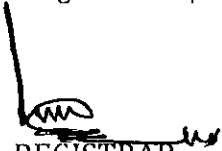



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1099/2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/07/2022	<p>The appeal of Mr. Touseef Shah resubmitted today by Mr. Athar Abbas Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	14-7-22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>26-7-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Touseef Shah Ex-Special Police Force no.64/5 received today i.e. on 04.07.2022 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- ✓ 1- Check list is not attached with the appeal.
- ✓ 2- Annexures of the appeal may be attested.

No. 2144 /S.T,

Dt. 04-7 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Athar Abbas Adv.
High Court Pesh.

Resubmitted after compliance.

6/7/22

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Toseef Shah

v/s

IGP & others

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974, Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Athar Abbas Advocate

Signature: _____

Dated: 06-07-22

BEFORE THE CHAIRMAN SERVICE TRIBUNAL KP
PESHAWAR.

Appeal no. 1099/2022
TOSEEF SHAH

VERSUS

IG POLICE AND OTHERS

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15	SPARE COPIES FOR RESPONDANTS NO: 1 TO 3		

Dated: 20.06.2022

Through

Toseef
APPELLANT

Athar
Athar Abbas
Advocate, High Court

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KP PESHAWAR.

TOUSEEF SHAH S/O SYED HANIF SHAH
 EX-SPECIAL POLICE FORCE NO:64/5
 R/O: VILLAGE ANDAR WALI SARRI TEH & DIST
 HARIPUR .

.....APPELLANT

VERSUS

1. POLICE DEPARTMENT THROUGH ITS IGP,KP PESHAWAR.
2. DIG HAZARA DIVISION ABBOTTABAD.
3. D P O HARIPUR KP.
4. REGISTRAR TO THE OFFICE OF IGP PESHAWAR.

..... RESPONDENTS

APPEAL U/S: 4 OF THE NWFP SERVICE TRIBUNAL ACT, 1974 AGAINST THE (1):ORDER NO:5970-75/OHC DATED:05-09-2019, WHEREBY THEAPPELLANT WAS DISCHARGED FROM SERVICE BY AWARDDING MAJOR PUNISHMENT AND (2): AGAINST THE ORDER NO:533 DATED:16-02-2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS NOT CONSIDERED AND THROUGH A NON SPEAKING ORDER THE APPEAL WAS MERELY FILED AND NOT EVEN INFORMED THE APPELLANT OF THE IMPUGNED ORDER TILL THE FILING OF THE INSTANT SERVICE APPEAL.

PRAYER IN APPEAL:

ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED ORDERS OF THE RESPONDENTS MAY GRECIOSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE RE INSTATED IN SERVICE WITH ALL BACK BENEFITS ALONGWITH GRANT OF ANY OTHER REMEDY DEEMED FIT BY THIS HON'BLE BENCH.

RESPECTFULLY SHEWETH:

The appellant most humbly submits as under:

1. That the appellant was appointed as constable under special police force No:64/5 and was performing his duty accordance with rules and regulations, procedure and laws of the land, and to the best of his superiors after completion of his training and served the police department for about four years.
2. That the appellant was charged in a criminal case registered vide FIR No:605 dated:07-06-2019 U/S 377 PPC at Police station city Haripur at the instance of complainant Zawayar Mustafa. *(Copy of FIR is annexed -A)*
3. That, as the actual matter between the complainant father and the appellant was of disputed land so upon the instance of the complainant father the FIR mentioned above was lodged and the appellant was charged with mala fide and ulterior in order to harass and pressurize the appellant in order to grab the land illegally occupied the disputed land.
4. That the MLC and the statement of the complainant father at bail stage is sufficient proof for the innocence of the appellant, whereby the complainant father has stated that he has no objection on the release and acquittal of the appellant during trial. *(Copy of MLC, & order of bail by ADJ-II dated: 06-07-2020, are attached as annexure B & C)*
5. That even at trial stage the father of the complainant Mr, Zeeshan Mustafa appeared as PW-01 in the court of Judicial Magistrate-II Haripur, on dated:27-11-2021, and retreated his stance as before ADJ-II, Haripur on dated: 06-07-2020, which is self sufficient to prove the innocence of the appellant. *(Copy of PW-01 statement is attached as annexure D)*
6. That there exist no material evidence or record through which the guilt of the appellant can be substantiated, as the appellant was falsely and with mala fide intentions, charged in the above mentioned FIR, as such the statement of the complainant father, further strengthen the instance of the appellant which would ultimately results in the acquittal of the appellant.
7. That the order of respondent No:3, through letter No:5970-75 dated:05-09-2019 on the base of above mentioned FIR which is not more than allegations which could not be substantiated through all possible means, & as such the appellant cannot be penalized for an act/omission which even not committed by the appellant. So on this core alone the impugn order of the respondent, No:3 regarding the discharge of the appellant liable to be set at naught.

8. That the respondent No:3, without waiting for the fate of the trial which was pending adjudication before the learned competent court of law, discharged the appellant from the service vide above mentioned impugned order on dated: 05-09-2019. *(Copy of impugned order is attached as annexure E)*
9. That soon after the impugned order, and after the bail, the appellant submit his departmental appeal to the respondent, No:2, upon which through a non-speaking order on dated: 16-02-2020, the respondent No:4, filed in office, without any further proceedings and not even informed the appellant of such impugned order. Furthermore the appellant submit another departmental appeal to the respondent No:1, on dated: 16-03-2021, which was not responded yet. *(Copies of applications/ departmental appeals & impugned order of respondent No:4 dated:16-02-2020, are attached as annexure F,G & H (consists of 3 pages))*
10. That during trial when the complainant father recorded his statement, which required due consideration, the appellant again filed an appeal to the respondent No:1 for his re-instatement into his service on dated: 17-12-2021, but till date no response received from the office of the respondent No:1, hence pending before the office of respondent No:1 for consideration. *(Copy of appeal is attached as annexure I)*

Now the appellant being aggrieved of the illegal, un-procedural, beyond the rules & regulations, the act of the respondents and of both the impugned orders, begs to seek indulgence of this Hon'ble forum for the re-instatement in service with all back benefits inter alia on the following grounds:

GROUNDS

1. That act, action and both the impugned orders are illegal, without justification, without lawful authority and in utter disregard of law and procedure rule and regulations, hence untenable.
2. That the appellant has neither been served with any charge sheet, summary of allegations nor any show cause notice, as required under the rules and regulations.
3. That he was deprived by the authority/respondents from his valuable right of hearing in person, confrontation with the allegation, rather an executive type of order was passed in a haste manner which is in utter disregard to the principles of natural justice and clear provision of the constitution especially Article 10-A which says that;

10-A. Right to fair trial:-

For the determination of his civil rights and obligations or any criminal charge against him a person shall be entitled to a fair trial and due process.

4. that the entire act, action and the impugned orders were passed against the principle of natural justice as the appellant has been discharged from service without providing him an opportunity of hearing, which is clear violation of principle of natural justice and Maxim, "*No one should be condemn unheard.*"
5. That the respondents were all aware of the fact that the appellant's case is sub-judice before the learned competent court of law but without waiting the fate of the trial they discharged the appellant from service which is abuse of the process of law and mockery with the learned trial courts.
6. That the act and action of the respondents is against the golden principle of criminal dispensation of justice that an accused person is to be presumed an innocent until & unless proved guilty by the court of law.
7. That the order of discharge from service of the appellant were passed by the respondent No:3 under KP Police Rules 1975 and the powers conferred upon the competent Authority (DPO/SSP/SP) for inflicting departmental punishment against a constable under Rules 4 (supra) are as under;
 - (a) **Minor Punishment:**
 - (i) Confinement of constable and head constable for 15 days to Quarter Guards
 - (ii) Censure.
 - (iii) Forfeiture of approved service up to two years.
 - (iv) Withholding of promotion up to one year.
 - (v) Stoppage of increment for a period not exceeding three years with or without cumulative effect.
 - (vi) Fine up to Rs:15000/- as per schedule-I
 - (b) **Major Punishments:**
 - (i) Reduction in rank/pay.
 - (ii) Compulsory retirement.
 - (iii) Removal from service.
 - (iv) Dismissal from service.
8. That the appellant has been discharged from service which is nowhere provided in Rule 4 (supra) and discharge of the appellant under Rules 21, chapter 12 of the police Rules 1934 is against the law, procedure, rules, regulations and natural justice, being discriminatory and unjustifiable in nature.
9. That be that as it may, at present the Disciplinary Rules applicable on Police department is the KP Police Rules 1974, amended upto 2014, and as per section 14 of the rules(supra) any other disciplinary rules have been repealed as it reads that;

14. **Repeal:**-Any disciplinary Rules applicable to Police Officers to whom these rules apply are hereby repealed but the repeal thereof shall not affect any action taken or anything done or suffered there under.

10. That as provided in Article 264 of the constitution 1973, and section 6 of the General Clauses Act 1897, any repeal law has no legal effect as it reads that;

264. Effect of repeal of laws:-

Where a law is repealed or is deemed to have been repealed by under or by virtue of the constitution, the repeal shall not, except as otherwise provided in the constitution:-

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the law or anything duly done or suffered under the law;
- (c) affect any right, privilege, obligation or liability required, accrued or incurred under the law;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

And any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the law had been repealed.

6. Effect of repeal:-

Where this Act, or any (Central Act) or Regulation made after the commencement of this Act, repeal any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not Revive anything not in force or existing at the time at which the repeal takes effect, or affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder, or affect any right, privilege, obligation or liability acquired accrued or incurred under any enactment so repealed or affect any penalty, forfeiture or punishment incurred in respect of an offence committed against any enactment so repealed, or affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid.

11. That the edifice of penalty inflicted upon the appellant nowhere stand in legal parlance being reflecting the colour of "*the doctrine of Pick & choose.*"

12. That under the Police Rules 1975 a self-explanatory procedure for inflicting of penalty is architected, hence, it exclude the application of any other procedure and penalty for wring doer and "*The express mention of one thing implies the exclusion of another*" will squarely applies.

(*Inerpretation of statutes by N.S. Bindra 4th Edition, p-108*)

13. That the appellant was vexed twice one in court of law and another departmental for a single alleged wrong, which was barred by Article 13 of the Constitution of Pakistan 1973, Section 26 of the General Clauses Act 1897 and section 403 Cr.P.C which says that;

13. Protection against double punishment and self-incrimination:-

No person :-

- (a) Shall be prosecuted or punished for the same offence more than once; or
- (b) Shall, when accused of an offence, be compelled to be a witness against himself.

26. Provisions as to offences as to offences punishable under two or more enactments:-

Where any act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice, for the same offence.

403. Person once convicted or acquitted not to be tried for the same offence:-

(1) A person who has once been tried by a court of competent jurisdiction for an offence and convicted or acquitted of such offence shall while such conviction or acquittal remains in force, not liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

14. That as provided in the Fundamental Rules, (FR-54) any civil servant after his acquittal would be entitled for all benefits and even his period of suspension, abscondance and detention to be treated as spent on duty as it says that;

F.R. 54:- If case where suspension of Government Servant is held to have been unjustifiable or not wholly justifiable or he is re-instated after being dismissed, removed from service or suspended, the revising or appellate authority may grant him the following pay and allowances for the period of absence:-

- (a) If the Government Servant is honorably acquitted, he may be given the full pay to which he would have been entitled but for his dismissal, removal from service or suspension. The period of absence in such cases is treated as spent on duty. For this purpose FR-54 should be treated as absolute and unconditional and no question as to whether there was a post or not against which he could be adjusted for the period of his absence or he had no longer any lien or nay other Government Servant was appointed substantively in his place.

15. That the appellant, as in the view of land and *ratio decidendi* of the Ho'ble Apex Court on the subject issue, is entitled for re-instatement in service alongwith all back benefits to which he is entitled under the law and procedure as held;

1999-SCMR-2780 (M. Iqbal zaman..... vs.....SE Irrigation Bannu)

Article 212 Constitution of Pakistan.....Civil Servant Suspension.....Arrears of pay relating to suspension period.....Entitlement.....Civil servant who was involved in murder case and was convicted and sentenced by the trial court was acquitted of murder charge by the High Court in Appeal.....Civil Servant who after his acquittal was re-instated in service, prayed for arrears of pay relating to his suspension period but his pay was turned down by authority on the ground that civil servant was not entitled to arrears as he was not honorary acquitted, but was given benefit of doubt.....Validity.....Acquittal of civil servant even if based on benefit of doubt, was honorable....Acquittal of Civil Servant even based on benefit of

doubt, could not become hurdle in payment of arrears of pay of Civil Servant regarding his suspension period provided he had not been found to be gainfully employed during suspension period.

2007-SCMR- 537 (S.E GEPCO.....VS.....Muhammad Yousaf)
 S.4 Service Tribunal Act.....Article 212(3) Constitution of Pakistan 1973...Acquittal on benefit of doubt from criminal charge.....Honorable acquittal.....Back Benefits.....Entitlement.....Civil Servant was taken on duty, after his acquittal from criminal charge and his period of suspension was treated as leave on due basis.....Grievances of civil servant was that the authorities did not pay him salary for the period.....Service Tribunal allowed the appeal of the Civil Servant and directed the authorities to pay him back benefits.... Validity... Civil Servant who was acquitted by extending the benefit of doubt would be deemed to have been acquitted honorably..... Service Tribunal has rightly directed the authorities to treat him on the duty and give him all the financial benefits during the period of his confinement in custody on account of his involvement in criminal case..... Leave to appeal was refused.

