

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
CAMP COURT ABBOTTABAD

SERVICE APPEAL NO. 589/2018

Date of institution ... 27.04.2018

Date of judgment ... 22.05.2019

Sabir Shah S/O Mubarik Shah, Driver/Constable No. 1050 of District Police
Mansehra.

... (Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Mansehra.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST ORDER OB NO. 105 DATED
09.06.2017 PASSED BY THE DISTRICT POLICE OFFICER MANSEHRA
WHEREBY APPELLANT HAS BEEN AWARDED WITH PENALTIES OF
WITHHOLDING OF 03 INCREMENTS WITH CUMULATIVE EFFECT
AND FORFEITURE OF 03 YEARS APPROVED SERVICE AND ORDER
NO. 1039/PA DATED 09.03.2018 OF THE REGIONAL POLICE OFFICER
HAZARA REGION ABBOTTABAD WHEREBY APPELLANT
DEPARTMENTAL APPEAL HAS BEEN REJECTED.

Mr. Muhammad Aslam Tanoli, Advocate.

.. For appellant.

Mr. Muhammad Bilal, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel present. Mr. Muhammad Bilal, Deputy District Attorney

alongwith Syed Ikhlaq Hussain, Inspector (Legal) for the respondents present.

Arguments heard and record perused.

M. Amin
22.5.2019

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Driver. He was imposed major penalty of withholding of three increments with cumulative effect and forfeiture of three years approved service vide order dated 09.06.2017 on the allegation that on ~~that~~^{ML} 12.05.2017 he alongwith police party brought an accused namely Mehrban S/o Siddque resident of Bagra Haripur involved in case FIR No. 290 dated 28.02.2016 under section 382-PPC PS City Mansehra from Central Jail Haripur and produced him in the court at Mansehra and after production the accused in the court, he was being transported back to Central Jail Haripur in official vehicle and on the way he took some intoxicated item from the accused for eating and as a result he became unconscious and the accused made his escape good from the police custody and the accused also took one official rifle and hand cuff with him. The appellant filed departmental appeal on 01.07.2017 which was rejected vide order dated 09.03.2018 and received to the appellant as per para-7 of the service appeal on 05.04.2018 hence, the present service appeal on 27.04.2018.

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 imposed the aforesaid major penalty on the aforesaid allegations. It was further contended that the respondent-department has conducted inquiry against the appellant but neither any show-cause notice was issued to the appellant nor copy of inquiry report was handed over to the appellant nor the appellant was associated during the inquiry proceeding therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

M. Amin
22.5.2019

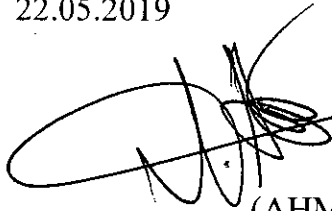
5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department as Driver and he was imposed aforesaid major penalty on the aforesaid allegation. It was further contended that proper charge sheet, statement of allegation was served upon the appellant to which he replied. It was further contended that the inquiry officer was not satisfied from the reply to the charge sheet of the appellant therefore, inquiry was conducted wherein the appellant was found guilty for charge and on the basis of inquiry report the competent authority has rightly imposed the aforesaid major penalty and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department as Driver. He was imposed aforesaid major penalty on the aforesaid allegations. The record further reveals that charge sheet, statement of allegation was framed and served upon the appellant and the appellant also replied the same wherein he denied the allegations leveled against him. The record further reveals that inquiry was conducted and the inquiry officer submitted his report to the competent authority wherein the appellant was recommended for minor punishment. The record further reveals that the inquiry report was submitted on 06.06.2017 and the appellant was imposed aforesaid ~~major~~ penalty on 09.06.2017 on the basis of aforesaid departmental proceeding without issuing of show-cause notice alongwith copy of inquiry to the appellant before imposing the aforesaid ~~major~~ penalty. It is now a well settled law that before imposing major penalty to a civil servant, a show-cause notice alongwith copy of inquiry report to the civil servant is mandatory/must but the respondent-department has imposed the aforesaid major penalty to the appellant without issuing of show-cause notice alongwith copy of inquiry report to the appellant. Moreover, the inquiry officer had also neither recorded statement of any witnesses nor

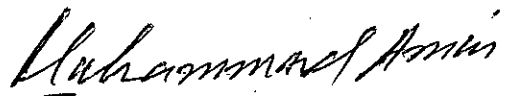
M. Arora
22.5.2019

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, ^{appellant in} reinstate the ~~appellant~~, set-aside the impugned order and direct the respondent-department to conduct de-novo inquiry in the mode and manner prescribed under the Police Rules, 1975 including the issuing of show-cause notice alongwith copy of inquiry report. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
22.05.2019



(AHMAD HASSAN)
MEMBER
CAMP COURT ABBOTTABAD



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT ABBOTTABAD

22.05.2019

Appellant alongwith his counsel present. Mr. Muhammad Bilal, Deputy District Attorney alongwith Syed Ikhlq Hussain, Inspector (Legal) for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we partially accept the appeal, reinstate the appellant, set-aside the impugned order and direct the respondent-department to conduct de-novo inquiry in the mode and manner prescribed under the Police Rules, 1975 including the issuing of show-cause notice alongwith copy of inquiry report. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
22.05.2019




(AHMAD HASSAN)
MEMBER
CAMP COURT ABBOTTABAD



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT ABBOTTABAD

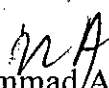
20.12.2018

Appellant in person present. Syed Ikhlq Hussain Shah, Inspector (Legal) alongwith Mr. Usman Ghani, District Attorney for respondents present. Written reply not submitted. Requested for adjournment. Granted. Case to come up for written reply/comments on 18.02.2019 before S.B at camp court, Abbottabad.00


Member
Camp court A/Abad


18.02.2019

Appellant in person present. Mr. Ikhlq Hussain, Inspector (Legal) alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Written reply on behalf of respondents not submitted. Learned Deputy District Attorney for the respondents requested for further adjournment. Adjourned. To come up for written reply/comments on 21.03.2019 before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

21.03.2019

Clerk of counsel for the appellant present. Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Haq Nawaz, Head Constable for the respondents present and submitted written reply. Adjourned to 22.05.2019 for rejoinder and arguments before D.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

20.07.2018

Appellant Sabir Shah in person alongwith his counsel Mr. Muhammad Aslam Tanoli, Advocate present and heard on preliminary.

