



FORM OF ORDER SHEET

Court of _____

Case No.- 693 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/01/2021	<p>The appeal of Mr. Qais Khan presented today by Syed Noman Ali Bukhari 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</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/03/21</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>08.05.2021</p> <p>Learned counsel for the appellant submitted application for amendment in the instant service appeal which is placed on file. Dated 20.05.2021 this application is issued to the learned Additional Advocate General for arguments.</p> <p>Adjournd to 16.06.2021 for further proceedings before</p> <p>(S.B.)</p> <p style="text-align: right;">(Mian Muhammad) Member (S.B.)</p>

That the claim reinstated into service with
~~withdrew~~ ~~08.03.2021~~


08.03.2021

Appellant with counsel present.

Learned counsel for the appellant submitted an application for withdrawal of the instant service appeal with permission to file a fresh one.

Application is allowed and the appeal in hand is therefore, dismissed, as withdrawn with permission to file a fresh one subject to all just exceptions. File be consigned to the record room.

Announced:
08.03.2021



(MIAN MUHAMMAD)
MEMBER(E)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____ /2020

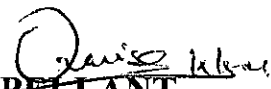
Qais Khan

VS

Police Deptt

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APPELLANT
Qais Khan

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

①

Appeal No. 693 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 656

Mr. Qais Khan Ex. Head constable NO. 270,
Traffic Police Office Peshawar.

Dated 11/01/2021

APPELLANT

VERSUS

1. The Inspector General Of Police, KP Peshawar.
2. The Chief Traffic Officer Peshawar.
3. The Central City Police Officer, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 25.08.2020 WHEREBY, THE APPELLANT HAS BEEN DISMISSED FROM THE SERVICE AND AGAINST THE ORDER DATED 01.10.2020 WHEREBY, THE DEPARMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS AND AGAINST NOT RESPONDED TO 11-A REVISION PETITION OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

Filed to-day
Registrar

11/01/2021
PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 1.10.2020 and 25.08.2020 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

R. SHEWETH

FACTS

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1. That the appellant was serving in police department as head constable and was posted as ticketing officer in traffic unit under your control and command.
2. That on dated: 14-7-2020 appellant while performing routine traffic duty on G.T Road noticed a Suzuki van wrongly parked on main road and in violation of traffic rules. appellant in order to book the driver on charges of violating laws and rules asked production of registration of the vehicle from driver but he instead providing registration book resort to misbehaving and run riot, therefore the appellant brought the matter in to the notice of in-charge traffic G.T road present on duty in the vicinity, who advised for engaging the driver till his arrival.
3. That no sooner did the in-charge reached the spot than the driver managed his contact on mobile phone with DPS HQ and at the end of telephonic talk the in-charge let the driver without talking any penal action. Meanwhile the rider squad also reached the spot.
4. That petitioner and the in-charge an personal of rider squad namely 1. Inam khan ASI , 2. Naseem khan ASI, 3. Subhan ullah khan SWI were still present on the spot when the DSP HQ put his appearance on the spot .He started disgracing the petitioner at public place in view of public by using filthy language and derogatory words to petitioner and against the entire members of the family of the appellant . The whole occurrence is witness by the personal of rider squad.
5. That the petitioner displayed extreme subordination and discipline and placed several requests before DSP HQ to avoid scolding of appellant in public view as it down grade the image of police and discourage the members of the force but he continued insulting the appellant.
6. The DSP HQ in addition to disgracing and abusing the appellant and members of his family made complaint against appellant by leveling false charges of exchange of harsh words with him and aiming rifle on him.
7. The charge sheet was issued to the appellant which was contested by the appellant by submitting with his reply .**(copy of charge sheet and reply of appellant is annexed as annexure-A & B)**
8. That the inquiry was conducted against the appellant but appellant has not been associated with the inquiry proceeding even no inquiry report is handed over to the appellant. Thereafter show cause notice was served upon the appellant which is properly replied by the appellant

but the copy of the same was not available with the appellant. **copy of Show cause is annexed as annexure-C)**

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9. That the departmental proceeding initiated against the appellant culminating in passing the impugned order dated 25.08.2020 whereby the appellant was dismissed from service. Similarly a departmental appeal was also rejected vide impugned order dated: 1-10-2020. **copy of impugned order, appeal and rejection order is annexed as annexure-D, E& F).**
10. That the appellant feeling aggrieved filled 11-A revision petition under police rule 1975 to IGP KP Peshawar which was not responded with in statutory period of 90 days. Hence the present service appeal amongst other. **Copy of 11-A revision is attached as annexure-G.**

GROUND:

- A. That the lower authority has passed that impugned order without properly evaluating the evidence and material on record. the evidence supporting the case of appellant was wrongly brushed aside and disbelieved without advancing any reasons and grounds.
- B. that the illegal evidence adduced by junior and sub ordinate police officers who had already watched the lose temper of DSP HQ during the incident of abuse of the appellant in public place by no stretch of imagination would ready for supporting the case of appellant and producing the true and real picture of the occurrence . in other words they were not in position to support the stance of appellant compliance with telephonic conversation of DSP HQ as they were afraid of the wrath of DSP HQ. Therefore the impugned order has been passed in total disregards of the principles governing the disciplinary actions and natural justice as well.
- C. That the inquiry proceedings were conducted at the back of the appellant , no fair opportunity of defense was provided to appellant . No chance of cross examination of alleged witnesses was provided to appellant, No legal , solid and material evidence was brought on record in support of the charge . petitioner was not confronted with any evidence , therefore the impugned order based on defective enquiry is not sustainable
- D. That thought according to the last para of the final show cause notice, the finding report was enclosed with the notice yet the findings have not been supplied to appellant. Appellant placed several requested for supply of inquiry record but not provide, therefore, appellant was unable to advance defense in rebuttal of the findings report.
- E. That the appellant was first abused, followed by dismissal from service order and the accused driver of Suzuki van was let scot free in compliance with telephonic directions of DSP HQ thereof the

accumulative effective of entire action leads to encouragement of influential violators for traffic laws at the cost of disgrace and punishing the police officers .


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- F. That the appellant addressed the DSP HQ with due decorum and within the prescribed disciplined manners despite the fact he went beyond the boundaries of professional ethics and disgraced the petitioner in public view . Admittedly the junior officers are duty bound to display subordination on the eve of anger behavior of seniors but the seniors are also under statutory obligation to follow the patient and prescribed code of conduct on occasion of interacting with junior officers . Appellant was disgraced and abused by DSP HQ and the lower authority instead of consoling the appellant added salt to the burning injuries of appellants by passing the impugned order.
- G. That the lower authority did not take in to account the unblemished record of long service for 20 years at the credit of appellant before passing the impugned order. Appellant belongs to poor family and the penalty of dismissal from service amounts to punishing the entire members of the family of appellant.
- H. That appellant was disgraced before public and was dismissed from service to charges of commission of no misconduct and negligence in duty.
- I. That the appellant seeks permission to advance other ground proof at the time of hearing.

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


APPELLANT
Qais Khan

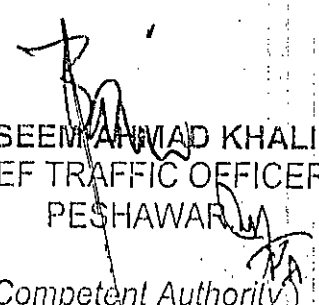
THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

CHARGE SHEET

A S

1. WHEREAS I am satisfied that a formal enquiry as contemplated by Police Rules 1975 is necessary and expedient.
2. AND whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule-3 of the aforesaid Rules.
3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules I, WASEEM AHMAD KHALIL, Chief Traffic Officer, Peshawar hereby charge you HC Qais Khan No.861/270 under Rules 5 (4) of the Police Rules 1975 on the basis of following allegations:-
 - i) On 14.07.2020 that you while deployed on GT road illegally impounded a suzuki van for picking passengers which was actually not used as taxi. DSP/Hqrs also on patrolling duty at GT road, reached to the point and asked about the suzuki van, you became furious and exchanged harsh words. You also attempted to harm the DSP by aiming official rifle of a gunner standing on duty with you.
 - ii) Besides the above, you also viral a video message on social media defaming and tarnishing the image of DSP/Hqrs by leveling false allegations. This act not only tarnished the image your circle officer but also defamed the entire police force in the eyes of general public.
4. By doing this you have committed gross misconduct on your part.
5. AND I hereby direct you further under Rule 6 (1) (b) of the said Rules to put-in written defence within 07-days of the receipt of this Charge Sheet as to why the proposed action should not taken against you and also state whether you desire to be heard in person.
6. AND in case your reply is not received within the stipulated period to the enquiry officer, it shall be presumed that you have no defence to offer and in that case, ex-parte action will be taken against you.


(WASEEM AHMAD KHALIL)
CHIEF TRAFFIC OFFICER,
PESHAWAR
(Competent Authority)

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DISCIPLINARY ACTION

1. I, WASEEM AHMAD KHALIL, Chief Traffic Officer, Peshawar as competent authority, am of the opinion that you HC Qais Khian No.861/270 has rendered himself liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of Police Rules 1975.

SUMMARY OF ALLEGATIONS

2 i) On 14.07.2020 that he while deployed on GT road illegally impounded a suzuki van for picking passengers which was actually not used as taxi. DSP/Hqrs also on patrolling duty at GT road, reached to the point and asked about the suzuki van, he became furious and exchanged harsh words. He also attempted to harm the DSP by aiming official rifle of a gunner standing on duty with him.

ii) Besides the above, he also viral a video message on social media defaming and tarnishing the image of DSP/Hqrs by leveling false allegations. This act not only tarnished the image his circle officer but also defamed the entire police force in the eyes of general public.

3. For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, an Enquiry Committee comprising of the following officer(s) is constituted:-

a. Mr. Iftikhar Ali, SP/Hqrs. Traffic, Peshawar.

b. _____

4. The enquiry committee/officer shall in accordance with the provision of the Police Rules 1975 provide reasonable opportunity of hearing to the accused officer/official and make recommendations as to punishment or any other appropriate action against the accused.


(WASEEM AHMAD KHALIL)
CHIEF TRAFFIC OFFICER,
PESHAWAR.

(Competent Authority)

جای عالی

بجوالہ خارج شہد بخاریہ جناب صحیفہ ٹرنید لفسہد لہا در عرض صدف
 نہ سائل کی مرض چہا آہ روز زمین پڑھی پوانت ٹرنید کہ دی گئی
 ہر وجود تھی۔ کہ دوران ڈیوٹی ایک سوزاں میں روز پر ٹرنید
 روز صدف وزری کرتا ہر گھنٹہ ایسا ڈرائیور کو صدف کرتا چاہا۔ تاکہ
 طلب کرتا ہر ساس تو پرنیزی اور امادہ ہر فناد پرنی مارھا۔ بخاریہ آہ روز
 طبعیہ وقوع انہما۔ اور ساہوی جلیس راہیدر آہ روز انفاکا۔ نسیم
 مین موقع ہر انہی۔ ندرہ ڈرائیور دینا نے بخاریہ آہ روز کو اپنے نوہا
 سے بنا۔ ۴۶۔ ۴۵۔ ۴۴۔ ۴۳۔ ۴۲۔ ۴۱۔ ۴۰۔ ۳۹۔ ۳۸۔ ۳۷۔ ۳۶۔ ۳۵۔ ۳۴۔ ۳۳۔ ۳۲۔ ۳۱۔ ۳۰۔ ۲۹۔ ۲۸۔ ۲۷۔ ۲۶۔ ۲۵۔ ۲۴۔ ۲۳۔ ۲۲۔ ۲۱۔ ۲۰۔ ۱۹۔ ۱۸۔ ۱۷۔ ۱۶۔ ۱۵۔ ۱۴۔ ۱۳۔ ۱۲۔ ۱۱۔ ۱۰۔ ۹۔ ۸۔ ۷۔ ۶۔ ۵۔ ۴۔ ۳۔ ۲۔ ۱۔

اس دوران جناب ۴۶۔ ۴۵۔ ۴۴۔ ۴۳۔ ۴۲۔ ۴۱۔ ۴۰۔ ۳۹۔ ۳۸۔ ۳۷۔ ۳۶۔ ۳۵۔ ۳۴۔ ۳۳۔ ۳۲۔ ۳۱۔ ۳۰۔ ۲۹۔ ۲۸۔ ۲۷۔ ۲۶۔ ۲۵۔ ۲۴۔ ۲۳۔ ۲۲۔ ۲۱۔ ۲۰۔ ۱۹۔ ۱۸۔ ۱۷۔ ۱۶۔ ۱۵۔ ۱۴۔ ۱۳۔ ۱۲۔ ۱۱۔ ۱۰۔ ۹۔ ۸۔ ۷۔ ۶۔ ۵۔ ۴۔ ۳۔ ۲۔ ۱۔
 جھے مانت ک عدرد زانی بلذم سمجھ کر جھ اپنے پوانت تھا آہ روز
 شمع سما کہ طاہ کرتا ہر تاکہ نانا داری ک کمال ککو جھ کہ کر
 مذہب کیا۔ کہ صحت کھار والدیں میں ڈرائیور کو جھ لہا سنہا
 کو پھاہینر ہا۔

مہا مانت مینا تاکہ باقاعدہ سرت کر جھا ہر لہا۔ اور نہایت سلج
 ہر انفاک میں اتنا عرض کیا۔ کہ جناب والد میں ڈرائیور کو ٹرنید
 صدف وزری ہر گھنٹہ ایسا تھا

جہا تک رائفل ایم مینا کما سہا لہا۔ مہا انسا وقت طلبہ ہر صرف
 کو بجلیا کو پوسا روز سنوٹ کر جھا ہر لہا۔ رائفل کو ایم کرنا دور
 کی بات ج۔ طلبہ کو بات صیت ک دوران جواب تک سنہا دیا ہے۔
 جہا تک میڈیو کمال داکر ہر سا بات ہے۔ ٹرنید سٹاپو سہا کما
 اس میں گروپ ہے اور اس وقت سٹاپو ٹرنید لہا گروپ میں بات
 کرنا نہ کہ صدف ہر صرف کما صدف کما بات کر جھا ہر لہا۔