1998-SCMR-1993 (Govt of NWFP....VS...Muhammad Islam)
 FR-54, Fundamental Rule....Civil Servant....Civil Servant was involved in a case U/S 302/34 PPC for a murder.....No evidence could be brought against the accused civil servant on the charge of murder, thus proving the allegation leveled against him were baseless.....Acquittal of Civil Servant from a criminal case..... Accused Civil Servant in case of acquittal was to be considered to have committed no offence because the competent criminal court had freed/ cleared him from the accusation of the charge of crime.....Such Civil Servant, therefore, was entitled for grant of arrears of his pay and allowances in respect of the period he remains under suspension on the basis of murder case against him.

16. That, be that, as it may, case of the appellant has not been treated in accordance with law which is in utter violation of Article 4 of the constitution of Pakistan 1973 which says that;

4.Right of Individuals to be dealt with In accordance with law etc:-

- (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan
- (2) In particular:-
- (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
- (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
- (c) no person shall be compelled to do that which the law does not required him to do.

17. That, at any rate, act, action and the impugned orders of the respondents are illegal, have no legal effect in the eye of law, untenable and the appellant is entitled for the relief sought.

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KP PESHAWAR.

SYED TAUSEEF SHAH

VERSUS

IG POLICE KP & OTHERS

ADDRESSES OF THE PARTIES

APPELLANT

**SYED TAUSEEF SHAH S/O SYED HANIEF SHSH
R/O ANDER WALI SERRI TEHSIL & DISTRICT
HARIPUR**

RESPONDENTS

1. **INSPECTOR GENERAL OF POLICE KP PESAWAR**
2. **DEPUTY INSPECTOR GENERAL OF POLICE
HAZARA DIVISION ABBOTTABAD**
3. **DISTRICT POLICE OFFICER HARIPUR**
4. **REGISTRAR FOR I.G P KP PESHAWAR**

Touseef

Abbas
**ATHAR ABBAS
ADVOCATE PHC**

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KP PESHAWAR.

SYED TAUSEEF SHAH

VERSUS

IG POLICE KP & OTHERS

ADDRESSES OF THE PARTIES

~~ABOTTABAD~~

**SYED TAUSEEF SHAH S/O SYED HANIEF SHSH
R/O ANDER WALI SERRI TEHSIL & DISTRICT
HARIPUR**

RESPONDENTS

1. **INSPECTOR GENERAL OF POLICE KP PESAWAR**
2. **DEPUTY INSPECTOR GENERAL OF POLICE
HAZARA DIVISION ABBOTTABAD**
3. **DISTRICT POLICE OFFICER HARIPUR**
4. **REGISTRAR FOR I.G P KP PESHAWAR**

Touseef

Athar
**ATHAR ABBAS
ADVOCATE PHC**

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KP PESHAWAR.

SYED TAUSEEF SHAH

VERSUS

IGP KP & OTHERS

CONDONATION APPLICATION

Respectfully sheweth

1. That the applicant today has filed the accompanied Grievance petition before this Hon'ble court in which no date of hearing is fixed so far.
2. That the applicant prays for condonation of delay if any filing the instant service appeal inter alia on the following grounds:

GROUND OF APPLICATION

- A. That the applicant throughout agitated the matter before the departmental authority, and was never remain negligent in perusing his legal remedy. The petitioner was never communicated the impugned orders, though received through personal resources and then the petitioner had made the departmental representation /appeals well within time. The department never tried to reply the representation of the Petitioner within the statutory period and keeps on awaiting the petitioner with the hope of his grievance redressal which is still not replied. Thus the Petitioner/Applicant never remained negligent in perusing his legal and rightful remedy, moreover, the delay if any occurred in filing the appeal cannot be attributed to the Petitioner rather the same was caused due to non-communication of the orders and reply of the representations to the petitioner by the respondents.

- B. That the impugned orders of the respondents No:3 &4 without acquiring the proper procedure and rules regulations and the Petitioner was deprived of his constitutional rights of personal hearing. Thus the impugned orders of the respondent which is passed against the well settled rules and the law of the state and natural Justice hence not tenable in the eyes of law, illegal unlawful, void ab-initio and thus no time runs against the void and unlawful and illegal orders.
- C. That valuable rights of the applicant are involved in the instant case hence the delay if any in filing the instant case deserves to be condoned.
- D. That the delay if any in filing the instant Petition was not willful hence deserves to be condoned.
- E. That it has been consistent view of the superior court courts that causes should be decided on merit rather than technicalities including limitation. The same is reported in 2014 PLC (CS)1014 2003 PLC(CS)769.

It is therefore humbly prayed that on acceptance of this application the delay if any in filing the instant service appeal may please be condoned.

Applicant

Dated:20-06-2022 Through

Ahuf
Athar Abbas
Advocate PHC

AFFIDAVIT

The applicant affirms that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been deliberately concealed from this Hon'ble court.

Toseeet
DEPONENT

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت مجرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 153 مجموعہ ضابطہ فوجداری

درجہ کار

تھانہ	سٹی	ضلع	سرگودھا
نمبر	عدالت نمبر 605	تاریخ	07/06/19 وقت صبح 1 بجے

1	تاریخ وقت رپورٹ	07/06/19 وقت 13.45 بجے
2	نام و سکونت اطلاع دہندہ مستثنیت زاویہ مار مہطی ولد زیشان مہطی قوم بھٹان ساکنہ محلہ در زیشان پورہ	
3	مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔	زیر دفعہ 377 - ازخواب
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت	واقعہ سکریٹری ہاؤس
5	نام و سکونت ملزم	توہیف شاہ ولد حنیف شاہ قوم مشوالی ساکنہ اندرونی سٹی سٹریٹ پولیس
6	کاوائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجوہ بیان کرو	مدعی کی رپورٹ سے متعلقہ واقعہ پر اہم ایف پولیس کوئی اطلاع نہیں
7	تھانہ سے روانگی کی تاریخ و وقت	روٹین ڈاؤن

ابتدائی اطلاع نیچے درج کرو۔ رپورٹ زاویہ مار مہطی ولد زیشان مہطی قوم بھٹان پورہ سال ساکنہ ایف ڈی پولیس سرگودھا 07/06/19 وقت 13.45 بجے مخامری تھانہ لٹھوال والا قصبہ زیشان مہطی ولد حنیف مہطی ایف ڈی 38 سالہ ایف ڈی 37405-1861620-5 برائے نمبر 0511-8717087 کے رپورٹ کرتا ہے کہ آج میں نے گھر سے نماز جمعہ شریف کی اور اسٹیٹنگ کیلئے جامع مسجد جماعت المسلمین نزد 5 شاپ کو جا رہا تھا۔ وقت دن قریب ایک بجے نزد سکریٹری گھنٹ گھنٹا تو ایک پولیس سٹریٹ جس کا نام لعد توہیف شاہ ولد حنیف شاہ قوم مشوالی ساکنہ اندرونی سٹی معلوم ہوا ہے جسے مائی رائے کا بیاتہ کرتے تھے انے پاس بلکہ گھر تھے انے گھر واقعہ سکریٹری ہاؤس کے گا۔ اور تھے کہ ہم اہلی بیٹی بیٹے اتار دو، درنہ آپکو گری مار دو لگا، جسے زبردستی تھے سے میری بیٹی زبردستی اتار کر میرے ساتھ زبردستی بدھلی کرتے لگا۔ جو بدھلی کرنے کے بعد شہر بھرے تھے کیا کہ اس بات کا کہی سے نہ گھر کیا تھے بہت برا ہو گا، جو میں نے گھر آکر واقعہ اپنے والد صاحب کو بتلایا جو تھے اب برائے رپورٹ ہوا لگا، لہجے ہیں۔ میں اپنے ساتھ زبردستی میری مرضی کے خلاف بدھلی کرنے کا برخلاف توہیف مہترکہ دعوتی میں، ملازمہ ڈرائیو کردانے کا فرمان ہیں۔ تالوئی کارروائی محل میں لائی جا رہی ہے جو کہ درج ذیل والد اش زیشان مہطی نے تاعید رپورٹ کی اور والد اش نے تاعید رپورٹ کر کے زیشان مہطی سے سائل رپورٹ درج ہوا ہے کہ درستی کا دستخط کیا والد اش نے تاعید رپورٹ کر کے زیشان مہطی سے متاثرہ کاندھہ چھوٹی سٹیٹ کر کے کو زیر حفاظت کنسٹبل فاروق شاہ 374 کے زیر نگرانی والد اش

فائل نمبر
7/06/19
7/06/19
7/06/19

ANN-B R16

NWFP Medical 41

No. 887/19 Name George H. ... Son of Becher ... Occupation Driver

Residence 2000 P ... No. 7/6/19 Date of examination 7/6/19

Date and hour of arrival 7/6/19 2:30 PM

No. And date of Police docket P. 51411

No. And date of Constable ...

Date of admission ...

If admitted Date of discharge 7/6/19 2:45 PM

Date and hour of report sent to Police ...

Particulars of injuries of symptoms, in case of poisoning:
2/6 No. Extra ...
seen - No sign of ...
or leave on ...
been ...
Extensive and ...
taken to police for ...
Final Report after forensic lab analysis

Spec for particulars as to further reference to the case date of giving evidence in Court of death of articles said to contain poison.

Nature of injuries ...

(Simple, grievous or dangerous) ...

Probable duration of injury ...

The kind of weapon used or poison Suspected in the case of poisoning ...

In Private case Paid to the Medical Officer ...

Examining Medical Officer ...

Signature of Third-Party ...

Dated 7/6/19 at ...

Two Identification marks: ...

ANNEX-C
P.F

ORDER 6
06/07/2020

Counsel for the accused/petitioner is present. Dy.PP for the state present. Arguments heard and record on file perused.

Through the instant petition, accused-petitioner Toseef Shah s/o Hanif Shah, after rejection of his application for post arrest bail from the Court of learned Judicial Magistrate-II, Haripur, seeks his post arrest bail in case vide FIR No.605, dated 07.06.2019, registered under Section 377 PPC, at Police Station City of District Haripur.

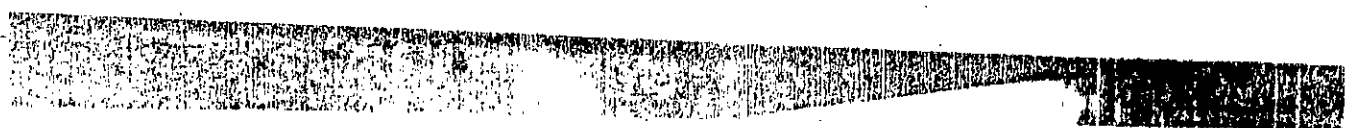
Record reveals that on 05.07.2020, father of complainant/victim appeared before the Court and voluntarily stated that he has patched up the matter with the accused/petitioner. It was further added that he has got no objection on release of the accused / petitioner on bail and on his acquittal during trial. To this effect his statement was recorded and placed on file. He produced copy of his CNIC which is Ex-PA. (Original CNIC seen and returned).

6.7.2020
M

Though the accused/petitioner is directly charged in the first information report, but the father of complainant/victim has patched up the matter with accused/petitioner and he is no more interested to prosecute the accused/petitioner. Father of complainant/victim has withdrawn from prosecution of the accused/petitioner and he has got no objection on release of accused/petitioner on bail and on his acquittal during trial. Father of complainant/victim is the star witness for the prosecution and when he does not charge the accused/ petitioner, further confinement of the accused is not likely to serve any purpose. Offence for which accused/petitioner is charged is not compoundable and did not fall within the ambit of S. 345 Cr.PC, but when complainant party did not charge the accused/petitioner for

01-03
-
20

Rozul



P-18

commission of offence, his statement could be considered as one of the relevant factors for grant to relief to accused at bail stage. If the complainant party is no longer willing to prosecute the matter, then it should not be for the court to pressurize them to continue with their hostilities and hatred. Gravity of offence allegedly committed, could validly be determined by the trial court after recording evidence of the parties at the trial, but fruit of cotrapromise could not be declined. Parties will to compound the offence to be respected and given an assent to, notwithstanding the nature of allegation, being it compoundable or otherwise. Regarding consideration of compromise or no objection of the complainant party in non-compoundable case reliance is placed on 2004 PCr.LJ 490, 2010 PCr.LJ 1482, 2011 MLD 1468, 1999 PCr.LJ 1107 & 2017 MLD 4.

Hence, in view of the above, the instant bail application is allowed and the accused/petitioner is admitted to bail, provided he furnishes bail bonds in sum of Rs.1,00,000/- with two sureties each in the like amount to the satisfaction of this Court. Sureties must be reliable and men of means. A copy of this order be placed on judicial record. Instant file be consigned to the record room after its compilation & completion.

Announced
06/07/2020


FARYAL ZIA MUFFI
Additional Sessions Judge-II,
Haripur

ANNEX-D
P19

1/2 5/11 2/24 JM-11
6 1/2 16 1/2 3.1 34 1/2
8 2/3 9 1/2 10 1/2 11 1/2

PW-01

Statement of Zeeshan Mustafa s/o Ghulam Mustafa, aged about 38 years r/o Mohallah Darvesh, Haripur, on oat.

Stated that on 07.06.2019, my son Zaviyar Mustafa told me that one Muhammad Tauseef Shah s/o Hanif Shah committed sodomy with me. Upon this, I took my son and went to P.S, where I registered the FIR against the accused Muhammad Tauseef Shah for the commission of offence. The police lodged my report and sent my son to the Hospital alongwith me under the escort of Farooq Shahi No.374, where doctor medically examined my son and prepared his M.L.C. I charged the accused for the commission of offence.

XX:

I am not eye-witness of the occurrence. After lodging the report, I inquired regarding the occurrence and during inquiry I came to know that the occurrence was taken place was not as per contents of the FIR. I charged the accused on the basis of misunderstanding. It is correct that we have patched up the matter outside the Court. It is correct that I cannot produce my son before the Court due to underage.

R.O & A.C
27.11.2021

Mubarak Ali
Mubarak Ali
Judicial Magistrate-II
Haripur

13520 = 06-12-2021
1- Payer

Mubarak Ali
06-12-2021
06-12-2021
06-12-2021

OFFICE OF THE

DISTRICT POLICE OFFICER, HARIPUR

Ph. # 0995-614712 / 0995 611291

Fax # 0995-614714

Email: - ohcharipur0995@gmail.com

ANAK-E
P-20-E



OB No. _____

Dated _____ 11/06/2019.

ORDER

Constable Toseef Shah No. 64/S, of Special Police Force while posted at Police Lines, Haripur, directly charged in case FIR No. 105 dated 07.06.2019, U/S 377/PPC, PS City, Haripur, which is gross misconduct in his part under Police E&D Rules 1975.

Therefore, I, Dr. Zahid Ullah District Police Officer, Haripur being competent authority under Khyber Pakhtunkhwa Police Efficiency and Discipline Rules 1975, awarded major punishment of "Discharge from Service" to Constable Toseef Shah No. 64/S with effect from 18.06.2019.

P


District Police Officer
Haripur

No. 5370 / S

/OHC, dated Haripur the 05 / 06 / 2019.

Copy of above is forwarded to the:-

1. District Account Officer, Haripur
2. Pay Officer, DPO Office Haripur
3. RI, Police Lines, Haripur
4. SHO, PS City
5. Incharge Clothing Godown, Haripur
6. SRC, DPO Office Haripur

NOI-283 / PA / 2021
Date: 1-3-2021

ABD Hampir
for refutation as
per Punjab law

میں نے جو جواب دیا ہے وہ فوازہ ڈویژن کے تحت ہے۔
درخواست برائے ملک سروس

جناب عالی درخواست ذیل عرض خدمت ہے

میں گینڈا ٹیبر 76 جناب ڈیرپور میں مقیم ہوں۔

میں نے پہلے دیوانی میں عہدہ میں تھا۔ جو پھر چھوڑ دیا۔

میں نے پھر ریٹائر ہو کر رہا اور فوری طور پر عہدہ سے ریٹائر ہو گیا۔

میں نے اس عہدہ پر ان پور میں ڈپٹی ڈائریکٹر کے طور پر کام کیا۔

میں نے اس عہدہ پر کام کیا اور اس عہدہ سے ریٹائر ہو گیا۔

میں نے اس عہدہ پر کام کیا اور اس عہدہ سے ریٹائر ہو گیا۔

میں نے اس عہدہ پر کام کیا اور اس عہدہ سے ریٹائر ہو گیا۔

در پیروان امرتسار ...
 سپیکر میرا فریاد بر منبر ...
 فریاد جاوے۔

اپنی آواز
 2021

42501-6316112
 سید زینب شاہ ولد سید شفیع شاہ
 سہ ماہی برک فہیم المہر گوکارو

5310 5657492
 76
 3
 برک فہیم
 فریاد

توصیف شاہ

RECORDED BY ...
 21-
 01-02-2021
 M. J. ...

Attested
 Toseef



P-25
ANNEX-G

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 533 /21, dated Peshawar the 16/2 /2021.

To: The Regional Police Officer,
Hazara at Abbottabad.

Subject: APPLICATION FOR REINSTATEMENT IN SERVICE.

Memo:

The Competent Authority has examined and filed the application submitted by Ex-SPO Toseef Shah No. 64/S of Special Police Force, Haripur for re-instatement in service being a contract employee.

The applicant may please be informed accordingly.