Contends, that the appellant has been punished without conducting regular enquiry by the respondents. That the impugned order was communicated late to the appellant.

Points raised need consideration. The appeal is admitted for regular hearing, subject to all legal objections particularly the question of limitation, if raised by the respondents. 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 16.10.2018 before S.B at camp court, Abbottabad.

Appellant Deposited
Process Fee

16.10.2018

Counsel for the appellant present, Mr. Haq Nawaz, Head Constable alongwith Mr. Usman Ghani, District Attorney for the respondents present. Written reply not submitted. Learned District Attorney requested for adjournment. Adjourned. To come up for written reply/comments on 20.12.2018 before S.B at camp court, Abbottabad.



Chairman
Camp court, A/Abad

Member
Camp Court, A/Abad

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 589/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27/04/2018	<p>The appeal of Mr. Sabir Shah presented today by Mr. Muhammad Aslam Tanoli 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 27/4/18</p>
2-	15-5-2018	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-7-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. *589/2018*

Sabir Shah S/O Mubarik Shah, Driver/Constable No.1050 of District Police Mansehra.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Mansehra.

(Respondents)

SERVICE APPEAL

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3.	Copy of reply to Charge Sheet ,	"B"	14-15
4.	Copy of enquiry findings dated 06-06-2017	"C"	16-17
5.	Copy of impugned order dated 09-06-2017 passed by District Police Officer Mansehra.	"D"	18
6.	Copy of departmental appeal dated 10-07-2017	"E"	19-20
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THROUGH

Dated: *27*-04-2018

S. I. P.
APPELLANT
M. Aslam
(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 589/2018

Sabir Shah S/O Mubarik Shah, Driver/Constable No.1050 of District Police Mansehra.

Khyber Pakhtunkhwa
Service Tribunal (Appellant)

Diary No. 630

VERSUS

Dated 27-4-2018

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad
3. District Police Officer, Mansehra.

(Respondents)

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER OB NO.105 DATED 09-06-2017 PASSED BY THE DISTRICT POLICE OFFICER MANSEHRA WHEREBY APPELLANT HAS BEEN AWARDED WITH PENALTIES OF "WITHHOLDING OF 03 INCREMENTS WITH CUMULATIVE EFFECT AND FORFEITURE OF 03 YEARS APPROVED SERVICE" AND ORDER NO. 1039/PA DATED 09-03-2018 OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN REJECTED.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE ORDERS DATED 09-06-2017 AND 09-03-2018 MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE RESTORED HIS 03 INCREMENTS AS WELL 03 YEARS FORFEITED SERVICE WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respectfully Sheweth:

1. That appellant while posted as Driver/Constable at District Mansehra was served with a Charge Sheet and Statement of Allegations on 15-05-2017 by the District Police Officer Mansehra alleging therein that:

Filed to-day
S. A. I.
Registrar

"On 12-05-2017 you alongwith police party brought an accused namely Mehrban S/O Siddique R/o Bagra Hariur involved in case FIR No.290 dated 28-02-2016 U/S 382-PPC PS City Mansehra from Central Jail Haripur and produced him in the court at Mansehra. After production the accused in the court, he was being transported back to Central Jail Haripur in official vehicle. On the way you took some intoxicated item from the accused for eating. As a result you become unconscious and the accused made his escape good from the police custody. The accused also took 01 official rifle and hand cuff with him. Your this act brought embarrassment for the whole department. It shows that you are negligent, inefficient police official and stigma for the department. It amounts to gross misconduct". **(Copy of Charge Sheet dated 15-05-2017 is attached herewith as annex-"A")**.

2. That the appellant in response to the Charge Sheet and Statement of Allegations submitted a detail reply explaining all facts and circumstances of the matter and denied the charges vehemently. Appellant's reply to the Charge Sheet may be considered as a part of this appeal. **(Copy of reply to charge sheet is attached herewith as annex-"B")**.
3. That the Enquiry Officer in his report dated 06-06-2017 has exonerated the appellant of the charges as leveled against him in the Charge Sheet dated 15-05-2017. **(Copy of Enquiry Report dated 06-06-2017 is as annex-"C")**.
4. That on receipt of enquiry report the District Police Officer Mansehra through order dated 09-06-2017 impugned herein awarded the appellant with the

penalties of "withholding of 03 increments with cumulative effect and forfeiture of 03 years approved service" in violation of the law and departmental rules & regulations without issuing Final Show Cause Notice and providing an opportunity of personal hearing in a whimsical and capricious manner. **(Copy of impugned order dated 09-06-2017 is attached herewith as annex-"D").**

5. That aforementioned order of the District Police Officer Mansehra was appealed against by the appellant before the Regional Police Officer Hazara Region Abbottabad through departmental appeal dated 10-07-2017. **(Copy of departmental appeal dated 10-07-2017 is attached as annex-"E").**
6. That departmental appeal of the appellant was rejected by the Regional Police Officer, Hazara Region, Abbottabad vide his order dated 09-03-2018 without giving any consideration. **(Copy of order dated 09-03-2018 of the Regional Police Officer, Hazara Region, Abbottabad is attached as annex-"F").**
7. That though the Regional Police Officer, Hazara Region, Abbottabad had rejected the appellant's departmental appeal on 09-03-2018 but appellant was not provided with the order. But on a specific request of appellant the same was delivered to him on 05-04-2018.

8. That in fact on 12-05-2017 the appellant was deployed to perform his duties as Driver with police party comprising upon Incharge SI Waqar-ud-Din and two constables namely Nasir No.769 and Naeem No.127. They were to bring one under trial prisoner namely Mehrban from Central Jail Haripur for producing in the court at Mansehra.

9. That after producing the said accused before the court at Mansehra on return to Haripur when reached before Complex Abbottabad, the Incharge of the Police Party directed appellant to stop vehicle as there was a knock by the constable from behind. One of the Constables went to a nearby Medical Store and came back with some articles. On the way near Baldhair, there was knocking from behind, the Incharg SI Waqar-ud-Din directed me to stop the vehicle. In the meanwhile the accused got down from the vehicle with rifle and on chasing he made five consecutive fire shots upon the appellant and made good his escape. Appellant immediately informed Headquarter at Mansehra and PP Shah Maqsood and got recorded FIR. Police searched for accused but he had made good his escape. **(Copy of FIR dated 12-05-2017 is attached as annex- "G").**

10. That appellant has performed his assigned duty with full care, caution, dexterity and honesty under the directions of Incharge Police Party and there is

absolutely no fault, negligence, inefficiency and misconduct on the part of appellant.

11. That on receipt of appeal rejection order instant service appeal, inter alia, on the following grounds:

GROUND

- a) That both the impugned orders dated 09-06-2017 and 09-03-2017 of the authorities are void-ab-initio, illegal, unlawful, without lawful authority and have been passed perfunctorily, arbitrarily, whimsical and slipshod in manner, against the facts and circumstances of the case, without any reason and proof, hence are liable to be set aside.
- b) That respondents have not treated appellant in accordance with law, departmental rules & regulations and policy on the subject and have acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- c) That no proper departmental inquiry was conducted before awarding the appellant with penalties of "withholding of 03 increments with cumulative effect and forfeiture of 03 years approved service" which conduction was mandatory under law for dispersion of

justice at preliminary stages during the course of departmental inquiries.

- d) That neither the appellant was provided with the opportunity of cross-examining the witnesses, nor was appellant confronted with any documentary proof against him if any, nor enquiry findings were issued nor the appellant was served upon with a Final Show Cause Notice even opportunity of personal hearing was not provided.

- e) That the appellate authority has also failed to abide by the law and even did not look into consideration the grounds taken in the memo of appeal. Thus the impugned order of the appellate authority is contrary to the law as laid down in the KPK Police (Efficiency and Disciplinary) Rules 1975 read with Section 24-A of the General Clauses Act 1897 read with Article 10A of the Constitution of Islamic Republic of Pakistan 1973.

- f) That the appellant is innocent and has discharge his assigned duties with full sense responsibility and honesty without any omission, commission or fault on his part for which he has been awarded with punishments.

PRAYER:

It is, therefore, humbly prayed that on acceptance of instant service appeal, the impugned order dated 09-06-2017 and 09-03-2018 passed by the District Police Officer Mansehra and the Regional Police Officer Hazara Region Abbottabad respectively whereby the appellant has been awarded with the punishment of **"WITH-HOLDING OF 03 INCREMENTS WITH COMULATIVE EFFECT AND FORFEITURE OF 03 YEARS APPROVED SERVICE"** and his departmental appeal rejected may graciously be set aside and the appellant be restored his 03 increments and forfeited 03 years approved service from 09-06-2017 with all service back benefits in the interest of justice.

Any other relief which this Honourable Tribunal deems fit in the circumstance of the case may also graciously be awarded.

THROUGH

S. / 21
APPELLANT
M. Aslam

(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

Dated: 27-04-2018

Verification

It is verified that the contents of instant appeal are true and correct to the best of my knowledge and nothing has been concealed there from.

Dated: 27-04-2018

S. / 21
Appellant

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Sabir Shah S/O Mubarik Shah, Driver/Constable No.1050 of
District Police Mansehra.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad
3. District Police Officer, Mansehra.

(Respondents)

SERVICE APPEAL

AFFIDAVIT

I, Sabir Shah S/O Mubarik Shah do hereby solemnly declare
and affirm on oath that the contents of the instant
Service Appeal are true and correct to the best of my
knowledge and belief and nothing has been suppressed
from this Honourable Service Tribunal.

Sabir
Deponent/Appellant

Dated: 27-04-2018

Identified By:

M. Aslam

Mohammad Aslam Tanoli
Advocate High Court
At Haripur,



Sabir
Appellant

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Sabir Shah S/O Mubarik Shah, Driver/Constable No.1050 of
District Police Mansehra.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad
3. District Police Officer, Mansehra

(Respondents)

SERVICE APPEAL

CERTIFICATE

It is certified that no such Appeal on the subject has ever
been filed in this or any other court prior to the instant
one.

Sabir
APPELLANT

Dated: 27-04-2018

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No.....

Sabir Shah S/O Mubarik Shah, Driver/Constable No.1050 of
District Police Mansehra.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Mansehra.

(Respondents)

SERVICE APPEAL

APPLICATION FOR CONDONATION OF DELAY.

Respectfully Sheweth:

1. That the above captioned appeal is fixed for today for preliminary arguments before this Honourable Tribunal.
2. That the facts and grounds in the accompanying memo of appeal may please be treated as an integral part of this application, so preferred, today.
3. That the appellant is pursuing his grievance with due diligence for no commission or omission on his part towards the performance of his lawful duty with every honesty, sincerity and punctuality with bright previous service record.

4. That the delay in filing instant appeal (if any) is neither deliberate nor intentional, as the appellant's departmental appeal dated 10-07-2017 was decided by appellant authority respondent No.1 on 09-03-2018 and then copy of the same was delivered to him 05-04-2018 as such the instant appeal, so filed is within time. Apart, the valuable rights of the appellant are involved in the matter with far reaching repercussions on his family and children. Otherwise, also the law favors judgments delivered and justice done on the basis of proper adjudication of the issue in question rather than discarding the same on the grounds of technicalities.

It is, therefore, very humbly prayed that the delay (if any) may please be condoned in the high interest of justice.

THROUGH

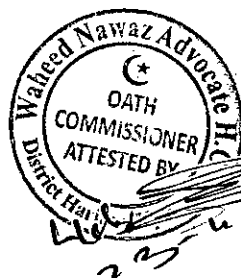
Sabir
APPELLANT
M. Aslam
(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

Dated: 27-04-2018

AFFIDAVIT:

I, Sabir Shah S/O Mubarik Shah do hereby solemnly declare and affirm on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Service Tribunal.

Dated: 27-04-2018



Sabir
Deponent/Appellant

31
21 PL

CHARGE SHEET

I, Ch: Ahsan Saifullah, District Police Officer, Mansehra as Competent Authority, hereby charge you Constable Sabir Shah No. 1050 Police Lines as follows.

On 12-05-2017 you alongwith police party brought an accused namely Mehrban s/o Siddique r/o Bagra Haripur involved in case FIR No. 290 dated 23-02-2016 U/S 382 PPC PS City Mansehra from Central Jail Haripur and produce him in the Court at Mansehra. After production the accused in the Court, he was being transported back to Central Jail Haripur in official vehicle.

On the way you took some intoxicated item from the accused for eating. As a result you become unconscious and the accused made his escape good from the police custody. The accused also took 01 official rifle and hand cuff with him. Your this act brought embarrassment for the whole department. It shows that you are negligent, inefficient police official and stigma for the department. It amounts to gross misconduct.

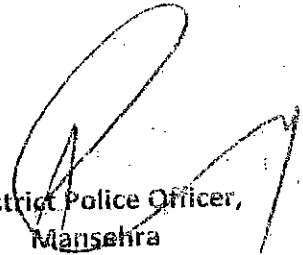
Due to reasons stated above you appear to be guilty of misconduct under Khyber Pakhtunkhawa Police Disciplinary Rules 1975 (amended in 2014) and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry officer.

Your written defense, if any, should reach the enquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person or otherwise.

Statement of allegation is also enclosed.


District Police Officer,
Mansehra

Attested
Suly

DISCIPLINARY ACTION

I, Ch: Ahsan Saifullah, District Police Officer Mansehra, as Competent Authority of the opinion that you Constable Sabir Shah No. 1050 Police Lines has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of Khyber Pakhtunkhawa Police Disciplinary Rules 1975.

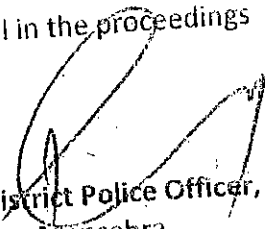
On 12-05-2017 you alongwith police party brought an accused namely Mehrban s/o Siddique r/o Bagra Haripur involved in case FIR No. 290 dated 28-02-2016 U/S 382 PPC PS City Mansehra from Central Jail Haripur and produce him in the Court at Mansehra. After production the accused in the Court, he was being transported back to Central Jail Haripur in official vehicle.

On the way you took some intoxicated item from the accused for eating. As a result you become unconscious and the accused made his escape good from the police custody. The accused also took 01 official rifle and hand cuff with him. Your this act brought embarrassment for the whole department. It shows that you are negligent, inefficient police official and stigma for the department. It amounts to gross misconduct.

For the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegations. Mr. Asad SP is deputed to conduct formal departmental enquiry against Constable Sabir Shah No. 1050 Police Lines

The Enquiry Officer shall in accordance with the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975, provide reasonable opportunity of hearing the accused, record findings and make recommendations as to punishment or other appropriate action against the accused.


The accused and a well conversant representative of the department shall in the proceedings on the date, time and place fixed by the Enquiry Officer.

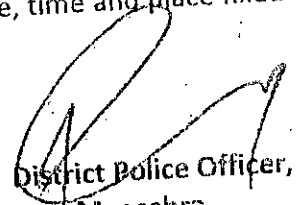

District Police Officer,
Mansehra

No 2258-57/PA dated Mansehra the / 5-05-2017

Copy of the above is forwarded to :-

1. The Enquiry Officer for initiating proceedings against the defaulter officer under the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975
2. Constable Sabir Shah No. 1050 Police Lines with the direction to submit his written statement to the Enquiry Officer within 07 days of the receipt of this charge sheet/statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purposes of departmental proceedings.


Sabir


District Police Officer,
Mansehra

ذیل عیاں

مستحق کار سروس ٹریڈ ۵۹-۵۸۵۸-۵۸۵۸
صفحہ ۱۵/۱۷

حسابہ
ہو گیا ہے حالانکہ اس کی کاپی دینے کی درخواست
میں

فوری طور

میں رپورٹ دینے اور پورے اس میں ترمیمات ہوں

صفحہ ۱۲/۱۷ کو بھی پورے اس سے فیصلہ ہوا اور

بائے لائن طریقہ سہولت میں ہری پور سے عدالت مالٹیرہ
سیدے سٹایا گیا اور اس کے ساتھ دو جوائنٹ آرڈر

صفحہ ۱۸۷ ناٹو ۶۶ اور اختیار الدین کی رپورٹ اجازت

کے ساتھ بھیجا گیا ہے ہری پور جیل کے ساتھ جہاں سے اس کی

اجازت ملے گی۔ مزید فریاد و مدد کے لئے یہ نکتہ کو دیکھیں

ہری پور سے نکال کر اس کے ساتھ بھیجا گیا ہے اس کو مالٹیرہ سول جج

کا عدالت میں پیش کرنے کے بعد واپس ہری پور لیجا رہے تھے

مجموعہ کھلیں جس کے بارے میں بھی تو پتہ چلا ہے

دستک کا آغاز ہوا ہے اور اس کے لئے روکنے کا حکم دیا

میں اجازت کے لئے ہری پور کو اجازت دیا گیا ہے اور

کرنا ہے کہ اس کے لئے ہری پور سے اجازت لینے سے دیگر

نامہ بھیجے اور اس کے لئے ہری پور سے اجازت لینے سے دیگر
تو میں نے اجازت دینے سے پرہیز کیا ہے جس نے کہا
مدد لینے نہیں اور جس دیکر لیا ہے اور اب حل تو میں
نے ہادیگا دستک کے لئے ہری پور سے اجازت لینے سے دیگر
لو لے گا

تعداد CMG میں ریکورڈ نہیں ہو گا رہا میں

رہنما کی اجازت سے ایجنسی نے کارروائی کے نام حکم سے

کس حکم سے کارروائی ہو رہی ہے کارروائی کے تعلق سے

کس کے تعلق سے کارروائی ہو رہی ہے اور یہاں تک کہ

تعداد میں اس کی طرف سے کارروائی کے تعلق سے

کارروائی کے تعلق سے کارروائی کے تعلق سے

کی سہ ماہی کے تعلق سے کارروائی کے تعلق سے

تعداد 768 فیصد ہوشیاری کی حالت میں وقوع کی

خوبی کے تعلق سے کارروائی کے تعلق سے

تعداد وقوع کو کارروائی کے تعلق سے

تعداد کی تہذیب و تمدن کے تعلق سے

تعداد کارروائی کے تعلق سے

تعداد کارروائی کے تعلق سے

تعداد وقوع کے تعلق سے

تعداد وقوع کے تعلق سے

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تعداد وقوع کے تعلق سے

تعداد وقوع کے تعلق سے

Attached

S. S.

- 16 -

Annex-C

Phone No: 0992-9310029
Fax No: 0992-9310025

From: The Addl: Superintendent of Police,
Abbottabad.

To: The W/Regional Police Officer,
Hazara Region, Abbottabad.

No. 558 /Dated Abbottabad the 06/06/2017.

Subject: ORDER (ENQUIRY REPORT ON INCIDENT
RELATING TO C. SE FIR NO.216 DATED 15-05-2017
U/S 324/382/337-J/223/224 PPC PS SARAI SALEH
HARIPUR

Memo: Kindly refer to your good office Order Endst: No.11271-74/E
dated 13-05-2017.

It is submitted that undersigned was directed to dig out real facts as well to fix responsibility on incident in which one notorious accused escaped from Police custody and consequently a case FIR No.216 dated 12-05-2017 u/s 324/382/337-J/223/224 PPC PS Sarai Salah was registered.

During course of enquiry undersigned summoned all the relevant staff linked with the case to enquire the matter which reveals that accused Mehrban s/o Muhammad Sadique r/o Pagra Haripur was locked at Haripur Jail and Mansehra Court ordered for his appearance. Similarly Ex-serviceman SI Ifikhar ud Din alongwith two ATS qualified Constables i.e Constable Nasir No.769 and Constable Naeem No.127 were deputed, whereas Govt. vehicle AA-3098 was driven by Driver Constable Sabbir Shah. It is hereby worth mentioning that accused Mehrban was handcuffed with single hand and these two constables given him free hand. During journey at the returning stage while vehicle reached near Ayub Medical Complex, Constable Nasir knocked mirror of driver side to stop vehicle, whereas driver stopped vehicle and Constable Nasir purchased two medicines of children alongwith a Nestle Juice and once again travel started toward Haripur District. During this, it is notified that both the Constables Nasir and Naeem acted undisciplined and senseless whose given juice to accused to unbolt. During this, accused endeavor a good chance for his illegal

Attested
S. A. G.

-17-

freedom. While vehicle reached in the jurisdiction of PS Sarai Saleh both the officials were unconscious and accused knocked mirror of driver side to stop the vehicle, while vehicle stopped accused attacked toward Driver Sabbir Shah also opened fire toward him but luckily escaped.

In view of above, Constable Nasir No.769 and Constable Naeem No.127 are held responsible for giving open chance/support to the accused under the supervision of Incharge Ex-Serviceman SI Itikhar-ud-Din who is also held responsible for not commanding properly his sub-ordinate staff during journey as a result the temperament of Department loosed due to such like negligence.

Submitted for favour of kind perusal please.

Add: Superintendent of Police,
Abbottabad.

Attested
S. 14

-18-

ORDER

Annex-D

This office order will dispose off the departmental enquiry proceeding against Driver/Constable Sabir Shah No. 1050 who was proceeded against departmentally with the allegation that on 12.05.2017 he alongwith police party brought an accused namely Mehrban s/o Siddique r/o Bagra Haripur involved in case FIR No. 290 dated 28.02.2016 u/s 382 PPC PS City Mansehra from Central Jail Haripur and produce him in the court at Mansehra. After production in the court the accused was being transported back to Central Jail Haripur in official vehicle.

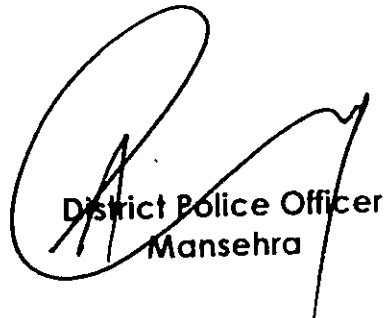
On the way the delinquent Driver/Constable Sabir Shah No. 1050 alongwith police party stopped the official vehicle and bought juice/cold drinks through the accused. The accused mixed some intoxicated material in the juice/cold drinks. As a result the police party became unconscious and the accused made his escape good from the police custody in the area of Shah Maqsood district Haripur. The accused also took 01 official rifle and hand cuff with him. This act on the part of Driver/Constable Sabir Shah No. 1050 brought embarrassment for the whole department. It shows that he is negligent, indisciplined, inefficient police official and stigma for the department.

The Enquiry Officer i.e. Mr. Arif Javed Addl: Superintended of Police Mansehra after conducting proper departmental enquiry has submitted his report and proved the charges leveled against the Driver/Constable Sabir Shah No. 1050. On 08 June, 2017, the delinquent Driver/Constable Sabir Shah No. 1050 was heard in person in orderly room but he could not convinced the undersigned in his defense. His retention in the Police force may create another embarrassment for the Police force at any time.

I, the District Police Officer, Mansehra, therefore award him major punishment of "withholding of 3 increments with cumulative effect & forfeiture of 3 years approved Service" to the delinquent Driver/Constable Sabir Shah No. 1050 under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 (amended in 2014) and reinstated in service.

Ordered announced.

OB-105
09-6-17


District Police Officer
Mansehra

Attested
Sule

BEFORE THE D.I.G. HAZARA RANGE
ABBOTTABAD

APPEAL AGAINST THE ORDER OF DPO
MANSEHRA VIDE WHICH THE APPELLANT
HAS BEEN AWARDED MAJOR PUNISHMENT
OF WITHHOLDING OF THREE INCREMENT
WITH CUMULATIVE EFFECT AND
FORFEITURE OF THREE YEARS APPROVED
SERVICE.

Respected Sir,

The brief facts leading to the instant appeal are arrayed as follows: -

- 1) That, the appellant was posted as a Driver in Police Department.
- 2) That, on 12.05.2017, the appellant alongwith the incharge SI Waqar-Ud-Din and two constables went to Haripur and brought an under trial prisoner namely Meharban for producing him in court at Mansehra. After producing him, we all left for Haripur and on the way when we reached before Complex Abbottabad, the incharge of the Police Party directed me to stop the vehicle as there was a knock by the constable from behind. The appellant stop the vehicle as directed by the Incharge. The constable went to a nearby medical store and came back and then we started onward toward Haripur. On the way near Baldhair, the accused knocked at for stopping the vehicle and the incharge directed me to stop the vehicle. In the meanwhile the accused came he was armed with the rifle and fired five consecutive shots at me. And thereafter he rain away. After the escape of the said accused, information was conveyed in the Headquarter and we rushed to PP Shah Maqsood and after taking police from the said PP the accused was searched, but he had made his escape good.
- 3) That, throughout the journey right from Haripur and back, the appellant has

Attested
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acted on the order of incharge of the police party. There is absolutely no fault nor any negligence on the part of appellant who was driving the vehicle and stopped the vehicle on the order of incharge of the police party. On the report of appellant the case was registered at PS Sarah-e-Saleh against the police officials who has been dismissed from service.

It is, therefore, requested that on acceptance of appeal the impugned order may kindly be set-aside and the forfeited increments and service may kindly be restored.

Dated 01.07.2017

S. S. Shah
Sabir Shah
FC/Driver No. 1050

Attested
S. S. Shah

-21-

Annex 'F' 2788
18-3-18

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by Driver/Constable Sabir Shah No:1050 of Mansehra District against the order of punishment i.e. Forfeiture of 03 years approved service & Stoppage of Increments for 03 years with cumulative effect awarded by the DPO Mansehra vide his OB No: 105 dated 09.06.2017.

Facts leading to his punishment are that on 12.05.2017 he alongwith police party brought an accused namely Mehrban r/o Bagra Haripur involved in case FIR No: 290/2016 u/s 382 PPC PS City Mansehra from Central Jail Haripur and produce him in the court at Mansehra. After production in the court the accused transported back to Central Jail Haripur in official vehicle. On the way he alongwith police party stopped the official vehicle and bought juice/cold drinks through accused. The accused mixed some intoxicated material in the Juice/cold drinks. As a result he became unconscious and the accused made his escape good from the police custody in the area of Shah Maqsood Haripur. The accused took 01 official rifle and hand cuff.

After receiving his appeal, comments of DPO were obtained which were examined /perused. The undersigned called him in OR on 07.03.2018 and heard in person where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by the DPO Abbottabad i.e Forfeiture of 03 years approved service & Stoppage of Increments for 03 years with cumulative effect seems to be genuine, hence his appeal is filed.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

1039
No. /PA Dated Abbottabad the 09.3 /2018.

Copy of above is forwarded to the DPO Mansehra w/r to his Memo: No: 11690/GB dated 31.07.2017 for information and necessary action.

Service Roll & Fauji Missal are returned herewith for your office record.

HR
SRC/OHC
For r/a.

DPO M.A.
18/3

Accepted
District Police Officer
Mansehra
08-04-2018.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

Accepted
Sa/-

DBA No: 204
 BC No:

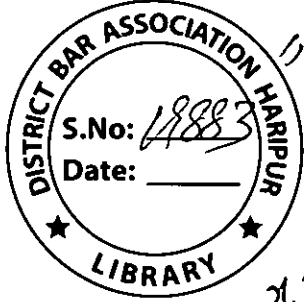
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 Name of Advocate: محمد اعلم تنوی

S.No: 19883



وکالت نامہ



بعدالت: صاحب مندرجہ بالا
 عنوان: صاحب شاہ
 منجانب: صاحب شاہ
 نوعیت مقدمہ: سرواں اپیل
 باعث تحریر آئیکہ: صاحب شاہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصدیقہ مقدمہ بمقام شہید اللہ اللہ کے لیے

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ کچہری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مٹانے کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل سہ ماختہ پر داختہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور اور کسی حکم یا ڈگری کرانے اور ہر قسم کارروپی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس کے ثالثی و راضی نامہ و فیصلہ بر حلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے پیر و نجات از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ترقی یا اگر قاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ مختانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

M. Arslan

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔
 مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔
 مورخہ: 27 دن 11 ماہ 18 سال

Appellant
 S/o
 (Sabir Shah)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 589/2018.

Constable Sabar ShahAppellant

VERSUS

1) Provincial Police Officer khyber Pakhtunkhwa Peshawar & others.

..... Respondents

Reply/ Comments On Behalf Of Respondents

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. The appellant along with police party was deputed to bring accused namely Mehrban S/O sadique r/o Bagra Haripur involved in case FIR No. 290 dated 28/02/2016 u/s 382 PPC PS City Mansehra from central jail Haripur to trail Court Mansehra. After production the accused was being transported back to central Jail Haripur in official vehicle. On the way the police party took juices mixed with intoxication due to which police party became unconscious and the said accused succeeded to make his escape good and also took with him one official rifle and handcuffs with him. Due to the negligence and

inefficiency of the appellant the aforesaid accused succeeded to escape from the police custody which maligned the whole police department.

2. The appellant was properly charge sheeted and joined the enquiry proceeding and submitted his reply.
3. Incorrect. The enquiry officer in his report found the appellant guilty and recommended him for punishment. (Copy of the enquiry report is enclosed is annexure A)
4. Correct to the extent of awarding of punishment. The appellant was afforded with proper opportunity of personal hearing but he failed to convince the competent authority due to which punishment was awarded.
5. Correct.
6. Correct.
7. The appellant was properly given the copy of the order passed against him.
8. Detail reply has been given in Parra No. 1.
9. Detail reply has been given in Parra No. 1.
10. Incorrect . the appellant failed to discharge his official duty which amounts to criminal negligence.
11. The service appeal is not maintainable on the following grounds:-

GROUND:-

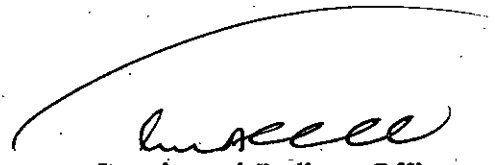
- A. Incorrect. The order of dismissal and rejection of appeal was in accordance with law.
- B. Incorrect. The appellant was treated in accordance with law and rules therefore the impugned orders are tenable in the eye of law.
- C. Incorrect. Proper departmental enquiry was initiated against him and after enquiry he was awarded punishment.
- D. Incorrect. The appellant was awarded full opportunity of defense and after proper personal hearing order of "forfeiture of three years approved service & stoppage of increments for 03 years with accumulative effect" was passed.
- E. Incorrect.
- F. Incorrect.

PRAYER:


In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force and badly time barred case.



**District Police Officer
Mansehra
(Respondent No. 3)**



**Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)**



**Inspector General of Police
KPK Peshawar
(Respondent No. 1)**

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 589/2018.

Constable Sabar ShahAppellant

VERSUS

2) Provincial Police Officer khyber Pakhtunkhwa Peshawar & others.

..... Respondents

AFFIDAVIT

We respondents do solemnly affirm and declare that the contents of the comments are true and correct to our knowledge and belief and that nothing has been concealed from this Honorable tribunal.



District Police Officer
Mansehra
(Respondent No. 1)



Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)



Inspector General of Police
KPK Peshawar
(Respondent No. 3)

POLICE DEPARTMENTDISTRICT MANSEHRA

Tel: 0997-440450

From The Addl: Superintendent of Police,
Mansehra.To The District Police Officer,
Mansehra.No. 66 /Addl: SP Mansehra dated the 6/06/2017.Subject: DEPARTMENTAL ENQUIRY.**Memorandum:**

Kindly refer to your office Endst: No. 2258-59/PA dated 05-05-2017.

An enquiry under hand was entrusted to the undersigned by the competent authority for digging out the real facts about the charges leveled against accused official Constable/Driver Sabir Shah No.1050 Police Lines, that on 12-05-2017 he along with Police party brought an accused namely Meharban s/o Siddique r/o Bagra Haripure involved in case FIR No.290 dated 28-02-2016 u/s 382 PPC PS City Mansehra from Central Jail Haripure and produced him in the court at Mansehra. After production the accused in the court, he was being transported back to Central Jail Haripure in official vehicle.

On the way 02 constables of ATS took some intoxicated item from the accused for eating. As a result he become unconscious and the accused made his escape good from the police custody. The accused took 01 official riffle SMG and hand cuff with him. His this act brought embarrassment for the whole department, which amounts to gross misconduct on his part and made him liable for proceedings under Police Disciplinary Rules-1975.

In this regard enquiry against accused official constable Sabir Shah No.1050 was initiated in the office of the undersigned. Nasir Khan SHO PS Saddar Mansehra also joined the enquiry proceedings as representative of department.

For this purpose alleged official was summoned to appear before the undersigned.

During the enquiry proceedings the accused official appeared before the undersigned and submitted his written statement in which he stated that he is performing his duty as driver in Police Lines Mansehra. On 12-05-2017 when he along with other officials was returning back to Central Jail Haripure in order to deposit the accused Meharban Shah which was escorted by 02 ATS qualified officials namely Constable Nasir No.769 and Constable Naeem No.127, when they reached AMC Abbottabad, he heard the noise of knocking on the back mirror of vehicle due to which Incharge KPF Iftikahr-ud-Din ordered him to stop the vehicle who came down from the vehicle and went towards the accused, where as Constable Nasir No.769 went to medical store and come back soon. He stated that when he enquired from the incharge who replied that medicines and juice were bought and ordered him to depart. He further added that when they reached near Baldher Alfalah CNG he heard the noise of knocking again and incharge again directed him to stop the vehicle. No sooner did he stopped the vehicle the accused Meharban Shah came down with official SMG and hand cuff and when accused official tried to overpower the accused, who started firing on him. He further submitted that when he went back side

of the vehicle, he saw that both the officials were unconscious due to which he informed the Police Lines Mansehra and Police Post Shah Maqsood Haripure.

On his report a case vide FIR No.216 dated 12-05-2017 u/s 223/224/382/337/324/353 PPC PS Saraie Saleh was registered. He prayed that there is no fault of him, however he held responsible both the above ATS officials for their negligence in the official duty.

Cross Examination.

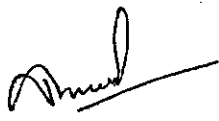
During the enquiry proceedings the accused official was also cross examined.

He in his cross examination admitted that in Judicial premises Mansehra the said accused has ordered rice from the canteen which were eaten by incharge along with both the ATS constables. He further added that the said criminal accused was continuously using mobile phone of both the constables.

Finding.

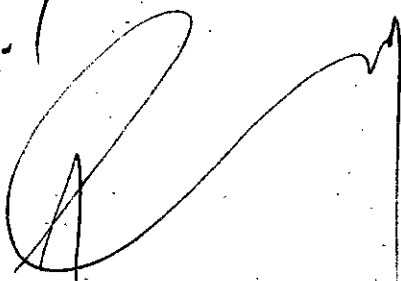
In view of above, I being E.O found that accused official Sabir Shah is responsible to the extent of stopping of official vehicle on the way without any care and caution. He was supposed to remain vigilant as he has in official vehicle hardened criminal of murder case. Although in the whole episode his responsibility was not of such a nature in the presence of Incharge, however he cannot be completely absolved from the charges. Hence, he is recommended for minor punishment.

Submitted for kind perusal and further order, please.


Addl: Superintendent of Police,
Mansehra

Encls:()

withholding of 3 increments effect 3 years service forfeiture reinstated. with sanction

officer

DPO Mansehra

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 589/2018

Sabar Shah.....V/S.....PPO/IGP KPK & Others
(Appellant) (Respondents)

REJOINDER ON BEHALF OF THE APPELLANT

Respectfully Sheweth:—

The appellant submits his rejoinder as under:-

Preliminary Objections:

- a. Contents incorrect and misleading; the appellant has been awarded penalty against the departmental rules and regulations for which law provides cause of action to approach this Honorable Service Tribunal for redress of grievance.
- b. Contents incorrect and misleading; the appellant has filed instant appeal according to procedure prescribed by law and rules governing the terms and conditions of appellant's service thus maintainable.
- c. Contents incorrect and misleading, all necessary parties have been arrayed in the instant appeal.
- d. Contents incorrect and misleading, no rule of estoppel is applicable in the instant case.
- e. Contents incorrect and misleading; the appellant has filed instant appeal according period prescribed by law and department rules is therefore well within time.
- f. Contents incorrect and misleading; the appellant has been awarded the penalty in violation of rules and regulations, thus instant appeal has been filed in according to law with clean hands.

ON FACTS:

Contents of para No.1 to 10. of the appeal are correct and the reply submitted to these paras by respondents in para-1 to 10 is incorrect and misleading hence denied.

GROUND:

All the grounds "A" to "F" taken in the memo of appeal are legal and will be substantiated at the time of hearing of appeal and reply submitted to these paras by respondents from "A" to "F" is incorrect and misleading hence vehemently denied.

It is, therefore, humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

THROUGH

S-14
APPELLANT

(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

Dated: 22-05-2019

AFFIDAVIT:

I, Sabar Shah appellant do hereby solemnly declare that contents of this rejoinder as well as that of titled appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 22-05-2019

S-14
Deponent/Appellant

22.5.2019

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 589/2018

Sabar Shah.....V/S.....PPO/IGP KPK & Others
(Appellant) **(Respondents)**

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APPELLANT

(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

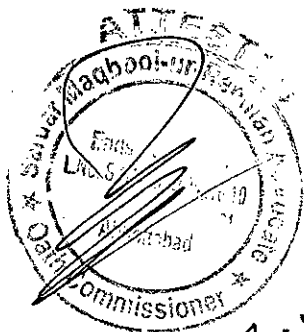
Dated: 22-05-2019

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Dated: 22-05-2019

S-14
Deponent/Appellant



22-5-2019

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 589/2018

Sabar Shah.....V/S.....PPO/IGP KPK & Others
(Appellant) (Respondents)

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S-14
APPELLANT

(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

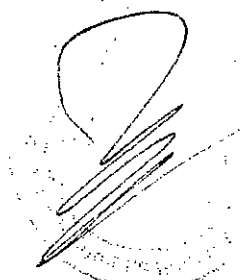
Dated: 22-05-2019

AFFIDAVIT:

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Dated: 22-05-2019

S-14
Deponent/Appellant



22-5-2019

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1088 /ST

Dated 13-6- / 2019

To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Mansehra.

Subject: -

JUDGMENT IN APPEAL NO. 589/2018, MR. SABIR SHAH.

I am directed to forward herewith a certified copy of Judgement dated 22.05.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.