Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 15191 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/11/2020	The appeal of Mr. Ghulam Qadar resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 01/01/2021 CHAIRMAN
	01.01.2021	Appellant present through counsel. Preliminary arguments heard. File perused. Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 24.02.2021 before S.B. (Rozina Rehman) Member (J)

Appellant Deposited Security & Process Fee

24.02.2021 Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 31.03.2021 on which date file to come up for written reply/comments before S.B.

(Muhammad Jamal Khan)
Member

31.03.2021 Junior to counsel for the appellant present.

Addl: AG alongwith Mr. Nabi Gul, Supdt for respondents present.

Written reply/comments not submitted. Representative of the respondents seeks time to submit written reply/comments. Granted.

Adjourned to 02.06.2021 before S.B.

(Atiq Ur Rehman Wazir)
Member(E)

02.06.2021 Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Younis Khan, S.I (Legal) for the respondents present.

Representative of the respondents seeks further time to furnish reply/comments. The respondents are directed to submit written reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 11.10.2021 before the D.B.

Chairman

11.10.2021 Clerk to counsel for the appellant present. Mr. Javed Ullah Assistant Advocate General for respondents present.

Learned Members of the DBA are observing Sogh over the demise of Dr. Abdul Qadeer Khan (Scientist) and in this regard request for adjournment was made; allowed. To come up for arguments on 22.12.2021 before D.B.

(Atiq-Ur-Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

22.12.2021 Mr. Arbab Saiful Kamal, Advocate for the appellant present. Mr. Kabirullah Khattak, Addl. AG for respondents present.

Former made a request for adjournment as he has not prepared the brief today. Adjourned. To come up for arguments before the D.B on 11.03.2022.

(Atiq-Ur-Rehman Wazir)
Member (E)

Chairman

Appeal No. 15191/2020
Ghulam Qadir vs Govt

ORDER
26.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, passed in service appeal bearing No. 15189/2020 titled Muhammad Zubair Versus District Police Officer, Lakki Marwat and two others", the instant service appeal is accepted. The impugned orders are set aside and the appellant is re-instated into service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
26.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

The appeal of Mr. Ghulam Qadar Ex- Head Constable No. 193 Police Station Gambial Lakki Marwat received today i.e. on 17.11.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of enquiry report against the appellant mentioned in para-9 of the appeal is not attached with the appeal which may be placed on it.

No. 3844 /S.T,

Dt. 18/11 /2020.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Adv. Pesh.

Sir

Re-submitted after removing the objections.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambeela

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

INDEX

Deponent

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambila

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

Para wise REPLY BY the RESPONDENT NO. 1,2 & 3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

1) That the appellant has no cause of action and locus standi.
2) That the appeal of appellant is not maintainable under the law and rules.
3) That the appeal is bad due to non-joinder and mis-joinder of necessary parties.
4) That the appellant has approached the Honorable Tribunal with unclean hands.
5) That the appeal is badly time barred.

OBJECTIONS ON FACTS

1. Pertains to record.

2. In-correct: Brief facts of the case are that at the midnight of 25/26-09-2020 Constable Ali Muhammad No.674 received concrete information to the effect that one unknown Truck is carrying a huge quantity of narcotics / Chars to unknown place, upon which the above named Constable immediately informed (appellant) **Head Constable Ghulam Qadir** regarding the Truck, in response HC Ghulam Qadir, PASI Shakir Khan along with other police contingent conducted Nakabandi & also informed appellant Irfan Ullah (Ex-SHO PS Gambila), in the meantime the suspicious Truck reached and seized by appellant HC Ghulam Qadir & Constable Muhammad Saeed No.897 (**Statement of Constable Ali Muhammad as Annex "A"**). In the meanwhile, the appellant (Ex-SHO Gambila) along-with gunners namely appellant Safi Ullah 19/FC, Habib ur Rehman 7850/FC & Zubair Khan 345/FC reached to the place of occurrence and total 120 Kg Charas (parcels) were recovered from the said Truck, while the appellant Ex-SHO deputed PASI Shakir Khan to PP Manzar Faqir for conducting Nakabandi (**Statement of PASI Shakir Khan as Annex "B"**). Appellant Ex-SHO, appellant Ghulam Qadir along with other Police party by joining hands with accused narcotics peddlers have taken a huge amount a sum of Rs 1600000/- / Sixteen Lacs as a bribe in lieu of concealing the facts and also shown only 03 Kg Charas in version of case FIR No.171 dated 26-09-2020 u/s 9 CNSA (D) PS Gambila, besides one unknown accused was also illegally released on the spot, while one accused namely Ayub Khan s/o Raees Khan was arrested and charged in FIR based on concocted story by showing only 3 Kg charas instead of 120 Kg, which clearly shows the appellant inefficiency / Corruption and mala-fide intentions, punishable under section 118,119,164,200,201,202,490 of the Pakistan Penal Code, hence the Respondents have left with no other option except to register a case vide FIR No.180 dated 06-10-2020 under the above PPC sections against the appellant along with other involved Police Officials. (**Copy of FIR dated 06-10-2020 already annexed by appellant as "D"**)

3. In-correct: this para has already replied in Para No.3 of the S.A No.15700/2020, titled Irfan Ullah (Ex-SHO) & 04 others vs IGP KPK and others.

4. In-correct: The statements of the other Police officials, who were eye witness of the same occurrence were also recorded, according to which total 120 KG narcotics / Charas recovery was made by the appellant (Ex-SHO Gambila) in the presence of the appellant Constable Safi Ullah No.19, thereby facilitate the drug peddlers / commission of an offence in lieu of huge amount and shown only 03 Kg Charas in the version of FIR and concealed the facts. **(Statements already Annexed in Para No. "2" ibid)**

5. Pertains to record. However, detail reply already given in Para's ibid.

6. In reply, it is stated that for such offence of the appellant, charge sheet based upon summary of allegations was issued, properly served upon appellant and DSP/HQrs Lakki Marwat was nominated as E.O with the directions to conduct facts findings enquiry. **(Charge sheet already Annexed by appellant as "E")**

7. In-correct: this para has already explained in above Para No.3.

8. In-correct: A detail inquiry into the matter was conducted by DSP/Hqrs Lakki Marwat in accordance with law / rules and put-up findings to R.No.1 (competent authority), wherein the allegations leveled against the appellant stand proved, finally on the basis of findings of the E.O, the appellant was dismissed from service vide OB No.676 dated 27-10-2020. **(Photocopy of findings report is Annex 'C")**

9. As stated in Para 8 above.

10. Correct to the extent that appellant submitted departmental appeal for his re-instatement in service before R.No.2, accordingly appellant was afforded full opportunity of self-defense and personal hearing by R.No.2, but the appellant failed to substantiate his innocence, hence the appeal for re-instatement in service was rejected by the R.No.2 on 12-11-2020. **(Rejection order already Annex by appellant as "L")**

OBJECTIONS ON GROUNDS:-

A. In-correct: As stated in detail earlier in Para No.2, the appellant along with associated police party concealed the design of offence / facts in the FIR No.171 dated 26-09-2020 by joining hands in gloves with accused drug peddler, which was clarified by the eye witness of the occurrence PASI Shakir Ullah & Constable Ali Muhammad, hence all the involved Police officials were charged under Pakistan Penal Code Section as already described in above para.

B. In-correct: Pertains to record, hence need no comments.

C. In-correct: A detail probe were made in the matter by Enquiry Officer DSP/Hqrs Lakki, who fulfilled all legal / codal formalities and the appellants were found guilty of the charges leveled against them and put up findings report before R.No.1 with the recommendations for imposition of punishment.

D. In-correct: A detail fact findings enquiry into the matter was conducted by Enquiry Officer DSP/Hqrs Lakki Marwat in accordance with law / rules and fulfill all legal / codal formalities. The appellant was found guilty of the charges and recommended for imposition of suitable punishment.

E. In-correct: pertains to record.

F. In reply, it is stated that the appellant along with other Police officials were directly charged under PPC sections for commission of heinous act earlier mentioned and proper departmental enquiry proceedings were also initiated as per law / rules, according to which the allegations against the appellant stand proved without any shadow of doubt, hence dismissed from service by the authority.

G. In reply, it is submitted appellant was a discipline force member / public servant and guardian of public life & property, the appellant concealed the design of offence which was his duty to prevent, also caused disappearance of evidence of offence. The appellant proved himself a black sheep for the Police Department, hence his retention in Police Department was no more required, therefore after legal / codal formalities he was charged in FIR under PPC section and imposed the major penalty i.e., dismissal from service upon him.

H. In-correct: The orders of the respondents were passed in accordance with law / rules and facts.

Prayer:

Keeping in view of the above facts and circumstances, it is humbly prayed that appeal of appellant, being not maintainable, may kindly be dismissed with costs.

Regional Police Officer,
Bannu Region, Bannu
(Respondent No. 2)

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

District Police Officer,
Lakki Marwat
(Respondent No.1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambeela

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

AFFIDAVIT

I, **Mr. Younas Khan** SI/Legal representative for Respondents do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable court.

ATTESTED
SYEDA AQIDA BUKHARI ADVOCATE
Oath Commissioner
Peshawar
17/12/21

DEPONENT

(5)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambeela

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

AUTHORITY LETTER

We, the undersigned do hereby authorized Mr. **Younas Khan** SI/ Legal Lakki Marwat to appear before the Honorable Service Tribunal KPK Peshawar on behalf of respondents in the above cited titled case.

He is also authorized to submit and sign all documents pertaining to the present subject writ petition.

Regional Police Officer,
Bannu Region, Bannu
(Respondent No. 2)

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

District Police Officer,
Lakki Marwat
(Respondent No.1)

Hnx: A

(6)

بیان اذان [illegible] فضل ملک محمد 674 متعینہ پولیس [illegible]

NIC No. 11201-0330977-1 Mobil No. 0345-9860288

بیان کیا کہ میں ملازم [illegible] HC جو کہ ان دنوں گمبیلا میں تعینات ہے۔ HC عبدالغفور نے کہا

کہ مجھ پر [illegible] کارروائی کروں [illegible] مدعی [illegible] زیب الغفور نے کہا کہ

رابطہ [illegible] سے [illegible] کارروائی کرنے کی لیکن [illegible] کروں

[illegible] نے بتایا کہ [illegible] رات [illegible] وقت [illegible]

مورخہ 25/9/2020 کو الغفور [illegible] رابطہ [illegible]

کی نشاندہی کر دی تھی۔ میں نے یہ بات عبدالقادر HC [illegible] 02:30 [illegible] الغفور [illegible] نشاندہی

مورخہ 25-26/9/2020 کی درمیانی رات [illegible] PASS

اطلاع دی۔ میں نے عبدالقادر HC سے رابطہ کیا۔ تو فوراً [illegible]

[illegible] پہنچا۔ جو SHO عرفان رشید کے ساتھ [illegible]

[illegible] کے ہمراہ [illegible] DIK [illegible] اور [illegible]

[illegible] عبدالقادر [illegible]

[illegible] گمبیلا [illegible] الغفور [illegible]

[illegible] عبدالقادر [illegible]

[illegible] ~~عبدالقادر [illegible]~~ [illegible] SHO [illegible]

[illegible] گمبیلا میں [illegible]

[illegible] 2 [illegible]

[illegible] 120 [illegible]

[illegible] عبدالقادر HC [illegible] اور الغفور [illegible]

[illegible] عبدالقادر اور SHO عرفان [illegible]

[illegible]

[illegible]

Attested

District Police Officer
Lakki Marwat

(7) Anx: "B"

بیان [illegible] IAHC [illegible]

NIC No. 11201-9900858-9 Mobil No 0307-8000643

[illegible] گشت دوران [illegible]

بیان کیا کہ [illegible] موٹر سائیکل [illegible]

دوران گشت [illegible] غلام قادر [illegible] ریاض خان [illegible]

[illegible] غلام قادر 114 [illegible]

[illegible] ریاض خان [illegible] غلام قادر [illegible] سفید [illegible]

[illegible] موجود [illegible]

[illegible] غلام قادر 114 [illegible] جمیلہ [illegible]

[illegible] شروع کیا [illegible] ایک شخص [illegible] غلام قادر 114 [illegible]

[illegible] مذکورہ [illegible]

[illegible] MM جمیلہ [illegible]

[illegible] جمیلہ [illegible]

[illegible] MM [illegible]

[illegible] اور مذکورہ [illegible] ریاض خان [illegible]

[illegible] غلام قادر 114 [illegible] FC [illegible]

[illegible] غلام قادر 114 [illegible]

[illegible] MM [illegible]

[illegible] FC [illegible]

[illegible] SHO [illegible]

[illegible]

PASI / Aambi[illegible]
5/10/20

Attested

District Police Officer
Lakki Marwat

(8)

Anx: "C"

ضلع لکی مروت

از دفتر DSP/HQr لکی

نمبر 3 تاریخ 23.10.2020.

فائنل انکوائری رپورٹ

برخلاف: SI عرفان خان

جناب عالی!

معروض خدمت ہوں کہ آپ جناب کے دفتر سے جاری شدہ بحوالہ چارج شیٹ وسمری آف آلیگیشن نمبر 93-6592 مورخہ 06.10.2020 برخلاف SI عرفان خان بسلسلہ انکوائری موصول ہوکر باقاعدہ دفتر زیر دستخطی سے مذکورہ SI کو جواب کی غرض سے نوٹس دیا گیا کہ آپ پر ذیل الزامات عائد ہیں۔

الزام:۔ مورخہ 26.09.2020 بوقت 02:00 بجے کنسٹیبل علی محمد نمبر 674 کے انفارمیشن پر آپ نے ہمراہ غلام قادر HC نمبر 193، کنسٹیبل محمد زبیر نمبر 345، کنسٹیبل حبیب الرحمان نمبر 7058 ہینوٹرک نمبر 1229 نزد معراج مارکیٹ بمقام مسلم ڈیزل ایجنسی قبضہ میں کر کے جس کی ڈرائیونگ نامعلوم ڈرائیور اور ایوب ولد رئیس خان سکنہ سیرو کہ کرم ایجنسی موجود تھا۔ دراصل 120 کلوگرام چرس ٹرک سے برآمد کر کے جس میں صرف 3 کلوگرام چرس ظاہر کر کے جس پر مقدمہ 171 مورخہ 26.09.2020 جرم 9CNSA تھانہ گمبیلا درج رجسٹر کر کے 117 کلوگرام چرس غائب کیے اور صرف ایک ملزم ایوب خان ولد رئیس خان سکنہ کرم ایجنسی کو گرفتار کیا جبکہ ڈرائیور اور ٹرک کو چھوڑ دیا۔

بیان:۔ الزام علیہ افیسر نے اندر معیاد اپنا تحریری جواب دیا کہ مورخہ 25.09.2020 بحوالہ مد نمبر 06 صبح ہمراہ دیگر نفری پولیس کے ڈیوٹی کے لیے تھانہ سے روانہ ہوا اور شب بحوالہ مد نمبر 11 روزنامچہ 25.09.2020 وقت 23:30 بجے علاقہ سے واپس آیا۔ مورخہ 26.09.2020 صبح 09:15 بجے بدوران موبائیل گشت بحد نزد ملنگ اڈہ ملزم ایوب خان ولد رئیس خان سکنہ کرم ایجنسی کے قبضہ سے 3 کلوگرام چرس برآمد کر کے ملزم کو حسب ضابطہ گرفتار کر کے مراسلہ رپورٹ تھانہ بھیجوایا جس پر مقدمہ 171 مورخہ 26.09.2020 جرم 9CNSA تھانہ گمبیلا درج رجسٹر کرنے کے بعد تفتیشی افسر موقع پر حاضر آیا اور موقع پر چرس اور ملزم ایوب حوالہ تفتیشی افسر کیا گیا۔ مورخہ 05.10.2020 من SI بحوالہ مد نمبر 07 روزنامچہ 05.10.2020 پولیس لائن لکی میں بغیر کسی جرم کے بند کوارٹر گارڈ کیا گیا ہے۔ مورخہ 06.10.2020 کو مقدمہ علت 180 جرم PPC 409-202-201-200-164-119-118 تھانہ گمبیلا مقدمہ میرے خلاف قائم کیا گیا دوران تفتیش نہ

Attested.

District Police Officer
Lakki Marwat

"C"

الزام شدہ چرس برآمد ہوئے اور نہ ٹرک اور نہ میرے قبضہ سے دوران تفتیش کو رقم برآمد کی گئی ہے۔ میں ایک ذمدار پولیس افسر ہوا و آج تک اپنی فرائض نہایت خوش اصلوبی سے سرانجام دیتے ہوئے افسران بالا نے نقد انعامات سے نوازا ہے۔ میرے خلاف لگائے گیے الزامات بے بنیاد ہے۔ تحریری بیان ہمراہ لف ہے۔

اندریں بارہ SI نصر الدین انچارج انوسیگیشن، ASI/LBI محمد شاہ تھانہ گمبیلا، شاکر اللہ PASI، ڈرائیور نادر خان متعینہ تھانہ گمبیلا اور کنسٹیبل علی محمد نمبر 674 متعینہ پولیس لائن لکی دفتر طلب کر کے ان کے تحریری بیانات اور جرح سوالات کیے گیے جو ہمراہ انکوائری لف ہے۔

رائے انکوائری آفسر:۔ کیگئی انکوائری لئے گئے بیانات، جرح سوالات اور میسر شدہ ریکارڈ انکوائری سے اس نتیجہ پر پہنچا کہ الزام علیہ SI عرفان خان مقدمہ 180 مورخہ 06.10.2020

جرم 118-119-164-200-201-202-409PPC تھانہ گمبیلا میں ڈاریکٹ چارج ہوا ہے۔ اور PASI شاکر اللہ، ڈرائیور نادر خان نمبر 297 اور کیسٹیبل علی محمد نمبر 674 جو گواہ چشم دید ہے۔ بیانات کی روشنی میں الزام علیہ افسر قصوروار اور گنہگار پایا جاتا ہے۔ تاہم چارج شیٹ میں لگائے گے الزامات درست ثابت ہوئے۔ مناسب سزا کی سفارش کی جاتی ہے۔ انکوائری رپورٹ مرتب ہو کر گزارش ہے۔

ڈی۔ایس۔پی ہیڈکوارٹر لکی مروت

Dismissed from service.

26/X/20

Attested

District Police Officer
Lakki Marwat

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. _____ /2020

Ghulam Qadir versus DPO & Others

INDEX

Appellant

Through

Arbab Saif-ul-Kamal
Advocate
21-A, Nasir Mansion,
Shoba Bazaar, Peshawar
Ph: 0345-9047738

Dated: 16-11-2020

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No 1519/2020

Ghulam Qadir S/O Hakeem Khan,
R/o Landiwa, Lakki Marwat,
EX-Head Constable No. 193,
Police Station Gambila . . . . . Appellant

Versus

1. District Police Officer,
   Lakki Marwat.
2. Regional Police Officer,
   Bannu Region Bannu.
3. Provincial Police Officer,
   KP, Peshawar . . . . . Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST OB NO. 676, DATED 27-10-2020 OF R. NO. 01, WHEREBY APPELLANT WAS DISMISSED FROM SERVICE OR OFFICE ORDER NO. 3954/EC DATED 12-11-2020 OF R.NO. 02 WHEREBY REPRESENTATION OF APPELLANT WAS FILED FOR NO LEGAL REASON:

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That appellant was appointed as Constable in the year 1998 and was promoted to the rank of Head Constable and then passed the Intermediate Course in the year 2014.
2. That on 26-09-2020, appellant along with police party was on gusht and was stationed for general checking at the spot, Irrigation Canal Gambila when in the meanwhile, a person namely Ayub Khan S/O

Raees Khan came on the spot having in hand green shoper was signaled for checking but ran away and thereafter, he was searched and recovered three thousand gram chars from his possession and as a consequence, FIR No. 171 dated 26-09-2020 Police Station Gambila u/s 9(D)CNSA was registered. (Copy as annex "A")

3. That on 27-09-2020, accused was interrogated by the Inquiry Officer Muhammad Shah Khan by confessing the recovery of the contraband items. (Copy as annex "B")

4. That on 05-10-2020, PASI Shakirullah Khan, Nadir Khan Driver of the vehicle and Constable Ali Muhammad recorded statements before DSP Azmat Khan. The former two officials did not mention the recovery of 120 kg of chars but to the extent of three thousand gram while later, Constable Ali Muhammad No. 674 mentioned the same as 120 kg chars and recovery of Rs. 16,00,000/- from accused, Ayub Khan.

   Here it would be not out of place to mention that none of them were present on the spot during recovery of the contraband items from the accused but at the same time, they were in Police Line Lakki Marwat. (Copy as annex "C)

5. That on 06-10-2020, SHO Kaleem Ullah Khan who was transferred to Police Station, Gambila after the recovery of the said contraband items lodge subsequent FIR No. 180 dated 06-10-20, u/s 118/119/164/200/201/202 and 409 PPC in Police Station, Gambila stating therein that it has come to the knowledge through informer that 120 kg chars was recovered from a truck on the spot by the alleged appellant instead of 3000 gms and Rs. 16, 00,000/-. (Copy as annex "D")

6. That in pursuance of the subsequent FIR dated 06-10-2020, appellant was served with Charge Sheet and Statement of Allegations on 06-10-2020 on the same day that on 26-09-2020 at 02:00 AM on the information of Constable Ali Mohammad along with others seized Heno Truck No. 1229 and recovered 120 kg chars from the same none mentioning of recovery of amount of Rs. 16, 00,000/- which was replied and denied the allegations in toto. (Copy as annex "E" & "F")

7. That on 10-10-2020, accused Ayub Khan recorded statement wherein recovery of the seized items was mentioned as 3000 gm chars and nothing else. (Copy as annex "G")

8. That enquiry report was submitted to the authority by DSP Azmat Bangesh for onward action wherein one Ali Muhammad constable No. 674 was shown as eye witness(s) of the scene / spot but as stated earlier, he was not present on the spot but was at the same time in Police Line, Lakki Marwat. (Copy as annex "H")

9. That on 27-10-2020, appellant was dismissed from service by R. No. 01 on the allegations mentioned therein. (Copy as annex "I")

10. That on 10-11-2020, appellant submitted comprehensive departmental appeal before R. No. 02 for reinstatement in service which was filed / rejected by him on 12-11-2020. (Copies as annex "J" & "K")

Hence this appeal, Inter Alia, on the following grounds;

GROUNDS

a. That on 26-09-2020, in the FIR No. 171 dated 26-09-2020 there was mentioned of other Police Officials regarding recovery of the seized items but none deposed against the contents of the FIR.

b. That even accused Ayub Khan S/O Raees Khan in his statements and applications submitted before the court for release on bail never stated that the contraband items was 120 kg and supported the contents of the FIR No. 171 dated 26-09-2020.

c. That in the subsequent FIR, name of Ghulam Qadir No. 193 IHC, Constable Saeed Khan No. 987 FC, Constable Safi Ullah No. 19, Constable Habib-ur-Reham No. 7850 and Constable Zubair Khan No. 345 who were shown present on the spot but they never

contradicted contents of FIR No. 171 dated 26-09-2020 and even in the statements before the Inquiry Officer too.

d. That Inquiry Officer namely Azmat Ullah Bangesh DSP never conducted enquiry into the matter as per the mandate of law. Neither any statement of any concerned was recorded in presence of the appellant nor he was afforded opportunity of cross examination what to speak of self defense.

e. That the Inquiry Officer relied upon the statement of PASI Shakir Ullah, Driver Constable, Nadir Khan and Constable Ali Muhammad No. 674, yet statement of the former two officials goes in favor of appellant except the later but he was not present on the spot nor he was mentioned anywhere in the case.

f. That though appellant was dismissed from service but he was never served with Final Show Cause Notice or provided opportunity of self defense, being mandatory, so the impugned orders have no legal value in the eyes of law.

g. That in the FIR NO. 180 dated 06-10-2020, trial is yet to be completed and the respondents were legally bound to have wait for its conclusion.

h. That both the impugned orders are not per the mandate of law but are based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, orders dated 27-10-2020 and 12-11-2020 of the respondents be set aside and appellant be reinstated in service with all consequential benefits.

Appellant

Through

Arbab Saiful Kamal
Advocate

Dated: 16-11-2020

A 5

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

تھانہ گمبیلا ضلع لکی مروت

نمبر 171 تاریخ ووقت وقوعہ 26.9.020 وقت 09.15 بجے

۱۔	تاریخ و وقت رپورٹ 26.09.020 وقت 09.20 بجے	چاکیدگی 26.09.2020 وقت 10.00 بجہ
۲۔	نام سکونت اطلاع دہندہ مستغیث	عرفان خان SHO تھانہ گمبیلا
۳۔	مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو۔	9D KP CNSA
۴۔	جائے وقوعہ فاصلہ تھانہ سے اور سمت	ایری گیشن بحد ملنگ اڈہ جانب جنوبا بفاصلہ 1/2 کلومیٹر از تھانہ
۵۔	نام سکونت ملزم	ایوب خان ولد رئیس خان سکنہ میروکسہ قوم غلجے سدا ضلع لوئر کرم ضلع کرم ایجنسی
۶۔	کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع کرنے میں توقف ہوا تو وجہ بیان کرہ	برسیدگی مراسلہ پرچہ دیا گیا
۷۔	تھانہ سے روانگی کی تاریخ و وقت	برسبیل ڈاک

ابتدائی اطلاع نیچے درج کرو ۔

ایک تحریری مراسلہ منجانب عرفان خان SHO بغرض قائمی مقدمہ بدست کنسٹیبل صفی اللہ 17 موصول ہوکر ذیل ہے۔ محرر تھانہ گمبیلا میں معہ نفری پولیس دوران موبائل گشت جب جائے وقوعہ بالا پر پہنچا تو ایک شخص جسکے ہاتھ میں برنگ نیلا رنگ پلاسٹک لفافہ تھا اور پیدل جانب تاجہ زئی جارہا تھا جس پارٹی پولیس کو دیکھ کر بھاگ پڑا۔ جو مشتبہ جان کر اسکا تعاقب کیا۔ تھوڑے فاصلے پر شخص مذکورہ کو قابو کیا۔ دریافت پر اپنا نام ایوب خان ولد رئیس خان سکنہ میروکسہ قوم غلجے سدا ضلع کرم ایجنسی بتلایا تلاشی لینے پر پلاسٹک لفافے میں تین پیکٹ چرس جس میں زرد سلوشن لپٹی ہوئی تھی برآمد ہوئی۔ جملہ چرس بمعہ پلاسٹک لفافہ تحویل میں کرکے جو برموقع وزن کرنے پر کل -/3000 گرام چرس اتری۔ شخص مذکورہ کو مرتکب جرم بالا پاکر حسب ضابطہ گرفتار کرکے کارڈ گرفتاری جاری کی۔ مراسلہ بغرض قائمی مقدمہ تفتیش بدست کنسٹیبل صفی اللہ 17 ارسال تھانہ ہے۔ میں برموقع موجود ہوں۔ دستخط انگریزی عرفان خان SHO 26.09.2020 کاروائی تھانہ پس برسدیگی مراسلہ پرچہ بجرم بالا برخلاف ملزم بالا کا چاک ہوکر نقول FIR بغرض تفتیش حوالہ IO/SI سٹاف کئے جاتے ہیں۔ پرچہ گزارش ہے۔ ASI PS Qambila

26.09.020

B 6 27-9-20

تھانہ سمبیلہ انکوائری رپورٹ ضلع کرم ایجنسی

مقدمہ 171 مورخہ 26/9/20 جرم 9D KPCNSA تھانہ سمبیلہ

بنام ۔ ایوب خان ولد رسین خان قوم میر کلر قوم علی زئی

س ۔ آپ کا والد تو زندہ ہے

ج ۔ والد زندہ ہیں والدہ فوت ہوئی ہے

س ۔ آپکے کل کتنے برادران ہیں

ج ۔ میرے برادران نہیں ہے

س ۔ آپکے کل کتنے بہنیں ہیں

ج ۔ میری ایک بہن تھی جسکی نام حاجرہ بی بی تھا غیرت کی وجہ سے

س ۔ آپکے چچا زاد کل کتنے ہیں

ج ۔ ایک چچا زاد تھا نام فاروق خان جو کہ شادی شدہ

س ۔ آپ کے خلاف کوئی کس قسم کا مقدمہ درج رجسٹر ہوئے

ج ۔ ہمارے علاقہ میں ایک بھی مقدمہ درج نہیں ہے کیونکہ وہاں پر ایک تھانہ پولیس نہیں تھا

س ۔ آپ نے کتنے دفعہ ہی کنٹرکٹ پاس کرائے

ج ۔ میں نے پہلی دفعہ لکڑی کا کنٹرکٹ حساب سے تقریباً تین لاکھ مبلغ 300000 روپے میں سودا لئے ہوا تھا لیکن اس وقت پولیس سے ڈر کر 52 ہزار روپیہ پولیس کو ادا کر کر

Accused

میں تھانے میں حاضر ہو کر انتظار کر رہا تھا۔
میں دو دن SHO صاحب کے آنے کا انتظار کرتا رہا
مجھ سے یہ غلطی ہوئی۔ آئندہ ایسی
غلطی نہیں کروں گا۔ میں قدرتی آفات کی وجہ سے معذرت
خواہ ہوں۔

HHB Constable
27.9.20

Accd

5-10-20

8

بیان از ASI [illegible] نمبر [illegible]

NIC NO 11201 9906858 9 Mob 1 No 03078000664

بیان کرتا ہوں کہ میں اوقات وقوعہ میں تھانہ [illegible] میں تھا۔ میں
دوران گشت مقدمہ نمبر 1112 [illegible] موبائل [illegible] کو موبائل
خون آلودہ ملی۔ میں نے موبائل [illegible] تھانہ [illegible] آیا۔ اس الحاق کے
میں جو لوگ پولیس مقدمہ نمبر 1112 کی وجہ سے [illegible] آئے تھے۔ موقعہ پر مقدمہ نمبر 1112 کا
گھر بار والی [illegible] موجود تھے۔ اسی طرح [illegible] سعید [illegible] بھی موجود تھا
مقدمہ نمبر 1112 کے [illegible] موبائل میں [illegible] کیا تھا کہ میرے ساتھ [illegible] کی [illegible]
موجود ہے۔ روانہ ہو کر جب ہم [illegible] سعید [illegible] پہنچے تو [illegible] کو
روک کر تلاشی شروع کیا کہ اچانک [illegible] کی طرف سے [illegible] آئی [illegible] کو
روک کر [illegible] دو [illegible] سوار تھے جس میں سے ایک شخص کو مقدمہ نمبر 1112 نے
چھوڑا۔ ہم دوسرے [illegible] کو [illegible] کر کے [illegible] مذکورہ کو [illegible] کر کے [illegible]
[illegible] کی طرف روانہ کیا۔ موبائل سردار [illegible] کی [illegible] میں [illegible] کر دیا۔ ہم [illegible]
[illegible] نمبر 1112 [illegible] کر رہا تھا جب [illegible] کو [illegible] نمبر 1112 [illegible]
مجھے موبائل [illegible] الحاق [illegible] آپ کا موبائل [illegible] مقدمہ [illegible] پر لے [illegible]
آپ [illegible] مقدمہ [illegible]۔ اور مذکورہ [illegible] کی [illegible] نمبر 1112 نے روانہ کیا
[illegible] روانہ [illegible] جب مقدمہ نمبر 1112 کے [illegible] پر پہنچے۔ [illegible]
[illegible] وہیں پر [illegible] کے ساتھ مقدمہ نمبر 1112 [illegible] سعید [illegible]
[illegible] نمبر 1112 [illegible] کے [illegible] موجود تھے۔ اس اثناء میں [illegible]
[illegible] مقدمہ [illegible] موبائل [illegible] الحاق [illegible] کر کے [illegible] ہوئیں۔ [illegible] بیان کیا
کہ میں [illegible] موجود ہوں۔ [illegible] مجھے [illegible] کہ آپ [illegible] کی طرف
جائیں [illegible] الحاق [illegible] آپ [illegible] مقدمہ [illegible] کی طرف روانہ ہوا [illegible]

ASI [illegible] 15/10/20

Scanned with CamScanner

Amb
3

5/10/20

بیان [illegible] ASI علی محمد 674 انچارج پولیس چوکی [illegible]

Mob No. 0345 9560280 Mob No. 0330977-1 CNIC No. 11201

بیان کیا کہ ملزم نادر ولد [illegible] جو کہ [illegible] کا رہائشی ہے 1.2 کلو گرام چرس کیساتھ
گرفتار کیا گیا۔ مورخہ 25.5.20 کو انچارج [illegible] کے ساتھ رابطہ کیا کہ رات کے وقت ناکہ بندی
کی نشاندہی کروں گا۔ میں نے بات ملزم نادر ولد [illegible] کے موبائل پر کی۔
مورخہ 25.5.20 کو درمیانی رات تقریباً 02:30 بجے انچارج کی نشاندہی پر
ملزم نادر ولد [illegible] سے رابطہ کیا۔ جو فی الفور سرکاری گاڑی میں [illegible]
کے ہمراہ [illegible] کے بھیجا۔ جو [illegible] کے ساتھ رابطہ میں
تھا انہیں [illegible] کرنے کے لئے کہا اور ہم لوگ [illegible]
واقع [illegible] کے ناکہ کے لئے کہا۔ کہ ٹرک کا پیچھا ملزم نادر نے کیا کہ
اس اثنا میں آیا اور فرار ہونے لگا ٹرک کو روکا گیا تو ڈرائیور نے کہا کہ ٹرک میں
چرس ہے جس میں منشیات ہے۔ تو میں نے ملزم نادر کو اطلاع دی
تھوڑی دیر بعد [illegible] ملزم نادر [illegible] کی اور ایک ملزم [illegible] آئے اور
گاڑی [illegible] کو [illegible] کیا کہ اس اثناء میں [illegible]
عرفان [illegible] ملزم نادر [illegible] میں آ پہنچا۔ جس ملزمان [illegible]
ٹرک سے کل 120 پیکٹ چرس برآمد ہوئے جس کو وزن کیا
[illegible] کو [illegible] ملزم نادر [illegible] مورخہ [illegible] اور ان کو موقعہ سے
چھوڑ دیا۔ لہٰذا یہ ملزم [illegible] ملزم نادر اور [illegible] کو گرفتار کیا
اور [illegible] موقعہ سے برآمد [illegible] تمام باتیں واقعہ میں نے چشم
خود دیکھا۔ جس میرا یہی بیان ہے۔

علی محمد 674
5-10-020

Attested

10

6-10-20

بیان ازاں نادر خان نمبر 297 FC متعینہ ڈرائیور تھانہ ہمراہ [illegible] سے
بیان [illegible] بیان کیا کہ [illegible] سال [illegible] مرکز [illegible]
ساتھ [illegible] شاہ [illegible] اور [illegible] کے [illegible] نادر خان 161
[illegible] اور کیا [illegible] کہ [illegible]
[illegible] کی [illegible] اس [illegible] ہمراہ [illegible]
[illegible] کے ساتھ [illegible] 161 [illegible] مقدمہ [illegible]
[illegible] مالی [illegible] تھا [illegible] ساتھ [illegible] اور [illegible]
موجود تھا ۔ مقدمہ نادر 161 [illegible] ساتھ [illegible] سرکاری [illegible]
کے ساتھ [illegible] کی [illegible] گاڑی [illegible] کی
[illegible] شروع کی ۔ [illegible] کی [illegible] اور [illegible]
[illegible] ۔ [illegible] کو [illegible] 161 کے [illegible]
[illegible] کہ گرفتار [illegible] کو [illegible] کے [illegible] 161
کی [illegible] کو [illegible] کیا ۔ [illegible] دوران [illegible] اور [illegible]
[illegible] ڈرائیور [illegible] تھا [illegible]
[illegible] ۔ [illegible] عمر [illegible]
موجود [illegible] تھے ۔ [illegible] گاڑی [illegible] تحریر [illegible]
[illegible] نادر [illegible] ڈرائیور [illegible] ہے ۔ [illegible]
[illegible] ڈرائیور [illegible] تحریر کر دیا تھا ۔ [illegible]
[illegible] خان [illegible] ۔ اور [illegible]
ہے کہ [illegible] کی [illegible] ہے ۔ [illegible]
اور [illegible] دوران [illegible] اور [illegible]
[illegible] اور [illegible] باقی [illegible]

العبد نادر خان ڈرائیور [illegible]
نادر خان [illegible]
6.10.20

D 11

انسپکٹر جنرل پولیس صوبہ خیبر پختونخوا فارم نمبر ۲۳-۵ (۱)

ابتدائی اطلاعی رپورٹ

(فوجداری) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع	کوہاٹ	تھانہ گمبیر
	تاریخ وقت تقریباً 26/09 وقت 30-02-2	نمبر 180
۱	تاریخ وقت رپورٹ	06/10/20 وقت 12-00
۲	نام و سکونت اطلاع دہندہ / شکایت کنندہ	جمال گل 06/10/20 وقت 12-15
۳	مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو	حکیم خان 110 کلو 118-119-164-200-201-202-409
۴	جائے وقوعہ فاصلہ تھانہ سے اور سمت	چھرا مارکیٹ اڈہ گمبیر جانب شرق شمال بفاصلہ تقریباً 2½ فرلانگ
۵	نام و سکونت ملزم	
۶	کارروائی جو تفتیش کے متعلق کی گئی اور اطلاع دینے میں توقف ہوا تو وجہ بیان کرو	
۷	تھانہ سے روانگی کی تاریخ و وقت	

ضبطی 120 کلو انسداد 110

ہیروئن ڈاک

بذریعہ انفارمر معلوم ہوا کہ مورخہ 26/09 کو

ابتدائی اطلاع نیچے درج کرو

وقوعہ گمبیر تھانے وقوعہ ہیروئن 110 کلو شرک ملزمان معلوم ملزم عالم 123/TC - نثار سعید خان 877/TC نے زوجہ
[illegible] دوران وقوعہ ہیروئن خان 110 کلو تھانہ گمبیر اور گشتی افسران صفیر اللہ 19 - حبیب الرحمان 7850 - زاہد خان 3145
بطور مخبر آئے - جنہوں نے ٹرک کو سرچ کر کے ٹرک سے منشیات از قسم چرس 120 کلوگرام
برآمد ہو کر منشیات کو ظاہر نہ کرنے ملزم سے مبلغ 16 لاکھ روپے بطور رشوت لے کر بغیر ایک
ذمہ دار پولیس افسران اسٹیشن کسی قسم کی قانونی کارروائی نہیں کی اور جرم کو پوشیدہ
رکھا گیا - جو بعد میں معلوم ہوا ہے کہ بعدہ مقدمہ ڈرائیور جمعہ نام ایوب خان ولد رشید خان سکنہ کرم
رجسٹر ہوا جس کے خلاف مقدمہ علت نمبر 171 مورخہ 9/20 بجرم 9D+9C CNSA تھانہ گمبیر درج ہوا اور وقوعہ میں (3) ہزار
گرام (چھ کلوگرام) برآمدگی ظاہر کی - مذکورہ 110 کلو دیگر نقدی پولیس نے جرم کو چھپا کر جانبدار
کردار کا مظاہرہ کیا جس کا بنا پر فعل خلاف قانون بجرم مثل دست اندازی کے زمرے میں آتا ہے لہٰذا
مذکورہ بالا دیگر نفری پولیس کے خلاف زیر دفعات 118-119-164-200-201-202-409 [illegible]
[illegible] درج رجسٹر ہو کر فعل
[illegible] 2 [illegible]

SHO Gumbat
06-10-20

E 12

E:\All Office\SRC\Charge Sheet Order 2- File 2018.docx old laptop

OFFICE OF THE DISTRICT POLICE OFFICER, LAKKI MARWAT.

No. 6597 /

Dated: 6-10 /2020.

DISCIPLINARY ACTION UNDER NWFP POLICE RULES – 1975.

I, **Abdul Rauf Babar** PSP, District Police Officer, Lakki Marwat as competent authority am of the opinion that **HC Ghulam Qadir No.193 while posted at PS Gambila** has rendered himself liable to be proceeded against as the committed the following acts/commission within the meaning of Section-02 (iii) of NWFP Police Rules 1975.

STATEMENT OF ALLEGATIONS.

1. That on 26.09.2020 at 02:00 AM, on the information of Constable Ali Muhammad No.674, he alongwith SI Irfan Ullah, FC Zubair Khan No.345, FC Habib ur Rehman No.7058 and FC Safi Ullah No.19 seized a Hino Truck No.1229 in place of Meraj Market opposite Muslim Diesel Agency near Gambila Adda PS Gambila drive by unknown driver alongwith Ayub Khan s/o Raees Khan r/o Mirokasa District Kurum. They actually recovered 120 KG Charas from the Truck but entered only 3 KG Charas in the version of FIR No.171 dated 26.09.2020 u/s 9CNSA (D-KP) PS Gambila while the remaining 117 KG Charas was disappeared and also arrested only accused Ayub Khan s/o Raees Khan r/o Mirokasa District Kurum Ageney. On collision, bargaining been made and the driver concerned and Truck was set free.

2. That all speaks his gross misconduct on his part and makes hint liable to be punished under Police Rules-1975.

For the purpose of securitizing the conduct of the said official with reference to the above allegations **DSP/Hqrs, Lakki Marwat** is appointed as Enquiry Officer.

The Enquiry Officer shall conduct proceedings in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its finding and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

District Police Officer,
Lakki Marwat.

OFFICE OF THE DISTRICT POLICE OFFICER, LAKKI MARWAT.

No. 6598-99/SRC, dated Lakki Marwat the 6-10 /2019.

Copy of above is forwarded to the:-

1. **DSP/Hqr: Lakki Marwat** for initiating proceedings against the accused officer under Police Rules 1975.
2. **HC Ghulam Qadir No.193** with the directions to appear before the Enquiry Officer on the date time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

.....

CHARGE SHEET UNDER NWFP POLICE RULES 1975.

I, Abdul Rauf Babar PSP, District Police Officer, Lakki Marwat as competent authority hereby charge you **HC Qhulam Qadir No.193 while posted at PS Gambila** as follow:-

1. That on 26.09.2020 at 02:00 AM, on the information of Constable Ali Muhammad No.674, you alongwith SI Irfan Ullah, FC Zubair Khan No.345, FC Habib ur Rehman No.7058 and FC Safi Ullah No.19 seized a Hino Truck No.1229 in place of Meraj Market opposite Muslim Diesel Agency near Gambila Adda PS Gambila drive by unknown driver alongwith Ayub Khan s/o Raees Khan r/o Mirokasa District Kurum. You actually recovered 120 KG Charas from the Truck but entered only 3 KG Charas in the version of FIR No.171 dated 26.09.2020 u/s 9CNSA (D-KP) PS Gambila while the remaining 117 KG Charas was disappeared and also arrested only accused Ayub Khan s/o Raees Khan r/o Mirokasa District Kurum Agency. On collision, bargaining been made and the driver concerned and Truck was set free.

2. That all speaks of gross misconduct on your part and liable to be punished under Police Rule-1975.

3. By reason of the above, you appear to be guilty or misconduct under section – 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section – 04 (i) and & b of the said rules.

4. You are therefore directed to submit your written defense **within seven days (7)** of the receipt of this Charge Sheet to the Enquiry Officer.

5. Your written defense if any, should reach to 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, an ex-parte action shall follow against you.

6. Intimate whether you desired to be heard in persons.

No. 6597 / Dated Lakki Marwat the 6-10 / 2020.

District Police Officer
Lakki Marwat

Attested

F 14

جناب عالی کو اس چارج شیٹ نمبر 6597 مورخہ 06.10.2020 بجواب یہ جناب ایس۔ پی۔ او صاحب کی مراسلت معروض ہوں کہ خادم قادر نمبر HC/193 پر الزام ہے کہ مورخہ 26.09.2020 بوقت 0200 بجے کنسٹیبل علی محمد نمبر 674 انفارمیشن پر آپ نے ہمراہ عرفان خان ایس۔ ایچ۔ او و خادم قادر HC/193 کنسٹیبل محمد زبیر 345، حبیب الرحمن 7058 بذریعہ ٹرک نمبر 1229 نزد معراج مارکیٹ بمقابل مسلم ڈیزل ایجنسی قبضہ میں کر کے جس کی ڈرائیونگ نامعلوم ڈرائیور اور ایوب خان ولد رئیس خان سکنہ سیرو کرم ایجنسی موجود تھا اور اصل 120 کلو گرام چرس برآمد کر کے جس میں صرف تین کلو گرام چرس ظاہر کر کے جس پر مقدمہ علت نمبر 171 مورخہ 26.09.2020 جرم 9CNSA(D) KP تھانہ کبیلا درج کر کے 117 کلو چرس غائب کر دیئے اور صرف ڈرائیور ایوب خان ولد رائیس خان سکنہ کرم ایجنسی کو گرفتار کیا اور بیچ میں ڈرائیور مذکور اور ٹرک کو چھوڑ دیا۔

2۔ یہ تمام واقع انتہائی غیر ذمہ دارانہ اور پولیس رولز 1975 کے تحت قابل سزا ہے۔

جناب عالی! جواباً معروض ہوں!

8۔ یہ کہ مورخہ 06.10.2020 کو معلوم ہوا کہ من سائل کے خلاف مقدمہ علت 180 مورخہ 06.10.2020 جرم PPC118،119،164،200،201،202،409 تھانہ کبیلا قائم کیا گیا اور سائل پر الزام ہے کہ مورخہ 26.09.2020 کو بدوران گشت ہمراہ دیگر پولیس نفری کے ساتھ ٹرک سے 120 کلو چرس برآمدگی اور ایوب ولد رائیس سکنہ سیرو کرم ایجنسی کے خلاف تین کلو چرس کا مقدمہ درج کیا ہے اور مبلغ 16 لاکھ روپے وصول کئے اور جرم کو چھپایا ہے جو سراسر غلط اور بے بنیاد ہے واقعہ کے وقت میں حسب اجازت ایس۔ ایچ۔ او تھانہ شی پر تھا (حسب عادت سراسر جھوٹ ہے) اور ایوب ولد رائیس خان کے خلاف ایس۔ ایچ۔ او عرفان خان نے مورخہ 26.09.2020 بوقت 9:15 بجے تین کلو چرس برآمد کر کے جس کے خلاف مقدمہ علت 171 مورخہ 26.09.2020 جرم 9CNSA(D) KP تھانہ کبیلا قائم کیا [illegible] تفتیش [illegible] I/O نے عمل میں لائی ہے مگر تفتیش کے دوران میرے خلاف کوئی قانونی فعل ثابت نہ ہوا اور مقدمہ علت [illegible] PPC118،119،164،200،201 [illegible] 06.10.2020 [illegible] تھانہ کبیلا نے من سائل کے خلاف کوئی واقعاتی شہادت دستیاب ہوا

15

[illegible] میرے خلاف لگائے گئے الزامات میں ذریعہ میں برآمد کئے گئے ہیں اور [illegible] پولیس کی گئی ہے اور [illegible]

[illegible] برآمد کی گئی ہے۔

B. جناب عالی! ایک انتہائی بے بنیاد اور بدنیتی پر مبنی انٹیلیجنس کے ذریعے سائل پر مقدمہ قائم کیا گیا ہے اور جس کی کوئی [illegible] ہے [illegible]

ہے [illegible] کا جاری کی مقدمہ 171 مورخہ 26.09.2020 م KP CNSA(D) 9 [illegible] گیا ہے جس میں میرے خلاف کوئی شہادت موجود [illegible]

نہیں ہے۔

C. جناب عالی! سائل ایک ذمہ دار پولیس آفیسر ہے اور ہمیشہ اپنے فرائض منصبی میں کبھی کوتاہی نہیں کی ہے میرے خلاف لگائے گئے الزامات بالکل

من گھڑت اور بدنیتی پر مبنی ہے۔

لہٰذا استدعا ہے کہ میرے خلاف جاری شدہ چارج شیٹ 6597 بابت کارروائی داخل دفتر کی جائے۔

سائل غلام قادر 193/IHC

متعینہ پولیس لائن کی مردت

Attd

G 16

10-10-20

رپورٹ ضمنی حصہ دوئم

(1) بیان از ان ملزم ایوب خان ولد رئیس خان سکنہ [illegible] عمر قریب 21/22 سال شناختی کارڈ نمبر [illegible] موبائل نمبر [illegible] نے بدیں وقت پولیس زیر دفعہ 161 ض ف بیان کیا کہ میں صبح ویلا مارننگ کوچ سے اتر کر تھوڑی روڈ [illegible] تھا اسی اثنا میں پولیس والے آئے [illegible] ساتھ [illegible] میں چرس تھی [illegible] کر رہا تھا۔ اور [illegible] چرس کا پرچہ دیا۔ یہ چرس میں نے [illegible] سے کرایہ پر مکان [illegible] شخص [illegible] تھوڑی کی [illegible] کا کرایہ 2000 روپے ہے [illegible] کرایہ 1000 روپے [illegible] بیان سن لیا جو درست ہے۔

SI/INVES.
10/10/2020

Ayub

H 17

دفتر DSP/HQr لکی

نمبر 527 تاریخ 23.10.2020

ضلع لکی مروت

فائنل انکوائری رپورٹ

برخلاف: HC قادر خان

جناب عالی!

معروض خدمت ہوں کہ آپ جناب کے دفتر سے جاری شدہ بحوالہ چارج شیٹ دسری آف آلیگیشن نمبر 99-6598 مورخہ 06.10.2020 برخلاف HC قادر خان بسلسلہ انکوائری موصول ہوکر باقاعدہ دفتر زیر دستخطی سے مذکورہ HC کو جواب کی غرض سے نوٹس دیا گیا کہ آپ پر ذیل الزامات عائد ہیں۔

الزام:۔ مورخہ 26.09.2020 بوقت 02:00 بجے کنسٹیبل علی محمد نمبر 674 کے انفارمیشن پر آپ نے ہمراہ SI عرفان خان کنسٹیبل محمد زبیر نمبر 345، کنسٹیبل حبیب الرحمان نمبر 7058 ہینوٹرک نمبر 1229 نزد معراج مارکیٹ بمقام مسلم ڈیزل ایجنسی قبضہ میں کر کے جس کی ڈرائیونگ نامعلوم ڈرائیور اور ایوب ولد رئیس خان سکنہ سیرو کہ کرم ایجنسی موجود تھا۔ دراصل 120 کلو گرام چرس ٹرک سے برآمد کر کے جس میں صرف 3 کلوگرام چرس ظاہر کر کے جس پر مقدمہ 171 مورخہ 26.09.2020 جرم 9CNSA تھانہ گمبیلا درج رجسٹر کر کے 117 کلوگرام چرس غائب کیے اور صرف ایک ملزم ایوب خان ولد رئیس خان سکنہ کرم ایجنسی کو گرفتار کیا جبکہ ڈرائیور اور ٹرک کو چھوڑ دیا۔

بیان:۔ الزام علیہ افیسر نے اندر معیاد اپنا تحریری جواب دیا کہ مقدمہ علت 180 مورخہ 06.10.2020 جرم 409PPC-202-201-200-164-119-118 تھانہ گمبیلا سراسر غلط اور بے بنیاد ہے۔ وقوعہ کے وقت میں حسب اجازت SHO شاباسی پر تھا۔ اور ملزم ایوب ولد رئیس خان کے خلاف SHO عرفان خان نے مورخہ 26.09.2020 بوقت دن 09:15 بجے 3 کلو چرس برآمد کر کے جس کے خلاف مقدمہ علت 171 مورخہ 26.09.2020 جرم 9CNSA(D) تھانہ گمبیلا قائم کیا جس کی تفتیش بموجب 10 کے عمل میں لائی گئی ہے۔ مگر تفتیش کر دوران میرے خلاف کوئی قانونی فعل ثابت نہ ہوا۔ میرے خلاف لگائے گئے الزامات میں نہ چرس برآمد کیے ہے اور نہ ٹرک متذکرہ قبضہ پولیس کی گی ہے اور نہ رقم برآمد کی گی ہے۔ ایک غلط بے بنیاد اور بدیانتی پر مبنی انفارمیشن کے ذریعہ سائل پر مقدمہ قائم کیا گیا ہے جس کی کوئی ثبوت مثل پر موجود نہیں ہے۔ وقوعہ کا بنیادی مقدمہ 171 مورخہ 26.09.2020

18

SRC Laptop-2020

جرم 9CNSA(D) تھانہ گمبیلا ہے۔ جس میں میرے خلاف کوئی شہادت میٹر نہیں ہے۔ میں ایک ذمہ دار پولیس افسر ہوا اور آج تک اپنی فرائض نہایت خوش اصلوبی سے سرانجام دیے ہے۔ میرے خلاف لگائے گیے الزامات بے بنیاد ہے۔ تحریری بیان ہمراہ لف ہے۔

اندریں بارہ SI نصر الدین انچارج انوسٹیگیشن، ASI/LBI محمد شاہ تھانہ گمبیلا، شاکر اللہ PASI، ڈرائیور نادر خان متعینہ تھانہ گمبیلا اور کنسٹیبل علی محمد نمبر 674 متعینہ پولیس لائن لکی دفتر طلب کر کے ان کے تحریری بیانات اور جرح وسوالات کیے گیے جولف انکوائری ہذا ہے۔

رائے انکوائری آفسر:۔ کیگئی انکوائری لئے گئے بیانات، جرح وسوالات اور میسر شدہ ریکارڈ انکوائری سے اس نتیجہ پر پہنچا کہ الزام علیہ HC قادر خان مقدمہ 180 مورخہ 06.10.2020 جرم 118-119-164-200-201-202-409PPC تھانہ گمبیلا میں ڈاریکٹ چارج ہوا ہے۔ اور PASI شاکر اللہ، ڈرائیور نادر خان نمبر 297 اور کیسٹیبل علی محمد نمبر 674 جو گواہ چشم دید ہے۔ بیانات کی روشنی میں الزام علیہ افسر قصوروار اور گنہگار پایا جاتا ہے۔ تاہم چارج شیٹ میں لگائے گے الزامات درست ثابت ہوئے۔ مناسب سزا کی سفارش کی جاتی ہے۔ انکوائری رپورٹ مرتب ہو کر گزارش ہے۔

ڈی۔ایس۔پی ہیڈکوارٹر لکی مروت

Dismissed from service

26/12/20

Attested

ORDER

My this order will dispose off the departmental proceedings initiated against **Head Constable Ghulam Qadir No.193 while posted at PS Gambila** was found to indulge in the following allegations:-

1. That on 26.09.2020 at 02:00 AM, on the information of Constable Ali Muhammad No.674, he alongwith SI Irfan Ullah, FC Zubair No.345, FC Safi Ullah No.19, FC Habib ur Rehman No.7058 and FC Saeed No.897 seized a Hino Truck No.1229 in place of Meraj Market opposite Muslim Diesel Agency near Gambila Adda PS Gambila drive by unknown driver alongwith Ayub Khan s/o Raees Khan r/o Mirokasa District Kurum. They actually recovered 120 KG Charas from the Truck but entered only 3 KG Charas in the version of FIR No.171 dated 26.09.2020 u/s 9CNSA (D-KP) PS Gambila while the remaining 117 KG Charas was disappeared and also arrested only accused Ayub Khan s/o Raees Khan r/o Mirokasa District Kurum Agency. On collision, bargaining been made and the driver concerned and Truck was set free.

2. That all speaks gross misconduct on his part and liable to be punished under Police Rules-1975.

Proper Charge Sheet based upon summary of allegations was served upon him and the enquiry papers were entrusted to DSP/Hqrs: Lakki Marwat for initiated proper departmental proceedings against him. The Enquiry Officer looked into the misconduct and submitted his finding report vide No.5527 dated 23.10.2020, wherein the allegations leveled against him were proved and recommended for suitable punishment.

Therefore, **I Abdul Rauf Babar PSP, District Police Officer, Lakki Marwat** exercise of the power vested in me under Police Rules-1975, hereby impose upon him major punishment of ***"dismissal from service"*** with immediate effect. He is directed to deposit all the Govt: articles allotted to him to the concerned branches.

OB No. 676 /

Dated: 27/10/ 2020.

District Police Officer
Lakki Marwat

No. 7093-95 / Dated Lakki Marwat the 27-10 /2020.

Copy of above is submitted for favour of information to:-

1. The Regional Police Officer, Bannu Region, Bannu.
2. EC, PO, RI Police Lines & OHC for information & necessary action.

J 20 اپیل

بخدمت جناب ریجنل پولیس آفیسر (RPO) صاحب بنوں ریجن بنوں

عنوان: (اپیل بحوالہ رولز 1975 فقرہ 14 باب 16 فقرہ 29 پولیس رولز) بابت بحالی من سائل کا برملازمت از تاریخ برخاستگی سے بمعہ مراعات دینے وکالعدم قرار دینے بحوالہ آرڈر بک نمبر 676 مورخہ 27.10.2020 فیصلہ DPO صاحب لکی مروت

جناب عالی!

بحوالہ مشمولہ فوٹوسٹیٹ فیصلہ DPO صاحب لکی مروت متعلق من سائل کے برخاستگی کا بحوالہ آرڈر بک نمبر 676 مورخہ 27.10.2020 سائل بہ سطح اپیل بابت بحالی برملازمت بمع مراعات کے کالعدم قرار دینے حکم جناب DPO صاحب لکی مروت سائل زیل گزارشات بطور استدعا عرض کرنا چاہتا ہے۔

1. من سائل مورخہ: 06-10-2020 کو پشاور گیا ہوا تھا کہ معلوم ہوا کے میرے خلاف مقدمہ 180 مورخہ 06.10.2020 جرم 409،202،201،200،164،119،118 PPC تھانہ گمبیلا میں درج رجسٹر ہوا ہے میں پشاور سے واپس اکر عدالت سے BBA کر کے تھانہ گمبیلا جاکر اپنا BBA، بیان I/O کو دیا۔
2. میرے خلاف درج شدہ مقدمہ کی تفتیش نصر الدین خان SI نے کی ہے جس نے صفحہ مثل پر کوئی ٹھوس شہادت نہیں لایا ہے۔ اور نہ کوئی ریکوری کی گئی ہے۔
3. مقدمہ ھذا درج رجسٹر ہو کر کسی قسم کی ریکوری ٹھوس شہادت صفحہ مثل پر نہیں لایا ہے۔ افسران بالا نے کافی کوشش کی کہ مبینہ خر دبرد چرس برآمد کیا جائے لیکن حقیقت کے خلاف پاکر ریکوری اور ٹھوس شہادت صفحہ مثل پر لانے سے قاصر رہے۔
4. مثل مقدمہ میں تاحال چالان مکمل نہیں بھیجوایا گیا ہے اور من سائل کے خلاف محکمانہ کاروائی یکطرفہ طور مکمل کر کے محکمہ سے علیحدہ کیا گیا ہے
5. انکوائری افسر نے اہم گواہان محرر تھانہ اور تفتیشی افیسر مقدمہ علت 171/20 جرم 9DCNSA تھانہ گمبیلا کے بیانات ریکارڈ نہیں کئے ہیں جو انصاف کے اصولوں کے خلاف ہے جن کی بیانات سے مجھے انصاف ملنے کی قوی امکان ہے۔

7. یہ کہ انکوائری آفیسر نے گواہ علی محمد کنسٹیبل کی شب وقوعہ گمبیلا تھانہ کے حدود میں ڈیوٹی سرانجام دینے کی نقل مد روانگی وواپسی ریکارڈ پر نہیں لایا ہے۔

8. یہ کہ انکوائری افیسر نے گواہ علی محمد کنسٹیبل کے اس بیان کو یکسر نظر انداز کیا جس میں مخبر کو 45 کلو چرس دینے کا بتلایا گیا ہے۔ گواہ کنسٹیبل علی محمد کا بیان خود قابل گرفت ہے لیکن انکوائری آفیسر نے چوز اینڈ پک کی بنیاد پر مجھے ناکردہ جرم کا بغیر ثبوت کے گنہگار ٹھہرا دیا ہے۔

9. یہ کہ انکوائری آفیسر نے بدوران انکوائری تمام قواعد وضوابط کو قصداً ملائے طاق رکھ کر نہایت جلدی میں اپنی رائے قلمبند کیا ہے۔

10. یہ کہ تمام تر انکوائری یکطرفہ طور پر عمل میں لائی گئی ہے انکوائری کے قواعد وضوابط پولیس رولز 1975، باب 16 پولیس رولز مجھے گواہان پر جرح کرنے کا حق دیا کرتا ہے لیکن مجھے گواہان پر جرح کرنے کا موقع نہ دیا گیا ہے۔ جو میرے حق تلفی کے مترادف ہے اور قانونی نقاط کی نفی ہے

11. یہ کہ انکوائری آفیسر نے اپنے فرائض کی سطح پر گواہان پر کسی قسم کا جرح نہیں کیا ہے۔

12. یہ کہ انکوائری آفیسر کو پولیس رولز 1975 کی رو سے جج جیسا اختیار حاصل ہے لیکن انکوائری آفیسر نے قانونی نقاط سے ہٹ کر اپنی مرضی سے انکوائری عمل میں لائی ہے۔ پولیس انکوائری رولز وانکوائری ایکٹ 1976 یہ تلقین کرتا ہے کہ الزام علیہ وملازم کو موقع پر پولیس رولز باب 16 فقرہ 24 کی رو سے تصدیق شدہ کاپی گواہان کے بیانات کا مہیا کرے گا۔ لیکن مجھے کسی قسم کا نقل گواہان کا نہیں دیا گیا ہے۔ جو یہ پولیس رولز کے ہدایات اور انفارمیشن ایکٹ قوانین سے ہٹ کر غیر قانونی طریقہ پر انکوائری کرنے کا غمازی کرتا ہے۔

13. یہ کہ انکوائری آفیسر نے نہ میرا بیان لیا ہے اور نہ مجھے صفائی پیش کرنے کا موقع دیا ہے۔ اس سطح پر بھی میری حق تلفی ہوئی ہے۔ یہ کہ مجاز اتھارٹی جناب DPO صاحب لکی مروت کا فرض بنتا تھا کہ سزا دینے سے قبل پیشی کا موقع دیتے۔ اور میرا موقف سنتے لیکن مجھے پیشی کرنے کا موقع نہ دیا گیا ہے۔ تو میرے موقف کا سننا کہاں؟

14. یہ کہ عدالت سروس ٹریبونل کا واضح فیصلہ ہے کہ اگر کسی ملازم / ملزم کے متعلق ایف۔ آئی۔ آر درج ہو سکے جب تک عدالت میں الزام / ملزم پر ثابت نہ ہو جائے تب تک ملازم ملزم بے قصور ہے۔

15. یہ کہ پولیس رولز باب 16 فقرہ 3 یہ تلقین کرتا ہے کہ اگر کوئی پولیس آفیسر عدالت سے باعزت بری ہو جائے تو اُس کے متعلق محکمانہ کارروائی عمل میں نہیں لائی جائیگی۔

16. یہ کہ پولیس رولز یہ بھی تلقین کرتا ہے کہ عدالتی فیصلہ آنے تک انکوائری کو پینڈنگ رکھا جائے گا۔

17. یہ کہ 1973 آئین پاکستان یہ ہدایت کرتا ہے کہ اگر کسی ملزم / ملازم کو سزائے موت دی جائے جب تک ریڈ وارنٹ جاری نہ ہوا ہو۔ تب تک اس کی تنخواہ بحال رکھی جائیگی۔ کہ یہ اُن کے اہل وعیال کا حق ہے۔

18. یہ کہ انصاف کا تقاضوں کی رو سے چاہیئے تو یہ تھا کہ انکوائری کے اصولوں کے مطابق اولاً سرسری (Primal) یعنی بنیادی انکوائری عمل میں لاتے اور اس کے بعد انکوائری سے جو نتیجہ اخذ ہوتا تو اس کی رو سے جواب طلبی (Explanation) دیا کرتے۔ اگر مجاز اتھارٹی میرے جواب سے مطمعین نہ ہوتے تو شوکاز نوٹس جاری کرتے اگر میں نے اس پر تسلی بخش جواب دیا ہوتا تو درست لیکن اگر وہ میرے شوز کاز نوٹس سے مطمعین نہ ہوتا تو تب انکوائری آفیسر چارج شیٹ / سمری آف ایلیگیشن جاری کرنے کا مجاز تھا۔

19. یہ کہ قانونی ماہرین پولیس رولز 1975 کو انسانی بنیادی حقوق ایکٹ اور انصاف کے تقاضوں کے ساتھ متصادم شمار کرتے ہیں۔

20. یہ کہ ایک وقوعہ اور دو FIR مقدمہ 171 مورخہ 26.09.2020 جرم 9(D) CNSA KP تھانہ گمبیلا میں 3 ہزار گرام چرس از قبضہ ملزم ایوب خان سے برآمد ہونا اور قبضہ پولیس ہونا اور ملزم کا گرفتار ہونا درج ہے۔ اور LBI کی تفتیشی آفیسر محمد شاہ ASI نے FIR کے تائید میں تفتیش کر کے جو مقدمہ برائے سماعت عدالت بھجوا کر پینڈنگ پڑا ہے۔ I.O کا FIR کے حق میں تفتیش کرنا میرے بے قصوری کا ایک مضبوط ثبوت ہے۔

21. یہ کہ میرے متعلق درج مقدمہ 180 مورخہ 06.10.2020 جرم 409، 202، 201، 200، 164، 119، 118 PPC تھانہ گمبیلا و سنی سنائی ، مفروضوں پر مبنی دھوائی باتوں کے بنیاد پر درج رجسٹر ہوا ہے جس میں نہ واقعاتی شہادت و دستاویزی شہادت جو حقیقت پر مبنی ہو موجود نہیں ہے۔ بلکہ بطور ادنیٰ ماتحتان FIR بالا سلسلہ نمبر 12 کے تائید میں مجبوری کی وجہ سے بیانات میرے عدم موجودگی میں دیئے ہیں۔ جو انصاف کے اصول و انفارمیشن ایکٹ قوانین و انسانی ہمدردی قوانین یکطرفہ طور پر بیانات قلمبند کرنے کی انکوائری آفیسر کو اجازت نہیں دیا کرتا ہے۔ بلکہ قانون یہ تلقین کیا کرتا ہے کہ انکوائری آفیسر لاتعلق گواہان پر مبنی شہادت صفحہ انکوائری پر / مثل مقدمہ پر لایا کرے جو مقدمہ / انکوائری کے کامیابی کا سبب بنے۔ لیکن میرے متعلق جملہ گواہان و ماتحتان ادنیٰ پولیس آفسران ہے۔ جو افسر متعلقہ کے حکم کے تابیدار اور ماننے والے ہیں اور یہ ناانصافی کے اصولوں کا مضبوط ثبوت ہے۔ جبکہ مقدمہ 171/020 تھانہ گمبیلا ہے ملزم ایوب خان جو بعد تفتیش کے متعلق چالان مکمل دیا گیا ہے۔ اور مقدمہ برائے سماعت پینڈنگ پڑا ہے مقدمہ 180/020 بالا میں ملزم کو ضمیمہ ب پر بحکم عدالت برائے بیان جیل سے نکالا جا کر مذکورہ کا بیان I.O نصر الدین خان زیر دفعہ 161 ض۔ف بیان لیا ہے۔ جو سابقہ بیان کے تائید میں بھی بیان دیا ہے۔

Attd

عالیجاہ:۔

میرا اپیل سماعت کنندہ مجاز اتھارٹی RPO صاحب بنوں اپنے عقل سلیم کے رو سے ہمدردانہ سطح پر میرے اپیل کو منظور فرما کر تاریخ برخاستگی سے بمعہ مراعات کے ملازمت پر بحال کرنے اور فیصلہ / حکم جناب DPO صاحب کو کالعدم قرار دیکر معاف فرمائے کیونکہ اللہ پاک نے روئے زمین کے کسی بھی حصہ پر معافی / صلہ رحمی پر پابندی سائد نہیں کی ہے۔ جبکہ اپنے بے قصوری کے لحاظ سے جملہ قانونی حقوق محفوظ رکھتا ہوں۔

عنایت ماتحت پروری ہوگی۔

مورخہ:۔10-11-2020

العارض

سائل برخاست شدہ ہیڈ کنسٹیبل غلام قادر نمبر 193 ولد حکیم خان سکنہ لنڈیواہ ضلع لکی مروت

شناختی کارڈ نمبر

موبائل نمبر 03475670020

Attested

K 24

POLICE DEPARTMENT

BANNU REGION

ORDER

My this order will dispose off departmental appeal, preferred by Ex-HC Ghulam Qadar No.193 of district police Lakki Marwat, wherein, he has prayed for setting aside the order of major punishment of "dismissal from service", imposed upon him by DPO Lakki Marwat, vide OB No.676 dated 27.10.2020 on committing the following omissions:-

- That on 26.09.2020 at 02:00AM, on the information of Constable Ali Muhammad No.674, the appellant along with SI Irfan Ullah No.193, FC Zubair No.345, FC Safiullah No.19, FC Habib-ur-Rahman No.7058 and FC Saeed No.897 seized a Heno truck No.1229 in place of Miraj Market opposite Muslim Diesel Agency near Gambila Adda, PS Gambila, driven by unknown driver along with Ayub Khan s/o Rais Khan r/o Mirokasa district Kurram. They actually recovered 120KG charas from the truck but entered only 03KG charas in the version of FIR No.171 dated 26.09.2020 u/s 9CNSA(D-KP) PS Gambila, while the remaining 117KG charas were disappeared and also arrested only accused Ayub Khan s/o Rais Khan r/o Mirokasa district Kurram. They made bargaining and the driver concerned and truck were set free.
- That this all speaks gross misconduct on his part and liable to be punished under Police Rules, 1975.

Service record, inquiry file of the appellant and comments received from DPO Lakki Marwat were perused. Moreover, the appellant was also afforded opportunity of personal hearing in orderly room today on 12.11.2020 in connection with his instant departmental appeal but he did not substantiate his innocence.

Therefore, I, Awal Khan, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby file his appeal and endorse the punishment awarded to him by DPO Lakki Marwat, being one, justifiable and in consonance with law.

ORDER ANNOUNCED

(AWAL KHAN) PSP
Regional Police Officer,
Bannu Region, Bannu

No. 3954 /EC, dated Bannu the 12 /11/2020

Copy to District Police Officer, Lakki Marwat for information and n/action w/r to his office Memo: No.7507/EC dated 11.11.2020.

Awal Khan

(AWAL KHAN) PSP
Regional Police Officer,
Bannu Region, Bannu
12/11/20

بعدالت جناب سروس ٹریبونل صوبہ سرحد پشاور

منجانب اپیلانٹ

بنام محکمہ پولیس

دعویٰ اپیل

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ آں مقام پشاور کیلئے اسعد اللہ خان سروت ایڈوکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حدود سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہٰذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم 16-11-20

العبد

غلام قادر

العبد

اسعد اللہ خان سروت
ایڈووکیٹ

العبد

ارباب سیف اکمال
ایڈووکیٹ

امجد نواز
ایڈووکیٹ

Rabina
مس روبینہ نائز
ایڈووکیٹ

Wazir Syed
علی سید ایڈووکیٹ

22/12

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambeela

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

INDEX

Deponent

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambila

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

Para wise REPLY BY the RESPONDENT NO. 1,2 & 3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

1) That the appellant has no cause of action and locus standi.
2) That the appeal of appellant is not maintainable under the law and rules.
3) That the appeal is bad due to non-joinder and mis-joinder of necessary parties.
4) That the appellant has approached the Honorable Tribunal with unclean hands.
5) That the appeal is badly time barred.

OBJECTIONS ON FACTS

1. Pertains to record.

2. In-correct: Brief facts of the case are that at the midnight of 25/26-09-2020 Constable Ali Muhammad No.674 received concrete information to the effect that one unknown Truck is carrying a huge quantity of narcotics / Chars to unknown place, upon which the above named Constable immediately informed (appellant) **Head Constable Ghulam Qadir** regarding the Truck, in response HC Ghulam Qadir, PASI Shakir Khan along with other police contingent conducted Nakabandi & also informed appellant Irfan Ullah (Ex-SHO PS Gambila), in the meantime the suspicious Truck reached and seized by appellant HC Ghulam Qadir & Constable Muhammad Saeed No.897 (**Statement of Constable Ali Muhammad as Annex "A"**). In the meanwhile, the appellant (Ex-SHO Gambila) along-with gunners namely appellant Safi Ullah 19/FC, Habib ur Rehman 7850/FC & Zubair Khan 345/FC reached to the place of occurrence and total 120 Kg Charas (parcels) were recovered from the said Truck, while the appellant Ex-SHO deputed PASI Shakir Khan to PP Manzar Faqir for conducting Nakabandi (**Statement of PASI Shakir Khan as Annex "B"**). Appellant Ex-SHO, appellant Ghulam Qadir along with other Police party by joining hands with accused narcotics peddlers have taken a huge amount a sum of Rs 1600000/- / Sixteen Lacs as a bribe in lieu of concealing the facts and also shown only 03 Kg Charas in version of case FIR No.171 dated 26-09-2020 u/s 9 CNSA (D) PS Gambila, besides one unknown accused was also illegally released on the spot, while one accused namely Ayub Khan s/o Raees Khan was arrested and charged in FIR based on concocted story by showing only 3 Kg charas instead of 120 Kg, which clearly shows the appellant inefficiency / Corruption and mala-fide intentions, punishable under section 118,119,164,200,201,202,490 of the Pakistan Penal Code, hence the Respondents have left with no other option except to register a case vide FIR No.180 dated 06-10-2020 under the above PPC sections against the appellant along with other involved Police Officials. (**Copy of FIR dated 06-10-2020 already annexed by appellant as "D"**)

3. In-correct: this para has already replied in Para No.3 of the S.A No.15700/2020, titled Irfan Ullah (Ex-SHO) & 04 others vs IGP KPK and others.

4. In-correct: The statements of the other Police officials, who were eye witness of the same occurrence were also recorded, according to which total 120 KG narcotics / Charas recovery was made by the appellant (Ex-SHO Gambila) in the presence of the appellant Constable Safi Ullah No.19, thereby facilitate the drug peddlers / commission of an offence in lieu of huge amount and shown only 03 Kg Charas in the version of FIR and concealed the facts. **(Statements already Annexed in Para No. "2" ibid)**

5. Pertains to record. However, detail reply already given in Para's ibid.

6. In reply, it is stated that for such offence of the appellant, charge sheet based upon summary of allegations was issued, properly served upon appellant and DSP/HQrs Lakki Marwat was nominated as E.O with the directions to conduct facts findings enquiry. **(Charge sheet already Annexed by appellant as "E")**

7. In-correct: this para has already explained in above Para No.3.

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9. As stated in Para 8 above.

10. Correct to the extent that appellant submitted departmental appeal for his re-instatement in service before R.No.2, accordingly appellant was afforded full opportunity of self-defense and personal hearing by R.No.2, but the appellant failed to substantiate his innocence, hence the appeal for re-instatement in service was rejected by the R.No.2 on 12-11-2020. **(Rejection order already Annex by appellant as "L")**

OBJECTIONS ON GROUNDS:-

A. In-correct: As stated in detail earlier in Para No.2, the appellant along with associated police party concealed the design of offence / facts in the FIR No.171 dated 26-09-2020 by joining hands in gloves with accused drug peddler, which was clarified by the eye witness of the occurrence PASI Shakir Ullah & Constable Ali Muhammad, hence all the involved Police officials were charged under Pakistan Penal Code Section as already described in above para.

B. In-correct: Pertains to record, hence need no comments.

C. In-correct: A detail probe were made in the matter by Enquiry Officer DSP/Hqrs Lakki, who fulfilled all legal / codal formalities and the appellants were found guilty of the charges leveled against them and put up findings report before R.No.1 with the recommendations for imposition of punishment.

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F. In reply, it is stated that the appellant along with other Police officials were directly charged under PPC sections for commission of heinous act earlier mentioned and proper departmental enquiry proceedings were also initiated as per law / rules, according to which the allegations against the appellant stand proved without any shadow of doubt, hence dismissed from service by the authority.

G. In reply, it is submitted appellant was a discipline force member / public servant and guardian of public life & property, the appellant concealed the design of offence which was his duty to prevent, also caused disappearance of evidence of offence. The appellant proved himself a black sheep for the Police Department, hence his retention in Police Department was no more required, therefore after legal / codal formalities he was charged in FIR under PPC section and imposed the major penalty i.e., dismissal from service upon him.

H. In-correct: The orders of the respondents were passed in accordance with law / rules and facts.

Prayer:

Keeping in view of the above facts and circumstances, it is humbly prayed that appeal of appellant, being not maintainable, may kindly be dismissed with costs.

Regional Police Officer,
Bannu Region, Bannu
(Respondent No. 2)

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

District Police Officer,
Lakki Marwat
(Respondent No.1)

(4)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambeela

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

AFFIDAVIT

I, **Mr. Younas Khan** SI/Legal representative for Respondents do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable court.

ATTESTED
SYEDA AQIDA BUKHARI ADVOCATE
Oath Commissioner
Peshawar
17/12/21

DEPONENT

(5)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
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Ex-Head Constable No.193 PS Gambeela

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

AUTHORITY LETTER

We, the undersigned do hereby authorized Mr. **Younas Khan** SI/ Legal Lakki Marwat to appear before the Honorable Service Tribunal KPK Peshawar on behalf of respondents in the above cited titled case.

He is also authorized to submit and sign all documents pertaining to the present subject writ petition.

Regional Police Officer,
Bannu Region, Bannu
(Respondent No. 2)

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

District Police Officer,
Lakki Marwat
(Respondent No.1)

(6) Anx: A

بیان اذان قبل عمل 164 ضابطہ فوجداری

NIC NO 11201-0330977-1 Mobil No 0345-9860286

بیان کیا کہ غلام قادر HC جو کہ تھانہ گمبیلہ میں تعینات ہے HC مذکورہ نے کہا کہ
کہ مجھ پر کوئی مقدمہ کارروائی کر دیا۔ میرے ساتھ نے ایک اقرار کیا کہ
رابطہ کرے اس نے کارروائی کرنے کی یقین دہانی کروائی
موخہ 25.9.020 کو اقرار سے میرا رابطہ کرنے بتایا کہ رات کے وقت گاڑی
کی تلاشی کروں گا۔ میں نے یہ بات غلام قادر HC کے نوٹس میں بھی لایا
موخہ 25.26.9.020 کے درمیانی رات تقریباً سوا بجے 02:30 اقرار کی تلاشی میں
اطلاع دی میں نے غلام قادر HC سے رابطہ کیا۔ جو فی الفور سرکاری گاڑی میں PAF
کے ہمراہ تھانہ گمبیلہ سے پہنچا۔ جو Sho عرفان اللہ کے ساتھ بھی رابطہ میں
تھا اس نے بطور DHK تلاشی لی۔ اور ہم تو صلح ڈیرہ اسمٰعیل
کی طرف روانہ ہوئے بطور DHK تلاشی لی۔ غلام قادر نے کہا کہ ہم
واقعہ گمبیلہ کے ساتھ گھر پر گئے کہ ایک طرف کا شریا ہوا گرا اقرار کے
اس اثنا میں ایک اور نوجوان ایک طرف کا شریا ہوا گرا اقرار کے
جس میں نشہ ہے۔ تو میں نے غلام قادر کو اطلاع دی
کہا کہ یہ ایک ~~غلام قادر~~ زہریلا مواد ہے کی ڈرائیونگ کا ہوا آ رہا ہے اور
تھوڑا دور لے کر رکھا۔ اس اثناء میں SHO
گمبیلہ میں تھا۔ اس اثناء میں
تھانہ میں تقریباً 120 کلو
اقرار کے ساتھ 45 عدد کلو غلام قادر HC نے دیئے۔ اور اقرار
کو حوالہ کیا۔ اور غلام قادر اور SHO عرفان اللہ
کے حوالے کیا۔ اور ڈرائیور کو غلام قادر HC واقعہ
اور پولیس نفری موقعہ سے بطور تھانہ چلے گئے۔ تمام HC واقعہ
Attested

Attested

District Police Officer
Lakki Marwat

District Police Officer
Lakki Marwat

(7) Anx. "B"

NIC No. 11201-9900858-9 Mobil No. 0307-8000643

Attested

Attested

District Police Officer
Lakki Marwat

(8)

Anx: "C"

ضلع لکی مروت

از دفتر DSP/HQr لکی

نمبر 3 تاریخ 23.10.2020.

فائنل انکوائری رپورٹ

برخلاف: SI عرفان خان

جناب عالی!

معروض خدمت ہوں کہ آپ جناب کے دفتر سے جاری شدہ بحوالہ چارج شیٹ وسمری آف آلیگیشن نمبر 93-6592 مورخہ 06.10.2020 برخلاف SI عرفان خان بسلسلہ انکوائری موصول ہوکر باقاعدہ دفتر زیر دستخطی سے مذکورہ SI کو جواب کی غرض سے نوٹس دیا گیا کہ آپ پر ذیل الزامات عائد ہیں۔

الزام:۔ مورخہ 26.09.2020 بوقت 02:00 بجے کنسٹیبل علی محمد نمبر 674 کے انفارمیشن پر آپ نے ہمراہ غلام قادر HC نمبر 193، کنسٹیبل محمد زبیر نمبر 345، کنسٹیبل حبیب الرحمان نمبر 7058 ہینوٹرک نمبر 1229 نزد معراج مارکیٹ بمقام مسلم ڈیزل ایجنسی قبضہ میں کر کے جس کی ڈرائیونگ نامعلوم ڈرائیور اور ایوب ولد رئیس خان سکنہ سیرو کہ کرم ایجنسی موجود تھا۔ دراصل 120 کلوگرام چرس ٹرک سے برآمد کر کے جس میں صرف 3 کلوگرام چرس ظاہر کر کے جس پر مقدمہ 171 مورخہ 26.09.2020 جرم 9CNSA تھانہ گمبیلا درج رجسٹر کر کے 117 کلوگرام چرس غائب کیے اور صرف ایک ملزم ایوب خان ولد رئیس خان سکنہ کرم ایجنسی کو گرفتار کیا جبکہ ڈرائیور اور ٹرک کو چھوڑ دیا۔

بیان:۔ الزام علیہ افیسر نے اندر معیاد اپنا تحریری جواب دیا کہ مورخہ 25.09.2020 بحوالہ مد نمبر 06 صبح ہمراہ دیگر نفری پولیس کے ڈیوٹی کے لیے تھانہ سے روانہ ہوا اور شب بحوالہ مد نمبر 11 روزنامچہ 25.09.2020 وقت 23:30 بجے علاقہ سے واپس آیا۔ مورخہ 26.09.2020 صبح 09:15 بجے بدوران موبائیل گشت بحد نزد ملنگ اڈہ ملزم ایوب خان ولد رئیس خان سکنہ کرم ایجنسی کے قبضہ سے 3 کلوگرام چرس برآمد کر کے ملزم کو حسب ضابطہ گرفتار کر کے مراسلہ رپورٹ تھانہ بھیجوایا جس پر مقدمہ 171 مورخہ 26.09.2020 جرم 9CNSA تھانہ گمبیلا درج رجسٹر کرنے کے بعد تفتیشی افسر موقع پر حاضر آیا اور موقع پر چرس اور ملزم ایوب حوالہ تفتیشی افسر کیا گیا۔ مورخہ 05.10.2020 من SI بحوالہ مد نمبر 07 روزنامچہ 05.10.2020 پولیس لائن لکی میں بغیر کسی جرم کے بند کوارٹر گارڈ کیا گیا ہے۔ مورخہ 06.10.2020 کو مقدمہ علت 180 جرم PPC 409-202-201-200-164-119-118 تھانہ گمبیلا مقدمہ میرے خلاف قائم کیا گیا دوران تفتیش نہ

Attested

District Police Officer
Lakki Marwat

Attested

District Police Officer
Lakki Marwat

(9)

"C"

الزام شدہ چرس برآمد ہوئے اور نہ ٹرک اور نہ میرے قبضہ سے دوران تفتیش کورقم برآمد کی گئی ہے۔میں ایک ذمدار پولیس افسر ہوا و آج تک اپنی فرائض نہایت خوش اصلوبی سے سرانجام دیتے ہوئے افسران بالا نے نقد انعامات سے نوازا ہے۔میرے خلاف لگائے گیے الزامات بے بنیاد ہے۔تحریری بیان ہمراہ لف ہے۔

اندریں بارہ SI نصرالدین انچارج انوسیگیشن، ASI/LBI محمد شاہ تھانہ گمبیلا، شاکراللہ PASI، ڈرائیور نادرخان متعینہ تھانہ گمبیلا اور کنسٹیبل علی محمد نمبر 674 متعینہ پولیس لائن لکی دفتر طلب کر کے ان کے تحریری بیانات اور جرح سوالات کیے گیے جو ہمراہ انکوائری لف ہے۔

رائے انکوائری آفسر:۔ کیگئی انکوائری لئے گئے بیانات، جرح سوالات اور میسر شدہ ریکارڈ انکوائری سے اس نتیجہ پر پہنچا کہ الزام علیہ SI عرفان خان مقدمہ 180 مورخہ 06.10.2020

جرم 118-119-164-200-201-202-409PPC تھانہ گمبیلا میں ڈاریکٹ چارج ہوا ہے۔اور PASI شاکراللہ، ڈرائیور نادرخان نمبر 297 اور کیسٹیبل علی محمد نمبر 674 جو گواہ چشم دید ہے۔بیانات کی روشنی میں الزام علیہ افسر قصوروار اور گنہگار پایا جاتا ہے۔تاہم چارج شیٹ میں لگائے گے الزامات درست ثابت ہوئے۔مناسب سزا کی سفارش کی جاتی ہے۔انکوائری رپورٹ مرتب ہو کر گزارش ہے۔

ڈی۔ایس۔پی ہیڈکوارٹر لکی مروت

Dismissed from service.

26/X/20

Attested

District Police Officer
Lakki Marwat

Attested.

District Police Officer
Lakki Marwat

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambeela

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

INDEX

Deponent

(1)

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(Respondents)

Para wise REPLY BY the RESPONDENT NO. 1,2 & 3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

1) That the appellant has no cause of action and locus standi.
2) That the appeal of appellant is not maintainable under the law and rules.
3) That the appeal is bad due to non-joinder and mis-joinder of necessary parties.
4) That the appellant has approached the Honorable Tribunal with unclean hands.
5) That the appeal is badly time barred.

OBJECTIONS ON FACTS

1. Pertains to record.

2. In-correct: Brief facts of the case are that at the midnight of 25/26-09-2020 Constable Ali Muhammad No.674 received concrete information to the effect that one unknown Truck is carrying a huge quantity of narcotics / Chars to unknown place, upon which the above named Constable immediately informed (appellant) **Head Constable Ghulam Qadir** regarding the Truck, in response HC Ghulam Qadir, PASI Shakir Khan along with other police contingent conducted Nakabandi & also informed appellant Irfan Ullah (Ex-SHO PS Gambila), in the meantime the suspicious Truck reached and seized by appellant HC Ghulam Qadir & Constable Muhammad Saeed No.897 (**Statement of Constable Ali Muhammad as Annex "A"**). In the meanwhile, the appellant (Ex-SHO Gambila) along-with gunners namely appellant Safi Ullah 19/FC, Habib ur Rehman 7850/FC & Zubair Khan 345/FC reached to the place of occurrence and total 120 Kg Charas (parcels) were recovered from the said Truck, while the appellant Ex-SHO deputed PASI Shakir Khan to PP Manzar Faqir for conducting Nakabandi (**Statement of PASI Shakir Khan as Annex "B"**). Appellant Ex-SHO, appellant Ghulam Qadir along with other Police party by joining hands with accused narcotics peddlers have taken a huge amount a sum of Rs 1600000/- / Sixteen Lacs as a bribe in lieu of concealing the facts and also shown only 03 Kg Charas in version of case FIR No.171 dated 26-09-2020 u/s 9 CNSA (D) PS Gambila, besides one unknown accused was also illegally released on the spot, while one accused namely Ayub Khan s/o Raees Khan was arrested and charged in FIR based on concocted story by showing only 3 Kg charas instead of 120 Kg, which clearly shows the appellant inefficiency / Corruption and mala-fide intentions, punishable under section 118,119,164,200,201,202,490 of the Pakistan Penal Code, hence the Respondents have left with no other option except to register a case vide FIR No.180 dated 06-10-2020 under the above PPC sections against the appellant along with other involved Police Officials. (**Copy of FIR dated 06-10-2020 already annexed by appellant as "D"**)

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9. As stated in Para 8 above.

10. Correct to the extent that appellant submitted departmental appeal for his re-instatement in service before R.No.2, accordingly appellant was afforded full opportunity of self-defense and personal hearing by R.No.2, but the appellant failed to substantiate his innocence, hence the appeal for re-instatement in service was rejected by the R.No.2 on 12-11-2020. **(Rejection order already Annex by appellant as "L")**

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A. In-correct: As stated in detail earlier in Para No.2, the appellant along with associated police party concealed the design of offence / facts in the FIR No.171 dated 26-09-2020 by joining hands in gloves with accused drug peddler, which was clarified by the eye witness of the occurrence PASI Shakir Ullah & Constable Ali Muhammad, hence all the involved Police officials were charged under Pakistan Penal Code Section as already described in above para.

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H. In-correct: The orders of the respondents were passed in accordance with law / rules and facts.

Prayer:

Keeping in view of the above facts and circumstances, it is humbly prayed that appeal of appellant, being not maintainable, may kindly be dismissed with costs.

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Bannu Region, Bannu
(Respondent No. 2)

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District Police Officer,
Lakki Marwat
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(Respondents)

AFFIDAVIT

I, **Mr. Younas Khan** SI/Legal representative for Respondents do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable court.

ATTESTED

SYEDA AQIDA BUKHARI ADVOCATE
Oath Commissioner
Peshawar
17/12/21

DEPONENT

(5)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Appeal No. 15191/2020.

Ghulam Qadir S/o Hakim Khan,
R/o Landiwa Lakki Marwat,
Ex-Head Constable No.193 PS Gambeela

(Appellant)

VERSUS

1) District Police Officer Lakki Marwat.
2) Regional Police Officer Bannu Region, Bannu.
3) Provincial Police Officer KPK Peshawar.

(Respondents)

AUTHORITY LETTER

We, the undersigned do hereby authorized Mr. **Younas Khan** SI/ Legal Lakki Marwat to appear before the Honorable Service Tribunal KPK Peshawar on behalf of respondents in the above cited titled case.

He is also authorized to submit and sign all documents pertaining to the present subject writ petition.

Regional Police Officer,
Bannu Region, Bannu
(Respondent No. 2)

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

District Police Officer,
Lakki Marwat
(Respondent No.1)

(6) Anx: A

بیان اذان قبل عمل 174 تعینہ پولیس لائن لکی مروت

NIC NO. 11201-0330977-1 Mobil No. 0345-9860286

بیان کیا کہ غلام قادر HC جو کہ تھانہ گمبیلہ میں تعینات ہے HC اور گروہ نے کہا
کہ مجھ پر کوئی کارروائی کرو۔ میں نے ایس ایچ او تھانہ گمبیلہ سے ایک اشتہار گرفتاری
والطہ کرنے اور کارروائی کرنے کی یقین دہانی کروائی
مورخہ 25.6.020 کو اشتہار میرے ساتھ رابطہ کرنے بتایا کہ رات کے وقت کاری
کی نشاندہی کروں گا۔ میں نے یہ بات غلام قادر HC کے نوٹس میں بھی لایا
مورخہ 25-26.6.020 کے درمیانی رات تقریباً دوسرا وقت 02:30 بجے اشتہار کی نشاندہی
پر غلام قادر HC سے رابطہ کیا۔ جو فی الفور سرکاری کاروں میں
اطلاع دی میں نے غلام قادر HC کے ساتھ بھی رابطہ کیا
ساتھ کے ہمراہ علاقہ شہزان کے پہنچا۔ جو SHO عرفان اللہ کے ساتھ بھی رابطہ کیا
تھا۔ ہم نے ایک نزدیک جگہ پر گاڑی کھڑی کی اور ہم تو صلح ڈیل کی
تھی۔ ہم ایک نزدیک جگہ پر پہنچے۔ غلام قادر نے کہا کہ ہم
واقعہ گاہ گمبیلہ کے ساتھ گھر کے قریب تھے کہ ایک طرف کا فائر ہوا۔ اشتہار کے
اسی اثنا میں ایک اور فائر کیا۔ تو میں نے غلام قادر کو اطلاع دی
کہا کہ یہ فائر ہے جس میں نشانہ ہے۔ تو غلام قادر نے کہا کہ ہم نے
غلام قادر نے ~~غلام قادر~~ man فائر کی آواز کو تلاش کیا ہوا آ پہنچے اور
تھوڑی دیر بعد دیکھا کہ غلام قادر کے گمبیلہ میں مارا گیا ہے اس اثنا میں SHO
کا یہ تھا کہ میں اچانک مارا گیا ہے میں آ پہنچا۔ جس نے اشتہار میں فائر
عرفان اللہ شہزان تقریباً 5 کاریں سول مارا ہے میں آ پہنچا۔ جس نے اشتہار میں فائر
کرنے کے لئے 120 راؤنڈ فائر کئے ہوئے تھے۔ اور ان کے قریب
ان کے قریب 45 عدد خالی خول غلام قادر HC نے فائر کئے ہوئے تھے۔ اور SHO عرفان اللہ
جیسے کہ ملزمان کا مقدمہ درج کر کے غلام قادر اور SHO عرفان اللہ
اور ایس ایچ او نے واقعہ کے لئے تحفظ لیے ہے۔ ہم HC واقعہ میں نے

Attested

District Police Officer
Lakki Marwat

(7) Anx: "B"

NIC NO. 11201-9906858-9 Mobil No 0307-8000643

Attested!

District Police Officer
Lakki Marwat

(8)

Anx: "C"

ضلع لکی مروت

از دفتر DSP/HQr لکی

نمبر 3 تاریخ 23.10.2020.

فائنل انکوائری رپورٹ

برخلاف: SI عرفان خان

جناب عالی!

معروض خدمت ہوں کہ آپ جناب کے دفتر سے جاری شدہ بحوالہ چارج شیٹ وسمری آف آلیگیشن نمبر 93-6592 مورخہ 06.10.2020 برخلاف SI عرفان خان بسلسلہ انکوائری موصول ہوکر باقاعدہ دفتر زیر دستخطی سے مذکورہ SI کو جواب کی غرض سے نوٹس دیا گیا کہ آپ پر ذیل الزامات عائد ہیں۔

الزام:۔ مورخہ 26.09.2020 بوقت 02:00 بجے کنسٹیبل علی محمد نمبر 674 کے انفارمیشن پر آپ نے ہمراہ غلام قادر HC نمبر 193، کنسٹیبل محمد زبیر نمبر 345، کنسٹیبل حبیب الرحمان نمبر 7058 ہینوٹرک نمبر 1229 نزد معراج مارکیٹ بمقام مسلم ڈیزل ایجنسی قبضہ میں کر کے جس کی ڈرائیونگ نامعلوم ڈرائیور اور ایوب ولد رئیس خان سکنہ سیرو کہ کرم ایجنسی موجود تھا۔ دراصل 120 کلوگرام چرس ٹرک سے برآمد کر کے جس میں صرف 3 کلوگرام چرس ظاہر کر کے جس پر مقدمہ 171 مورخہ 26.09.2020 جرم 9CNSA تھانہ گمبیلا درج رجسٹر کر کے 117 کلوگرام چرس غائب کیے اور صرف ایک ملزم ایوب خان ولد رئیس خان سکنہ کرم ایجنسی کو گرفتار کیا جبکہ ڈرائیور اور ٹرک کو چھوڑ دیا۔

بیان:۔ الزام علیہ افیسر نے اندر معیاد اپنا تحریری جواب دیا کہ مورخہ 25.09.2020 بحوالہ مد نمبر 06 صبح ہمراہ دیگر نفری پولیس کے ڈیوٹی کے لیے تھانہ سے روانہ ہوا اور شب بحوالہ مد نمبر 11 روزنامچہ 25.09.2020 وقت 23:30 بجے علاقہ سے واپس آیا۔ مورخہ 26.09.2020 صبح 09:15 بجے بدوران موبائیل گشت بحد نزد ملنگ اڈہ ملزم ایوب خان ولد رئیس خان سکنہ کرم ایجنسی کے قبضہ سے 3 کلوگرام چرس برآمد کر کے ملزم کو حسب ضابطہ گرفتار کر کے مراسلہ رپورٹ تھانہ بھیجوایا جس پر مقدمہ 171 مورخہ 26.09.2020 جرم 9CNSA تھانہ گمبیلا درج رجسٹر کرنے کے بعد تفتیشی افسر موقع پر حاضر آیا اور موقع پر چرس اور ملزم ایوب حوالہ تفتیشی افسر کیا گیا۔ مورخہ 05.10.2020 من SI بحوالہ مد نمبر 07 روزنامچہ 05.10.2020 پولیس لائن لکی میں بغیر کسی جرم کے بند کوارٹر گارڈ کیا گیا ہے۔ مورخہ 06.10.2020 کو مقدمہ علت 180 جرم PPC 409-202-201-200-164-119-118 تھانہ گمبیلا مقدمہ میرے خلاف قائم کیا گیا دوران تفتیش نہ

Attested

District Police Officer
Lakki Marwat

(9)

"C"

الزام شدہ چرس برآمد ہوئے اور نہ ٹرک اور نہ میرے قبضہ سے دوران تفتیش کورقم برآمد کی گئی ہے۔میں ایک ذمدار پولیس افسر ہوا و آج تک اپنی فرائض نہایت خوش اصلوبی سے سرانجام دیتے ہوئے افسران بالا نے نقدانعامات سے نوازا ہے۔میرے خلاف لگائے گیے الزامات بے بنیاد ہے۔تحریری بیان ہمراہ لف ہے۔

اندریں بارہ SI نصرالدین انچارج انوسٹیگیشن، ASI/LBI محمد شاہ تھانہ گمبیلا، شاکراللہ PASI، ڈرائیور نادرخان متعینہ تھانہ گمبیلا اور کنسٹیبل علی محمد نمبر 674 متعینہ پولیس لائن لکی دفتر طلب کر کے ان کے تحریری بیانات اور جرح سوالات کیے گیے جو ہمراہ انکوائری لف ہے۔

رائے انکوائری آفسر:۔ کیگئی انکوائری لئے گئے بیانات، جرح سوالات اور میسر شدہ ریکارڈ انکوائری سے اس نتیجہ پر پہنچا کہ الزام علیہ SI عرفان خان مقدمہ 180 مورخہ 06.10.2020

جرم PPC409-202-201-200-164-119-118 تھانہ گمبیلا میں ڈاریکٹ چارج ہوا ہے۔اور PASI شاکراللہ، ڈرائیور نادرخان نمبر 297 اور کیسٹیبل علی محمد نمبر 674 جو گواہ چشم دید ہے۔بیانات کی روشنی میں الزام علیہ افسر قصوروار اور گنہگار پایا جاتا ہے۔تاہم چارج شیٹ میں لگائے گے الزامات درست ثابت ہوئے۔مناسب سزا کی سفارش کی جاتی ہے۔انکوائری رپورٹ مرتب ہوکر گزارش ہے۔

ڈی۔ایس۔پی ہیڈکوارٹر لکی مروت

Dismissed from service.

26/X/20

Attested

District Police Officer
Lakki Marwat

IN THE COURT OF MIRZA MUHAMMAD KASHIF
ADDL: SESSIONS JUDGE-II, LAKKI MARWAT.

Sessions Case No.....20/SC of 2021
Date of original institution.....17-02-2021
Date of decision.....21-12-2021

The State through:

Kalimullah Khan SHO PS Gambila, Tehsil & District Lakki Marwat.....**(Complainant)**

VERSUS

1-Irfanullah s/o Nasibullah r/o Azar Khel,
2-Zubair Khan s/o Noor Khan r/o Ghazni Khel,
3-Safiullah s/o Mir Qalam r/o Zafar Mama Khel,
4-Habib ur Rehman s/o Painda Khan r/o Baist Khel
5-Ghulam Qadir Khan s/o Hakim Khan r/o Landiwah
6-Muhammad Saeed s/o Muhammad Iqbal s/o Landiwah all Tehsil and District Lakki Marwat.

.....**(Accused facing trial)**

Case FIR No. 180 Dated: 06-10-2020 U/S 118/119/164/200/201/202/409 PPC of PS Gambila District Lakki Marwat.

JUDGMENT:

1- All the six accused named above, faced the trial in above captioned case.

2- Brief facts of the prosecution case as per contents of the FIR are that on 06-10-2020 at 12:00 hours complainant Kalimullah Khan SHO lodged the report in PS Gambila, alleging therein that through informer he came to know that on 26-09-2020 at 02:30 hours (night) a truck without number was

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intercepted by constable Ghulam Qadir No.193/HC and Saeed Khan No.897 at Mairaj market Adda Gambila within the limits of PS Gambila, in the meanwhile Irfanulalh Khan SHO PS Gambila along with gunners Safiullah No.19, Habib ur Rehman No.7850 and Zubair Khan No.345 arrived on the spot who searched the truck which led the recovery of 120 KG charas however the process and recovery was kept secret being bribed of Rs.16,00,000/- by the accused, that they did not take any legal action against the accused and the crime was kept secret, that it was also came into his knowledge that FIR No.171 dated: 26-09-2020 u/s 9 D CNSA at PS Gambila was registered against the driver of the truck namely Ayub Khan and showed the recovery of 3 KG charas in the case, that above named officials committed dishonesty in their official duty by keeping the crime underground, hence the FIR.

3- After registration of FIR necessary investigation was initiated in the case and after completion of investigation, prosecution submitted complete challan on 26-11-2020 against all the six accused named above for trial. On 18-02-2021, instant case file was received by the court of Hon'ble Sessions Judge Lakki Marwat from the court of learned Magistrate Lakki Marwat which was further entrusted to this court. All the six accused on bail were summoned, they appeared before the court and copies were supplied to them u/s 265-C Cr.P.C on 02-03-2021. Thereafter, on 09-03-2021 formal charge was framed against the accused named above, wherein they pleaded not guilty to the charge and claimed trial, thereafter, prosecution was allowed to adduce their evidence. Prosecution evidence was summoned, in order to prove its case against the accused facing trial. Prosecution examined as many as seven (07) PWs, with the following brief gist:-

(i) PW-1 Shafqatullah PASI deposed that on 26-11-2020 after completion of investigation, he submitted complete challan against the accused Ex PW 1/1.

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District & Session Judge
Lakki Marwat

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(ii) PW-2 Kalimullah Khan ASI deposed that on 6-10-2020, he registered a case vide FIR No.180 for an occurrence of 26-9-2020 u/s 118/119/146/202/209/200 PPC against the accused mentioned therein. Copy of the FIR is Ex PW 2/1. The copy of FIR was then sent to LBI staff for investigation of the case.

(iii) PW-3 Naseer ud Din S.I deposed that on 6-10-2020, on receipt of copy of FIR, he proceeded to the spot where he prepared site plan upon his own observations Ex PW 3/1. On the same date, he arrested the accused Irfanullah Khan, Zubair Khan, Safiullah and Habib ur Rehman and issued their card of arrest Ex PW 3/2. On the same day, he also arrested the accused Saeed and issued his card of arrest Ex PW 3/3. On 6-10-2003, he produced the accused Irfanullah, Zubair Khan, Safiullah and Habib ur Rehman before the court for obtaining their physical custody. One day physical custody was granted vide his application Ex PW 3/4. On 7-10-2020, he also produced accused Irfanullah before the court for obtaining his physical remand and was granted one day police custody vide his application which is Ex PW 3/5. On 8-10-2020, produced the accused for further physical remand of the accused vide his application Ex PW 3/6, however his request was turned down and accused was committed to jail. He recorded the statements of PWs u/s 161 Cr.P.C. He interrogated the accused and prepared their interrogation report Ex PW 3/7 to 3/12 respectively. He placed on file, naqal Mad No.7 Ex P-1, Naqal Mad No.31 Ex P-2, Naqal Mad No.11 Ex P-3, Naqal Mad No.19 Ex P-4 and placed the same on judicial file. On 7-10-2020, he applied to the court for summoning the accused through zamima bey against the accused Ayub Khan of case FIR No.171 dated 26-9-2020 u/s 9D of CNSA of P.S Gambila from Central Jail, Bannu for the purpose of interrogation and dig out the real facts from his mouth vide his application Ex PW 3/13. He interrogated the accused Ayub in the instant case and recorded his statement u/s 161 Cr.P.C Ex PW 3/14. He has also placed on

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file the case FIR No.171 Ex PW 3/15. He also recorded the statements of PWs u/s 161 Cr.P.C. On completion of investigation, he handed over the case file to SHO for submission of challan.

(iv) PW-4 Ayub Khan (driver of the alleged truck) deposed that on 26-09-2020 at 02:30 A.M, he was not driving any truck. No truck or charas mentioned in case FIR No. 171/2020 of PS Gambila was recovered from him nor he was present during that time. Further deposed that neither he was present at that time at Meraj market Serai Gambila nor he knows any SHO namely Irfanullah.

After recording the statements of above-mentioned PWs, the prosecution, closed its evidence on 25-03-2021 and in this respect the signature of learned Dy:PP for the State was obtained. On 29-03-2021 all the six accused facing trial named above were examined under section 342 Cr.P.C wherein they pleaded their innocence, however they neither wished to be examined on oath nor to produce evidence in their defence.

On 12-04-2021 learned APP for the State submitted an application u/s 540 Cr.P.C before the court for summoning of PWs namely Iqbal Muhammad, Inspector Nabi, Ali Muhammad No.674 and Shakirullah ASI and Nadir Khan No.297 on the grounds mentioned therein. Request was allowed being genuine and the witnesses were ordered to be summoned.

(v) PW-5 Ali Muhammad No.674 deposed that Ghulam Qadir HC, who was posted at P.S Gambila, told him to make him perform an operation. So, he contacted with an informer (spy) who assured of an operation. On 25-9-2020, informer contacted him and told that he will make pointation of a vehicle in night time. He brought this fact in the notice of Ghulam Qadir HC. In the mid night on 25/26-9-2020, at nursery place at about 2.30 am "on the information of informer he contacted with Ghulam Qadir HC, who along with Shakirullah PASI and gunners at once reached to the spot, who was also in contact with Irfanullah SHO. Meanwhile one mazda truck

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passed towards D.I.Khan and they were standing at Muslim Diesel Agency situated at Adda Gambila, Ghulam Qadir HC chased the truck. At the same time, another Mazda truck of parrot colour came, then informer told that this is the same truck which is loaded with narcotics. He informed Ghulam Qadir HC about it and after some time he saw that Zubair MM was driving the said mazda truck reached and parked the truck in Miraj market Seria Gambila. Meanwhile SHO Irfanullah along with his gunners dressed in civil clothes came to the spot in car and in his supervision 120 packets of yellow colour containing charas were recovered from the mazda truck and in his presence Ghulam Qadir HC handed over 45 packets of charas to the informer on the spot and thereafter informer left the spot. The remaining charas alongwith truck and driver were taken towards P.S by Ghulam Qadir HC, SHO Irfanullah and police officials. He is eyewitness of the occurrence. He recorded his statement before DSP on 5-10-2020, verified by him and is Ex PW 5/1.

(vi) PW-6 Shakirullah ASI deposed that on the night of occurrence, he was at second patrolling gusht in the locality. Ghulam Qadir IHC, P.S Gambila called upon vehicle driver Nadir Khan on mobile asked him to come to his private residence outside the P.S Gambila. On this he alongwith police officials went to residence of Ghulam Qadir IHC. Ghulam Qadir IHC alongwith his gunners were present on road at the spot whereas Ali Muhammad dressed in civil clothes was also present with him. Ghulam Qadir set with him in the mobile pickup and told him that he has some information and they started proceedings and reached to the last boundary of P.S Gambila near Nursery. There they stopped the vehicle and started search of vehicles. In the meanwhile one truck came from Gambila side which was stopped and two persons boarded in the truck. Ghulam Qadir IHC spared one person while arrested the other and took the truck into his possession and drove it towards his residence. He himself was driving the official vehicle whereas the truck was driven by driver Nadir

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Khan. When they reached Gambila bridge then Zubair MM called him upon his mobile and told him that mobile driver Nadir Khan is standing at Gambile bridge and further stated him to continue with his routine gusht. The said truck was driven by Zubair MM. During his routine gusht, when he reached at the residence of Ghulam Qadir IHC, he found the same truck parked there while Ghulam Qadir IHC alongwith gunner Saeed FC, Safiullah FC, Darwaish FC, Zubair MM and Ali Muhammad No.674 were standing with truck. In the meanwhile SHO Irfanullah called him through mobile phone that where is he. He replied that he is on his routine gusht. On this he told him to proceed towards PP Manzar Faqir, as there is information of a vehicle so you make lay barricade for it. On this he following the directions of SHO proceeded towards PP Manzir Faqir road. He recorded his statement before DSP, the same was verified by him and is Ex PW 6/1.

(vii) PW-7 Muhammad Iqbal Mehmand DSP deposed that vide letter No.2564-67 dated 7-10-2020 already exhibited as PW-3/16, special investigation team was formed consisting Inspector Nabi Shah, S.I Naseer ud Din, ASI Kalimullah along with him. After inquiry the report was submitted to SP Investigation Lakki Marwat.

(viii) PW-8 Nabi Shah Inspector DSP Rural Bannu deposed that vide letter No.2564-67 dated 7-10-2020 already exhibited as PW-3/16, special investigation team was formed consisting Iqbal Muhammad DSP, S.I Naseer ud Din, ASI Kalimullah along with him. After inquiry the report was submitted to SP Investigation Lakki Marwat. The inquiry team member ASI Kalimullah, who has been martyred vide FIR No.323 dated 8-7-2021 u/s 302/324/353 PPC/7 ATA P.S Pezu. In this respect, copy of the said FIR is Ex PA and notice of the court is Ex PB.

After recording the statements of above-mentioned PWs, the prosecution one again closed its evidence on 02-10-2021 and in this respect the signature of learned APP for the

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State was obtained. On 06-10-2021 all the six accused facing trial named above were re-examined under section 342 Cr.P.C relying upon already recorded evidence on behalf APP for the State and learned defence with no further any question, wherein all the six accused facing trial pleaded their innocence, however they neither wished to be examined on oath nor to produce evidence in their defence. Thereafter, the arguments of APP for the State and learned defence counsel were invited.

5- Learned APP for the State argued that although there is some delay in lodging the report however the accused are directly named in the FIR for the offence after proper satisfaction and on the basis of solid information, the delay in lodging the report has plausibly been explained, the accused facing trial have misused their authorities intentionally vested under the law and have committed dishonesty in their official duties, that they earned money through unfair means by way of bribe, that act of accused facing trial are against the law and and morality, that complainant has got no ill will or grudge for their false implication in the case, that offence is heinous in nature which should be nipped in the bud, that prosecution has proved their charges against the accused beyond shadow of any reasonable doubt, that prosecution evidence is in line with each other and there is no material contradiction in the statements of prosecution witnesses, hence the accused deserve conviction.

6- On the other hand learned defense counsel emphasized for acquittal of the accused facing trial on the grounds that accused facing trial are innocent, have falsely been charged with mala fide intention by the complainant and is the result of some ulterior motive with high ups of police department which apparently perceived, that there is no solid evidence against the accused, that occurrence is unseen, taken place at mid night and complainant is not the eyewitness of the alleged occurrence, that nothing incriminating what so ever have been recovered either from the direct possession of the accused facing trial on their pointaiton, that ocular account and site plan

ATTESTED

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does not support the prosecution case, that there is sufficient unexplained delay of ten days in lodging the report/FIR which further create dents in the prosecution case. It is not sufficient to record conviction in absence of any corroborative evidence, there must be ocular account of unimpeachable character, trustworthy and confidence inspiring, corroborated by other material circumstantial evidence, that ocular account and site plan do not support prosecution case, there are material discrepancies in prosecution evidence and the prosecution has failed to prove the charges against the accused facing trial, hence seeks acquittal of the accused facing trial.

7- Arguments heard and file perused.

8- It is a very special and unique case having deep impact upon the police force in particular and society in general. It is a crime allegedly committed by police in their uniform. "**Criminals in Uniform**"

What would be the gravity of offence when committed by a person in line of his duty and under the color of uniform? The morality of society had already been depressed deep but when a person who is invest and reposed with confidence of duty to safeguard becomes traitor and criminal then its impact over society is countless. This is ugly face which needs iron handed dealing. It is menace and dilemma of the society that due to black sheeps in police force overall image of Police force is stigmatized as corrupt. Nowadays it is persistently been reported in large volume that many police officials are goons in garb and color of uniform. The deterrence of the punishment, if reduced is only because of such ugly faced wolves in Police force.

9- Before examining the chain of evidence, suffice it to state that according to record of the DPO Lakki Marwat (Now transferred out) spy information was transmitted that accused police officials apprehended an accused namely Muhammad Ayub S/O Raees Khan red handedly who was involved in transporting huge quantity of contraband i.e. 120 Kg in a truck.

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The alleged transporter was apprehended by the accused police party vide FIR No 171 dated 26-09-2020 u/s 9 D- KP CNSA of PS Gambila whereby it was shown that he was in possession of 3 Kg Chars. Later the then DPO Lakki Marwat (now transferred) upon spy information against the accused police party SHO Kalim Ullah Kahn to dig out the real facts and expose the black sheep, if found involved. The complainant SHO after detained inquiry reported the FIR wherein charged that allegedly the accused police party took bribe amounting Rs.16,00,000/- from arrested accused and let/released the truck and contraband, however, FIR No 171 of even dated was chalked out under section 9(d) KP CNSA where only meager quantity of 3 Kg is shown to be recovered from detained accused. Since the seized truck alongwith contraband had already been allegedly released and left away by the accused police officials therefore, with no other option instant FIR No. 180 was chalked out and accused officials were booked in the case.

10- Primarily, it is job of prosecution in each and every criminal case to bring the charge home for conviction, however, the accused being police officials could not be given such concession, especially when the crime is committed in line and color of uniform and duty. No doubt the accused is favourite child of law and courts and he shall be presumed innocent until proved guilty however, the yardstick and standard to evaluate the crime by the police official in colour of his uniform and reported by his authority would certainly be different. The onus to establish their innocence is at par with the onus to prove their guilt. It is worth referral that the accused officials took defense plea that they were charged and involved by the then DPO (High ups) due to personal grudge/malice. In view of such defense plea they were bound to establish it through reliable evidence in order to earn favourable decision. Evidently, there isn't a single circumstance where any of accused official was either reprimanded or punished by the then DPO. So much so, they failed to surface anything suggesting issuance of show cause to

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11- Now reverting to the factual aspect of the matter, I am conscious of the fact that since trail of the accused police official was initiated after the departure of the then DPO, therefore their influence upon witnesses is apparently observed and perceived. Each police official who faced witness ,box uttered the incident in accordance with record prepared but when put to cross examination, suddenly took u-turn in favour of the accused police officials. The prosecutor was left in mid sea, who compellingly applied and seek declaration of hostility. Accordingly almost each and every prosecution witness took opposite turn in cross examination and thus was declared hostile to prosecution version. In such developed circumstances it seems completely weird that why all the witnesses did not uttered their innocence in chief examination and what are the reasons to deny the occurrence and accept the innocence of accused officials in cross examination. Neither the IO nor any other witness deposed and admitted innocence plea of accused in their chief examination.

12- It is worth mentioning that courts are bound to the set of evidence led in the court and anything hearsay or personally known by judge would not be beneficial to either prosecutor or accused. The challan was submitted by PW-1 who in cross examination categorically admitted that nothing in shape of direct evidence or circumstantial evidence was available against the accused. Similarly, the complainant (PW-2) also stepped back while deposing in cross examination that, it is correct that he registered the instant case against the accused upon the direction of high-ups of the district Lakki police without any direct evidence against accused facing trail. Naseer

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ud Din (PW-3) conducted investigation of the case but surprisingly, he also uttered that, it is correct that the accused was booked in the instant case upon the direction of high ups of the district police Lakki Marwat without any direct or indirect evidence against them. He could not recover or collect any incriminating material against the accused police party. He categorically deposed that the then DPO Lakki Marwat detained all the accused facing trail in the judicial lock up of PS Gambilla even prior to registration of the case and no such like entry has been made in the daily dairy of the PS Gambila. He deposed further that, it is correct that as per his investigation, the accused are innocent and they were charged maliciously on the direction of the then DPO Lakki. Ayub Khan (PW-4) was allegedly arrested and detained in case FIR No171/2020 PS Gambilla denied the entire occurrence even he claimed that he was also wrongly and illegally arrested by accused police party.

13- The ASI Shakir ullah Incharge 15 (PW-6) narrated the same facts which he tendered and stated in his statement before JIT. He was cross examined. Though he remained stuck to his chief examination statement but could not respond certain quarries. He was even unaware of actual alleged quantity of chars allegedly recovered from truck. Both the other JIT members were also summoned upon the request of prosecutor but they were found to be connected with investigation only and did not collect any incriminating material either of the accused police party facing trail.

14- In light of foregoing discussion and evaluation of recorded evidence, no doubt the then DPO reacted in bona fide to eliminate the criminal element from the police force but it is observed from the record that he remained unsuccessful. The present case is one of the adequate examples. Although, the witnesses went against the prosecution yet the accused also failed to surface anything suggesting personal grudge or involvement of the then high ups in Lakki police. To sum up all discussions, I am constrained to hold that witnesses did not

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perform their vested duty under the law and unnecessarily favored the accused facing trail so they can earn acquittal. Keeping in view the above discussed dilemma and circumstances of the case, it can be safely held that the procedural flaws were introduced, witnesses become won over, incriminating material was neither collected nor surfaced on record, explicit floating doubts were brought in evidence therefore, conviction cannot be granted. Compellingly, this court acquits all the six accused facing trail named above for the reasons mentioned above. They are on bail, their bail bonds stands cancelled while their sureties are absolved from the liabilities of the bail bonds.

Case property be kept intact till the expiry of period provided for an appeal / revision and thereafter be dealt as per law. Copy of this judgment be sent to DPO Lakki Marwat, RPO Bannu Region and IG KPK for information.

File of this court be consigned to the record room after its necessary completion and compilation.

Announced.
21-12-2021

21/12/21

(Mirza Muhammad Kashif)
Addl: Sessions Judge-II,
Lakki Marwat.

CERTIFICATE:

Certified that this judgment comprising twelve (12) pages. Each page has been checked, corrected and signed by me wherever it was necessary.

21/12/21

Addl: Sessions Judge-II,
Lakki Marwat.

C.D. No. 53
Application received on 4.1.22
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OS.....28
21-12-2021

Present; APP for the State. All the six accused facing trial namely Irfanullah, Zubair Khan, Safiullah, Habib ur Rehman, Ghulam Qadir Khan and Muhammad Saeed present on bail.

Arguments have already been heard and file perused.

Vide my detailed separate judgment of even date consists of twelve (12) pages placed on file. It is held that procedural flaws were introduced, witnesses become won over, incriminating material was neither collected nor surfaced on record, explicit floating doubts were brought in evidence therefore, conviction cannot be granted. Compellingly, this court acquits all the six accused facing trail named above for the reasons mentioned above. They are on bail, their bail bonds stands cancelled while their sureties are absolved from the liabilities of the bail bonds.

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Lakki Marwat.

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Lakki Marwat

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IN THE COURT OF MIRZA MUHAMMAD KASHIF
ADDL: SESSIONS JUDGE-II, LAKKI MARWAT.

Sessions Case No.....20/SC of 2021
Date of original institution.....17-02-2021
Date of decision.....21-12-2021

The State through:

Kalimullah Khan SHO PS Gambila, Tehsil & District Lakki Marwat.....**(Complainant)**

VERSUS

1-Irfanullah s/o Nasibullah r/o Azar Khel,
2-Zubair Khan s/o Noor Khan r/o Ghazni Khel,
3-Safiullah s/o Mir Qalam r/o Zafar Mama Khel,
4-Habib ur Rehman s/o Painda Khan r/o Baist Khel
5-Ghulam Qadir Khan s/o Hakim Khan r/o Landiwah
6-Muhammad Saeed s/o Muhammad Iqbal s/o Landiwah all Tehsil and District Lakki Marwat.

.....**(Accused facing trial)**

Case FIR No. 180 Dated: 06-10-2020 U/S 118/119/164/200/201/202/409 PPC of PS Gambila District Lakki Marwat.

JUDGMENT:

1- All the six accused named above, faced the trial in above captioned case.

2- Brief facts of the prosecution case as per contents of the FIR are that on 06-10-2020 at 12:00 hours complainant Kalimullah Khan SHO lodged the report in PS Gambila, alleging therein that through informer he came to know that on 26-09-2020 at 02:30 hours (night) a truck without number was

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intercepted by constable Ghulam Qadir No.193/HC and Saeed Khan No.897 at Mairaj market Adda Gambila within the limits of PS Gambila, in the meanwhile Irfanulalh Khan SHO PS Gambila along with gunners Safiullah No.19, Habib ur Rehman No.7850 and Zubair Khan No.345 arrived on the spot who searched the truck which led the recovery of 120 KG charas however the process and recovery was kept secret being bribed of Rs.16,00,000/- by the accused, that they did not take any legal action against the accused and the crime was kept secret, that it was also came into his knowledge that FIR No.171 dated: 26-09-2020 u/s 9 D CNSA at PS Gambila was registered against the driver of the truck namely Ayub Khan and showed the recovery of 3 KG charas in the case, that above named officials committed dishonesty in their official duty by keeping the crime underground, hence the FIR.

3- After registration of FIR necessary investigation was initiated in the case and after completion of investigation, prosecution submitted complete challan on 26-11-2020 against all the six accused named above for trial. On 18-02-2021, instant case file was received by the court of Hon'ble Sessions Judge Lakki Marwat from the court of learned Magistrate Lakki Marwat which was further entrusted to this court. All the six accused on bail were summoned, they appeared before the court and copies were supplied to them u/s 265-C Cr.P.C on 02-03-2021. Thereafter, on 09-03-2021 formal charge was framed against the accused named above, wherein they pleaded not guilty to the charge and claimed trial, thereafter, prosecution was allowed to adduce their evidence. Prosecution evidence was summoned, in order to prove its case against the accused facing trial. Prosecution examined as many as seven (07) PWs, with the following brief gist:-

(i) PW-1 Shafqatullah PASI deposed that on 26-11-2020 after completion of investigation, he submitted complete challan against the accused Ex PW 1/1.

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(ii) PW-2 Kalimullah Khan ASI deposed that on 6-10-2020, he registered a case vide FIR No.180 for an occurrence of 26-9-2020 u/s 118/119/146/202/209/200 PPC against the accused mentioned therein. Copy of the FIR is Ex PW 2/1. The copy of FIR was then sent to LBI staff for investigation of the case.

(iii) PW-3 Naseer ud Din S.I deposed that on 6-10-2020, on receipt of copy of FIR, he proceeded to the spot where he prepared site plan upon his own observations Ex PW 3/1. On the same date, he arrested the accused Irfanullah Khan, Zubair Khan, Safiullah and Habib ur Rehman and issued their card of arrest Ex PW 3/2. On the same day, he also arrested the accused Saeed and issued his card of arrest Ex PW 3/3. On 6-10-2003, he produced the accused Irfanullah, Zubair Khan, Safiullah and Habib ur Rehman before the court for obtaining their physical custody. One day physical custody was granted vide his application Ex PW 3/4. On 7-10-2020, he also produced accused Irfanullah before the court for obtaining his physical remand and was granted one day police custody vide his application which is Ex PW 3/5. On 8-10-2020, produced the accused for further physical remand of the accused vide his application Ex PW 3/6, however his request was turned down and accused was committed to jail. He recorded the statements of PWs u/s 161 Cr.P.C. He interrogated the accused and prepared their interrogation report Ex PW 3/7 to 3/12 respectively. He placed on file, naqal Mad No.7 Ex P-1, Naqal Mad No.31 Ex P-2, Naqal Mad No.11 Ex P-3, Naqal Mad No.19 Ex P-4 and placed the same on judicial file. On 7-10-2020, he applied to the court for summoning the accused through zamima bey against the accused Ayub Khan of case FIR No.171 dated 26-9-2020 u/s 9D of CNSA of P.S Gambila from Central Jail, Bannu for the purpose of interrogation and dig out the real facts from his mouth vide his application Ex PW 3/13. He interrogated the accused Ayub in the instant case and recorded his statement u/s 161 Cr.P.C Ex PW 3/14. He has also placed on

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file the case FIR No.171 Ex PW 3/15. He also recorded the statements of PWs u/s 161 Cr.P.C. On completion of investigation, he handed over the case file to SHO for submission of challan.

(iv) PW-4 Ayub Khan (driver of the alleged truck) deposed that on 26-09-2020 at 02:30 A.M, he was not driving any truck. No truck or charas mentioned in case FIR No. 171/2020 of PS Gambila was recovered from him nor he was present during that time. Further deposed that neither he was present at that time at Meraj market Serai Gambila nor he knows any SHO namely Irfanullah.

After recording the statements of above-mentioned PWs, the prosecution, closed its evidence on 25-03-2021 and in this respect the signature of learned Dy:PP for the State was obtained. On 29-03-2021 all the six accused facing trial named above were examined under section 342 Cr.P.C wherein they pleaded their innocence, however they neither wished to be examined on oath nor to produce evidence in their defence.

On 12-04-2021 learned APP for the State submitted an application u/s 540 Cr.P.C before the court for summoning of PWs namely Iqbal Muhammad, Inspector Nabi, Ali Muhammad No.674 and Shakirullah ASI and Nadir Khan No.297 on the grounds mentioned therein. Request was allowed being genuine and the witnesses were ordered to be summoned.

(v) PW-5 Ali Muhammad No.674 deposed that Ghulam Qadir HC, who was posted at P.S Gambila, told him to make him perform an operation. So, he contacted with an informer (spy) who assured of an operation. On 25-9-2020, informer contacted him and told that he will make pointation of a vehicle in night time. He brought this fact in the notice of Ghulam Qadir HC. In the mid night on 25/26-9-2020, at nursery place at about 2.30 am "on the information of informer he contacted with Ghulam Qadir HC, who along with Shakirullah PASI and gunners at once reached to the spot, who was also in contact with Irfanullah SHO. Meanwhile one mazda truck

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passed towards D.I.Khan and they were standing at Muslim Diesel Agency situated at Adda Gambila, Ghulam Qadir HC chased the truck. At the same time, another Mazda truck of parrot colour came, then informer told that this is the same truck which is loaded with narcotics. He informed Ghulam Qadir HC about it and after some time he saw that Zubair MM was driving the said mazda truck reached and parked the truck in Miraj market Seria Gambila. Meanwhile SHO Irfanullah along with his gunners dressed in civil clothes came to the spot in car and in his supervision 120 packets of yellow colour containing charas were recovered from the mazda truck and in his presence Ghulam Qadir HC handed over 45 packets of charas to the informer on the spot and thereafter informer left the spot. The remaining charas alongwith truck and driver were taken towards P.S by Ghulam Qadir HC, SHO Irfanullah and police officials. He is eyewitness of the occurrence. He recorded his statement before DSP on 5-10-2020, verified by him and is Ex PW 5/1.

(vi) PW-6 Shakirullah ASI deposed that on the night of occurrence, he was at second patrolling gusht in the locality. Ghulam Qadir IHC, P.S Gambila called upon vehicle driver Nadir Khan on mobile asked him to come to his private residence outside the P.S Gambila. On this he alongwith police officials went to residence of Ghulam Qadir IHC. Ghulam Qadir IHC alongwith his gunners were present on road at the spot whereas Ali Muhammad dressed in civil clothes was also present with him. Ghulam Qadir set with him in the mobile pickup and told him that he has some information and they started proceedings and reached to the last boundary of P.S Gambila near Nursery. There they stopped the vehicle and started search of vehicles. In the meanwhile one truck came from Gambila side which was stopped and two persons boarded in the truck. Ghulam Qadir IHC spared one person while arrested the other and took the truck into his possession and drove it towards his residence. He himself was driving the official vehicle whereas the truck was driven by driver Nadir

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Khan. When they reached Gambila bridge then Zubair MM called him upon his mobile and told him that mobile driver Nadir Khan is standing at Gambile bridge and further stated him to continue with his routine gusht. The said truck was driven by Zubair MM. During his routine gusht, when he reached at the residence of Ghulam Qadir IHC, he found the same truck parked there while Ghulam Qadir IHC alongwith gunner Saeed FC, Safiullah FC, Darwaish FC, Zubair MM and Ali Muhammad No.674 were standing with truck. In the meanwhile SHO Irfanullah called him through mobile phone that where is he. He replied that he is on his routine gusht. On this he told him to proceed towards PP Manzar Faqir, as there is information of a vehicle so you make lay barricade for it. On this he following the directions of SHO proceeded towards PP Manzir Faqir road. He recorded his statement before DSP, the same was verified by him and is Ex PW 6/1.

(vii) PW-7 Muhammad Iqbal Mehmand DSP deposed that vide letter No.2564-67 dated 7-10-2020 already exhibited as PW-3/16, special investigation team was formed consisting Inspector Nabi Shah, S.I Naseer ud Din, ASI Kalimullah along with him. After inquiry the report was submitted to SP Investigation Lakki Marwat.

(viii) PW-8 Nabi Shah Inspector DSP Rural Bannu deposed that vide letter No.2564-67 dated 7-10-2020 already exhibited as PW-3/16, special investigation team was formed consisting Iqbal Muhammad DSP, S.I Naseer ud Din, ASI Kalimullah along with him. After inquiry the report was submitted to SP Investigation Lakki Marwat. The inquiry team member ASI Kalimullah, who has been martyred vide FIR No.323 dated 8-7-2021 u/s 302/324/353 PPC/7 ATA P.S Pezu. In this respect, copy of the said FIR is Ex PA and notice of the court is Ex PB.

After recording the statements of above-mentioned PWs, the prosecution one again closed its evidence on 02-10-2021 and in this respect the signature of learned APP for the

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State was obtained. On 06-10-2021 all the six accused facing trial named above were re-examined under section 342 Cr.P.C relying upon already recorded evidence on behalf APP for the State and learned defence with no further any question, wherein all the six accused facing trial pleaded their innocence, however they neither wished to be examined on oath nor to produce evidence in their defence. Thereafter, the arguments of APP for the State and learned defence counsel were invited.

5- Learned APP for the State argued that although there is some delay in lodging the report however the accused are directly named in the FIR for the offence after proper satisfaction and on the basis of solid information, the delay in lodging the report has plausibly been explained, the accused facing trial have misused their authorities intentionally vested under the law and have committed dishonesty in their official duties, that they earned money through unfair means by way of bribe, that act of accused facing trial are against the law and and morality, that complainant has got no ill will or grudge for their false implication in the case, that offence is heinous in nature which should be nipped in the bud, that prosecution has proved their charges against the accused beyond shadow of any reasonable doubt, that prosecution evidence is in line with each other and there is no material contradiction in the statements of prosecution witnesses, hence the accused deserve conviction.

6- On the other hand learned defense counsel emphasized for acquittal of the accused facing trial on the grounds that accused facing trial are innocent, have falsely been charged with mala fide intention by the complainant and is the result of some ulterior motive with high ups of police department which apparently perceived, that there is no solid evidence against the accused, that occurrence is unseen, taken place at mid night and complainant is not the eyewitness of the alleged occurrence, that nothing incriminating what so ever have been recovered either from the direct possession of the accused facing trial on their pointaiton, that ocular account and site plan

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perform their vested duty under the law and unnecessarily favored the accused facing trail so they can earn acquittal. Keeping in view the above discussed dilemma and circumstances of the case, it can be safely held that the procedural flaws were introduced, witnesses become won over, incriminating material was neither collected nor surfaced on record, explicit floating doubts were brought in evidence therefore, conviction cannot be granted. Compellingly, this court acquits all the six accused facing trail named above for the reasons mentioned above. They are on bail, their bail bonds stands cancelled while their sureties are absolved from the liabilities of the bail bonds.

Case property be kept intact till the expiry of period provided for an appeal / revision and thereafter be dealt as per law. Copy of this judgment be sent to DPO Lakki Marwat, RPO Bannu Region and IG KPK for information.

File of this court be consigned to the record room after its necessary completion and compilation.

Announced.
21-12-2021

21/12/21

(Mirza Muhammad Kashif)
Addl: Sessions Judge-II,
Lakki Marwat.

CERTIFICATE:

Certified that this judgment comprising twelve (12) pages. Each page has been checked, corrected and signed by me wherever it was necessary.

21/12/21

Addl: Sessions Judge-II,
Lakki Marwat.

ATTESTED
Examiner to
District & Session Judge
Lakki Marwat
4-1-22

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OS.....28
21-12-2021

Present; APP for the State. All the six accused facing trial namely Irfanullah, Zubair Khan, Safiullah, Habib ur Rehman, Ghulam Qadir Khan and Muhammad Saeed present on bail.

Arguments have already been heard and file perused.

Vide my detailed separate judgment of even date consists of twelve (12) pages placed on file. It is held that procedural flaws were introduced, witnesses become won over, incriminating material was neither collected nor surfaced on record, explicit floating doubts were brought in evidence therefore, conviction cannot be granted. Compellingly, this court acquits all the six accused facing trail named above for the reasons mentioned above. They are on bail, their bail bonds stands cancelled while their sureties are absolved from the liabilities of the bail bonds.

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Announced.
21-12-2021

(Mirza Muhammad Kashif) 21/12/21
Addl: Sessions Judge-II,
Lakki Marwat.

ATTESTED

Examiner to
District & Session Judge
Lakki Marwat

4-1-22