

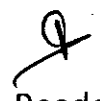


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1405 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/03/2020	The appeal of Mr. Hidayat Ullah resubmitted today by Syed Mudassir Pirzada Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.  REGISTRAR 10/3/2020
2-	13/03/20	This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/04/2020</u> .  MEMBER
	21.04.2020	Due to COVID19, the case is adjourned to 22.07.2020 for the same as before.  Reader

22.07.2020

Appellant has not forth come at the moment 12:20 P.M.
Request was made for adjournment on the ground that the
learned counsel is suffering from fever/disease. Adjourned to
01.10.2020. To come up for preliminary hearing before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER

01.10.2020

Mr. Zartaj Anwar, Advocate on behalf of counsel for
the appellant present.

Requests for adjournment as learned counsel is not
available today due to his indisposition. Adjourned to
09.12.2020 before S.B.

Chairman

09.12.2020

Junior counsel for appellant present.

He made a request for adjournment as senior counsel is
busy before Hon'ble Peshawar High Court; granted. To come
up for preliminary hearing on 11.03.2021 before S.B.

(Rozina Rehman)
Member (J)

RS

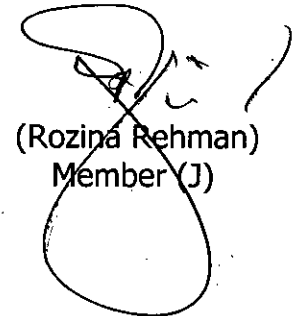
11.03.2021

Appellant with counsel present. 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 14/06/2021 before S.B.

Appellant Deposited
Security & Process Fee

17/3/21



(Rozina Rehman)
Member (J)

14.06.2021

Appellant in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Arif Saleem, Steno for the respondents present.

Respondents have submitted reply. Placed on file. The appeal is entrusted to D.B for arguments on 16.08.2021.



Chairman

16.08.2021

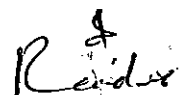
Since 16.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 27.09.2021 for the same as before.



Reader

27.9.21

DB is our Tour case to come up
For the same on Dated. 17-11-21

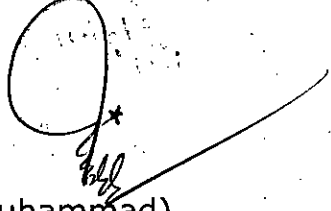


Reader

17.11.2021

Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

The learned Member (Judicial) Mr. Salah-ud-Din is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 02.12.2021.



(Mian Muhammad)
Member (E)

02.12.2021

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Former submitted rejoinder with a request for adjournment; granted. To come up for arguments on 07.12.2021 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

07.12.2021

Appellant with counsel present. Mr. Kabirullah Khattak, Addl. AG alongwith Arif Saleem Steno for the respondents present.

Learned AAG seeks time for preparation. Request is accorded. To come up for arguments on 17.01.2022 before the D.B.


(Salah-ud-Din)
Member(J)


Chairman

ORDER
17.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of service appeal bearing No. 647/2019 titled "Hidayat Ullah Versus Inspector General of Khyber Pakhtunkhwa Police Peshawar and others", the instant appeal is accepted. The impugned order dated 26-02-2019 and 17-10-2019 are set aside. Respondents however are at liberty to proceed the appellant under General Proceedings by providing him appropriate opportunity of defense. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
17.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

This is an appeal filed by Mr. Hidayat Ullal today on 03/02/2020 against the order dated 17.10.2019 against which he preferred/made departmental appeal/ representation/review on 14.11.2019 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Annexures- B and C of the appeal are illegible which may be replaced by legible/better one.
- ✓ 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.

No. 313 /ST,

Dt. 03-02/2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Mudassir Pirzada Adv. Kohat.

*Re-submitted
after clearance
of office objections
10/3/20*

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 1405 2020

Ex-LHC Hidayat Ullah No-881 R/o Togh Bala Kohat

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.

(Respondent)

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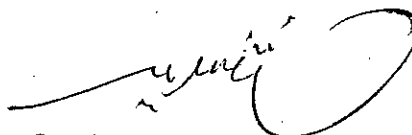
Sr No	Description of Documents	Annexure	Page
1	Memo of Appeal		1-5
2	Affidavit		6
3	Address of the Parties		7
4	Copy of impugned order dated 17-10-2019	A	8
5	Copy of Show Cause Notice along with reply dated 09-10-2019	B	9-10
6	Copy of Charge Sheet & Disciplinary Action dated 17-10-2019	C	11-12
7	Copy of Departmental representation dated 14-11-2019	D	13-15
8	Copy of Certificate	E	16-17
9	Copy of FIR 's dated 04-11-2019	F	18
	Wakalatnama		



Appellant

Through

Date 3/2/2020



Syed Mudasir Pirzada
Advocate HC
0345-9645854

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 1405 2020

Ex-LHC Hidayat Ullah No-881 R/o Togh Bala Kohat

(Appellant)

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Case No. 980

Dated 03/01/2020

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.

(Respondent)

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT AGAINST THE IMPUGNED ORDER OF DPO KOHAT VIDE DATED APPEAL AGAINST THE IMPUGNED ORDER OF DPO KOHAT VIDE DATED 17-10-2019, OB NO:-1294 IN WHICH WITHOUT ENQUIRING THE ALLEGATIONS DIRECTLY IMPOSED THE PUNISHMENT OF REVERSION FROM THE RANK OF LHC TO SUBTANTIVE RANK OF FOOT CONSTABLE AND THE APPELLANT SENIORITY BE FIXED AS JUNIOR MOST FOOT CONSTABLE WITH IMMEDIATE EFFECT .

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

Facts:

Briefly facts are that the appellant while serving in department the respondent No-3 blessed with the impugned order upon the allegation as mentioned in the impugned order are that it was noticed through reliable source that the appellant had links with a notorious criminal gang known as Tapoo Gang of Nusrat Khel and the information was confronted through different sources and CDR of the appellant which pursued and proved (Copy of Impugned order dated 17-10-2019 is annexed as annexure A)

That upon the above mentioned allegation the appellant was served with the show cause notice on dated 09-10-2019 and the respondent No-3 demanded that the reply of the show cause notice be submitted with in one hour (Copy of show cause notice & reply is annexed as annexure B)

Re-submitted to -day
and filed.

Filed to -day

Registrar

3/1/20

Registrar

3/1/20

That the appellant was not served with the charge sheet along with Disciplinary action and the bias ness of the respondent No-3 is proved from the perusal of the charge sheet that there is difference in the allegation (Copy of Charge Sheet and Disciplinary Action dated 17-10-2019 is annexed as annexure C)

That the appellant submitted the reply to the show cause notice but the same was not consider hence the impugned order were issued felling aggrieved from the impugned order the appellant prefer departmental representation dated 14-11-2019 which was till now not consider nor entertain.(Copy annexed departmental representation is annexed as annexure D)

That the high ups /officers were satisfied with the performance of the appellant and the appellant was awarded a cash rewards (Copy annexed as annexure E)

That upon the reply to show cause notice the appellant was served with the charge sheet ,Disciplinary Action as per impugned order and without providing the opportunity of submitting the reply the appellant has been awarded punishment.

That the appellant never ever involve with any gang nor the respondent No-3 has evidence to prove the allegation just on the personal biasness the appellant was blessed with impugned punishment order as well as register a criminal case (Copy of FIR is annexed as annexure F) .

That the appellant is very dedicated keen and apprehensive towards his assign duty but this factor has not been appreciated while at time of awarding the impugned order.

That the appellant is very dedicated keen and apprehensive towards his assign duty but this factor has not been appreciated while appellant was blessed with impugned order.

That the appellant feeling aggrieved from the impugned order having no alternate remedy except this honourable tribunal on the following grounds:-

Grounds:-

1. That the allegations never practice by the appellant and there is nothing on record which connect the appellant with the allegation.
2. That the appellant always earned the good name for department and pot ray a excellent image towards the public.
3. That it is the settle principle of justice that no one should be condemn un heard but in the case of appellant no enquiry has been conducted to enquire the allegation .

4. That again an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation. Just on the basis of source, relying held guilty the appellant without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014).
5. That nothing has been proved beyond any shadow of doubt that the appellant has committed any mentioned allegation which tarnished the image of Police department.
6. That while awarding the impugned order none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are practiced by the appellant nor proved against any cogent reason against the appellant.
7. That the appellant is honest and dedicated one and leave no stone unturned to discharge his duties.
8. That as per universal declaration of human rights 1948 prohibits the arbitral / discretion.
- 10:- That the respondent No-3 has acted whimsically and arbitrary, which is apparent from the impugned order.
- 11:-That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.
- 12:-That the impugned order is outcome of surmises and conjecture.

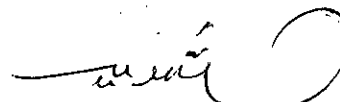
Pray:

In the view of above circumstances it is humbly prayed that the impugned order of DPO Kohat may please be set aside for the end of justice and the appellant may please be graciously restored to rank of LHC as before the order of punishment with all back benefits.

Date: 3/2/2020

Through


Appellant


Syed Mudasir Pirzada
Advocate HC
0345-9645854

Certificate:-

Certified that no such like appeal has earlier been filed in this Hon able Service tribunal as per instruction of my client .

List of Books

1:- Constitution of Pakistan 1973

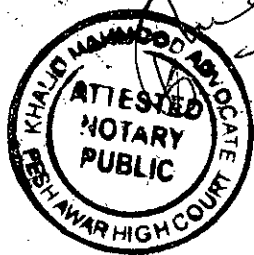
2:- Police Rules

3:- Case Law according to need.

Service Appeal _____ 2020

AFFIDAVIT

I, Syed Mudasir Pirzada Advocate, as per instruction of my client do here by solemnly affirm and declare that all the contents of accompanying service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable Tribunal



3-2-2020
Advocate

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal _____ 2020

Ex-LHC Hidayat Ullah No-881 R/o Togh Bala Kohat

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

ADDRESS OF THE PARTIES

APPELLANT :-

Ex-LHC Hidayat Ullah No-881 R/o Togh Bala Kohat


RESPONDENTS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.


Appellant

Through

Date 3/2/2020


Syed Mudasir Pirzada
Advocate HC
0345-9645854



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

Annexure A
P-8

ORDER

This order will dispose of departmental proceedings initiated against LHC Hidayat Ullah No. 881 (**hereinafter called accused official**) of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).


Facts of the proceedings are that it was noticed through reliable source that the accused official had links with a notorious criminal gang known as Tapoo gang Nusrat Khel. The information was confront through different source and CDR of the accused official, which was pursued and proved. Therefore the accused official was served with Show Cause Notice under the rules Ibid. Reply submitted by the accused official received and found unsatisfactory.

The links / involvement of the accused official was also confront through secret probe, which transpires that the accused official contacted the gang and asked to pressurize the Police through different source from restricting to Police legal action against them (Gang) further proved that the accused official being member of a disciplined department supported the criminal gang in narcotics dealing for his personal gang and committed gross professional misconduct. Therefore, the accused official is stigma on Police department.

Record gone through, which transpires that the accused official is ill-reputed, awarded different kind of punishments, but he does not minds his way and indulged himself in illegal activities. Further, the charge/allegation leveled against him has been established beyond any shadow of doubt.

Being ill-reputed and previous conduct of the accused official, I, Capt. @ Wahid Mehmood, District Police Officer, Kohat in exercise of powers conferred upon me under the rules ibid, dispense with general proceedings and a punishment of reversion from the rank of LHC to the substantive rank of Foot Constable is imposed on accused official Hidayat Ullah No. 881 with immediate effect. His seniority be fixed as junior most of Foot Constables of the district Police,

Announced
17.10.2019


DISTRICT POLICE OFFICER,
KOHAT
17/10

OB No. 1294
Dated 17-10-2019

No. 33067-71/PA dated Kohat the 17-10-2019.

Copy of above for necessary action to the:-

1. Reader/Pay officer/SRC/OHC for necessary action.
2. R./L.O.
3. Accused official



Annexure B
P-9

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

SHOW CAUSE NOTICE

(Under Rule 5(3) KPK Police Rules, 1975)

1. That You LHC Hidayat Ullah No. 881 Police Lines Kohat have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa, Police Rules 1975 (Amendment 2014) for following misconduct;
 - i. *You have involved yourself to prove as Tapoo Gangs informer and more so you told them how to conspire against Police/pressurize Police to get their narcotics business run like old times, which shows your inefficiency and professional gross misconduct on your part.*
2. That by reason of above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer:
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officers.
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding ~~the kind of punishment as~~ provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014) for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

Attest
Signature

No. SCCCO/PA

DISTRICT POLICE OFFICER,

~~KOHAT~~

Dated 09-10-2019

خدا عالی

جوالہ شوکار ٹولس جاریہ حساب DPo صاحب کو ط

نمبری 30800/PA حور خر 9 10/19 کی بابت ضروری خدمت میں

(1) یہ کہ جو الزامات مخالف شوکار ٹولس جاریہ میں بدحالی سے
من سائل LHe لگائے گئے ہیں۔ بالکل بے بنیاد ہیں اور کسی قسم
کی کوئی حقیقت نہ ہے۔

(2) یہ کہ من سائل LHe نہ تو کسی قسم کے گنیک کیا گئے تھے
اور نہ ہی درج شدہ گنیک کو جاتا ہوں۔

(3) یہ کہ من سائل LHe ہمیشہ ایسی ڈیوٹی ادا انداز میں اور آفرین پالہ LHe

کی بدانت کے خلاف سر انجام دی ہے اور من سائل LHe کا
Good Service Record ہے۔ اور کسی قسم کے غیر قانونی

برائے میں ملوث اشخاص کیا گئی کوئی تعلق یا واسطہ نہ ہے
لہذا یہ درج شدہ الزامات مخالف شوکار ٹولس ضروری
ط کوئی ثبوت ریکارڈ پر نہ ہے۔ جو الزامات کو ثابت کرے
لہذا استدعا ہے کہ من سائل LHe کو جاری شدہ شوکار ٹولس کو
قابل کرنے کے احکامات لہا و قہا ر و شکور فرمائیں

سائل بدانت اللہ 881 LHe متفقہ طور سے اس کو

Attest

10
7/19



No. 33072-73/PA

Annexure C
P-11
Office of the
District Police Officer,
Kohat

Dated 17-10/2019

CHARGE SHEET

1. **CAPT @ WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT**, as competent authority under Khyber Pakhtunkhwa Police Rules (amendment, 2014) 1975, am of the opinion that you **Constable Hidayat Ullah No. 881** rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

- i. *Your conduct is mysterious and ill-reputed. It was observed from secret source, that you have contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.*
- ii. *In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separate.*
- iii. *You while posted at Police station Shakardara misbehaved with applicant and insulted him inside Police station. In this regard a video was viral on social media which also defamed the image of Police department.*
- iv. *On perusal of your service record you are ill reputed, a stigma on Police department and earned bad name to the entire department.*

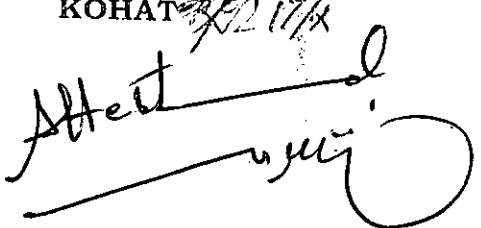
2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT

Attest




No. 33072-73/PA

Office of the
District Police Officer,
Kohat

Dated 17-10-2019

DISCIPLINARY ACTION

I, **CAPT @ WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT** as competent authority, am of the opinion that you **Constable Hidayat Ullah No. 881** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions:

STATEMENT OF ALLEGATIONS

- i. *Your conduct is mysterious and ill-reputed. It was observed from secret source that you have contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.*
- ii. *In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separate.*
- iii. *You while posted at Police station Shakardara misbehaved with applicant and insulted him inside Police station. In this regard a video was viral on social media which also defamed the image of Police department.*
- iv. *On perusal of your service record you are ill reputed, a stigma on Police department and earned bad name to the entire department.*

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **SDPO HQrs Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.


DISTRICT POLICE OFFICER,
KOHAT 33072/PA


No. 33072-73/PA, dated 17-10-2019.

Copy of above to:-

1. SDPO HQrs Kohat The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. The **Accused officer**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

Annexure D
P-13

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT

SUBJECT: APPEAL AGAINST THE IMPUGNED ORDER OF DPO KOHAT VIDE DATED 17-10-2019, OB NO:-1294 IN WHICH WITHOUT ENQUIRING THE ALLEGATIONS DIRECTLY IMPOSED THE PUNISHMENT OF REVERSION FROM THE RANK OF LHC TO SUBTANTIVE RANK OF FOOT CONSTABLE AND THE APPELLANT SENIORITY BE FIXED AS JUNIOR MOST FOOT CONSTABLE WITH IMMEDIATE EFFECT .

Respectfully Sheweth,

With great veneration the instant departmental representation is preferred by the appellatant on the following grounds:-

Facts:

Briefly facts as per impugned order are that it was noticed through reliable source that the accused official had links with a notorious criminal gang known as Tapoo gang Nusrat Khel ,on the basis of above allegation the appellatant was served with the show cause notice on dated 09-10-2019 and reply was submitted on the same day as per the order of DPO Kohat (Copy of Impugned order is annexed along with show cause notice & reply)

That as per the allegation mentioned in the show cause notice are that

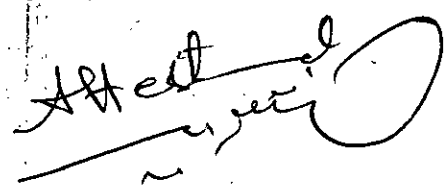
You have involved your self to prove as Tapoo Gang informer and more sou you told them how to conspire against police /pressurize police to get their narcotics business run like old times which shows your in efficiency and professional gross misconduct on your part.

That upon the reply to show cause notice the appellatant was served with the charge sheet Disciplinary Action as per impugned order and without providing the opportunity of submitting the reply the appellatant has been awarded punishment.

That the appellatant never ever involve with any gang nor the DPO Kohat has evidence to prove the allegation just on the personal biasness the appellatant was blessed with impugned punishment order .

That the appellatant is very dedicated keen and apprehensive towards his assign duty but this factor has not been appreciated while at time of awarding the impugned order.

That the appellatant feeling aggrieved from the impugned order and submit the representation on the following grounds:-



Grounds:-

1. That the allegations never practice by the appellant and there is nothing on record which connect the appellant with the allegation.
2. That the appellant always earned the good name for department and potray a excellent image towards the public.
3. That it is the settle principle of justice that no one should be condem un heard but in the case of appellant no enquiry has been conducted to enquire the allegation .
4. That the DPO Kohat due to personal biasness issued show cause notice on 09-10-2019 and the reply was ordered to submit with one hour and the appellant had obliged the order and submitted the same and the charge sheet was issued on 17-10-2019 in which already it has been mentioned that with seven days the reply should submitted but on same day impugned order was issued (Copy of Charge sheet is annexed)
5. That the DPO Kohat conducted all the adverse departmental proceedings against the appellant in hasty manner which is proved through the perusal of charge sheet and show cause notice and there is difference in the allegation mentioned in the show cause notice and charge sheet etc.
6. That again an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation. Just on the basis of source relying held guilty the appellant without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014).
7. That nothing has been proved beyond any shadow of doubt that the appellant has committed any mentioned allegation which tarnished the image of Police department.
8. That while awarding the impugned order none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are practiced by the appellant nor proved against any cogent reason against the appellant.
9. That the appellant is honest and dedicated one and leave no stone unturned to discharge his duties.

That as per universal declaration of human rights 1948 prohibits the arbitral / discretion.

Appet
[Signature]

15

10. That the DPO Kohat has acted whimsically and arbitrary, which is apparent from the impugned order.

11:-That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.

12:-That the impugned order is outcome of surmises and conjecture.

Pray:

In the view of above circumstances it is humbly prayed that the impugned order of DPO Kohat may please be set aside for the end of justice and the appellatant may please be graciously restored the rank as before the order of punishment with all back benefits.

Attest
[Signature]

Date: 14/11/2019

(Appellant)

[Signature]

Ex-LHC Hidayat Ullah

No-881

Annexure E

P-16

DISTRICT KOHAT POLICE



Abdul
Yaqub

Commendation Certificate III
is awarded to

LHC Hidayat Ullah No. 881

In recognition of

His performance during duty

Cash Award Rs. 300/-

O.B No. 1126

Dated

[Signature]
District Police Officer
Kohat

17

POLICE TRAINING COLLEGE HANGU



1935

Commendation Certificate II

is awarded to

Muznyatullah, 581 of Lower Course with Cash Rs. 300.

in recognition of

His good performance of duty

Attest
[Signature]

[Signature]

Dated: 27-08-2012
Order Book No. 714

Commandant
Police Training College Hangu

کراچی پولیس ڈویژن، ایف ڈی، 27286/13، سیکشن 103، سٹیٹ لائبریری، سٹیٹ لائبریری، سٹیٹ لائبریری

تاریخ نمبر 23-10-17

تاریخ نمبر 23-10-17

استدانی اطلاع رپورٹ

تاریخ

استدانی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ 103 نمبر سٹیٹ لائبریری

تاریخ نمبر 23-10-17

جرم کوہاٹ

598 41

تاریخ وقت رپورٹ 27/10 وقت 07:50 سے جائیداد کی تاریخ 04 وقت 17:00 بجے

ام سبکدوش اطلاع ذمہ دہ سٹیٹ SHO قسطنٹ خان

تقریب جرم (بعد دفعہ) حال اگر کوہاٹ یا ہو۔ PP 506 118 پولیس ایکٹ 2017

بائے ذمہ ناصلا قاعدے اور دست پولیس گارڈ چاروڑ چھانبرو

ام سبکدوش کسٹبل عبداللہ اللہ 881

کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کر کے میں توقف ہوا تو وجہ بیان کرنا

مذکورہ خانہ نمبر 5 کے خلاف رپورٹ میں مذکورہ قاعدوں کی تاریخ 04 درج روز التعمیر کے بعد کسٹبل آفیسر

ما 4 ماہیاں ملنے مذکورہ خانہ نمبر کے خلاف پریوینٹو وارنٹ لا جا چکا ہے جو کسٹبل نے بعد کسٹبل آفیسر نے

حوالہ 1281 سٹاف لیا جانے پر پریوینٹو وارنٹ لا گیا ہے۔ اس وقت ایک ٹیم پریوینٹو وارنٹ لا گیا ہے۔ اس وقت ایک ٹیم