صوت و نقل و اطلاع ایس کورس کورس کورس
 کو پھاہینر ہا کما سنہا کما سنہا
 صدف کما سنہا
 صدف کما سنہا

کوہنہی اس میں کوئی پیر نہیں شامل ہے

ایسے میں حالت واقعات اور عین حوض انفرادی بلکہ ان لوگوں میں لگا
 کیے ٹریفک ہیڈ کوارٹر آیا 1500 بج تک رشتہ نگار کرتا رہا۔ تین
 سٹاف نہ تھے صلیب آفریٹ میں پیش نہیں کیا اور فوجی سزا
 طور پر عداوت ملی۔ مگر پوچھیں کہ یہاں حاضر کیا کریں حکم ان تھیل پیر
 پوچھیں کہ یہاں حاضر کیا کریں۔ اور بعد میں پیر عداوت ملی۔ مگر وہاں ٹریفک
 ہیڈ کوارٹر آجائے۔ سارا حالت واقعات نے اپنا راجہ آج اور
 اور جس رائیڈر آج اور چشم دیکھا ہے۔ سال بگناہ سے
 اور عداوت کے خلاف چارج شدت لکھیں کہ ناروا لائے داخل

دفتروں میں جاویں

خانہ 270-881
 146
 قریب
 ڈیس

e (9)

FINAL SHOW CAUSE NOTICE

1. I, WASEEM AHMAD KHALIL, Chief Traffic Officer, Peshawar as competent authority under Police Disciplinary Rules (amended in 1975), do hereby serve you HC/TO Qais Khan No.861/270 as follows;

- a) That on 14.07.2020 while deployed at GT road, you illegally impounded a Suzuki van for picking passengers which was actually not used as taxi. DSP/Hqrs. Traffic who was also on patrolling duty at GT road, reached to the point and asked about the Suzuki van, you became furious and exchanged harsh words. You also attempted to harm the DSP by aiming official rifle of a gunner standing on duty with you.
- b) Besides the above, you also viral a video message on social media defaming and tarnishing the image of DSP/Hqrs by leveling false allegations. This act not only tarnished the image of your circle officer but also defamed the entire police force in the eyes of general public.

2. That consequent upon the completion of enquiry conducted against you by SP/Hqrs. Traffic Mr. [Name] for which you were given a [Name] of hearing but you failed to satisfy the enquiry officer.


3. On going through the finding and recommendation of the enquiry officer, the material available on record, I am satisfied that you have committed the omission/commission specified Police Disciplinary Rules (amended in 1975).


4. As a result therefore, I, WASEEM AHMAD KHALIL, Chief Traffic Officer, Peshawar as competent authority have tentatively decided to impose major penalty upon you including dismissal from service under Police Disciplinary Rules (amended in 1975).

5. You are therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you.

6. If no reply to this show cause notice is received within seven days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to put and in that case an ex-parte action shall be taken against you.

7. A copy of the findings of the Enquiry Officer is enclosed.


(WASEEM AHMAD KHALIL)
Chief Traffic Officer,
Peshawar.

(Competent Authority) 

ORDER

Annexure - D

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This is an order on the departmental enquiry initiated against HC/TO Qais Khan No.861/270 for using abusive language and aiming official rifle of a gunner standing on duty at duty point on GT road to harm DSP/Traffic Hqrs. He also viral a ^{audio} ~~video~~ message on social media defaming and tarnishing the image of DSP/Hqrs by leveling false allegations which not only defame his circle officer but also defamed the entire police force in the eyes of general public. He was charge sheeted and SP/Hqrs. Traffic was nominated as Enquiry Officer to conduct formal departmental proceedings under the Khyber Pakhtunkhwa Police Rules 1975 and submit his finding.

On 20.07.2020, he was served with charge sheet. He submitted his reply to the charge sheet stating therein on 14.07.2020 while performing duty at GT road, he stopped a suzuki van on account of traffic violation. He further added that the suzuki driver misbehaved and exchanged harsh words when asked to show vehicle's documents. He also said that the driver called to DSP/Hqrs on his cell phone and after having talked with him, the driver left. He also alleged that in the meanwhile DSP/Hqrs came to the point after having observed the situation, started abusing him by using inappropriate words about his elders. During the enquiry proceedings, statements of other relevant officers/officials were also recorded. After perusal of their statements, it revealed that statement of the accused official as well as other concerned officials contradicted from each other. The Enquiry Officer disclosed that SI Maazullah I/C GT road and FC Usman admitted in their written statements that accused official became furious at that moment and squabbled with DSP/Hqrs. Furthermore, it has also been revealed that accused official tried to snatch the official rifle from FC Usman standing there. The Enquiry Officer further added that HC Qais Khan has admitted that he viral audio message on social ^{media} ~~message~~ regarding DSP/Hqrs.

The Enquiry Officer in his findings therefore, recommended him for major punishment as he is found guilty of gross misconduct on his part. The accused official was issued Final Show Cause Notice to defend himself but his written reply was found not satisfactory. He was therefore, called for personal hearing to defend himself.