2025
22/2/21

Not. 453/HZ dated 22.2.2021
D/o Haripur
RA

Fw m/o. abn inqur
applicant

(SYED ANIS-UL-HASSAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

16/2

[Signature]
16/2

Attested
Toseef

حضرت صاحب 19 پولیس ڈیپارٹمنٹ خدیو خان پور

درخواست بابت خالی کرسی

— ۸ —

صبر - وللا صبح خیل عرفی رساں ۵

1 سائل ایسٹیل پولیس فوٹوں نمبر 64/5 خدیو کے زیر اثر حویلی پور میں ماسٹرم تھا۔

2 یہ مقدمہ دوران ڈیپارٹمنٹ عدالت ہوا تھا۔ جو میرے راجا نے میرے خلاف جس گھڑت ہوئی یہ سب اور دروغ قوی رکھے بنیاد اور قحوطا FIR درج کروایا اور حکم نہ اس قحوطا FIR کی بنیاد پر سائل ایسٹیل کو نوٹری سے نکال دیا۔

3 یہ سائل نے دیو کو درخواست / ایسٹیل بابت کہیں حال داخل دفتر کیا گیا لیکن کوئی شواہد حاصل نہ ہوئے۔

4 یہ سائل ایک عریب اور شرین خاندان سے تعلق رکھتا ہے اور اپنے گھر کا واپس نہیں آیا اور دوسرا کوئی ذریعہ حاصل نہ ہے اور لوٹنے سے ماں باپ کی علاج حفاظت اور خدمت سائل کی ذمہ داری ہے۔

تعلق ۵3/16
21

لہذا منظورے درخواست خدیو سائل ایسٹیل کی
کیا کے احکام صادر فرمائے شود فرمادیں۔

الحاجی

To seeef
سید توفیق شاہ و مہر سید عتیق شاہ سائل اندرونی کرسی
CNIC: 42501-6316112-3
مقبول و ضلع پور
mobile: 03155594023

Attested
Toseef

جگہت بنا۔ آئی جی صاحب پولیس ڈیپارٹمنٹ کے پی لیسٹا اور

عنوان: درخواست بابت بحالی نوکری
بطور کنسٹیبل پولیس (ایپل)

جناب والا! مسائل حسب ذیل عرض رسان ہے۔

1- یہ کہ سائل حکمہ پولیس میں بطور سپاہی بھرتی ہوا تھا اور تقریباً 4 سال سے زیادہ حکمہ میں رولز اور قانون کے مطابق نوکری سرانجام دی تھی۔

2- یہ کہ سائل کے خلاف اسکے چچا نے ایک چھوٹے پر مبنی اور بے بنیاد الزام لگا کر FIR درج کرائی تھی اور جس میں سائل کی مہمانت ہوئی تھی اور مورخہ 27-11-21 کو کمیٹی کے والد نے اقرار کیا ہے کہ FIR چھوٹے پر مبنی تھا اور جسے کہ مرتب کردہ ہے حقیقت کے منافی ہے اور جسکی بناء پر سائل ہری ہونے کا قوی امکان ہے۔ (بیان او-17) لہذا درخواست/ایپل ہے

3- یہ کہ سائل نے مورخہ 16-03-2021 کو بھی صاحب محفوز کے دفتر میں جھگڑائی تھی تاہم کوئی مشورائی نہیں ہوئی تھی۔

لہذا آپ صاحبان سے بزرگو ایپل ہذا استدعا کہائی ہے کہ سائل کی نوکری بحال کرانے کے احکام جاری فرمادیا جائے تاکہ اسکی دعا گوری ہو۔

المعروف نومبر 17/12/21

العارض
سید نوہید شاہ ولد سید حنیف شاہ
Toseef
کنڈہ اندروالی سری ضلع ہری پور
موبائل نمبر 0315-5594023
شناختی کارڈ نمبر: 3-6316112-42501

Attested
Toseef

ATHAR ABBAS

Advocate Peshawar, Legal Consultant & Practitioner,

WAKALAT NAMA

(POWER OF ATTORNEY)

IN THE COURT OF KP Service Tribunal

Toseef Shah (Appellant)

VERSUS

IGP 20thers (Respondents)

I/We, Toseef Shah (appellant) in the above noted Service appeal do hereby appoint and constitute **ATHAR ABBAS, ADVOCATE, PESHAWAR** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our counsel in the above noted matter, without any liability for their default and with the authority to engage/appoint any other Advocate/Counsel at my/our matter.

Dated: 27/12

Attested & Accepted.

Ahuf

Client (Toseef)

ATHAR ABBAS

BC# 16-6499

Advocate, Peshawar.

Chamber: J. Waqar Ahmad Seth Block,
, District Courts, Peshawar.