پولیس گارڈ کی کوہاٹ قاعدوں کی پیش رو جو کسٹبل آفیسر سے تصدیق اور اس کی ہر قسم امداد کرنے کی بنا

پر کسٹبل آفیسر نے کوہاٹ قاعدوں کی پیش رو جو کسٹبل آفیسر سے تصدیق اور اس کی ہر قسم امداد کرنے کی بنا

پولیس گارڈ کی کوہاٹ قاعدوں کی پیش رو جو کسٹبل آفیسر سے تصدیق اور اس کی ہر قسم امداد کرنے کی بنا

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کارروائی جو خلاف سیکشن 103 (1003) پر عمل	تاریخ نمبر 23-10-17
تاریخ نمبر 23-10-17	تاریخ نمبر 23-10-17

Handwritten signature and notes at the bottom of the page.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1405/2020
Hidayat Ullah Constable No. 98

.....Appellant


VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa, & others

..... Respondents

INDEX

S #	Description of documents	Annexure	pages
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3.	Copy of show cause notice with better copy	A	05
4.	Copy of reply to show cause notice by appellant	B	06
5.	Details of punishment awarded to the appellant	C	07
6.	Copy of reduction order vide OB No. 1294 dated 17.10.2019	D	08


Deponent

P. 1

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1405/2020
Hidayat Ullah Constable No. 98

.....Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa, & others

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- i. That the appellant has got no cause of action.
- ii. That the appellant has got no locus standi.
- iii. That the appeal is not maintainable in the present form.
- iv. That the appellant is estopped to file the instant appeal for his own act and previous in different service record with different kind of punishment.
- v. That the appellant has not come with clean hands to this Honorable Tribunal.
- vi. That the appeal is barred by law and limitation.
- vii. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

Reply on Facts:-

1. In reply, it is stated that the appellant indulged himself in illegal activities, i.e he had links with narcotics criminal gangs known as "Tappo Group" of Nusrat Khel. The charge was established through reliable sources by respondent No. 3. Therefore, he was served with show cause notice by respondent No. 3 under the relevant provision of Khyber Pakhtunkhwa Police Rules 1975 (amended-2014). Reply to the show cause notice received unsatisfactory. The respondent No. 3 having satisfied from the charges leveled against the appellant and previous conduct / service record, the proceedings culminated in to his reversion from the rank of LHC to the rank of constable vide respondent No. 3 vide order OB No. 1294 dated 17.10.2019.
2. Para 2 is incorrect, the show cause notice was issued and served upon the appellant to which he filed reply to the respondent No. 3 accordingly. Therefore, it is incorrect that the appellant was enforced to file reply to the respondent No. 3 immediately within one hour.

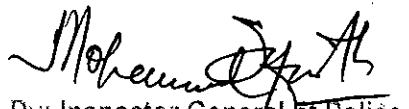
3. The appellant was served with show cause notice (**Annexure-A**) by respondent No. 3 under the provision of relevant rules as submitted above.
4. As replied above, reply to show cause notice (**Annexure-B**) submitted by appellant to the respondent No. 3 was found unsatisfactory and he failed to submit any plausible explanation to his misconduct.
5. Incorrect, the service record of the appellant is in different, he was previously awarded different kind of punishment for his misconduct, on various occasions, but the appellant did not mend his way. Details of punishment awarded to the appellant by respondent No. 3 is **annexure C**.
6. The charge leveled against the appellant was proved beyond any shadow of doubt and the appellant has previous ill-reputed record. Hence, the respondent No. 3 passed the order of reduction in rank in accordance with law / rules. (**Annexure-D**).
7. Incorrect, as established / proved, that the appellant involved in illegal activities remained in league with notorious criminals. Therefore, he was proceeded with departmentally under the relevant rules for his own act and no malafide on the part of respondent No. 3 is involved.
8. Incorrect, the appellant is ill-reputed, indifferent service record and awarded different kind of punishments previously.
9. Incorrect, the para of memorandum of appeal is repeated and reply is submitted in the above para.
10. The appellant is estopped to file the instant appeal for his own act. Moreover, the appellant has no locus standi and cause of action to file the subject appeal.

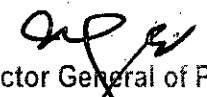
Reply on Grounds:-

1. Incorrect, there was sufficient material / information regarding involvement of appellant in extra departmental activities, which are prejudicial to a discipline department.
2. Incorrect, the appellant had earned a number of bad entries in his credit and awarded different kind of punishment, but he did not improve himself, further the appellant was awarded a punishment of reduction from the rank of LHC to substantive rank of constable. Copy is already annexed.
3. Incorrect, the appellant was heard in person by respondents No. 2 & 3, but he failed to advance any plausible explanation.
4. Incorrect, the punishment was awarded to the appellant in accordance with law / rules. Detail reply already given in Facts.
5. There was credible information regarding involvement of appellant in illegal activities and found ill-reputed from record, which was sufficient evidence to dispose of the proceedings initiated against the appellant.

6. Incorrect, the matter related to department and credible information, therefore, question of examination of public in the said matter is irrelevant.
7. Incorrect, the appellant is ill-reputed as replied above.
8. Incorrect, the appellant was proceeded with departmentally in accordance with law, fact & rules.
9. Incorrect, reply is submitted in the above para.
10. Incorrect, the orders passed by the respondent No. 2 & 3 are in accordance with law & rules and based on facts / sources verified by the respondent No. 3.
11. Incorrect, reply is submitted in the above paras.

In view of the above, it is submitted that the appeal is devoid of merits and prayed that the appeal may graciously be dismissed with cost.


Dy: Inspector General of Police,
Kohat Region, Kohat ✓
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)

P. 4

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1405/2020
Hidayat Ullah Constable No. 98

.....Appellant

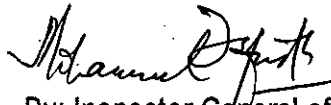
VERSUS

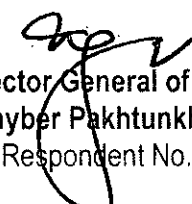
Inspector General of Police,
Khyber Pakhtunkhwa, & others

..... Respondents

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.


Dy: Inspector General of Police,
Kohat Region, Kohat ✓
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

SHOW CAUSE NOTICE

(Under Rule 5(3), KPIC Police Rules, 1975)

A
Annexure
P-6
(6)

1. That you LHC Hidayat Ullah No. 881 Police Lines Kohat have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014) for following misconduct:

i. You have involved yourself to prove as Tappoo Gangs informer and more so you told them how to conspire against Police, pressure Police to get their narcotics business run like old times, which shows your inefficiency and professional gross misconduct on your part.

2. That by reason of above as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer.

3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.

4. That your retention in the Police force will amount to encourage inefficient and unbecoming of good Police officers.

5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding the said punishment as provided in the rules.

6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014) for the misconduct referred to above.

7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.

8. You are further directed to inform the undersigned that you wish to be heard in person or not.

9. Grounds of action are also enclosed with this notice.

No. 50000/PA

Dated 09-10-2019

DISTRICT POLICE OFFICER,
KOHAT

of
Da
✓
R.A.

SCN No. 603/2019

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

SHOW CAUSE NOTICE

(Under Rule 5(3) KPK Police Rules, 1975)

1. That You **LHC. Hidayat Ullah No. 881 Police Lines Kohat** have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa, Police Rules 1975 (Amendment 2014) for following misconduct;
 - i. ***You have involved yourself to prove as Tapoo Gangs informer and more so you told them how to conspire against Police/pressurize Police to get their narcotics business run like old times, which shows your inefficiency and professional gross misconduct on your part.***
2. That by reason of above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer:
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officers.
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014) for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

-Sd-

No. 3000 /PA

**DISTRICT POLICE OFFICER,
KOHAT**

Dated 09/10/2019

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

GROUND OF ACTION

That You **LHC Hidayat Ullah No. 881 Police Lines Kohat** committed following misconducts:-

- i. ***You have involved yourself to prove as Tapoo Gangs informer and more so you told them how to conspire against Police/pressurize Police to get their narcotics business run like old times, which shows your inefficiency and professional gross misconduct on your part.***

By reasons of above you have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014), hence these ground of action:

-Sd-

**DISTRICT POLICE OFFICER,
KOHAT**

خدا عالی

حوالہ شوکار نوٹس جاریہ جناب DPO صاحب کو خط

تاریخ 30800/PA حوض 9¹⁰/₁₉ کی بابت معروض خدمت میں

(1) یہ کہ جو الزامات عطف شوکار نوٹس جاریہ میں بدحلف
من سائل LHC لکھائے گئے ہیں۔ بالکل بے بنیاد ہیں اور کسی قسم
کی کوئی حقیقت نہ ہے

(2) یہ کہ من سائل LHC نہ تو کسی قسم کے گنہگار کسی تعلق ہے
اور نہ ہی درج شدہ گنہگار کو جاننا ہوں

(3) یہ کہ من سائل ہمیشہ ایسی دلجوئی اظہار فرمائی اور آفسران ہائر LHC
کی بدانت کے مطالبہ سر انجام دی ہے اور من سائل LHC کا

برائف میں فلوٹ اشخاص کسی کوئی تعلق یا واسطہ نہ ہے
Good Service Record ہے۔ اور کسی قسم کے غیر قانونی

الودینہ یہی صرح شدہ الزامات عطف شوکار نوٹس مذکورہ
خط کوئی ثبوت ریکارڈ پر نہ ہے جو الزامات کو ثابت کرے
لہذا استدعا ہے کہ من سائل LHC کو جاری شدہ شوکار نوٹس کو
فائل کرنے کے احکامات اظہار فرمائیں و شکور فرمائیں

من سائل بدانت اللہ 881
LHC متفقہ لوگ کی کوہٹ

10
19

DETAILS / PREVIOUS RECORD OF APPELLANT
CONSTABLE HIDAYAT ULLAH

P. 7.

S #	Charges	Punishment awarded
1.	Willful absence from duty on 06.07.2020	Fined Rs. 100/-
2.	Willful absence from duty on 11.08.2002	Fined Rs. 30/-
3.	Willful absence from duty on 19.09.2002	Fined Rs. 100/-
4.	Willful absence from duty on 18.02.2003	Censure
5.	Willful absence from duty on 11.11.2004	Censure
6.	Willful absence from duty on 05.11.2004	Leave without pay
7.	Willful absence from duty on 21.11.2004	Leave without pay
8.	Willful absence from duty on 12.11.2004	Censure
9.	Willful absence from duty on 28.12.2004	Censure
10.	Willful absence from duty on 17.10.2004 & 31.10.2004 to 02.11.2004	Fined Rs. 100/-
11.	Willful absence from duty on 13.01.2006	01 day quarter guard
12.	Willful absence from duty on 20.02.2006	02 days quarter guard
13.	Willful absence from duty on 01.06.2006	Fined Rs. 100/-
14.	Willful absence from duty on 01.05.2006 to 03.05.2006	02 days quarter guard
15.	Willful absence from duty on 08.07.2006 to 09.07.2006	02 days quarter guard
16.	Charged in FIR No. 357 dated 07.05.2009 u/s 324, 186, 109 PPC PS Jungle Khel	Censure
17.	Involved in illegal activities	Reduction in higher stage to lower stage in the same time scale in pay for the period of 03 years order dated 26.02.2019.
18.	Ill-reputation and links with criminals / notorious	Dismissed from service vide order dated 04.11.2019, however, reinstated in de-novo inquiry.

advised as per record
[Signature]
 D.H.



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

Annexure

P-8

ORDER

This order will dispose of departmental proceedings initiated against LHC Hidayat Ullah No. 881 (hereinafter called **accused official**) of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Facts of the proceedings are that it was noticed through reliable source that the accused official had links with a notorious criminal gang known as Tapoo gang Nusrat Khel. The information was confront through different source and CDR of the accused official, which was pursued and proved. Therefore the accused official was served with Show Cause Notice under the rules Ibid. Reply submitted by the accused official received and found unsatisfactory.

The links / involvement of the accused official was also confront through secret probe, which transpires that the accused official contacted the gang and asked to pressurize the Police through different source from restricting to Police legal action against them (Gang) further proved that the accused official being member of a disciplined department supported the criminal gang in narcotics dealing for his personal gang and committed gross professional misconduct. Therefore, the accused official is stigma on Police department.

Record gone through, which transpires that the accused official is ill-reputed, awarded different kind of punishments, but he does not minds his way and indulged himself in illegal activities. Further, the charge/allegation leveled against him has been established beyond any shadow of doubt.

Being ill-reputed and previous conduct of the accused official, I, Capt. @ Wahid Mehmood, District Police Officer, Kohat in exercise of powers conferred upon me under the rules ibid, dispense with general proceedings and a punishment of reversion from the rank of LHC to the substantive rank of Foot Constable is imposed on accused official Hidayat Ullah No. 881 with immediate effect. His seniority be fixed as junior most of Foot Constables of the district Police.

Announced

17.10.2019


DISTRICT POLICE OFFICER,
KOHAT

OB No. 1294
Dated 17-10-2019

No. 33067-71 / PA dated Kohat the 17-10-2019.

Copy of above for necessary action to the:-

1. Reader/Pay officer/SRC/OHC for necessary action.
2. R.I/L.O.
3. Accused official



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1405/2020

Hidayat Ullah Constible No.98Appellant.

Versus

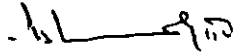
The Inspector General of Police and othersRespondents.

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Rejoinder			1-7
2.	Copies of inquiries reports finalized by Superintendent of Police Operation, Kohat and Sub: Divisional Police Officer Saddar Circle, Kohat namely Mr. Sanober Khan, wherein appellant was completely exonerated from the false and abusive charges of being in league with criminals.		RJ/1	8-42
3.	Copies of commendations certificates awarded to the appellant in recognition of his best performance during duty		RJ/2	43-48
4.	Copy of Service Appeal No. Along with documents		RJ/3	49-56
5.				

Appellant

Through


Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

Dated 16 / 08 / 2021

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1405/2020

Hidayat Ullah Constible No.98Appellant.

Versus

The Inspector General of Police and othersRespondents.

**REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO REPLY FILED BY RESPONDENTS.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering Respondents are erroneous and frivolous in nature as having no factual and legal backing. The respondents have failed to show/explain as to how and why the appellant has no cause of action and locus standi? How the appellant is esstoped by his own conduct? What material facts, appellant has concealed from the notice of this Hon'ble Tribunal? Why the appeal is not maintainable in its present form? What were appellant's previous indifferent service record? Why the appeal is bad for mis-joinder and non joinder of necessary parties? How the appellant is not an aggrieved person within the meaning of section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with Rule 19 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011 along with Police Disciplinary Rules, 1975. The respondent have also failed to explain as to how the instant service appeal is based on misconception of law and facts or bad in law and not maintainable? How the appeal is time barred? The respondents have failed to raise any solid objection regarding the controversial question involved in the appeal.

Appellant is a civil servant within the meaning of section 2 (b) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and the matter pertains to term and condition therefore, appellant has Constitutional and Statutory ^{right} to invoke the jurisdiction of this Hon'ble Tribunal for the enforcement of his vested right to be dealt with in accordance with law.

Facts:-

1. That reply to Para No.1 of the appeal is incorrect, hence denied. In response to the contents submitted by the respondents vide Para No.1 of their reply, it is humbly submitted that two consecutive inquiries have been held by the respondents through (1) Superintendent of Police Operation, Kohat and (2) Sub-Divisional Police Officer Saddar Circle, Kohat namely Mr. Sanober Khan. In both these inquiries; appellant has been completely exonerated from all sort of such like abusive charges. The reports of both inquiries are worth perusal and are attached herewith along with statement of witnesses as **Annexure- RJ/1.**

So far the previous record of appellant is concerned; in this respect, it is humbly submitted that respondents have awarded numerous commendations certificate in recognition of his best performance during duty. Commendations certificates are attached as **Annexure-RJ/2.**

2. That reply to Para No.2 of the appeal is correct to the extent of show cause notice and whereas the rest is denied. Burden of proof lie on the part of respondents.
3. That reply to Para No.3 of the appeal is incorrect, hence denied. The answering respondents have not properly replied to the averments made by the appellant vide para No.3 of the appeal. It is humbly submitted that the impugned order was passed on 17-10-2019 i.e the day on which appellant had filed his reply to the

show cause notice dated the same i.e 17-10-2019; thus the answering respondents not only violated the provisions of Rule 14 (1), (3) and sub-rule (3) (c) of the E & D Rules, 2011 but also deprived the appellant from the right of personal hearing.

“That the well-known principle of law “ Audi altram Partem” has been violated. This principle of law was always deemed to have embedded in every statute even though there was no express specific or express provision in this regard.

...An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006 PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the impugned order is liable to be set aside.”

It also worth mentioning that appellant was again subjected to another disciplinary action on the same day i.e the day of impugned order dated 17-10-2019 with same charges/allegations which resulted into exoneration of the appellant, however the penal authority imposed minor penalty and the intervening period was treated as leave without pay, which is impugned before this Honorable Court in Service Appeal No. pending adjudication. Relevant record is attached as Annexure-RJ/3.

4. That reply to Para No.4 of the appeal is incorrect, hence denied. The law in the country is still unchanged and is governed by law of Qanoon-e-Shahadat in Vogue and by virtue of the same,

Tribunal has to see, that it is for the prosecution to establish the guilt of the person and if it fails to do so, the result is that benefit goes to the accused of the said failure. It is significant that while referring to civil servant, who is being proceeded against under the Govt: Servant (Efficiency and Discipline) Rules or as the case may be under Police Rules 1975; the word "accused" has been used which indicates that the proceedings conducted by the inquiry officer are akin to a criminal trial [1996 SCMR 127]. A person is presumed to be guilty of misconduct if evidence against him establishes his guilt. The use of the word "guilty" is indicative of the fact that the standard of proof should be akin to one required in criminal cases [PLD 1983 SC (AJ & K) 95]. In the instant case prosecution has no evidence to establish the alleged allegations against the appellant rather have been exonerated by inquiries officers as evident from the reports of the inquiries mentioned *ibid*.

5. That reply to Para No.5 of the appeal is incorrect, hence denied. Proceedings against the appellant are based on malafide. Respondents have awarded commendations certificates in recognition of best performance beyond the call of his duty. Commendations certificates are already attached.

6. That reply to Para No.5 of the appeal is incorrect, hence denied. That accused is stated to be a favorite child of law and he is presumed to be innocent unless proved otherwise and the benefit of doubt always goes to the accused and not to the prosecution as it is for the prosecution to stand on its own legs by proving all allegations to the hilt against the accused. Mere conjectures and presumption, however strong, could not be made a ground for removal from service of civil servant [1999 PLC (CS) 1332 (FST)]..... Unless and until prosecution proves accused guilty beyond any shadow of doubt, he would be considered innocent [1983 PLC (CS) 152 (FST)]. In the instant case the answering

(5)

respondents have no evidence to connect the appellant with alleged charges. Appellant has been exonerated by inquiries officer as evident from the report of inquiries proceeding cited *ibid*.

7. That reply to Para No.7 of the appeal is incorrect, hence denied. Detail rejoinder has already been submitted in preceding paras.
8. That reply to Para No.8 of the appeal is incorrect, hence denied. Detail rejoinder has already been submitted.
9. That reply to Para No.9 of the appeal is incorrect, hence denied. Detail rejoinder has already been submitted.
10. That reply to Para No.10 of the appeal is incorrect, hence denied. Detail rejoinder has already been submitted.

Grounds:

A: The reply to grounds of the appeal is incorrect, hence denied.

Section 16 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 provides that a civil servant is liable for prescribed disciplinary action and penalties in accordance with prescribed procedure and not otherwise.

Rule 14 of KP Government Servant (E & D) Rules, 2011 provide that on receipt of inquiry report the competent authority shall examine the report and the relevant case material and determine;

- i. Whether the inquiry has been conducted in accordance with prescribed procedure/provisions of E & D Rules?
- ii. Whether charges have been proved?

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the instant case the penal authorities have not scrutinize the evidence on record, wherein all witnesses has categorically denied the involvement of appellant.

Respondent No.3 has further violated the provision of rule 14 of E & D Rules and deprived the appellant deprived from the opportunity of confronting with those pieces of evidence which were apparently going against him/appellant.

Appellant was also deprived from opportunity of personal hearing as per provision of Rule 14(5) and Rule 15 of the E&D Rules, 2011.

Burden of proof on the prosecution to prove the charge.

The law in the country is still unchanged and is governed by law of Qanoon-e-Shahadat in Vogue and by virtue of the same, we have to see, that it is for the prosecution to establish the guilt of the person and if it fails to do so, the result is that benefit goes to the accused of the said failure.

If the allegation against the accused civil servant/employee is of serious nature and if he denies the same, a regular inquiry cannot be dispensed with. In such a case, the initial burden on the department to prove the charge, which cannot be done without producing evidence [1983 PLC (CS) 211 + 1997 PLC (CS) 817 (S.C) + 1997 SCMR 1543].

Standard of proof.....To be akin to one required in criminal cases.

It is significant that while referring to civil servant, who is being proceeded against under the Govt: Servant (Efficiency and Discipline) Rules the word "accused" has been used which indicates that the proceedings conducted by the inquiry officer are akin to a criminal trial [1996 SCMR 127]. A person is presumed to be guilty of misconduct if evidence against him establishes his guilt. The use of the word "guilty" is indicative of the fact that the standard of proof should be akin to one required in criminal cases [PLD 1983 SC (AJ & K) 95].

Prosecution to stand on its legs to prove the allegations.

Accused is stated to be a favorite child of law and he is presumed to be innocent unless proved otherwise and the benefit of doubt always

goes to the accused and not to the prosecution as it is for the prosecution to stand on its own legs by proving all allegations to the hilt against the accused. Mere conjectures and presumption, however strong, could not be made a ground for removal from service of civil servant [1999 PLC (CS) 1332 (FST)]..... Unless and until prosecution proves accused guilty beyond any shadow of doubt, he would be considered innocent [1983 PLC (CS) 152 (FST)].

Re-instated employee would be entitled to back benefits as a matter of course unless employer is able to establish by cogent evidence that concerned employee had been gainfully employed elsewhere. In this respect, initial burden would lie upon the employer and not upon the employee to prove that such employee was gainfully employed during period of termination from his service. 2010 TD (Labour) 41.


Civil servant who was dismissed from service through arbitrary and whimsical action of the government functionaries and re instated through judicial order of Service Tribunal would have every right to recover arrears of salaries by way of back benefits due to them during the period of their dismissal and re instatement. It would be very unjust and harsh to deprive them of back benefits for the period for which they remained out of job without any fault on their part and were not gainfully employed during that period.....Supreme Court allowing their appeal and directing payment of back benefits to the appellant. 2006 T D (SERVICE) 551 (a).

Replies to grounds of appeal are mere repetition of facts/grounds which have already been responded. Appellant rely on grounds mentioned memo of appeal and would like to seek the permission of this Honorabe Tribunal to advance/share grounds in rebuttal.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted by re-instating the appellant on his original service with all back benefits.

Through

Appellant


Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

Dated: 16 / 08/2021

Anx- R1/1 (8)



9160
3-D-15
No. 24248

OFFICE OF THE
DISTRICT POLICE OFFICER
KOHAT
Tel: 0922-9260116 Fax 9260125
dated Kohat the 29/11/2019

To: The Regional Police Officer, Kohat
Subject: APPEAL (EX-CONSTABLE HIDAYAT ULLAH NO. 881)
Memo: -

Kindly refer to your office Ends: No. 139/EC dated 29.11.2019.

It is submitted that the departmental appeal of the appellant against punishment order vide OB No. 1392 dated 04.11.2019 may be considered on the ground of forgiveness and apology of the appellant please.

EC
2/12

DISTRICT POLICE OFFICER,
KOHAT

R/Sri,
OR? If approved, may call him

Submitted for order please

~~MA/ES/MR/O~~

3/12/2019

OR

Officer
Kohat



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/3334/20, dated Peshawar the 11/8/2020.

6108
18/8/20
1118/2020

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Hidayat Ullah No. 881. The petitioner was dismissed from service by District Police Officer, Kohat vide OB No. 1392, dated 04.11.2019 on the following allegations:-

- (i) His conduct was mysterious and ill-reputed which was verified from secret source that he had contacts with criminals/notorious narcotics sellers/peddlers, and support/facilitate them in social crimes.
- (ii) Audio recording with contacts and facilitating criminals had been obtained and saved separately.
- (iii) During his posting at PS Shakardara, he misbehaved with an applicant and insulted him inside Police Station which was also viral on social media. The same has defamed the image of Police.
- (iv) On perusal of his service record he has ill reputation, and is a stigma on Police Department wherein he earning a fig for, inspite of may violations of good order and discipline, earned worst name to the entire Police Department.

EC
18/8

His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 2662/EC, dated 18.02.2020.

Meeting of Appellate Board was held on 21.07.2020 wherein petitioner was heard in person. During hearing petitioner denied the allegations leveled against him.

The Board decided that de-novo enquiry proceeding be conducted and the petitioner is hereby re-instated in service for the purpose of de-novo enquiry. The authority shall conduct proper regular enquiry and decide the matter afresh on the basis of de-novo proceedings.

This order is issued with the approval by the Competent Authority. *no 9108*

DPo/Kohat
Form/a alongwith service documents for
conduct de-novo enquiry
removal of allegations
Dr. Ishtiaq Ahmed, PSP/PPM
Additional Inspector General of Police,
Qrs. Khyber Pakhtunkhwa, Peshawar.
24/8/20

399

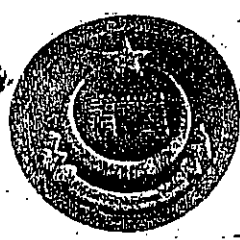
- Copy of the above is forwarded to
1. Regional Police Officer, Kohat. One Service Roll, one Fauji Missal/Enquiry file and Memory Card of the above named FC received vide your office Memo: No. 4300/EC, dated 01.04.2020 is returned herewith for your office record.
 2. District Police Officer, Kohat.
 3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
 4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
 5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
 6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
 7. Office Supdt: E-IV CPO Peshawar.

5487
24/8/20

PA
Kohat 27/08/2020
District Police Officer
Kohat

(KASHIF ZULFIQAR) PSP
AIG/Establishment;
For Inspector General of Police

10



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No _____ /PA dated Kohat the ____ / ____ /2020


ORDER

In pursuance of Addl: Inspector General of Police HQrs, Khyber Pakhtunkhwa order No. S/ 3334 /20 dated 11.08.2020. Ex-Constable Hidayat Ullah No. 881 is hereby re-instated in service only for the purpose of denovo enquiry.


DISTRICT POLICE OFFICER,
KOHAT

OB No. 590
Dated 25-08-2020
No 4225-28 /PA dated 25-8-2020

- Copy of above is submitted to the:-
1. Addl: Inspector General of Police, HQrs Peshawar w/r to his office order No. quoted above, please.
 2. Regional Police Officer, Kohat w/r to his office Endst: No. 9108/EC dated 24.08.2020, please.
 3. Line Officer/ Reader/ SRC/OHC /Pay Officer for necessary action.


DISTRICT POLICE OFFICER,
KOHAT



No. 4239-40 PA

Office of the
District Police Officer,
Kohat

Dated 25-8 /2020

DISCIPLINARY ACTION

1. I, **JAVED IQBAL, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Ex-Constable Hidayat Ullah No. 881 (now reinstated for the purpose of denovo enquiry)** have rendered yourself liable to be proceeded against, departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

- i. That you after your re-instatement in service vide W/Addl: IGP HQrs Peshawar Order No. S/ 3334/20 dated 11.08.2020. Your conduct is mysterious and ill-reputed. It was observed from secret source that you have contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.
- ii. In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separate.
- iii. You while posted at Police station Shakardara mishchaved with applicant and insulted him inside Police station. In this regard a video was viral on social media which also defamed the image of Police department.
- iv. On perusal of your service record you are ill reputed, a stigma on Police department and earned bad name to the entire department.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **SDPO Saddar, Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.


DISTRICT POLICE OFFICER,
KOHAT

No. 4239-40 /PA, dated 25-8- /2020.

- Copy of above is forwarded to:-
1. **SDPO Saddar, Kohat:-** For denovo departmental proceeding against the accused under the rules ibid.
 2. **Accused Constable:-** The accused is directed to appear before the Enquiry officer, on the date, time and place fixed by the enquiry officer, for the purpose of enquiry proceedings.
-



OFFICE OF THE
DY: SUPERINTENDENT OF POLICE,
SADDAR CIRCLE KOHAT

Email: dspsaddarkt@gmail.com Phone: 0922-9260120

12

No. 760/PA

Dated: 30/09/2020

To, The District Police Officer,
Kohat.

Subject: **DENOVO ENQUIRY**

Memo: Enclosed please find a finding report in
enquiry against **Constable Hidayat Ullah No. 881** is sent herewith for your worth perusal
and further orders.

M. U. S.
SANOBAR SHAH
Sub: **Divisional Police Officer**
Saddar Circle, Kohat
(Enquiry Officer)

Encl:

(24)

13

**DEPARTMENTAL ENQUIRY AGAINST EX-CONSTABLE
HIDAYAT ULLAH NO. 881/98**

<u>DATE OF ENLISTMENT</u>			
<u>DETAIL OF GOOD & BAD ENTRIES</u>	<u>Good Entries</u>		
	<u>Bad Entries</u>	<u>Minor</u>	<u>Major</u>
<u>ALLEGATIONS (PUC Flag A)</u>	<p>i. That you after your re-instatement in service vide W/Addl: IGP HQrs Peshawar Order No. S/3334/20 dated 11.08.2020. Your conduct is mysterious and ill-reputed. It was observed from secret source that you have contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.</p> <p>ii. In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separate.</p> <p>iii. You while posted at Police station Shakardara misbehaved with applicant and insulted him inside Police station. In this regard a video was viral on social media which also defamed the image of Police department.</p> <p>iv. On perusal of your service record you are ill reputed, a stigma on Police department and earned bad name to the entire department.</p>		
<u>CHARGE SHEET/ STATEMENT OF ALLEGATIONS (Flag B) AND WRITTEN REPLY (Flag C)</u>	Issued and served upon the defaulter official and SDPO Saddar, Kohat was appointed as Enquiry Officer.		
<u>FINDING / RECOMMENDATION OF ENQUIRY OFFICER (Flag D)</u>	The Enquiry Officer conducted departmental enquiry and submit his finding report and exonerated from the charges leveled against him.		
<u>FINAL SHOW CAUSE NOTICE</u>	Nil		

Submitted for favor of perusal and order please.

W/DPO, KOHAT

[Handwritten signature]
[Handwritten signature]
 PA
[Handwritten signature]



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

No. 5164 /PA Dated 21-10-2020

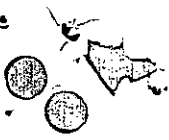
14

ORDER

The accused official namely constable Hidayat Ullah No. 98 heard personally in orderly room held on 20.10.2020 and record gone through. The undersigned is not satisfied with the enquiry proceedings / report hence, the enquiry report are set aside and ordered for re-enquiry. SP Operations Kohat is appointed as enquiry officer and directed to conclude the re enquiry proceedings within stipulated period.

(Encl:-(25))


DISTRICT POLICE OFFICER,
KOHAT 22/10/20



OFFICE OF THE
SUPERINTENDENT OF POLICE
INVESTIGATION, HANGU

Office Tele: 0925-623887
Office Fax: 0925-622887
Email: spinvestigationhangu@yahoo.com

15

To : The Regional Police Officer,
Kohat Region Kohat.

No. /Inv: dated Hangu the 06 / 02 / 2020.

Subject: DEPARTMENTAL ENQUIRY AGAINST EX-CONSTABLE
HIDAYAT ULLAH NO. 881.

Memorandum:

Kindly refer to your office Endst: No. 26/EC dated 01.01.2020, Endst: No. 697/EC dated 15.01.2020 and Endst: No. 2013-14/EC dated 03.02.2020 on the case noted above in the subject.

Departmental Enquiry conducted against Ex- Constable Hidayat Ullah No. 881, finding report along with enquiry documents containing 23 pages is submitted herewith for further necessary action please.

Encl: Service Roll	=	01
Fujji Missal	=	01
Enquiry File (New/old)	=	01
Memory Card	=	01

Superintendent of Police,
Investigation, Hangu.

No. 467 /Inv: dated Hangu the / /2020.

Copy of the above is submitted to the District Police Officer, Kohat for favour of information w/r to his office Letter No. 40/OHC dated 29.01.2020 please.

OHC
FM 77/2020

District Police Officer,
Kohat 7/2/20

1043
7/2/20

Superintendent of Police,
Investigation, Hangu.

سپ ڈیو ڈی پ او

16

DENOVO ENQUIRY AGAINST EX-CONSTABLE HIDAYAT
ULLAH NO.881 OF DISTRICT POLICE, KOHAT

01. Undersigned was appointed as enquiry officer vide order of enquiry bearing worthy DPO office Kohat letter No.4239-40/PA dated 25.08.2020 in order to ascertain the alleged charges of misconduct leveled against Ex-Constable Hidayat Ullah No.881. Vide above mentioned letter, defaulter Police Constable was issued charge sheet along with summary of allegations with the following allegations.

- i. That you after your re-instatement in service vide W/Addl: IGP HQrs Peshawar Order No. S/ 3334/20 dated 11.08.2020. Your conduct is mysterious and ill-reputed. It was observed from secret source that you have contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.
- ii. In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separate.
- iii. You while posted at Police Station Shakardara misbehaved with applicant and insulted him inside Police Station. In this regard a video was viral on social media which also defamed the image of Police department.
- iv. On perusal of your service record you are ill reputed, a stigma on Police department and earned bad name to the entire department.

02. By the allegations above, Charge Sheet was duly served upon defaulter Police Constable with direction to submit his written defence within given period. As per instructions, defaulter Police Constable currently posted at Police Lines, Kohat produced his written statement stating therein that he has not links/relations with any criminal gang/group and as a proof his previous record is also found clear (Statement attached).

03. defaulter Police Constable was summoned, duly interviewed who negated the overall allegations levelled against him and stated that he is an innocent and always obeyed the good orders of disciplined force. During hearing, defaulter Police Constable presented appeal order issued from the office of worthy DPO, Kohat however, from the perusal of the same, appellant/ defaulter Police Constable has been forgiven by the competent authority (appeal order attached).

04. For scrutinizing the facts, written statements were recorded from DFC, DBS and Beat officer stating in their statements that the allegations levelled against defaulter Police Constable could not stand prove and further strict supervision is underway, in this regard (Statements attached).

05. Upon perusal of statements recorded from area elders, reflected that defaulter Police Constable has no links with criminal group but he is a peace loving person in the area (Statements attached).


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06. As far as the allegations vide serial No.iii are concerned, applicant Mubashir Qureshi s/o Niyaz Gul r/o incharge NADRA office Shakardara recorded in his written statement that he has patched up the matter with Muhammad Riyasat r/o Mianwali and now, applicant does not want to take further any action against defaulter Police Constable who is not involved in the case (Statements attached).

07. In the light of the above enquiry conducted, undersigned is of the opinion that Constable Hidayat Ullah No.881 is recommended to be exonerated from the charges framed against him.

All related documents are enclosed with the enquiry file.

Submitted please


Sub: Divisional Police Officer
Saddar Circle, Kohat
(Enquiry Officer)

منویر خان

بحوالہ چارج شیٹ

بحوالہ چارج شیٹ مجاریہ منجانب ڈسٹرکٹ پولیس آفیسر مورخہ 25-08-2020 نمبر PA/40/42391/موصولہ

1-09-2020 کی بابت معروض ہوں

جناب عالی!

(۱) یہ کہ بحوالہ چارج شیٹ من مسائل پر عائد کئے گئے الزامات غلط بے بنیاد اور محتاج ثبوت ہیں جس میں کوئی حقیقت نہ ہے۔
(۲) یہ کہ من مسائل کا کسی گینگ کیساتھ تعلق نہ ہے اور نہ ہی کسی درج شدہ گینگ کے ساتھ کوئی تعلق یا واسطہ ہے۔ اور نہ ہی کسی گینگ کو جانتا ہوں۔

(۳) یہ کہ من مسائل کا کسی بھی کریمنل لوگوں کیساتھ کوئی تعلق یا واسطہ نہ ہے اور نہ ہی کسی قسم کا کوئی ثبوت من مسائل کی طرف ریکارڈ پر موجود ہے۔ جس سے یہ ثابت ہوتا ہو۔ کہ من مسائل کو کسی بھی کریمنل یا گینگ سے تعلق ثابت ہوتا ہو۔ جبکہ من مسائل کو ایک سازش کے تحت طوٹ کیا گیا ہے۔

(۴) یہ کہ بمطابق چارج شیٹ مذکورہ بالا کے فقرہ نمبر ۳ میں جو الزام عائد کیا گیا ہے۔ غلط اور بے بنیاد ہے جس میں ہر دو چارج شیٹ ہائے کے اجراء سے قبل حسب ضابطہ انکوائری کر کے جناب DPO صاحب کو ہاٹ نے فائل کیا ہے جسکی نقول لفظ ہے۔ جس میں مسائل کیخلاف کسی قسم کا کوئی ثبوت ریکارڈ پر موجود نہ ہے۔

(۵) یہ کہ بمطابق چارج شیٹ کے فقرہ نمبر ۴ میں جو الزام عائد کیا گیا ہے۔ بالکل غلط اور بے بنیاد ہے کیونکہ من مسائل کا 19 سال سردس ہے اور تمام تر سردس جنرل ڈیوٹی کی ہے۔ اور بدوران سردس کسی افسران بالا کو کسی قسم کی شکایت کا موقع نہیں دیا۔ اور بعد از پیش کرنے جملہ ثبوت بابت بے گناہی جناب DPO صاحب کے حضور پیش کئے۔ تو جملہ ثبوت کی بنیاد پر ایک عدہ چھٹی انگریزی بحوالہ نمبر 2019-11-29/21248/29 صادر فرما کر جس میں مسائل کو جناب DPO صاحب نے بحالی کی شکارشات تحریر کی ہے۔ جو کہ من مسائل کی بے گناہی کا قومی ثبوت ہے۔

(۶) یہ من مسائل جملہ ثبوت بابت بے گناہی کی مد میں ذاتی شتوائی لیا شرف حاصل کرنے کے بعد جملہ پیش کرنا چاہتا ہوں۔ لہذا استدعا کی جاتی ہے کہ من مسائل کیخلاف انکوائری کو بغیر مذید کاروائی کے فائل فرمایا جاوے۔

مورخہ: 03/09/20

الحاضر Attached

سائل ہدایت اللہ بیلٹ نمبر 98/LHC حال متعینہ پولیس لائن کوہاٹ
Superintendent of Police
Kohat

03/09/20

یہ لکھیے
x — x — x

بیان آزان فستق و بی ولد نیاز گل قلمی سے شکر درود
بیان آزان فستق و بی ولد نیاز گل قلمی سے شکر درود
کے خلاف جو درخواست دی تھی

کے خلاف جو درخواست دی تھی
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کے خلاف جو درخواست دی تھی

بیان آزان فستق و بی ولد نیاز گل قلمی سے شکر درود

شکر درود

NIL
MOB 333 9666576

09/09/2019

File 123

بیان حلفی

بیان اراں بشر قرضی و لہ نیاز قلہ قرضی کند شد در لا بیان
کد تا ہوں کہ میرے نے حوالدار پدایت اللہ تھانہ شدہ در لا کے خلاف

درخواست دی تھی قرضیہ اول و ثانیہ محمد ریاست کند
تک سر ضلع میالوالی کے سا لا علاقہ رسہ راج کے مطابق
اپنے میں باہرے راضی نہ کیا ہے اس درخواست میں

حوالدار پدایت اللہ تھانہ شدہ در لا کے کو دخل نہیں پائی جاتی
میں اپنی درخواست پر مزید کسی قسم کا لوفی کاروائی نہ

مخلافہ حوالدار پدایت اللہ تھانہ شدہ در لا ایسے کد انا چاہتا
ہوں میری درخواست فائل کد وائیں۔

نوٹ کے اس لئے بھی جناب DPO صاحب کو ایسے کو ایسے
بیان دیے جکا ہوں

Signature
Superintendent of Police
Operation
Korai

بشر قرضی و لہ نیاز قلہ قرضی کند شد در لا انخارج نادرہ
آفس شدہ در لا

Date 22-09-2020

M.C.

2229166576

14301-19783857

بیانِ حلفی ۱

بیانِ ازالہ محمد عمران ولد صاحبزادہ سید شکر دروہ

میں حلفاً بیان کرتا ہوں کہ والد اور بیوا بیٹا اور

بھائی شکر دروہ میں بدوان ثقیانی سے کسی قسم کی

المناسبتوں سے کوئی واسطہ یا تعلق نہ رہا۔

اور نہ ہے۔ یہ میرا بیان ہے۔

محمد عمران ولد صاحبزادہ سید شکر دروہ

nic 1984 2005571-7

mob 0333 9824246

[Handwritten signature and a fingerprint impression]

Attested

[Signature of Superintendent of Police]

Superintendent of Police
Operation
Kohat

پہاں اران ملک رمان اللہ خان ولد کالہ خان
 نے بیان کیا کہ جسی سے ایک اللہ خان شکروردہ
 میں عسکر لہنائی کے دوران میں حال چل رہا
 ہے کہ ہم نے عسکر شکروردہ میں عسکر شکروردہ

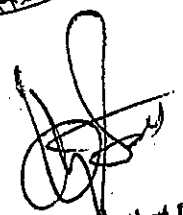
کلیت میں لکھا ہے
 -
 ملینہ

20-9-22

3-47481-19-14301

ملک رمان اللہ خان ولد کالہ خان شکروردہ

Attested



Superintendent of Police
 Operation
 Kohat

ذات الحیاہ

کووالہ پروانہ نمبر 7261
 20.9.2020
 3 بارہ SDPO صدر سیکل مناب قصبہ

صرفت ہوں، بیکرٹنسیل صدر بیت اللہ کے حال جلن کے متعلق

علاقہ میں معلومات تسلی کر کے مذکورہ پراہت اللہ

نیک جلن پایا کسی قسم کی بیکرٹنسیل اسخاص کسارت

تقلقات نہ پائے گئے۔ اس سلسلہ میں علاقہ کے

حسرتان حاجی جملا اسحاق، عابد خان، محمد عظیم رفیق

ملک عبت ستر، دھیم خان دلا ناظم، حاجی اسحاق خان

ملک اللود کے بیانات مفصل آہند کے ہیں۔

تولف دلورہ لہور اچھے

Si MRS.
 23-09-2020

Attested

Superintendent of Police
 Operation
 Kohat

بیان اظہار افکار شاہ ... منقسمہ الیٰ انشا علیہ السلام


من ... کثیر ...

علاقہ ...

علاقہ ...

علاقہ ...

Javed Shah
D.F.C. PS MRS.

Attest


Superintendent of Police
Operation
Kohat

(26) بیان حلفی

بیان ازان ملک حاجہ امتیاز و ولد علامہ ابراہیم گھانا
علیاً بیان کرتے ہیں کہ حوالہ دی گئی پیدائش کے دوران وہ
کوئی ایسے طور پر جان بچانے کے لیے آج تک کسی قسم کے
کڑا تم یا شہ کوئی سے نہ تعلق رکھتا ہے اور نہ ہی اس کے
اور کوئی تعلق رکھا ہے جسے ایک نیک اور محض انسان
کے ساتھ یہ پیدا بیان ہے جو بالکل درست ہے

حاجہ امتیاز و ولد علامہ ابراہیم گھانا

Date 23/09/20

Signature of Superintendent of Police

LAMBARDAR
IMTIYAZ AHMED
Jogh Bala District Kohat

Superintendent of Police
Operation
Kohat

NIL 14301-1966419.5
0333-0529379

کتابت شد

حضرت مولانا صاحب
 کرامت نے فرمایا ہے کہ
 اگر کوئی شخص اپنے
 دل سے اللہ تعالیٰ سے
 دعا کرے تو اللہ تعالیٰ
 اس کی دعا قبول فرماتا
 ہے اور اس کو اپنی مرضی
 سے اس کو عطا فرماتا ہے
 اور اگر کوئی شخص اپنے
 دل سے اللہ تعالیٰ سے
 دعا کرے تو اللہ تعالیٰ
 اس کی دعا قبول فرماتا
 ہے اور اس کو اپنی مرضی
 سے اس کو عطا فرماتا ہے
 اور اگر کوئی شخص اپنے
 دل سے اللہ تعالیٰ سے
 دعا کرے تو اللہ تعالیٰ
 اس کی دعا قبول فرماتا
 ہے اور اس کو اپنی مرضی
 سے اس کو عطا فرماتا ہے

Superintendent of Police
 Operations
 Kohat

Majr Rahi
 EX. NA
 Toq Balak

03469773076

19/2/2020

بیان حلقہ

بیان حلقہ علامہ

حلقہ بیان کرتا ہوں کہ ہولہ اور لہور کے درمیان
 ڈاکے طور پر جا کر ہولہ اور لہور کے درمیان
 لوگوں سے آج تک کوئی لفظ نہ سنا ہے اور نہ ہی
 کسی لوگوں سے کوئی لفظ نہ سنا ہے اور نہ ہی

مہنگے علامہ رضویہ و لہور کے درمیان کوئی لفظ نہ سنا ہے

23/02/2020

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Numbered
GUAM RATIO
 Tough Payan Kohat

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Superintendent of Police
 Operational
 Kohat

بیان محتوی

بیان از ای ملک حکومت جمہور و لد ملک عند الرزق کے لئے اور عیناً
مختلف بیان کرنا بیوں کہ جو لدار کے اہل بیت اللہ و لد نو در زمان کو
ماتھے طور پر جا رہا بیوں اور دوران سفر سے کسی
صمیم کر یہہل لوگوں سے نہ تعلق رکھتا ہے اور نہ واسطہ
ہے یہ عیناً بیان ہے جو کہ خلفاً در نسبت رکھے

ملک حکومت جمہور و لد ملک عند الرزق کے لئے اور عیناً

منسب
سرکار پولیس کوہاٹ
14301-3861873-3

Date 23/9/2020

M/S
Mob. 14301-3861873-3

0331-987553

Attested

Superintendent of Police
Operation Kohat

بیان حلفی

بیان اران عابد ولد امیر جان کہنے کے لئے تیار ہوں
 درمیانوں نے لڑائی و لڑ لہذا زمان کو ذاتی طور پر
 جانستوں اور یہ کہ کسی قسم کے غلط اور ہم انہیں
 لوگوں سے کوئی تعلق ہے نہ کہتا اور نہ واسطہ ہے
 نہ حوالہ لڑائی اللہ کے بارے اللہ کو حاضر جان کر
 سچ اور حقیقت پر بیان دے رہا ہوں

عابد ولد امیر جان کہنے کو غلام کر گیا ہے

Date 23/09/2020

(Signature)

MC = 14301-9880376-3
 mob = 03339614584

AKHAR
 Superintendent of Police
 Operation
 Kohat

بیان حلف

(31)

بیازاں حاجی محمد اسحاق ولد ملوک خان کتہہ ٹوخیلا کوہاٹ
حلفاً بیان کرتا ہوں کہ حوالہ دی گئی ہے اللہ ولد نور زمان کتہہ ٹوخیلا کوہاٹ
پولیس سروس کرتا ہے آج تک کسی قسم کے جرم یا کسی شخصیت سے کسی نہ کسی
تعلق رکھتا ہے اور نہ دیکھتا ہے نہ واسطہ ہے یہ درست ہے اور سچ ہے
یہ میرا بیان ہے

Date 23/9/2020

حاجی محمد اسحاق ولد ملوک خان کتہہ ٹوخیلا کوہاٹ۔

M. ISHAQ
MC-143018-660265-7
0335-5636157

Attested

Superintendent of Police
Operations
Kohat

ضلع عالی

کونسل عدلیت اللہ کے بارے میں علامہ حسین
 فقیر معاملات و سپرنٹنڈنٹ کی۔ مذکورہ کا کسی
 قسم کے فیصلہ نہیں ہے۔ اس بارے میں اس وقت کوئی رابطہ نہیں
 ہے۔

رپورٹ سب سے

Attached

Superintendent of Police
Operation
Kohat

33

جناب عالی!

گزارش ہے کہ ہدایت اللہ LHC کے بارے میں معلومات کی گئی سریدست کوئی انفارمیشن نہیں ہے نہ کوئی بد معاشان نہ کریمنٹل لوگوں کے ساتھ تعلق ہے رپورٹ عرض ہے۔


DSB: KOHAT

مورخہ: 28.09.2020

Attest Seal



Superintendent of Police
Operation
Kohat

34

بیان ازان حاجی محمد اسحاق ولد ملوک خان سکندہ توغ بالا کوہاٹ

ماننا بیان کرتا ہوں کہ والد ار ہدایت اللہ ولد نور زمان سکندہ توغ بالا جو کہ پولیس سروس کرتا ہے آج تک کسی قسم کے جرائم پیشہ افراد سے نہ کوئی تعلق رکھا ہے اور نہ رکھتا ہے نہ واسطہ ہے یہ درست اور صحیح ہے۔
یہی میرا بیان ہے۔

M. ISHAQ

3355636157

143018-660265-7

Attested

Superintendent of Police
Kohat

35

بیان ازان امام شاہ DFC متعینہ حال تھانہ MRS

حلفاً بیان کرتا ہوں کہ میں محشیت DFC تھانہ MRS میں تعینات ہوں محشیت علاقہ DFC علاقہ میں مسکی ہدایت اللہ LHC کے بارے میں خفیہ پتہ براری کیلگی کہ وہاں ہدایت اللہ کا کریمینل اشخاص کیساتھ تعلق ہے یا نہیں مگر کسی بھی شخص نے اس بابت کی تصدیق نہیں کہ ہدایت اللہ کی کریمینل اشخاص سے تعلق ہے مزید خفیہ نگرانی جاری ہے معلومات ہونے پر انفران بالا کے نوٹس میں لایا جائیگا۔
یہی میرا بیان ہے۔

تحریر: 26.10.2020

دستخط *Amam Shah*

0332-5651028

حوالہ

Attested

Superintendent of Police
Operation
Kohat

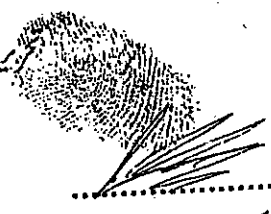
36

بیان ازان ملک حاجی امتیاز احمد ولد غلام ربانی سکنتہ توغ بالا

موبائل نمبر 0333-0529379

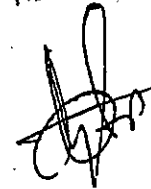
حلفاً بیان کرتا ہوں کہ حوالدار ہدایت اللہ ولد نور زمان کو ذاتی طور پر جانتا ہوں کہ آج تک کسی قسم کے جرائم پیشہ لوگوں سے
نہ تعلق رکھتا ہے اور نہ واسطہ ہے جبکہ ایک نیک اور مخلص انسان ہے۔
بھی میرا بیان ہے۔

26.10.2020



دستخط
03330529377

Attested



Superintendent of Police
Operation
Kohat

(37)

بیان ازان ملک انور ولد ملک بشیر خان سکندہ توغ بالا

شناختی کارڈ نمبر 9-1945489-14301، موبائل نمبر 0300-9158086

حلفاً بیان کرتا ہوں کہ خوالدار ہدایت اللہ ولد نور زمان سکندہ توغ بالا کو ذاتی طور پر جانتا ہوں آج تک کسی قسم کے جرائم پیشہ لوگوں سے کوئی تعلق یا واسطہ نہیں رکھتا ہے اور نہ غلط لوگوں سے مل جل رکھتا ہے۔
مجھے میرا بیان ہے۔



ملک ازان

دستخط
28/10/2020

Attest

Superintendent of Police
Operation
Kohat

38

بیان ازان ملک غلام رفیق ولد ملک محمد محمد سکندر توغ پاپیان
شناختی کارڈ نمبر 3-1925346-14301، موبائل نمبر 0335-5825703

حلفاً بیان کرتا ہوں کہ حوالدار ہدایت اللہ ولد نور زمان ذاتی طور پر جانتا ہوں بدوران سروس کسی قسم کریمینل لوگوں سے نہ
تعلق رکھا ہے اور نہ واسطہ ہے اور نہ ہی کوئی جرائم پیشہ لوگوں سے کوئی تعلق ہے۔
یہی میرا بیان ہے۔

دستخط
28-12-2022

Attest

Superintendent of Police
Operation
Kohat

(39)

بیان ازان سابقہ ولیج ناظم ملک حاجی رحیم خان ولد فقیر خان سکندہ توغ بالا

حلفاً بیان کرتا ہوں کہ حوالدار ہدایت اللہ ولد نور زمان جو کہ محکمہ پولیس میں ڈیوٹی دے رہا ہے ذاتی طور پر جانتا ہوں کسی قسم کے جرائم پیشہ اشخاص کے ساتھ کوئی تعلق نہیں۔
یہی میرا بیان ہے۔

تحریر 29.10.2020



دستخط

03469773075

Attest

Superintendent of Police
Operation
Kohat

(40)

بیان ازان ملک امان اللہ خان ولد کالا خان

حلفاً بیان کرتا ہوں کہ سبھی ہدایت اللہ تھانہ شکر درہ میں عرصہ تعیناتی کے دوران نیک چال چلن رہا اور کسی قسم کے جرائم پیشہ عناصر کے ساتھ تعلق نہیں رکھا ہے۔
یہی میرا بیان ہے۔

A _____
دستخط 29-10-2020



Attested

Superintendent of Police
Cooperation
Kohat

(41)

از دفتر SDPO صدر سرکل

ریڈ نمبر 726 مورخہ 28.09.2020

پروانہ بنام: SI منظور خان تھانہ MRS

بکار سرکار تحریر کیا جاتا ہے کہ بسلسلہ چارج شیٹ نمبر
4239-40/PAU مورخہ 25.08.2020 جاریہ جناب DPO صاحب برخلاف کنشیل ہدایت
اللہ آپ ہیٹ آفیسر کو بذریعہ تحریری پروانہ ہدایت دی جاتی ہے کہ مذکورہ کنشیل کے چال چلن کے متعلق
تعمیری رپورٹ ایمان سے منسلح کریں کہ آیا مذکورہ کے تعلقات کسی کریمنیل اشخاص سے یا نہیں۔

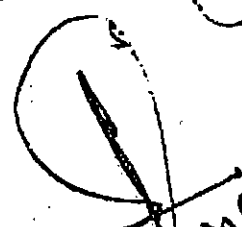
سب ڈویژن پولیس آفیسر
صدر سرکل

Superintendent of Police
Operation
Kohat

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رہنما

کوئٹہ پروانہ نمبر 7261
 20-9-2020 جاریہ SDPO صدر سیکرٹری سٹیٹ ہسپتال
 روتھمپور، بٹگرام ڈسٹرکٹ کے حال جاننے کے متعلق
 علاقہ میں معلومات تسلی کر کے مذکورہ برائے اللہ
 نیک جان یا یا کسی قسم کی کرمینل اشخاص کیس کے
 تعلقات نہ جانے کے۔ اس سلسلہ میں علاقہ کے
 حیدر خان حاجی محمد اسحاق، عبدالرحمان، محمد عظیم و فہم
 ملک، عبت سیر، وہم خان رانا ناظم، حاجی اسحاق خان
 ملک، اللہ کے بیانات مفصل آگندہ کے ہیں۔
 جولف ڈیورم لہذا ہے


 Si MRS.
 23-09-2020

Anx-A (9)

DISTRICT KOHAT POLICE



Commendation Certificate III
is awarded to

LHC. Hidayat Ullah No.881

In recognition of

For his good performance in case FIR No. 358 dated 18-03-2019

u/s 302 PS City with cash reward of Rs. 300/-

O.B. No. 421

Dated 03-04-2019

D. P. KOHAT
District Police Officer
Kohat

Attest

Ann: R3/2 (42)

Attest

49

18

DISTRICT KOHAT POLICE



Commendation Certificate III
is awarded to

LAC Hidayat Ullah No. 881

In recognition of

Good performance in case FIR No. 918

dt. 25-12-2017 U/s 506/365/511/34 PPC P₂ MIA

O.B. No. 41

Dated 9.1.18.

Cash Reward Rs. 500/-

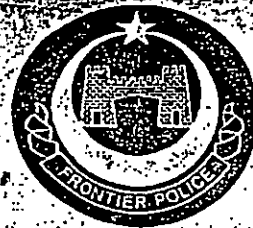
[Signature]
District Police Officer
District Police Officer

AKC 46

45

#

DISTRICT KOHAT POLICE



Commendation Certificate III
is awarded to

Handwritten signature

LHC Hidayat Ullah No. 881

In recognition of

His performance during Duty

Cash Reward Rs. 300/-

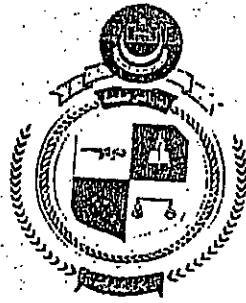
O.B. No. 1126

Dated 13 12 2013

District Police Officer
Kohat

Handwritten signature

POLICE TRAINING COLLEGE HANGU



1935

Commendation Certificate II

is awarded to

Hadayatullah 881 of Lower Course with Cash Rs.300/-

in recognition of

His good performance of duty

Dated: 27-08-2012

Order Book No. 714

[Signature]

Commandant
Police Training College Hangu

46

19

19

24

13

42

DISTRICT KOHAT POLICE



Commendation Certificate III
is awarded to

LHC Hidayat Ullah No. 881

In recognition of

His performance during duty

Cash reward Rs. 300/-

O.B No. 1126

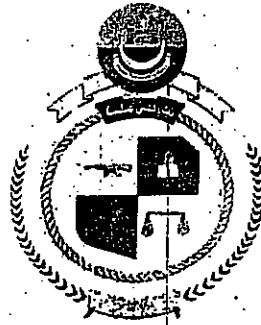
Dated 12/12/2013

[Signature]
District Police Officer
Kohat

ABC
AD

48

POLICE TRAINING COLLEGE HANGU



1935

Commendation Certificate II

is awarded to

Hadiyatullah 881 of Lower Course with Cash Rs. 300.

in recognition of

his good performance of duty

Dated: 27-08-2012
Order Book No. 714


Commandant
Police Training College Hangu

Abc
J

Anx- R3/3

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**BEFOR THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**
SERVICE APPEAL No. _____ /2021

Hidayat Ullah
Constable No.881,
Police Force, Kohat.

Appellant

Versus

The Regional Police Officer,
Kohat Region Kohat and others

Respondents

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Through

Petitioner

Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

Dated ___ / ___ /2021

Appellant Deposited
Security & Process Fee -
19/3/21

Rs. 400/- (Four hundred only)

(SD) 1 (SD)

BEFOR THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

SERVICE APPEAL No. _____/2021

Hidayat Ullah
Constable No.881,
Police Force, Kohat.

..... Appellant

Versus

1. **The Regional Police Officer,**
Kohat Region Kohat.
2. **The District Police Officer,**
Kohat.

..... Respondents

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned Final order of the respondent No.1 End: No.1600/EC, dated Kohat the 04-02-2021, wherein he rejected the departmental appeal of the appellant preferred against the order passed by respondent No.2 vide OB No.823 dated 24-11-2020, wherein he awarded minor punishment of censure and the intervening period was treated as unauthorized leave.

Prayer in Appeal:-

On acceptance of the instant service appeal, this Hon'ble Tribunal may graciously be pleased to:-

1. **Declare the impugned order of the respondent No.1 End: No.1600/EC, dated Kohat the 04-02-2021 and impugned order of respondent No.2 vide OB No.823 dated 24-11-2020 as illegal, unlawful and without lawful authority;**
2. **Set aside both the impugned orders and re-instate the appellant with all back benefits including the counting of intervening period as period on active duty.**

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3. Any other relief deemed appropriate in the circumstances of the case not specifically asked for may also be graciously granted.

Respectfully Sheweth,

The concise facts giving rise to the present Service Appeal are as under:-

1. That appellant is the employee of police force, Kohat. He has long service standing at his credit. He has been awarded numerous Commendation Certificates for his extra ordinary and brave services beyond the call of his duty (Annexure-A).
2. That appellant was proceeded against departmentally for certain false allegations and was awarded punishment with confinement in quarter guard for fifteen (15) days vide Naqlemad No. 15 dated 10-10-2019 (Annexure-B). (9/5)
3. That later on appellant was again proceeded on the same set of allegations and was awarded penalty of reduction in rank from the substantive rank of LHC to the rank of Foot Constable vide order OB No. 1249 dated 17-10-2019 and that too during confinement period (Annexure-C).
4. That being aggrieved from the aforesaid cited order, appellant filed departmental appeal before respondent No.1 which was not decided within statutory period therefore, appellant filed service appeal before the Hon'ble Khyber Pakhtunkhwa Service Tribunal which has been pending adjudication (Annexure-D) (P/17-31) Service Apped # 1405/2020
5. That respondent No.2 again forced the appellant to undergo departmental proceedings on the same set of allegations and after slipshod summary proceedings awarded appellant major penalty of dismissal from service vide DPO Kohat Order OB No. 1392 dated 04-11-2019 (Annexure-E).

6. That being aggrieved from the order cited above; appellant submitted departmental appeal before respondent No.1 but the same was also rejected vide order No. 2662 dated 18-02-2020 (Annexure-F).
7. That being aggrieved from the order No. 2662 dated 18-02-2020 of the worthy respondent No.1, appellant preferred revision petition before the worthy Inspector General, Khyber Pakhtunkhwa under rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975.
8. That respondent No.1 (worthy Inspector General, Khyber Pakhtunkhwa) placed the revision petition before the Revision Board and after examining the facts and circumstances of appellant's case reached to the conclusion that appellant is innocent and the charged leveled against him are totally baseless therefore, appellant was reinstated vide order No. S/3335-3341/20 dated 11-08-2020, however, the competent authority was directed to conduct proper regular inquiry and decide the matter afresh on the basis of denovo proceedings (Annexure-G).
9. That in pursuance of the order of the worthy Addl. Inspector General, Khyber Pakhtunkhwa appellant was reinstated for the purpose of denovo inquiry vide order dated 25-08-2020. Appellant assumed his charge of duties on 27-08-2020.
10. That the competent authority in pursuance of the afore cited order (worthy DPO, Kohat) initiated denovo proceedings and served the appellant with charge sheet and statement of allegations dated 25-08-2020.
11. That inquiry was conducted and appellant was proved innocent of the whole of the charges. *(inquiry report attached)*
12. That it is pertinent to mention here that the worthy DPO, Kohat being not satisfied with the recommendations of the inquiry officer again

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appointed another inquiry officer for conducting second inquiry on the same set of allegations.

13. That appellant was again proved innocent and the whole of the charges were declared by the inquiry officer as baseless and concocted and recommended that appellant be reinstated with all back benefits.
14. That in spite of the recommendation of both the inquiry officers as discussed above, the worthy DPO, Kohat without serving the appellant with any sort of show cause notice upon the appellant imposed a minor penalty of censure and warned to be careful in future vide order No. 5905-08 dated 24-11-2020. Appellant was reinstated in service and the intervening period was treated as unauthorized leave without pay (Annexure-H).
15. That being aggrieved from the aforesaid order appellant preferred departmental appeal before the respondent No.2 (Annexure-I), which is now been rejected vide order dated 04-02-2021 (Annexure-J).
16. That appellant now being aggrieved of the both the impugned orders of respondent_No.1 End: No.1600/EC, dated Kohat the 04-02-2021 and impugned order of respondent No.2 vide OB No.823 dated 24-11-2020 files the instant Service Appeal inter alia on the following grounds:
 - A. That the penal authority has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan, 1973. Moreover the act of the respondents amounts to exploitations, which is the violation of Article 3 of the Constitution, 1973. Appellant has been subjected to continuous harassment. He was subjected to undergo continuous departmental proceedings on the same subject matter. Appellant was exonerated by two consecutive inquiries from all the charges leveled against him, but the penal authority ignored the recommendations of the inquiry officer and awarded punishment to the extent of Censure

8 (54)

and treating the interval period in between the dismissal and re-instatement as leave without pay, which has caused huge financial loss to the appellant.

- B. That appellant has been subjected to numerous continuous departmental inquiries on the same set of accusation which is against the well known principle of law "Double Jeopardy" and against the spirit and provision of Article 13 of the Constitution of Pakistan, 1973.
- C. That section 16 of the Civil Servant Act, 1973 provide that every civil servant is liable for prescribed disciplinary action in accordance with prescribed procedure. In the instant case no prescribed procedure has been adopted therefore, the impugned penal order is nullity in the eyed of law and liable to be set aside.
- D. That number of departmental inquiries were conducted by the respondents, but prosecution failed to bring an iota of evidence against the appellant to substantiate their baseless accusation/allegations even in spite of the fact that appellant was not associated with inquiry proceedings and even was not confronted with accusation. Final show cause was not served and no inquiry report was provided, which is mandatory in nature and spirit and the denial thereof is the denial of justice, fair play and equity.
- E. That appellant has been condemned unheard being deprived of the right personal hearing.
- F. Accused is stated to be a favorite child of law and he is presumed to be innocent unless proved otherwise and the benefit of doubt always goes to the accused and not to the prosecution as it is for the prosecution to stand on its own legs by proving all allegations to the hilt against the accused. Mere conjectures and presumption, however strong, could not be made a ground for removal from service of civil servant [1999 PLC (CS) 1332 (FST)]..... Unless and until prosecution

(A) 6 (55)


proves accused guilty beyond any shadow of doubt, he would be considered innocent [1983 PLC (CS) 152 (FST)].

- G. That Re-instated employee would be entitled to back benefits as a matter of course unless employer is able to establish by cogent evidence that concerned employee had been gainfully employed elsewhere. In this respect, initial burden would lie upon the employer and not upon the employee to prove that such employee was gainfully employed during period of termination from his service. 2010 TD (Labour) 41.
- H. That Civil servant who was dismissed from service through arbitrary and whimsical action of the government functionaries and re instated through judicial order of Service Tribunal would have every right to recover arrears of salaries by way of back benefits due to them during the period of their dismissal and re instatement. It would be very unjust and harsh to deprive them of back benefits for the period for which they remained out of job without any fault on their part and were not gainfully employed during that period.....Supreme Court allowing their appeal and directing payment of back benefits to the appellant. 2006 T D (SERVICE) 551 (a).
- I. That the penal order is not a speaking order for the reason that no solid and legal grounds have been given by the penal authority in support of his penal order. On this score the impugned order is liable to be set aside.
- J. That as per proviso of section 17 of the Civil Servant Act, 1973, the penal authority while set aside the order of dismissal or removal are under legal obligation to award the delinquent official back benefits for the period a civil servant remained out of service, but the penal authority ignored the mandatory provision of law and not only denied the arrears of pay but also treated the interval period in between the dismissal and re instatement as leave without pay and that too without the support of any legal reason.

K. That appellant would like to seek the permission of Your Kind Honoure for award of personal hearing. Appellant may kindly be granted the opportunity of personal hearing.


Appellant

Through


Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

Dated: ___/___/2021