Today on 25.08.2020, he was appeared before the undersigned in OR but his verbal explanation was again not satisfactory. Keeping in view his misconduct with his senior officer as well as recommendation of the Enquiry Officer, HC/TO Qais Khan No.861/270 is awarded major punishment of dismissal from service under the Khyber Pakhtunkhwa Police Rules 1975 with immediate effect.

Order announced.

(WASEEM AHMAD KHALIL)
Chief Traffic Officer,
Reshawar.

No. 833-37 /PA, Dated Peshawar the 25/08/2020.

Copies for information and necessary action to the:-

1. SP/CCP, ^{Hqrs} Traffic, Peshawar.
2. SP/Hqrs. Traffic, Peshawar.
3. Accountant
4. OSI
5. SRC (along-with complete enquiry file consisting of 22 - pages)

Annexure - E

11

To,

The Chief Capital City
Police Officer, Peshawar.

SUBJECT:- DEPARTMENTAL APPEAL

With utmost respect, applicant submits departmental appeal against the order dated 25-08-2020, passed by Chief Traffic Officer, Peshawar vide which penalty of dismissal from service was imposed on appellant.

FACTS:

- (1) That the appellant was serving in police department as Head Constable and was posted as Ticketing Officer in Traffic Unit under your kind control and command.
- (2) That on 14-07-2020, appellant while performing routine traffic duty on GT road, noticed a Suzuki Van wrongly parked on main road. Appellant in order to book the driver on charges of violating Traffic Laws and rules, asked for production of registration of the vehicle from driver but he instead of providing registration book resort to misbehaving and run riot therefore the applicant brought the matter into the notice of incharge traffic GT road present on duty in the vicinity, who advised engaging the driver till his arrival.

- (3) That no sooner did the incharge reached he spot than the driver managed his contact on mobile phone with DSP HQR and at the end of telephonic talk, the incharge let the driver without talking any penal action. Meanwhile the rider squad also reached the spot.
- (4) That appellant, the incharge and personnel of rider squad were still present on the spot when the DSP HQ put his appearance on the spot. He started disgracing the appellant at public place and in view of public by using filthy and un parliamentary language and derogatory words to appellant and against the entire members of the family of the appellant.
- (5) That appellant displayed extreme subordination and discipline and placed several requests before DSP HQ to avoid scolding of appellant in public view as it down grade the image of police and discourage the members of the force but he continued insulting the appellant.
- (6) The DSP HQ in addition to disgracing and abusing the appellant and members of his family made complaint against appellant by leveling false charges of exchange of harsh words with him and aiming rifle on him.
- (7) That charge sheet based on allegations and viral of video message about the episode on social media was issued to appellant. The departmental proceedings initiated against appellant culminated in passing the impugned order, hence this departmental appeal on the following grounds.

Grounds:

- a. That the lower authority has passed that impugned order without properly evaluating the evidence and materials on record. The

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evidence supporting the case of appellant was wrongly brushed aside and disbelieved without advancing any reasons and grounds.

- b. That the alleged evidence adduced by junior and subordinate police officers who had already watched the lose temper of DSP HQ during the incident of abuse of the appellant in public place, by no stretch of imagination would ready for supporting the case of appellant and producing the true and real picture of the occurrence. In other words they were not in position to support the stance of appellant compliance with telephonic conversation of DSP HQ as they were afraid of the wrath of DSP HQ. Therefore the impugned order has been passed in total disregards of principles governing the disciplinary actions and natural justice as well.
- c. That the enquiry proceedings were conducted at the back of appellant. No fair opportunity of defense was provided to appellant. No chance of cross examination of alleged witnesses was provided to appellant. No legal, solid and material evidence was brought on record in support of the charge. Appellant was not confronted with any evidence therefore the impugned order based on defective enquiry is not sustainable
- d. That thought according to the last para- of the final show-cause notice the findings report was enclosed with the notice yet the findings have not been supplied to appellant. Appellant placed several requests for supply of inquiry record but not provide.

Therefore appellant was unable to advance defense in rebuttal of the findings report.

- e. That appellant was first abused, followed by dismissal from service order and the accused driver of Suzuki Van was let scot free in compliance with telephonic directions of DSP HQ thereof the accumulative effect of entire action leads to encouragement of influential violators for traffic laws at the cost of disgrace and punishing the police officers.
- f. That appellant addressed the DSP HQ with due decorum and within the prescribed disciplined manners despite the fact he went beyond the boundaries of professional ethics and disgraced the appellant in public view. Admittedly the junior officers are duty bound to display subordination on the eve of anger behavior of seniors but the seniors are also under statutory obligations to follow the patient and prescribed code of conduct on occasion of interacting with the junior officers. Appellant was disgraced and abused by DSP HQ and the lower authority instead of consoling the appellant added salt to the burning injuries of appellant by passing the impugned order.
- g. That the second charge is also not as the appellant had only informal the whatsapp group of traffic police colleague officers and someone has malafidely shared the information.
- h. That the lower authority did not take into account the unblemished record of long service at the credit of appellant before passing the impugned order. Appellant belongs to poor

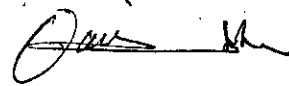
15

family and the penalty of dismissal from service amounts to punishing the entire members of the family of appellant.

- i. That appellant was disgraced before public and was dismissed from service to charges of commission of no mis-conduct and negligence in duty.

It is therefore requested that the impugned order may be set aside with all back and consequential benefits.

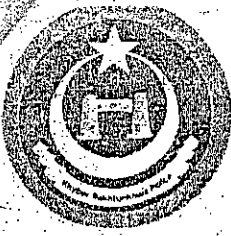
Yours Sincerely,



Ex. HC Qais Khan

No. 270

0344-9054948



Annexure F

OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR.

Phone No. 091-9210989
Fax No. 091-9212597

16

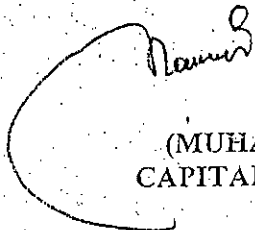
ORDER.

This order will dispose of the departmental appeal preferred by Ex-IC Qais Khan No 861/270 who was awarded the major punishment of "Dismissal from Service" by Chief Traffic Officer, Peshawar vide No.833-37/PA, dated 25-08-2020.

2- The allegations leveled against him were that he while posted in Traffic Police Peshawar was proceeded against departmentally on the charges of misbehaved using abusive language and aiming official rifle of a gunner standing on duty at duty point on GT road to harm DSP/HQrs Traffic by leveling false allegations which not only defame his circle officer but also defamed the entire force in the eyes of general public.

3- He was issued proper Charge Sheet and Summary of Allegations by Chief Traffic Officer Peshawar and SP/HQrs Traffic Peshawar was appointed to scrutinize the conduct of IC Qais Khan No.270. The enquiry officer concluded the enquiry and recommended him for major punishment. The competent authority after receipt of findings of the enquiry officer issued him Final Show Cause Notice to which he replied and found unsatisfactory by the competent authority. Hence was awarded the above major punishment.

4- He was heard in person in O.R. The relevant record along with his explanation perused but the appellant failed to submit any plausible explanation. Therefore his appeal for setting aside the punishment awarded to him by Chief Traffic Officer Peshawar is hereby dismissed/rejected.


(MUHAMMAD ALI KHAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 1309-13 /PA dated Peshawar the 01-10- 2020

Copies for information and n/a to the:-

1. Chief Traffic Officer Peshawar
2. SP/HQrs Traffic Peshawar.
3. Pay officer Traffic Peshawar
4. Official concerned.

(2)

Annexure G

3879

(17)

To,

The Inspector General of Police
Khyber Pukhtunkhwa,
Peshawar

5/10/2020

Subject:

REVISION PETITION AGAINST THE ORDER
DATED: 25-08-2020 PASSED BY THE CHIEF
TRAFFIC OFFICER, PESHAWAR AND APPEAL
DATED: 01-10-2020 CCPO, PESHAWAR.

Respected Sir,

With utmost respect, petitioner submits revision petition against the order dated: 25-08-2020 passed by the Chief Traffic Officer Peshawar vide which major penalty of dismissal from service was imposed on petitioner and appeal dated: 01-10-2020 of CCPO Peshawar.

FACTS:

1. That the petitioner was serving in police department as Head Constable and was posted as Ticketing Officer in Traffic Unit under your control and command.
2. That on dated: 14-07-2020 petitioner while performing routine traffic duty on G.T Road, noticed a Suzuki Van wrongly parked on main road and in violation of traffic rules. Petitioner in order to book the driver on charges of violating laws and rules, asked production of registration of the vehicle from driver but he instead providing registration book resort to misbehaving and run riot, therefore the

(2)

(18)

petitioner brought the matter in to the notice of incharge traffic G.T Road present on duty in the vicinity, who advised for engaging the driver till his arrival.

3. That no sooner did the incharge reached the spot than the driver managed his contact on mobile phone with DSP HQ and at the end of telephonic talk, the incharge let the driver without talking any penal action. Meanwhile, the rider squad also reached the spot.

4. That petitioner and the incharge and personal of Rider Squad namely 1. Inam Khan, ASI 2. Naseem Khan, ASI 3. Subhan Ullah Khan, SI were still present on the spot when the DSP HQ put his appearance on the spot. He started disgracing the petitioner at public place in view of public by using filthy language and derogatory words to petitioner and against the entire members of the family of the petitioner. The whole occurrence is witness by the personal of Rider Squad.

5. That petitioner displayed extreme subordination and discipline and placed several requests before DSP HQ to avoid scolding of petitioner in public view as it down grade the image of police and discourage the members of the force but he continued insulting the petitioner.

6. The DSP HQ in addition to disgracing and abusing the petitioner and members of his family made complaint against petitioner by leveling false

(19)

(E)

charges of exchange of harsh words with him, and aiming rifle on him.

7. The charge sheet based on allegations and viral of video of message about the episode on social media was issued to the petitioner, which was contested by the petitioner by submitting with his reply. (Copy of charge sheet and reply of petitioner is annexed).
8. That the departmental proceedings initiated against the petitioner culminated in passing the impugned order, similarly, a departmental appeal was also filed by the petitioner against the impugned order dated: 25-08-2020 but in vain vide impugned order dated: 01-10-2020. (Copy of impugned order dated: 25-08-2020 and impugned order dated: 01-10-2020 are annexed).

GROUND:

1. That the lower authority has passed that impugned order without properly evaluating the evidence and materials on record. The evidence supporting the case of petitioner was wrongly brushed aside and disbelieved without advancing any reasons and grounds.
2. That the alleged evidence adduced by Junior and Sub Ordinate Police Officers who had already watched the lose temper of DSP HQ during the incident of abuse of the petitioner in public place by no stretch of imagination would ready for supporting the case of petitioner and producing the true and

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real picture of the occurrence. In other words they were not in position to support the stance of petitioner compliance with telephonic conversation of DSP HQ as they were afraid of the wrath of DSP HQ. therefore, the impugned order has been passed in total disregards of the principles governing the disciplinary actions and natural justice as wel..

3. That the enquiry proceedings were conducted at the back of the petitioner, no fair opportunity of defence was provided to petitioner. No chance of cross examination of alleged witnesses was provided to petitioner. No legal, solid and material evidence was brought on record in support of the charge. Petitioner was not confronted with any evidence, therefore, the impugned order based on defective enquiry is not sustainable.

4. That thought according to the last para of the final show cause notice, the finding report was enclosed with the notice yet the findings have not been supplied to petitioner. Petitioner placed several requests for supply of inquiry record but not provide, therefore, petitioner was unable to advance defence in rebuttal of the findings report.

5. That the petitioner was first abused, followed by dismissal from service order and the accused driver of Suzuki Van was let scot free in compliance with telephonic directions of DSP HQ thereof the accumulative effective of entire action leads to encouragement of influential violators for traffic laws at the cost of disgrace and punishing the police officers.

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6. That the petitioner addressed the DSP HQ with due decorum and within the prescribed disciplined manners despite the fact he went beyond the boundaries of professional ethics and disgraced the petitioner in public view. Admittedly the junior officers are duty bound to display subordination on the eve of anger behavior of seniors but the seniors are also under statutory obligations to follow the patient and prescribed code of conduct on occasion of interacting with the junior officers. Petitioner was disgraced and abused by DSP HQ and the lower authority instead of consoling the petitioner added salt to the burning injuries of petitioner by passing the impugned order.

7. That the second charge is also not as the petitioner had only informed the Whatsapp group of traffic police colleagues officers and someone has malafidely shared the information.

8. That the lower authority did not take in to account the unblemished record of long service ^{for 20 years} at the credit of petitioner before passing the impugned order. Petitioner belongs to poor family and the penalty of dismissal from service amounts to punishing the entire members of the family of petitioner.

9. That petitioner was disgraced before public and was dismissed from service to charges of commission of no misconduct and negligence in duty.

10. That the petitioner had served the department for 20 years without any blemish sort of activity.

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It is, therefore, requested that the impugned orders dated: 25-08-2020 and 01/10/2020 may be set aside with all back and consequential benefits.

6

Dated: 05/10/2020

YOUR SINCERELY,

Ex. HC, Qais Khan, No. 270

Cell No. 0344-9054948.

Qais Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No 693 /2020

Qais Khan

VS

Police Deptt

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APPELLANT
Qais Khan

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____ /2020

Mr. Qais Khan Ex. Head constable NO. 270,
Traffic Police Office Peshawar.

APPELLANT

VERSUS

1. The Inspector General Of Police, KP Peshawar.
2. The Chief Traffic Officer Peshawar.
3. The Central City Police Officer, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 25.08.2020 WHEREBY, THE APPELLANT HAS BEEN DISMISSED FROM THE SERVICE AND AGAINST THE ORDER DATED 01.10.2020 WHEREBY, THE DEPARMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS AND AGAINST NOT RESPONDED TO 11-A REVISION PETITION OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 1.10.2020 and 25.08.2020 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

R. SHEWETH

FACTS

2

1. That the appellant was serving in police department as head constable and was posted as ticketing officer in traffic unit under your control and command.
2. That on dated: 14-7-2020 appellant while performing routine traffic duty on G.T Road noticed a Suzuki van wrongly parked on main road and in violation of traffic rules. appellant in order to book the driver on charges of violating laws and rules asked production of registration of the vehicle from driver but he instead providing registration book resort to misbehaving and run riot, therefore the appellant brought the matter in to the notice of in-charge traffic G.T road present on duty in the vicinity, who advised for engaging the driver till his arrival.
3. That no sooner did the in-charge reached the spot than the driver managed his contact on mobile phone with DPS HQ and at the end of telephonic talk the in-charge let the driver without talking any penal action. Meanwhile the rider squad also reached the spot.
4. That petitioner and the in-charge an personal of rider squad namely 1. Inam khan ASI , 2. Naseem khan ASI, 3. Subhan ullah khan SWI were still present on the spot when the DSP HQ put his appearance on the spot .He started disgracing the petitioner at public place in view of public by using filthy language and derogatory words to petitioner and against the entire members of the family of the appellant . The whole occurrence is witness by the personal of rider squad.
5. That the petitioner displayed extreme subordination and discipline and placed several requests before DSP HQ to avoid scolding of appellant in public view as it down grade the image of police and discourage the members of the force but he continued insulting the appellant.
6. The DSP HQ in addition to disgracing and abusing the appellant and members of his family made complaint against appellant by leveling false charges of exchange of harsh words with him and aiming rifle on him.
7. The charge sheet was issued to the appellant which was contested by the appellant by submitting with his reply .**(copy of charge sheet and reply of appellant is annexed as annexure-A & B)**
8. That the inquiry was conducted against the appellant but appellant has not been associated with the inquiry proceeding even no inquiry report is handed over to the appellant. Thereafter show cause notice was served upon the appellant which is properly replied by the appellant

but the copy of the same was not available with the appellant. **copy of Show cause is annexed as annexure-C)**

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9. That the departmental proceeding initiated against the appellant culminating in passing the impugned order dated 25.08.2020 whereby the appellant was dismissed from service. Similarly a departmental appeal was also rejected vide impugned order dated: 1-10-2020. **copy of impugned order, appeal and rejection order is annexed as annexure-D, E& F).**
10. That the appellant feeling aggrieved filled 11-A revision petition under police rule 1975 to IGP KP Peshawar which was not responded with in statutory period of 90 days. Hence the present service appeal amongst other. **Copy of 11-A revision is attached as annexure-G.**

GROUND:

- A. That the lower authority has passed that impugned order without properly evaluating the evidence and material on record. the evidence supporting the case of appellant was wrongly brushed aside and disbelieved without advancing any reasons and grounds.
- B. that the illegal evidence adduced by junior and sub ordinate police officers who had already watched the lose temper of DSP HQ during the incident of abuse of the appellant in public place by no stretch of imagination would ready for supporting the case of appellant and producing the true and real picture of the occurrence . in other words they were not in position to support the stance of appellant compliance with telephonic conversation of DSP HQ as they were afraid of the wrath of DSP HQ. Therefore the impugned order has been passed in total disregards of the principles governing the disciplinary actions and natural justice as well.
- C. That the inquiry proceedings were conducted at the back of the appellant , no fair opportunity of defense was provided to appellant . No chance of cross examination of alleged witnesses was provided to appellant, No legal , solid and material evidence was brought on record in support of the charge . petitioner was not confronted with any evidence , therefore the impugned order based on defective enquiry is not sustainable
- D. That thought according to the last para of the final show cause notice, the finding report was enclosed with the notice yet the findings have not been supplied to appellant. Appellant placed several requested for supply of inquiry record but not provide, therefore, appellant was unable to advance defense in rebuttal of the findings report.
- E. That the appellant was first abused, followed by dismissal from service order and the accused driver of Suzuki van was let scot free in compliance with telephonic directions of DSP HQ thereof the

accumulative effective of entire action leads to encouragement of influential violators for traffic laws at the cost of disgrace and punishing the police officers .

4

- F. That the appellant addressed the DSP HQ with due decorum and within the prescribed disciplined manners despite the fact he went beyond the boundaries of professional ethics and disgraced the petitioner in public view . Admittedly the junior officers are duty bound to display subordination on the eve of anger behavior of seniors but the seniors are also under statutory obligation to follow the patient and prescribed code of conduct on occasion of interacting with junior officers . Appellant was disgraced and abused by DSP HQ and the lower authority instead of consoling the appellant added salt to the burning injuries of appellants by passing the impugned order.
- G. That the lower authority did not take into account the unblemished record of long service for 20 years at the credit of appellant before passing the impugned order. Appellant belongs to poor family and the penalty of dismissal from service amounts to punishing the entire members of the family of appellant.
- H. That appellant was disgraced before public and was dismissed from service to charges of commission of no misconduct and negligence in duty.
- I. That the appellant seeks permission to advance other ground proof at the time of hearing.

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


APPELLANT
Qais Khan

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT