
  - ii. All this speaks highly adverse on his part warranting stern disciplinary action against him under the relevant Rules, Khyber Pakhtunkhwa Government Civil Servants (Efficiency and Discipline) Rules-2011.
2. By reasons of the above, you appear to be guilty of misconduct under Rule 4 of Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011 and have rendered yourself liable to all or any of the penalties specified in the Rules ibid.
3. You are, therefore, required to submit your written defense within seven days of the receipt of this charge sheet to the Enquiry Committee/Enquiry Officer as the case may be.
4. Your written defense, if any, should reach the Enquiry Officer/Enquiry committee within the specified period, failing 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. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

(Arif Shahbaz Khan) PSP  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

21/8/17

ATTESTED

90 ① The AIG Establishment.

② The Inquiry Officer (DSP Rish).

Subject: Reply to the Charge sheet.

with reference to your letter on the subject noted above, the undersigned submit his reply as under:-

- 1- That the Case registered against me i.e. FIR No. 346 dated 18-8-2017 of 420-468,47,170 PPC PS Azga khel district Nowshera is a fake case and the complainant has himself submitted an affidavit in the court of ASJ-IV NSR wherein he has stated that the accused is not involved in the present case (copy enclosed)
2. That upon that very affidavit, the Hon'ble court of ASJ-IV NSR has confirmed the BBA applied by the accused / applicant (copy enclosed)

ATTESTED

(4) (12)

3.

That the undersigned is totally innocent and never involved in the above mentioned case. In fact he was involved in the above case for ulterior motives and just harass the undersigned.

In the light of above your honor is requested to drop the inquiry proceedings against the undersigned and place him on his regular duty.

I shall be very thankful

Yours Obediently  
*[Signature]*

Sher Rahman

Jr. S Audit cell (CPD)  
Peshawar.

ATTESTED



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE,  
KHYBER PAKHTUNKHWA,  
CENTRAL POLICE OFFICE,  
PESHAWAR

Ph: 091-9210545 Fax: 091-9210927


Annex E

DISCIPLINARY ACTION.

I, Arif Shahbaz Khan, AIG/Establishment CPO Peshawar, am of the opinion that Junior Clerk Sher Rahman has rendered himself liable to be proceeded against departmentally, as he has committed the following acts/fraud/omissions within the meaning of Khyber Pakhtunkhwa Government Civil Servants (Efficiency and &Disciplinary.) Rules-2011.

STATEMENT OF ALLEGATIONS

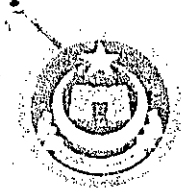
- i) That he represented himself as Commissioner Swabi and handed over a fake appointment order of ASI in Police Department to Mr. Amad Khan s/o Ayaz Khan r/o Charsadda road Peshawar and proper case vide FIR No. 346 dated 18-08-2017 u/s 420-468-471-170 PPC Police Station Azza Khel District Nowshera has been registered against him which amounts to gross misconduct on his part and is punishable under the said Rules.
- ii). All this speaks highly adverse on his part warranting stern disciplinary action against him.
- 2). For the purpose of enquiry against the said accused with the reference to the above allegation an Enquiry Officer/Enquiry Committee consisting of the following, is constituted under the rule 10 (1) (a) of the ibid rules.  
Mr. HUKAM KHAN DSP  
Mr. BEHMATULLAH KHAN DSP
- 3). The Enquiry Officer/Enquiry Committee shall, in accordance with the provision of the said Rules, provide reasonable opportunity of hearing to the accused, record & submit its findings and make, within 30 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.
- 4). The defaulter official and a well conversant representative of the department shall in the proceedings on the date, time and place fixed by the Enquiry Officer/Enquiry Committee.

  
(Arif Shahbaz Khan) PSP  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

29/8/17

**ATTESTED**





"B"

(14) (15)

Received fully on 30-09-17  
sincerely - 11:00 AM

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE,  
KHYBER PAKHTUNKHWA,  
CENTRAL POLICE OFFICE, *Annex F*  
PESHAWAR  
Ph: 091-9210545 Fax: 091-9210927

### CHARGE SHEET

I, Arif Shahbaz Khan, AIG/Establishment CPO Peshawar as competent authority, under Rule 5(b) of Khyber Pakhtunkhwa, E&D Rules, 2011 hereby charge you Junior Clerk Sher Rahman posted at Audit Cell CPO as follows:-

- i. That he represented himself as Commissioner Swabi and handed over a fake appointment order of ASI in Police Department to Mr. Amad Khan s/o Ayaz Khan r/o Charsadda road Peshawar and proper case vide FIR No. 346 dated 18-08-2017 u/s 420-468-471-170 PPC Police Station Azza Khel District Nowshera has been registered against him, which amounts to gross misconduct on his part and is punishable under the said Rules.
- ii. All this speaks highly adverse on his part warranting stern disciplinary action against him under the relevant Rules, Khyber Pakhtunkhwa Government Civil Servants (Efficiency and Discipline) Rules-2011.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 4 of Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011 and have rendered yourself liable to all or any of the penalties specified in the Rules *ibid*.

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

4. Your written defense, if any, should reach the Enquiry Officer/Enquiry committee within the specified period, failing 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. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

*(Signature)*  
(Arif Shahbaz Khan) PSP  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

*(Signature)*  
21/8/17

**ATTESTED**



15

Annex G

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE,  
KHYBER PAKHTUNKHWA,  
CENTRAL POLICE OFFICE,  
PESHAWAR

Ph: 091-9210545 Fax: 091-9210927

No. /E-V Dated Peshawar, the /2017

**FINAL SHOW CAUSE NOTICE**

WHEREAS, you Junior Clerk Sher Rahman while posted in Audit Cell CPO have committed the following commission and omission that:-

- i. you represented yourself as Commissioner Swabi and handed over a fake appointment order of ASI in Police Department to Mr. Amad Khan s/o Ayaz Khan r/o Charsadda road Peshawar and proper case vide FIR No. 346 dated 18-08-2017 u/s 420-468-471-170 PPC Police Station Azza Khel District Nowshera has been registered against you, which amounts to gross misconduct on your part and is punishable under the Civil Servant Efficiency & Discipline Rules 2011.
- ii. On the score of above allegation, you were issued Charge Sheet with Statement of Allegations and an Enquiry was conducted against you.
- iii. All this speaks highly adverse on your part under the Khyber Pakhtunkhwa Government Civil Servant Efficiency and Discipline Rules, 2011.

2. AND WHEREAS, on going through the material placed on record and other connected papers, I am satisfied that you have committed the misconduct and is guilty of the charges leveled against you, which stands proved and render you liable to be awarded punishment under the said rules.

3. NOW THEREFORE, I, AHSAN SAIFULLAH, PSP, ASSTT: INSPECTOR GENERAL OF POLICE, ESTABLISHMENT, CPO, KHYBER PAKHTUNKHWA, PESHAWAR as Competent Authority have tentatively decided to impose upon you, any one or more penalties including the penalty of "dismissal from Service" under Section 4 of Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline Rules-2011).

4. YOU ARE, THEREFORE, required to show cause within seven days of the receipt of this Final Show Cause Notice, as to why the aforesaid penalty should not be imposed upon you, failing which it shall be presumed that you have no defence to offer and an Ex-parte action shall be taken against you. Meanwhile also intimate that whether you desire to be heard in person or otherwise.

(AHSAN SAIFULLAH) PSP  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

38/12/17.

ATTACHED

(16)

Amnest H

To

The AIG/Establishment,  
Central Police Office,  
Khyber Pakhtunkhwa Peshawar.

Subject: REPLY TO FINAL SHOW CAUSE NOTICE.

Respected Sir,

With reference to the final show cause notice served on the undersigned/applicant it is submitted before your lord ship as under;

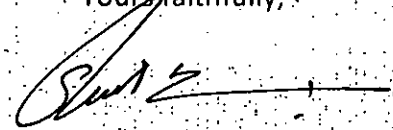
1. That the undersigned has given an earlier reply to the charge sheet and statement of allegations. In the said charge sheet etc false and frivolous charges/allegations were leveled against the undersigned based on a bogus FIR and the same was denied by the undersigned through the said reply.
2. That the undersigned strongly and totally denied and denying charges/allegations leveled in the Final Show Cause notice as well in FIR No.346 dated 18-08-2017, Police Station Azza Khel, Nowshera.
3. That the above mentioned FIR is a False, frivolous, Bogus and a self-manipulated forget piece of Paper and nothing else. In connection with the said FIR, the complainant himself stated in the concerned court of Law that the undersigned is not involved, he also submitted written statement on the affidavit vide F/A, and that the case under the said FIR has no legal footings. Moreover the undersigned has got BBA in the case (copy attached) based on the said Bogus FIR, which itself shows the status of the said FIR that it is a Bogus and false one.
4. That charges and statement of allegations as well this Final show cause is based on an FIR which is totally misconceived, illegal and baseless hence liable to be set aside.
5. That the undersigned has performed his duties up to the satisfaction of the authority with full faith and responsibility and that not even a single complaint is there against undersigned in the whole service.

*[Handwritten signature]*

(17)

It is therefore most humbly requested before your lordship that the proceeding against the undersigned including this final Show Cause notice be stopped/cancelled and filed being based solely on an FIR which is totally false, bogus and ineffective on the legal rights of the undersigned related to his service and no adverse action detrimental to the service of the undersigned may please be avoided and the undersigned may please be allowed to perform his regular duties to serve the department and the country faithfully.

Thank you in anticipation  
Yours faithfully,



SHER RAHMAN  
JUNIOR CLERK,  
AUDIT CELL,  
CPO PESHAWAR.

AFFECTED



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE  
PESHAWAR

Ph: 091-9210545 Fax: 091-9210927

E-Mail: - OSEstabV@gmail.com

NO. 803-12 /E-V

Dated, Peshawar the 12/2 /2018

ORDER.

This order will dispose of the departmental proceedings initiated against Sher Rahman Junior Clerk of PQR Office Peshawar (posted at Audit Cell, CPO on loan) (herein after only referred to as an accused official). The brief, yet relevant, facts of the case are that the accused official represented himself as Commissioner Swabi and handed over a fake appointment order of ASI in Police Department to Mr. Amad Khan s/o Ayaz Khan r/o Charsadda road Peshawar. A Criminal case vide FIR No. 346 dated 18.08.2017 u/s 420-468-471-170 PPC Police Station Azza Khel District Nowshera was registered against him.

Consequently Charge Sheet and Statement of Allegations were issued to him. An Enquiry Committee was constituted to scrutinize the conduct of accused official with reference to the charges leveled against him. On receipt of the findings of the Committee, Final Show Cause Notice was issued to the accused official and he submitted reply which was found unsatisfactory. Therefore, he was summoned for personal hearing and was heard on 09.02.2018 in orderly room. He did not put forward any plausible explanation in rebuttal of the charges leveled against him.

Keeping in view of the findings, recommendations of the Enquiry Committee and he was also failed to defend himself during his personal hearing, Therefore I, AHSAN SAIFULLAH AIG/Establishment, CPO Peshawar in exercise of the powers vested in me under Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules 2011 do hereby awarded him (Sher Rahman Junior Clerk) major punishment of dismissal from service with immediate effect.

Order announced.

(AHSAN SAIFULLAH) PSP  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

Endst: No. & date even.

Copy forwarded to the: -

1. Addl: Inspector General of Police HQrs: CPO, Peshawar.
2. Accountant General Khyber Pakhtunkhwa.
3. Deputy Inspector General of Police HQrs, CPO, Peshawar.
4. PA to the Assistant Inspector General of Police: Estt: CPO Peshawar.
5. Registrar, CPO Peshawar.
6. Deputy Superintendent of Police PQR, Peshawar.
7. Office Supdtt: Audit Cell, CPO Peshawar.
8. Office Supdtt: Secret Branch CPO Peshawar.
9. Office Supdtt: CPB, CPO Peshawar.
10. Incharge Central Registry Cell.

ATTESTED

19

Annes J

DA: 231/E-V

20-02-2018

BEFORE THE INSPECTOR GENERAL OF POLICE,  
KHYBER PAKHTUNKHWA PESHAWAR

DEPARTMENTAL APPEAL

Respected Sir,

- 1) That I am working in the police department for the last more than 8 years upto entire satisfaction of this superior.
- 2) That I have always performed his duties with zeal and devotion and I have been unblemished record and no adverse remarks or complaint is available in my service record.
- 3) That I was falsely implicated by the local police in Case FIR No.346 dated 18/08/2017 and therefore an inquiry was initiated against me and I was dismissed from services vide order dated 12/02/2018. (Copy of FIR and order are annexed herewith)
- 4) That I was implicated in the fabricated, concocted case malafidely and for ulterior motives, that's why my BBA was confirmed by the competent Court of law.

It is pertinent to mention here that the complainant of the above said FIR has also submitted /file an affidavit in my favour stating that I was not involved in the commission of the

**ATTESTED**

socalled offence. (Copy of the Affidavit and order is annexed herewith)

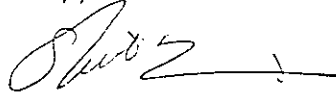
5) That my dismissal from service unjust, based on misunderstanding, misconception, against the facts and circumstances of the case, thus void ab-initio and is liable to be cancelled / set aside.

6) That the major penalty of dismissal from service has been imposed upon me in a slip shot manner without waiting for the result /decision of the case registered against me, which the law / rules, regulations pertaining to the matter does not permit. Thus the penalty imposed upon me is premature and on this score alone the order of dismissal of services is liable to be set aside / cancelled and I may please be reinstated with all back benefits.

It is, therefore, most humbly prayed that on acceptance of the instant departmental appeal /representation the impugned order dated 12/02/2018 passed AIG /Establishment may please be set aside /cancelled and I may please be reinstated in service with all back benefits.

Dated 19/02/2018

Appellant



Sher Rehman

Junior Clerk

Audit Cell

C.Po Peshawar

Cell # 0345-8948228

RECEIVED



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE  
PESHAWAR

Ph: 091-9210545 Fax: 091-9210927  
E-Mail: - OSEstabV@gmail.com

NO. 1951-59 /E-V

Dated, Peshawar the 9/6 April, 2018

**ORDER.**

This order will dispose of the departmental appeal submitted by Sher Rahman Junior Clerk of PQR Office Peshawar (posted at Audit Cell, CPO on loan) (herein after only referred to as an accused official). The brief, yet relevant, facts of the case are that the accused official represented himself as Commissioner Swabi and handed over a fake appointment order of ASI in Police Department to Mr. Amad Khan s/o Ayaz Khan r/o Charsadda road Peshawar. A Criminal case vide FIR No.346, dated 18.08.2017 u/s 420-458-471-170 PPC Police Station Azza Khel District Nowshera was registered against him.

Consequently, Charge Sheet and Statement of Allegations were issued to him. An Enquiry Committee was constituted to scrutinize the conduct of accused official with reference to the charges leveled against him. On receipt of the findings of the Enquiry Committee, Final Show Cause Notice was issued to the accused official and he submitted reply which was found unsatisfactory. Therefore, he was summoned for personal hearing and was heard on 09.02.2018 in orderly room. He did not put forward any plausible explanation in rebuttal of the charges leveled against him thus the accused official was awarded major punishment of dismissal from service by the competent authority vide this office order No. 803-12/E-V, dated 12.02.2018.

After awarding the punishment of dismissal from service, the appellant submit departmental appeal to the next appellate authority for set aside his punishment awarded to him. He was called in Orderly Room held on 04-04-2018 at CPO Peshawar, wherein the appellant was heard in person in detail but he failed to offer any plausible grounds/reason in his defense. Besides, the allegations/charges were also proved against him in the departmental proceedings. Hence, his appeal has no substance.

Keeping in view the position explained above, the departmental appeal submitted by the appellant is hereby rejected/filed by the competent authority.

Order announced.

Sd/-

**SHER AKBAR PSP, S.St**  
Deputy Inspector General of Police, HQrs  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

**Endst: No. & date even.**

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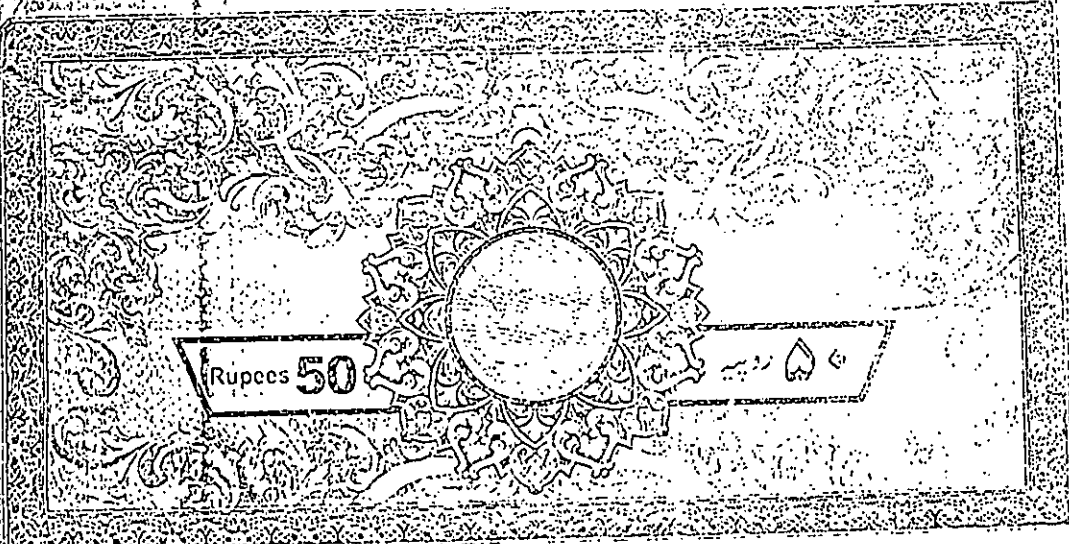
1. Addl: Inspector General of Police HQrs: CPO, Peshawar.
2. Deputy Inspector General of Police HQrs, CPO, Peshawar.
3. PA to the Assistant Inspector General of Police: Fstt: CPO Peshawar.
4. Registrar, CPO Peshawar.
5. Deputy Superintendent of Police PQR, Peshawar.
6. Office Supdt: Audit Cell, CPO Peshawar.
7. Office Supdt: Secret Branch CPO Peshawar.
8. Office Supdt: CPB, CPO Peshawar.
9. In-charge Central Registry Cell.

(AHSAN SAIFULLAH) PSP  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

**ATTESTED**



C821028



کمیونٹی جناب ایڈیشنل سٹیج مہاراجہ کورٹ

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شہزادان

بیان حلفی

ATTESTED

13 NOV 2017

Examiner  
17301-1721887

منہ سما عماد خان ولد آواز خان ساکن رشت آباد، 07-11-17  
چار سہ روڈ ملکہ موہنہ کالونی لہستانہ مارہا پانچیس  
حلفاً بیان کرتا ہوں کہ میں نے منہ سما عتہ نمبر 346  
موزف 18/2017، خرم 170، 468، 471، 420، خانہ  
آغا خیل میں بر خلاف سما شہزادان ملکہ شہزاد خان  
سندھ ٹرسٹ، جدید پتہ درہم دعویداری کی تھی۔ یہ کہ  
اب مجھے پوری سٹی پر چکی ہے کہ میں نامزدہ فرم  
اگر عدالت فقور سما شہزادان کا BBA کہیں  
کہے کہ مجھے کوئی خیر یا اعتراض نہ ہوگا۔ چند سطر  
بابت بیان حلفی لکھی ہے۔ تاکہ سندھ

اندر ان کے دل کے دروزان  
کلفہ لوفتہ بیانیہ کی ہے  
مستند

17297 - 2156456-3  
مستند  
سندھ ٹرسٹ میں

7/4  
2017

17301 - 4835048 - 3

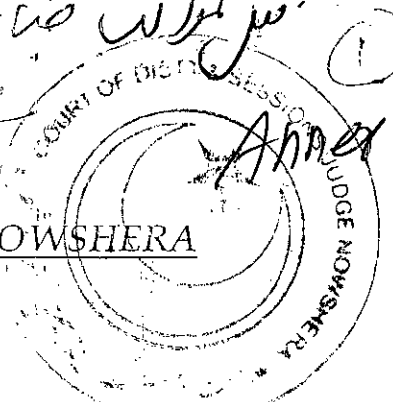
عماد خان ولد آواز خان

Amended

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ATTESTED

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BEFORE THE COURT OF SESSIONS JUDGE, NOWSHERA

Handwritten notes on the left margin: '13/11', '17/9', '17/11', and '17/11'.

Sher Rehman Son of Shamroz Khan R/o Nouthia Jadeed Road, Mohallah Rozabad Tehsil & District Peshawar  
.... Accused/Petitioner

VERSUS

1) The State  
2) Amad Khan Son of Ayaz Khan R/o Charsadda Road, Peshawar ..... Respondents

Case FIR No. 346 Dated 18/08/2017  
Charge U/S 420/468/471/170 PPC  
Police Station: Aza Khel Nowshera

APPLICATION FOR PRE- ARREST BAIL.

Respectfully Sheweth:

- 1) That the above titled case has been registered at Police Station Aza Khel and the local police after arrest of the accused / petitioner for some ulterior motive. (Copy of FIR is annexed).
- 2) That thereafter the accused / petitioner had applied for his transit pre-arrest bail in the Court of learned Sessions Judge, Peshawar which was allowed vide order dated 21/08/2017 and directed to approach to the concerned Court on 23/08/2017. (Copy of order is annexed herewith).
- 3) That thereafter the accused / petitioner had applied for his ad-interim pre-arrest bail in the Court of learned Sessions Judge, Nowshera which was granted and fixed for hearing on 29/08/2017 but due non-availability of presiding Officer the case was not fixed and adjourned to 31/08/2017.

**ATTESTED**

Examiner Copying Agency  
Branch: D.S.J. Nowshera

13 NOV 2017

**ATTESTED**

- 4) That on 31/08/2017 the case was fixed for hearing and the accused / petitioner was present and attend the Court but due to the non-availability of record and complainant of the instant case, the case was adjourned for 09/09/2017 and in this regard the Parcha Peshi was given to the petitioner. (Copy of the same is annexed herewith):
- 5) That thereafter the case was again called by the Hon'ble Judge, of this Court but as the case was already adjourned due to above stated reason the petitioner was not present and the case was dismissed in default.
- 6) That absence of the petitioner from the Court is neither deliberate nor intentional but due to above stated reason.

S

**ATTESTED**

Examiner Copying Agency  
Branch, Q.S.J. Newshera

13 NOV 2017

7) That now the Petitioner approaches this Hon'ble Court for his ad-interim pre-arrest bail on the following grounds inter-alia:

GROUNDS:

- A. That petitioner is innocent and falsely been implicated in the case.
- B. That except bare allegation in FIR there is no material evidence on record to connect Petitioner with the alleged offence.
- C. That the petitioner is the government servant and neither involved in the such like offences,

**ATTESTED**

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(3)

moreover there is no apprehension of his abscondance.

D. That the accused / petitioner is charge with malafide intention in order to humiliate and unjustified harassment.

E. That the Sections of law which were leveled against the Petitioner does not falls within the ambit of prohibitory clause of Section 497 Cr PC.

F. That keeping in view the facts and circumstances case suggest that it is a case of one of further probe and falls Under Section 497 (2) Cr PC.

**ATTESTED**

Examiner Copying Agency  
Branch: D.S.J. Newsnet

13 NOV 2017

G. That Petitioner is ready to furnish reliable sureties for the satisfaction of this Hon'ble Court.

H. That any other ground, which not specifically asked in the circumstance will raised at the time

**ATTESTED**

(8)

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arguments with the prior permission of this Hon'ble Court.

It is, therefore, humbly prayed that on acceptance of this application the Petitioner may kindly be allowed ad-interim pre-arrest bail till the final decision of the case.

Dated 8/09/2017

Petitioner

Through

Altaf Khan

ASC

& Faheem Khan

Faheem Khan

Advocates, Peshawar.

Note: As earlier BBA petition was dismissed in default by this Hon'ble Court.

Note: As per instruction of my client no such like BBA has been filed before this Hon'ble Court.

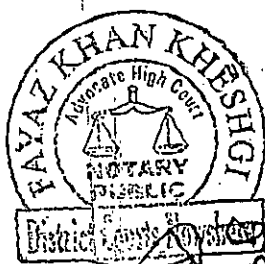
Advocate

Affidavit

I, Sher Rehman Son of Shamroz Khan R/o Nouthia Jadeed Road, Mohallah Rozabad Tehsil & District Peshawar do hereby solemnly affirm and declare on oath that the contents of the above application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

CNIC # 17301-9090072-9



Signature and date 08/09/2017

ATTESTED

Examiner Copying Agency  
Branch U.S. Nowshafa

13 NOV 2017

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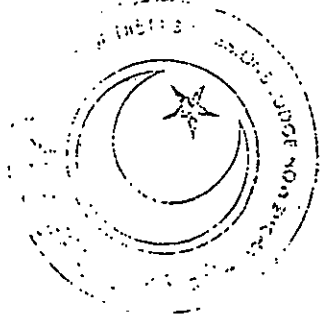
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contd

ments on 07/11/2017



S

SUMERA WALI  
Additional District & Sessions Judge  
Nowshera

Order --- 06  
7th Nov, 2017

Accused/petitioner on ad-interim pre-arrest bail  
alongwith counsel present. Complainant in person and SPP  
for State present.

Accuse !/petitioner Sher Rehman son of Shamroz  
Khan, Resident of Nauthia Jadeed Road, Mohallah Rozabad,  
Tehsil & District Peshawar sought pre-arrest bail in case FIR  
# 346 dated 18.8.2017 u/s 420/468/471/170 PPC, Police  
Station Azakhel, Nowshera, which was granted to him as  
interim relief on 8th September, 2017.

Today, at the very outset complainant Amaad Khan  
son of Ayaz Khan, resident of Rasheed Abad, Charsadda  
Road Peshawar appeared and stated that he is complainant  
in case FIR # 346 dated 18.8.2017 u/s 420/468/471/170 PPC,  
Police Station Azakhel, Nowshera, whereby he has charged  
the present accused/petitioner namely Sher Rehman for the  
commission of offence. Now through the intervention and  
efforts of elders of locality, he has been patched up the  
matter with the present accused/petitioner and if the BBA  
petitioner of the present accused/petitioner is confirmed, he

SUMERA WALI  
Additional District & Sessions Judge  
Nowshera

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Printer Copying Agency  
D.S.J. Nowshera

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Contd: Or.06  
07.11.2017

has got no objection thereto. In this respect he scribbled  
compromise deed Ex.PA, the same is correct and correctly  
bears his signature. Complainant has got no objection on  
confirmation of ad-interim pre-arrest bail already granted to  
accused/petitioner on the basis of compromise. Compromise  
is in the best interest of the parties and the same is without  
any duress or coercion.

In view of above when parties have patched up the  
matter and complainant has got no objection on confirmation  
of ad-interim pre-arrest bail of accused/ petitioners,  
therefore, without going deep into the merits of the case,  
both above mentioned pre-arrest bail petitions are allowed  
on the basis of compromise and ad-interim pre-arrest bail  
already granted to the accused/petitioners named above is  
confirmed on the strength of existing bail bonds. However,  
accused/petitioners are directed to remain associated with  
the investigation of the case as and when required. Copy of  
this order be placed on police/judicial file.

Requisitioned record be returned forthwith, while file  
of this Court be consigned to the record room after its  
completion and compilation.

Announced:-  
07th Nov, 2017

*Sumera Wali*  
(Sumera Wali)  
Additional Sessions Judge-IV,  
Nowshera.

SUMERA WALI  
Additional Sessions Judge  
NOWSHERA

(S)

*Sumera Wali*

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Examiner Convincing Agency  
arengal, D.S.J. Nowshera

NOV 2017

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**BEFORE THE HONORABLE KPK SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.554/2018

Sher Rehman Junior Clerk.....(Appellant)

Versus

Inspector General of Police KPK & others.....(Respondents)

Subject:- PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

**PRELIMINARY OBJECTIONS:-**

- a. That the appeal has not been based on facts.
- b. That the appellant has got no cause of action and locus standi to file the appeal.
- c. That the appeal is not maintainable in the present form.
- d. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- e. That the appellant is estopped by his own conduct to file the appeal.
- f. That the appeal is barred by law and limitation.
- g. That the appellant has wrongly impleaded Addl: Inspector General of Police Establishment instead of Assistant Inspector General of Police Establishment.
- h. That the appellant has not come to this Honorable Tribunal with clean hands.

**FACTS:-**

1. Pertains to record and need no comments.
2. Pertains to record and the record not upto the mark.
3. Incorrect. In fact the appellant while (posted at Audit Cell, CPO on loan) represented himself as Commissioner Swabi and handed over fake appointment letter of Assistant Sub-Inspector in Police department to one Mr. Amad Khan son of Ayaz Khan r/o Charsadda Road Peshawar. In this connection a criminal case vide FIR No. 346 dated 18.08.2017 u/s 420, 468, 471, 170 PPC Police Station Azza Khel District Nowshera was registered against him. Consequently Charge Sheet and statement of allegations were issued against him and an enquiry committee was constituted which conducted proper departmental enquiry in

accordance with law and rules and found the appellant guilty of the charges leveled against him. Copies are Annexure-A, B, C & D.

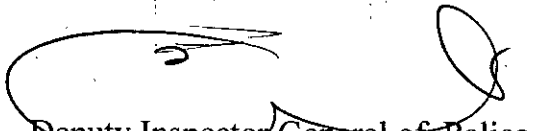
4. Correct and pertains to record.
5. Correct and pertains to record.
6. Correct and pertains to record.
7. Correct and pertains to record. As the allegations of gross misconduct were established during enquiry, therefore, major punishment of dismissal was awarded to appellant vide order dated 12.02.2018. Copy Annexure-E.
8. Correct, the appellant failed to advance any cogent reasons to rebut the allegations therefore, his departmental appeal was rejected.
9. The appellant has not come to his Honorable Service Tribunal with clean hands. The impugned punishment was awarded after observing all codal formalities, which has been admitted in Para No. 3 to 7 of the appeal.

#### GROUND:-

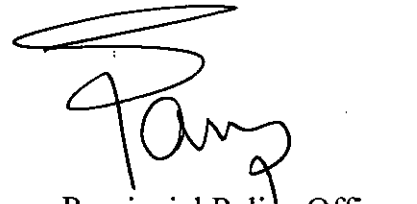
- A. Incorrect. The orders were passed by the Authorities in accordance with law and rules after proper departmental proceeding conducted by the enquiry committee purely on merits, hence are sustainable.
- B. That the charged leveled against the appellant have been proved against him in a proper departmental enquiry conducted by the enquiry committee purely on merits and in accordance with law and rules. Furthermore, if the appellant patched up the matter with complainant of the criminal case it clearly show the conduct of appellant that he was guilty.
- C. That the departmental and criminal proceedings are totally different from each other. The appellant was held guilty in a departmental proceeding conducted by the enquiry committee in accordance with law and rules. Furthermore, patching up the matters by the appellant with complainant of the criminal case also amounts to admission of the guilt.
- D. Incorrect. The departmental proceeding is different to Criminal proceeding and appellant was held guilty of the charges in proper departmental proceedings initiated in accordance with law and rules. Both the proceedings may run parallel.
- E. That under Police rules, acquittal on the basis of technical grounds, benefit of doubt and being won over of the witnesses, shall not affect the departmental proceedings and in this case appellant clearly mentioned that he patched up the matters with the complainant of the case which amounts to admission of guilt in the eyes of law.

- F. Incorrect. The appellant has admitted in Para 3 to 7 of the instant appeal that all codal formalities were observed.
- G. Incorrect. The record is not upto the mark.

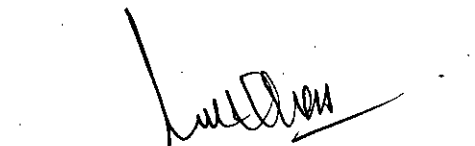
In view of above, it is humbly prayed that on acceptance of Para-wise comments, the instant appeal may kindly be dismissed being meritless.




Deputy Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa,  
Peshawar.  
(Respondents No.02)



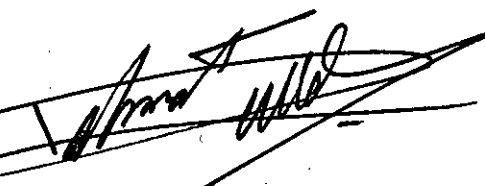
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondents No.01)



(MR HUKAM KHAN)  
Deputy Superintendent of Police,  
E&I CPO, Peshawar.  
(Respondent No. 4)



Assistant Inspector General of Police  
Establishment Khyber Pakhtunkhwa  
CPO, Peshawar.  
(Respondent No. 3)



(MR. REHMAT ULLAH KHAN)  
Deputy Superintendent of Police,  
E&I, CPO, Peshawar.  
(Respondent No.5)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR.

Service Appeal No 554/2018.

Sher Rehman Junior Clerk.....(Petitioner)

**VERSUS**

Inspector General of Police, KP and others ..... (Respondents)

AFFIDAVIT

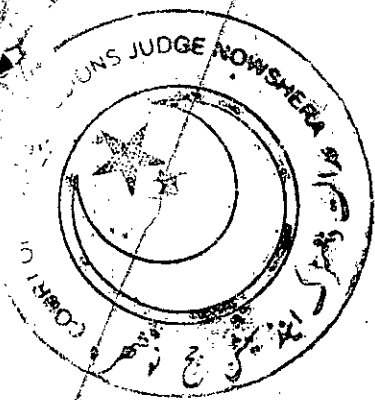
I, Abdur Rehman DSP Legal CPO, Peshawar do here by solemnly affirm on oath that the contents of accompanying comments on behalf of Respondents No. 1 to 5 is correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Tribunal.

DEPONENT



Abdur Rehman,  
DSP/Legal CPO, Peshawar  
CNIC No. 17102-1175519-1,

امدادت جناب سجاد و صاحب عدالت



**IN THE COURT OF SHAKEEL ARSHAD,  
JUDICIAL MAGISTRATE-II, NOWSHERA**

**FORMAL CHARGE**

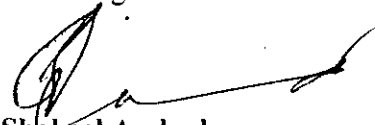
عنوان  
سرکار  
عم شیر رحمان

I, Shakeel Arshad, Judicial Magistrate-II, Nowshera do hereby charge you accused Sher Rehman s/o Shamroz Khan aged about 29/30 years resident of Nothia Jadeed, Peshawar, as follows.

That on unknown date and time, at Offices of Police Lines Nowshera in the limits of Police Station Azakhel, you accused pretended to hold the office of Commissioner Sawabi, as a public servant (or falsely personated Commissioner Sawabi holding such office), and in such assumed character you accused dishonestly cheated the complainant by promising him for appointment as ASI in Police Department and also handed over bogus appointment order to the complainant thereby committed offences punishable under sections 420/468/471/170 PPC which are within the cognizance of this court.

And I hereby direct that you be tried by this Court on the said charges.

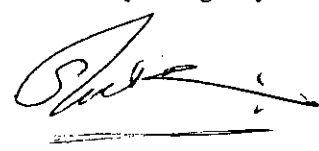
Dated: 23.06.2018.

  
Shakeel Arshad,  
Judicial Magistrate-II,  
Nowshera.

92/2  
12  
18  
91  
19  
19  
252  
19

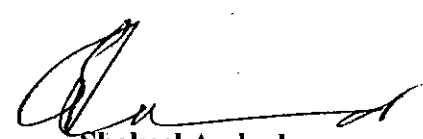
The charges have been read over and explained to the accused.

- Q. No.1. Have you heard and understood the meaning of charges?
- Ans: Yes.
- Q.No.2. Do you plead guilty?
- Ans: I do not plead guilty and claim trial.



Dated. 23.06.2018.

(45)

  
Shakeel Arshad,  
Judicial Magistrate-II,  
Nowshera. 23/6/18

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02 FEB 2019

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Branch. D.S.J. Nowshera

PW-1  
22.10.2018

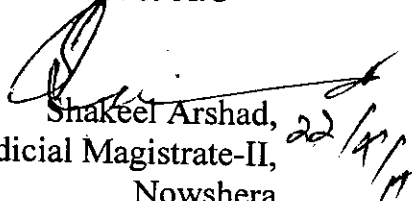
Statement of Zia Khan SI, Police Station Akora Khattak, on Oath.

Stated that during the days of occurrence, I was posted as SI at Police Station Azakhel. Upon report of complainant, I have chalked out the FIR No.346 dated 18.08.2017 u/s 420/468/471 PPC against the accused facing trial. FIR is Ex.PA. Today I have seen the FIR, which is correct and correctly bears my signature.

XX----- (cross nil opportunity given).

**Dated: 22.10.2018**

R.O. & A.C

  
Shakeel Arshad,  
Judicial Magistrate-II,  
Nowshera

**ATTESTED**  
10 FEB 2019  
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W-2  
12.12.2018

Statement of Hidayat Ullah ASI, Police Station Akora Khattak, on Oath.

Stated that during the days of occurrence, I was posted as ASI at Police Station Azakhel. After the registration of the case the investigation was entrusted to me. I visited the spot and prepared the site plan ExPB on the instance of complainant. I placed on file different letters DPO Office Nowshera. The accused got his BBA from learned court Nowshera and produced the interim order before me and I formally arrested the accused and issued his card of arrest Ex.PW-2/1 which was later on confirmed. I recorded the statement of PWs as well as the accused u/s 161 Cr.PC. After completion of investigation I handed over the case file to the SHO. Today I have seen all the documents which are correct and correctly bear my signatures.

XX---- I have done matriculation. I have served in police deptt for 28 years. I have taken the approval of SHO. Self stated that after the registration of FIR the concerned officer handed over the FIR to me. The FIR was handed over to me on 18.08.2018 and on the same day I proceeded to the spot. I reached the police line about 1800 hours. The complainant of the case was with us when we reached to the police line. I spent 30/40 minutes on the spot. I have not recorded the statement any eyewitness of the occurrence. Self stated that offices at the police line was off therefore, I have not recorded the statement of eyewitness. I have recorded statement of one Aizaz Ali as the verifier the contents of the FIR. It is incorrect to suggest that the instant occurrence fabricated

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**ATTESTED**

02 FEB 2019

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Branch: D.S.J. Nowshera

2018

and false that is why the statement of eyewitness not recorded. It is correct that FIR does not bear the date, time and place of occurrence. It is incorrect to suggest that the instant case is false one that is why no date, time and place of occurrence has been given. It is correct that I have not recorded the statement of any office bearer, of the police line about the visit of complainant to police line. Self stated that I have produce the verified copies of the letters alongwith list. It is incorrect to suggest that complainant had not visited the police line that is why I did not recorded the statement of any office bearer to that effect. The complainant did not disclose place of transaction between the accused facing trial and the complainant. It is incorrect to suggest that no such transaction had take place that is why complainant did not show to me the place of transaction. It is incorrect to suggest that complainant leveled false and fabricated allegation that is why I did make the site plan of the transaction. It is correct that the complainant did not produce deed or written documents whereby the accused have shown his consent to get a job for complainant in police deptt. It is correct that according to my investigation or complainant has not told in his report that the accused facing trial demanded or taken any consideration. It is correct that documents produced by the complainant himself does not bear the name, seal of the accused facing trial. It is incorrect to suggest that the documents were made by complainant himself in order to involve the accused in false case. It is correct I have not recovered any forged service card or documents whereby the accused facing trial presented

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**ATTESTED**  
02 FEB 2019  
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Branch: D. J. Newshere



2018

himself as assistant commissioner. I do not know that appointment at the post of ASI falls within the domain of PCS. It is incorrect to suggest that according to my investigation the accused facing trial is innocent but I deliberately concealed that fact. It is incorrect to suggest that the instant case is a false and fabricated one and registered at the instance of complainant for anterior motive.

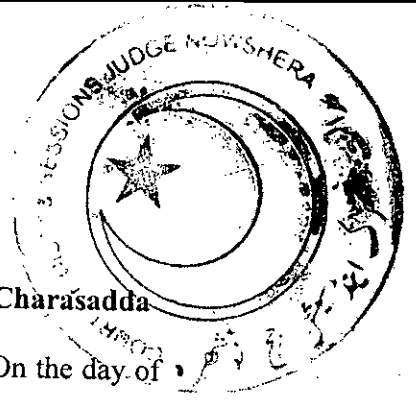
R.O. & A.C

**Dated: 22.10.2018**

Seemab Waheed Siddiqui  
Judicial Magistrate-II  
Nowshera

**ATTESTED**  
02 FEB 2019  
Examiner Copying Agency  
Branch, D.S.O. Nowshera

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Statement of Imad Khan s/o Ayaz Khan-r/o Distt: Charasadda

Stated that I am the complainant in the instant case. On the day of occurrence the accused disclosed himself as Assistant Commissioner Swabi and told me that he would have appointed me as ASI in police Department. Upon this the accused facing trial handed over to the appointment letter of the said post to which I checked in DPO Office Nowshera which came a bogus, in this respect I went to the nearby police station alongwith bogus order upon which the instant FIR was lodged. The I.O also prepared the site plan on my instance. I charged the accused for the commission of offence.

XX..... It is correct that there is no eyewitness of the occurrence. Now the accused fully satisfied me regarding his innocence, I have got no objection if his honorable court acquit the accused facing trial and I do not want to prosecute the accused facing trial anymore.

Dated: 05.01.2019

R.O & A.C

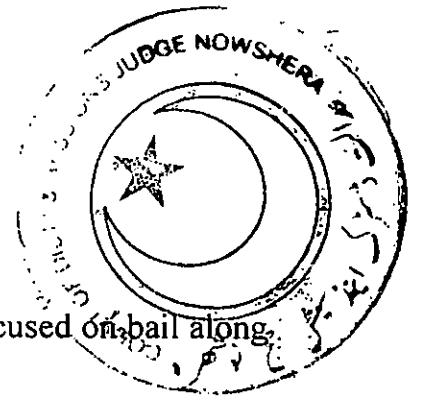
Seemab Waheed Siddiqui  
Judicial Magistrate-II  
Nowshera

50

**ATTESTED**

**02 FEB 2019**

Examiner Copying Agency  
Branch. D.S.J. Nowshera



**Order 15**  
**09.01.2019**

Learned APP for the State present. Accused on bail along with counsel present.

My this order is directed to dispose of an application for acquittal of accused u/s 249-A Cr.PC filed by learned counsel for accused.

Arguments heard and record perused, which reveals that accused is facing trial in the present case FIR No.346 dated 18.08.2017 u/s 420/467/471 PPC of Police Station Azakhel, with allegations mentioned in the FIR.

After completion of investigation, complete challan was submitted for trial. Accused was summoned, who appeared before the court and provision of section 241-A Cr.P.C was compiled with and formal charged was framed to which the accused pleaded not guilty and claimed trial. Complainant and PWs summoned. Zia Khan SI appeared as PW-1, he stated that upon report of complainant, he chalked out the FIR Ex.PA. He was not cross examined. Statement of Hidayat Ullah ASI recorded as PW-2, who stated that after registration of FIR, investigation was entrusted to him. He visited the spot and prepared the site plan Ex.PB, placed on file different letters of DPO Office, Nowshera. Issued card of arrest Ex.PW-2/1, recorded statement of PWs as well as of the accused u/s 161.

(42)

**ATTESTED**

02 FEB 2019

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Branch: D.S.J. Nowshera

Contd:  
Order-16  
09.01.2019

After completion of investigation handed over the case file to SHO. He verified his signature upon the above mentioned documents. In cross examination, he admitted that he did not record statement of any eyewitness of the occurrence. That FIR does not bear the date, time and place of occurrence. That he did not record statement of any office bearer of the Police Lines about visit of complainant to Police Line. The complainant did not disclose the place of transaction between the accused facing trial and the complainant. That documents produced by the complainant himself does not bear the name and seal of the accused facing trial. That he has not recovered any forged service card or documents, whereby the accused facing trial presented himself as Assistant Commissioner. The complainant appeared and recorded as PW-3, wherein he reproduced the same facts as are mentioned in the FIR. In cross examination, he admitted it correct that there is no eyewitness of the occurrence. That now that the accused facing trial fully satisfied him regarding his innocence and he has got no objection upon acquittal of accused facing trial. That he does not want to prosecute against the accused facing trial anymore.

(43) Keeping in view statement of IO as PW-2 and that of complainant as PW-3, it is held that there seems no probability of the conviction of accused even if the remaining PWs are

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Contd:  
Order-15  
09.01.2019

recorded and proceeding further in the case in hand would be a  
futile exercise. Thus, by exercising power u/s 249-A CrPC, the  
accused facing trial is hereby acquitted u/s 249-A CrPC in the  
instant case. Sureties are discharged. Case property (if any) be  
dealt accordance with law. File be consigned to Record Room  
after its completion.

**Announced:**  
**09.01.2019**

**Seemab Waheed Siddiqui**  
Judicial Magistrate-II  
Nowshera

**ATTESTED**  
**02 FEB 2019**  
Examiner Copying Agency  
Branch: D.S.J. Nowshera

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No. 458  
Date of Application 10-1-19  
Name of Applicant J. J. J.  
Words \_\_\_\_\_  
Fee \_\_\_\_\_  
Urgent Fee \_\_\_\_\_  
Sign of Copyist [Signature]  
Date of Preparation 02 FEB 2019  
Sign of Examiner [Signature]  
Date of Delivery 02 FEB 2019



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 840 /ST

Dated 29-4-2019

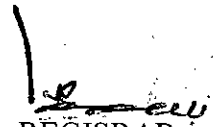
To,

Additional Inspector General of Police/Establishment,  
Govt of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: - ORDER IN APPEAL NO. 554/2018, SHER REHMAN VS GOVT.

I am directed to forward herewith a certified copy of Order/Judgment dated  
01.04.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR