

ORDER

24.01.2022

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

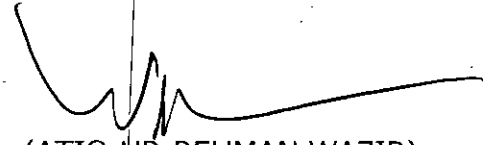
Vide our detailed judgment of today placed on file of Service Appeal bearing No. 2960/2021 titled "Kamal Ahmad Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others", the instant appeal is accepted. The impugned orders are set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

24.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

26.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to full hearing subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 08.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee

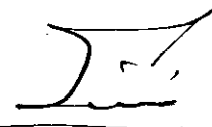
26/7/21


Chairman

08.12.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

The Worthy Chairman is on leave, therefore, the bench is incomplete. Adjourned. To come up for arguments on 24.01.2022 before the D.B.





(Salah-ud-Din)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 2961 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/02/2021	<p>The appeal of Mr. Hayat Zaman resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/05/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	03.05.2021	<p>Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 17.08.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>
	<p><i>Appizatta for Early hearing is accepted and fixed for 26/07/2021.</i></p>	

The appeal of Mr. Hayat Zamn Ex-Constable No. 2931 District Police Mardan received today i.e. on 16/02/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Copy of enquiry report mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.
- 4- Appeal has not been flagged/marked annexures marks.
- 5- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 357 /S.T,

Dt. 16/02/2021

[Signature]
REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sir

- 1- Removed
- 2- copy of enquiry report has not been provided to the appellant due to which he cannot attached it with the appeal.
- 3- Removed
- 4- Removed
- 5- Removed
- 6- Removed

Resubmitted after compliance

[Signature]
22/02/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Hayat Zaman

V/S

Police Deptt:

INDEX

S.No	Documents	Annexure	Page No.
1.	Memo of appeal	-----	01-04
2.	Copy of FIR	A	05
3.	Copies of Charge Sheet, statement of allegations and reply to charge sheet	B,C&D	06-08
4.	Copies of order dated 29.12.2020, departmental appeal & rejection order	E,F&G	09-11
5.	Copy of bail order dated 22.09.2020	H	12
6.	Vakalat Nama	-----	13

APPELLANT

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

&
(ASAD MAHMOOD)
ADVOCATE HIGH COURT.
Room No. Fr-8, 4th Floor,
Bilour Plaza, Peshawar Cantt:
Contact No. 03339390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 2961 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2773

Dated 16/2/2021

Hayat Zaman, Ex-Constable No.2931,
Police station Saddar, Mardan.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan Region Mardan.
3. The District Police Officer, Mardan.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 29.12.2020 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND AGAINST THE ORDER DATED 22.01.2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS REJECTED FOR NO GOOD GROUNDS.

Filed to-day

[Signature]
Registrar

16/2/2021

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 29.12.2020 AND 22.01.2021 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT INTO HIS SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

Not submitted to-day
and filed.

[Signature]
Registrar

27/2/2021

**RESPECTFULLY SHEWETH:
FACTS:**

1. That the appellant was appointed as Constable in the year 2013 and has performed his duty with great devotion and honesty, whatsoever, assigned to him and no complaint has been filed against the appellant regarding his performance.
2. That the appellant has passed A-1 examination and applied for B-1 examination, the B-1 exam was conducted by ETEA in Mardan Sports Complex, the appellant appeared in the examination and was doing his paper and SHO who has assigned the security duty at Mardan Sports Complex entered the hall and told the appellant that he is cheating in paper and took him away from the hall and baseless allegation of cheating during B-1 exam, FIR No.1048 dated 20.09.2020 u/s 419/420/468/451/188/34 PPC PS Hoti was lodged against the appellant. It is pertinent to mentioned that the real reason of the lodging FIR against the appellant is that the Wisal Khan "who was ASI in the police department and was incharge of Police Post Labor and the appellant was remained his gunner in that Police Post and has close relation with Wisal Khan and the Inspector Ashaq Khan knew about that as he remained SHO PS City Mardan and the Police Post Labor come under jurisdiction of that SHO/ Inspector Ashaq Khan" exchange some harsh words with the SHO who has assigned Security Incharge duty in Mardan Sports Complex and in retaliation the concerned SHO entered the hall and told the appellant that he is cheating during the paper and took him away from the examination hall and lodged baseless FIR against the appellant and Wisal Khan. **(Copy of FIR is attached as Annexure-A)**
3. That on the basis of FIR, charge sheet along with statement of allegations were issued to the appellant which was duly replied by the appellant in which he denied the allegations and clearly mentioned in that reply that SHO entered the hall and told him that he was cheating and took him away from the examination hall and also clarified in that that he has not using unfair means during the examination and was innocent and baseless FIR was lodged against him. **(Copies of Charge Sheet, statement of allegations and reply to charge sheet are attached as Annexure-B,C&D)**
4. That the inquiry was conducted against the appellant in which no opportunity of defence was provided to the appellant as neither statements was recorded in the presence of appellant nor give him opportunity of cross examination, but despite that the appellant was hold responsible by the inquiry officer on presumption basis. Inquiry report was not provided to the appellant, which may be requisite from the department.

5. That without observing the reply to charge sheet of the appellant, the appellant has awarded major punishment of dismissal from service 29.12.2020, against which the appellant filed departmental appeal on 05.01.2020, which was also rejected on 22.01.2021 for no good grounds. (Copies of order dated 29.12.2020, departmental appeal & rejection order are attached as Annexure-E,F&G)
6. That now the appellant has no other remedy except to file the instant appeal in this Honourable Tribunal for redressal of his grievances on the following grounds.

GROUND:

- A. That the impugned orders dated 29.12.2020 and 22.01.2021 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set-aside.
- B. That inquiry was not conducted according to the prescribed procedure as no opportunity of defence was provided to the appellant as neither statements were recorded in the presence of appellant nor give him opportunity of cross examination, which is violation of law & rules, therefore, the impugned orders are liable to be set-aside on this ground alone.
- C. That video recording has been made by the ETEA staff for the supervision of the candidates in the examination hall and the appellant also mentioned in his reply to the charge sheet that he was doing his paper and SHO entered the into hall and told him that he cheating during the paper and took him away from the hall and his stance can also be proved from the video recording made during examination hall, but inquiry officer did not bother even to checked that video recording, which is against the norms of justice and fair play.
- D. That the inquiry officer did not conduct proper and regular inquiry to dig out the reality about the issue and punished the appellant on presumption basis, which is not permissible under the law and rules.
- E. That the real reason of the lodging FIR against the appellant is the retaliation of concerned SHO, who has assigned Security Incharge duty at Mardan Sports Complex, exchange some harsh words with Wisal Khan "who was ASI in the police department and was incharge of Police Post Labor and the appellant was remained his gunner in that Police Post and has close relation with Wisal Khan and the Inspector Ashaq Khan knew about that as he remained SHO PS City Mardan and the Police Post Labor come under jurisdiction of that SHO/ Inspector Ashaq Khan" and in the response of that harsh words he lodged baseless FIR against the appellant.
- F. That there was proper staff of Superintendent, Invigilators etc for conducting and controlling B-1 Exam in the examination Hall, whose

- duty to keep strict vigilance on the candidates of examination and it was duty of that staff to take action against candidates who is using unfair means in the examination, but that staff has not taken any action against the appellant nor made any complaint against him that he was doing cheating in the exam, then under what authority the SHO "who has assigned the duty of security in Mardan Sports Complex" has filed FIR against the appellant on the basis of using unfair means during B-1 examination?
- G. That the appellant was doing his paper without any cheating or unfair means, which can be proved from the video recording done by the staff in the examination hall during the B-1 exam, but he was punished on baseless allegation of cheating, which shows that the appellant has been punished for no fault on his part.
- H. That the appellant has granted bail on 22.09.2020 by the competent court of law in the FIR on which the appellant was dismissed from service. **(Copy of bail order dated 22.09.2020 is attached as Annexure-H)**
- I. That the appellant should be suspended till the conclusion of the Criminal Case pending against him as per Civil Servants Regulations-194-A, but the appellant was dismissed from service without waiting for the conclusion of Criminal case pending against him, which is clear violation of CSR-194-A.
- J. That the appellant has been condemned unheard and has not been treated in accordance with law and rules.
- K. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


APPELLANT
Hayat Zaman

THROUGH:-


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

& 
(ASAD MEHMOOD)
Advocate High Court

BC

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com



CHARGE SHEET

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority, hereby charge Constable Hayat Zaman No.2931, while posted at PS Saddar (now under suspension Police Lines), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

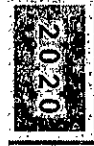
ATTESTED



(7)

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com



No. 367 /PA

Dated 05/10/2020

DISCIPLINARY ACTION

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Hayat Zaman No.2931, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

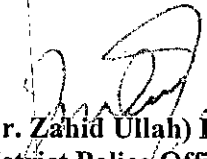
STATEMENT OF ALLEGATIONS

Whereas, Constable Hayat Zaman No.2931, while posted at PS Saddar (now under suspension Police Lines), has been charged in a case vide FIR No.1048 dated 20-09-2020 U/S 419, 420, 468, 451, 188 & 34 PPC Police Station Hoti.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Bashir Ahmad SDPO TBI is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable Hayat Zaman is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan


ATTESTED

DB

بیان ازاں حیات زمان 2931

مورخہ: 05-10-2020

شوکار نمبر: 367

جواب:-

جناب عالی!

مورخہ 20-09-2020 کو ہمارا EATA B1 امتحان تھا کہ ہم پرچے میں مصروف تھے کہ انسپکٹر عاشق تعینات SHO ہوتی جسکی حال سے باہر سیکورٹی ڈیوٹی تھی۔ امتحان حال کے اندر آ کر مجھے پرچے سے اٹھایا اور کہاں کہ آپ ادھر ادھر دیکھ رہا ہے اور نقل کر رہا ہے میں بار بار عاشق خان SHO ہوتی کو کہہ رہا ہوں کہ میں نے کسی قسم کی نقل نہیں کی لیکن عاشق خان SHO نے ہماری نہیں سنی اور ہمیں پرچے سے اٹھا کر اپنے جائے تعیناتی تھانہ ہوتی لے آیا اور ہمارے خلاف دفعہ FIR 419/420 درج کیا جو کہ ہم نے اس FIR کو ڈسچارج کرنے کیلئے عدالت سے رجوع کیا کہ ہمارے خلاف FIR اور امتحانی حال میں نقل کرنے کی الزام سراسر غلط اور بے بنیاد ہے اور نہ ہی ہمارے خلاف ETEA Invigilator سٹاف کی طرف سے ہمارے اوپر کسی قسم کا الزام ہے اور نہ کوئی تحریری شکایات ہے البتہ پورے ETEA Invigilator سٹاف کے ساتھ اچھی طریقے سے پیش آئے ہے اور سٹاف کے ساتھ پورا ہر ممکن تعاون کیا ہے۔

لہذا آپ صاحبان سے مودبانہ گزارش ہے کہ سائل زیر بحث معاملے میں بری الزام قرار کر کے ملازمت پر بحال کرنے مناسب احکامات صادر فرمائیں بندہ تاحیات دعا گور ہے گا۔

سائل حیات زمان
نمبر 2931

ATTESTED

E (9)

(6)



**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpqmdn@gmail.com



No. 4320-23 /PA

Dated 29/12/2020

ORDER ON ENQUIRY OF CONST: HAYAT ZAMAN NO.2931

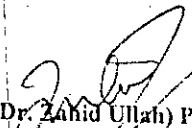
This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at PS Saddar (now under suspension Police Lines Mardan), was placed under suspension vide this office OB No. 1625 dated 21.09.2020, issued vide order/endorsement No. 4837-40/EC dated 23.09.2020 on account of charging in a case vide FIR No. 1048 dated 20.09.2020 U/S 419, 420, 468, 451, 188, 34 PPC PS Hoti & proceeded against departmentally through Mr. Muhammad Qais Khan SDPO Takht-Bhai vide this office Statement of Disciplinary Action/Charge Sheet No.367/PA dated 05-10-2020, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.1560/ST dated 28-12-2020, holding responsible the alleged official of misconduct & recommended for major punishment.

Final Order

Constable Hayat Zaman was heard in OR on 29-12-2020, who failed to satisfy the undersigned, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 2323

Dated 29/12-2020.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The Regional Police Officer Mardan, please.
- 2) The SP/Investigation & DSP/HQrs Mardan.
- 3) The P.O & E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with () Sheets.


ATTESTED

F (15)

درخواست مراد علی اسد

صائب علی

کوآپریٹو انٹرنیٹ بینک 2023-24 بجاریہ جناب DPo صاحب مردان
27-12-2023
سرویس مرمت ہوں کہ میں سائل کو موصوفہ 29 $\frac{13}{20}$ جو جناب DPo صاحب نے B1
امکان دینے میں نفل کرنے پر بہت حسرت ہے۔ یہ سائل جتنا ہے اور
سب سے سائل کے خلاف ETEA والوں کی طرف سے کوئی کیمپین نہیں ہے۔ یہ سائل
نو کوئی کرنے کا خواہشمند ہے اور کوئی کے علاوہ کوئی ذریعہ آمدن نہیں ہے۔ سائل غریب
مگر ان کے تعلق کے لئے ہے جبکہ سائل پر لگانے کے لئے الزام سراسر بے بنیاد ہے۔ سائل
کی فریب کو دہرے دہرے دو بار توڑی ہے۔ حال کرنے کا حکم ہمارے فراد میں

عین توڑیں

العارض

المستوفیہ 05-01-21

Ex نیشنل صیات زوان 2931 مردان

0344-9572758

ATTESTED

درخواست بمراد بحالی سروس۔ اپیل

جناب عالی!

بحوالہ چٹھی انگریزی 23-4520/020-12-29 مجاریہ جناب DPO صاحب مردان معروض خدمت ہوں کہ من سائل کو مورخہ 29/12/20 کو جناب DPO صاحب نے B-1 امتحان دینے میں نقل کرنے پر برخاست کیا ہے یہ کہ سائل بے گناہ ہے اور نہ ہی سائل کے خلاف ETEA والوں کی طرف سے کوئی کمپلیٹ نہیں ہے یہ کہ سائل نوکری کرنے کا خواہشمند ہے اور نوکری کے علاوہ کوئی ذریعہ آمدن نہیں ہے سائل غریب گھرانے سے تعلق رکھتا ہے جب کہ سائل پر لگائے گئے الزام سراسر بے بنیاد ہے سائل کی غریبی کو مدد رکھتے ہوئے دوبارہ نوکری پر بحال کرنے کا حکم صادر فرمادیں۔

عین نوازش ہوگی۔

المرقوم 05-01-21

العارض

کنشیل حیات زمان 2931 مردان Ex

0344-9572758

ATTESTED

G 11

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Hayat Zaman No. 2931 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 2323 dated 29.12.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station Saddar, Mardan was found involved in a case FIR No. 1048 dated 20.09.2020 u/s 419/420/468/451/188/34-PPC Police Station Hoti, District Mardan being involved in unfair means during B-I examination.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer, Takht Bhai, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings, wherein he recommended the delinquent Officer for major punishment.

He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Mardan on 29.12.2020, but he failed to advance any cogent reasons in his defense. Hence, he was awarded major punishment of dismissal from service vide OB: No. 2323 dated 29.12.2020.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 20.01.2021.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations of misconduct against the appellant have been proved beyond any shadow of doubt. Being a member of disciplined/uniformed force, the involvement of the delinquent Officer in such like activities has brought a bad name to the entire Police Force in the eyes of the general public. On perusal of previous service record of the appellant, it was noticed that he is habitual absentee and prior to this, the appellant was also dismissed from service twice for his disinterest in the official duties. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

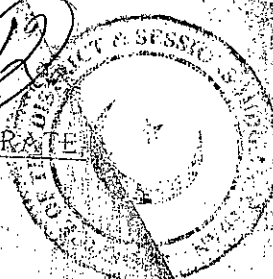
ATTESTED

Regional Police Officer,
Mardan.

No. 389 /ES, Dated Mardan the 22 - 01 - /2021.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 14/LB dated 14.01.2021. His service record is returned herewith.

IN THE COURT OF SYED ABBAS BUKHARI CJ-XI/JUDICIAL MAGISTRATE
MARDAN.



Order...02
22.09.2020

9014
21

Petition # /BA of 2020
State... Vs... Wisal etc.

09/10/2020

Counsel for accused/petitioners and APP for the state present.

Accused/petitioners (1) Wisal s/o Iftikhar Ahmad r/o Garhi Kapoora Mardan and (2) Hayat Zaman s/o Feroz r/o Garhi Kapoora Mardan have submitted this application for their release on bail in case FIR No. 1048 dated 20.09.2020 u/s 419/420/468/451/188/341 PPC of Police Station Hoti, Mardan.

Arguments heard and record perused.

It is evident from the perusal of record that the accused have been arrested in a thickly populated area, but no private witness is associated, opening case of the accused/petitioners to further inquiry. Moreover, offences u/s sections 420 and 451 and 188 PPC are bailable in nature, while the punishment entailed by offences u/s sections 468 and 419 does not fall within prohibitory clause of section 497 and in such like case grant of bail is a rule and its refusal is an exceptional and no exceptional grounds have been agitated in the present case. Reliance in this respect is placed on case law titled "Muhammad Tanveer vs the State and another" reported in PLD-2017-SC-733.

In the circumstances the bail petition in hand is accepted and accused/petitioners are admitted to bail, provided they furnishes bail bonds in the sum of Rs. 80,000/- each with two sureties each in the like amount to the satisfaction of this court.

Copy of this order be placed on judicial and police files. Record be returned and file of this court be consigned to record room after completion.

Announced

22.09.2020

Name of Applicant	سید عالم و سید خان
Date of Application	30/09
Date of Judgment	13-2-2021
Date of Appeal	15-2-2021
No. of Pages	15-2-2021
Court No.	P 03
Urgent	8
Signed of Applicant	[Signature]
Date of Delivery	15-2-2021

[Signature]
Syed Abbas Bukhari
Civil Judge-XI/JMIC, Mardan.

Certified To Be True Copy
[Signature]

15 FEB 2021

Examiner Copying Branch
Session Court Mardan

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Hayat Zaman

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Dept.

(Respondent)
(Defendant)

I/We, Hayat Zaman

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021

[Signature]

(CLIENT)

[Signature]
Asad Mahmood
Advocate

ACCEPTED

[Signature]
TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

08/12 C
**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.**

Service Appeal No. 2961/2021

Hayat Zaman Ex-Constable No. 2931 Police Station Saddar Mardan

Appellant

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

Respondents

INDEX

S. No.	Description of Documents	Annexure	Pages.
1.	Written Reply	----	1-3
2.	Affidavit	----	4
3.	Copy of previous Dismissal Order, Judgment of Tribunal and list of bad entries	A, B & C	5-20
4.	Copy of FIR	D	21
5.	Copy of Charge Sheet etc	E	22-23
6.	Copy of Enquiry	F	24-26
7.	Copy of Dismissal and Rejection orders	G & H	27-28
8.	Copy of Authority Letter.	----	29

C کوئی ①

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 2961/2021

Hayat Zaman Ex-Constable No. 2931 Police Station Saddar Mardan

.....Appellant

VERSUS

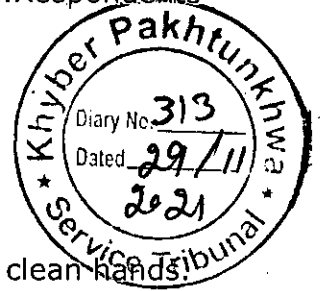
The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

Para-wise reply by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS



1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law and limitation.

REPLY ON FACTS

1. Para to the extent of enlistment in Police Department of appellant pertains to record needs no comments, while rest of the Para is not plausible because every Police Officer / Official is under obligation to perform his duty regularly and with devotion. But appellant's performance was not satisfactory as previously he had been awarded major punishment of dismissal from service vide order book No.2688, dated 20.11.2017 due to involvement in corrupt practices, inefficiency, close association with criminals and sharing information regarding the movement of Police Officers with miscreants. Later on, he was reinstated by the Honorable Service Tribunal vide judgment dated 13.03.2019. Moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude his entire service record is tainted with bad entries (**Copy of dismissal order, Service Tribunal Judgment and list of bad entries are attached as Annexure "A, B & C"**).
2. Correct to the extent that the appellant passed A-1 examination and applied for B-1 examination, which was conducted at Sport Complex Mardan. However, rest of para is incorrect hence, denied. Moreover, on 20.09.2020 B-I examination was in progress at Sport Complex Mardan and security duty was assigned to SHOs Police Stations City and Hoti. During checking of security, the SHO Hoti noticed that 02 persons are sitting on the ground near the examination hall. On enquiry by the SHO Hoti, they disclosed their names as Wisal s/o

Iftikhar Ahmad r/o Garhi Kapura and Constable Hayat No. 2931 posted at Police Station Saddar. Both of these above named persons were found having answer sheets and B-1 book in the name of Kamal by Wisal while three answer sheets were recovered from Constable Hayat. Hence a proper case vide FIR No. 1048 dated 20.09.2020 u/s 419/420/468/451/188/34 PPC Police Station Hoti Mardan was registered, photo copy of **FIR is annexed as Annexure "D"**. The SHO has performed his legal duties and he has no grudges against the appellant, therefore, stance of the appellant is devoid of legal footing.

3. Correct to the extent that the appellant was issued charge sheet with statement of allegations on the account of his involvement in the aforementioned FIR. The said enquiry was entrusted to the then SDPO Takht Bhai Mardan, who after fulfilling all legal and codal formalities held the appellant responsible.
4. Incorrect the appellant was issued Charge Sheet with statement of allegations and enquiry was entrusted to the then SDPO Takht Bhai Mardan. Enquiry Officer summoned the appellant and copies of charge sheet with statement of allegations were handed over to him. Enquiry Officer during the course of enquiry provided personal hearing opportunity to the appellant and he was also questioned and counter questioned at length, but he failed to produce any cogent evidence in his defense. Therefore, the Enquiry Officer recommended the appellant for awarding major punishment (**Copy charge sheet with statement of allegations and enquiry report are annexed as annexure "E" & "F"**).
5. Incorrect. The DPO Mardan also called the appellant for Orderly Room on 29.12.2020 by providing right of self defense, but he failed to justify his innocence, therefore, he was awarded major punishment of dismissal from service which does commensurate with the gravity of misconduct of appellant. Besides, the appellant preferred departmental appeal and the appellate authority after paying due consideration, summoned and heard the appellant in Orderly Room held on 20.01.2021, but he bitterly failed to produce any cogent reason in his defense. Therefore, the same was rejected and filed being devoid of merit (**Copy of dismissal & rejection orders are enclosed as Annexure "G & H"**).
6. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:


- A. Incorrect. Plea taken by the appellant is not plausible the orders passed by the competent authority as well as appellate authority are legal, lawful and according to norms of natural justice. Hence, liable to be maintained.
- B. Incorrect the appellant was issued Charge Sheet with statement of allegations and enquiry was entrusted to the then SDPO Takht Bhai Mardan. Enquiry Officer summoned the appellant and copies of charge sheet with statement of allegations were handed over to him. The enquiry officer during the course of enquiry recorded statement of appellant and heard in person and he was also questioned and counter questioned at length, but he failed


to produce any cogent evidence in his defense, however, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major punishment and he was also summoned by the competent authority in Orderly Room on 29.12.2020, but this time too, he failed to justify his innocence, therefore, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant. Moreover, the respondent did not violate any law & rules, hence, the order liable to be maintained.


- C. Para pertains to ETEA needs no comments. While rest of para is not plausible because SHO has just performed his legal duty and he has no grudges against the appellant, hence, plea of the appellant is totally baseless.
- D. Incorrect para already explained needs no comments.
- E. Incorrect. As discussed earlier the SHO has no grudges / ill-will against the appellant therefore, stance taken by the appellant has no legal footings to stand on.
- F. Incorrect. Para explained earlier needs no comments.
- G. Incorrect stance taken the appellant is totally devoid of merit because he has been arrested red handed being indulged in unfair means.
- H. Incorrect. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings. Besides, release on bail does not mean acquittal from the charges rather the same is released from the custody.
- I. Incorrect. Para explained earlier needs no comments.
- J. That the respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER:-

It is therefore, most humbly prayed that on acceptance of above submissions, appeal of the appellant may very kindly be dismissed with costs.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
 (Respondent No. 01)


Regional Police Officer,
Mardan
 (Respondent No. 02)


District Police Officer,
Mardan.
 (Respondent No. 03)

4

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.**

Service Appeal No. 2961/2021

Hayat Zaman Ex-Constable No. 2931 Police Station Saddar Mardan

.....Appellant


VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

COUNTER AFFIDAVIT.

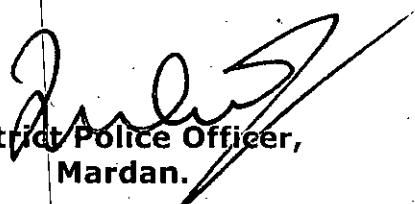
We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.


**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 01)

ATTESTED


**Regional Police Officer,
Mardan**
(Respondent No. 02)




**District Police Officer,
Mardan.**
(Respondent No. 03)



OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

Annex A
5

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpomardan650@gmail.com
Facebook: District Police Mardan
Twitter: @dpomardan

No. 9901-06 /R,
Dated 21-11 /2017.

ORDER

This order will dispose-off the departmental inquiry, which has been conducted against Constable Hayat Zaman No. 2931, on the allegation that he while posted at Police Station Takht Bhai, Mardan is proceeded against departmentally for the charges of corrupt practice, in-efficiency, close associations with criminals and sharing information regarding the movement of Police Officers with miscreants. Therefore, he is suspended and closed to Police Lines, Mardan. This attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975.

In this connection, Constable Hayat Zaman No. 2931, was charge sheeted vide this office No. 69/R, dated 12.10.2017 and also proceeded him against departmentally through Mr. Abdur Rauf Babar, SP/Operations/HQrs: Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 2045/PA/OPS, dated 03.11.2017. The allegations have been established against him and recommended for major punishment.

The undersigned agreed with the findings of the enquiry officer and also heard him in Orderly Room on 17.11.2017, the alleged Constable Hayat Zaman No. 2931, is hereby awarded major punishment of "Dismissal from Service", with immediate effect in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 2688
Dated 20/11 /2017.

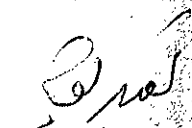

Dr. Mian Saeed Ahmed (PSP)
District Police Officer,
Mardan.

No. 9901-06 dated Mardan the 21-11 /2017.

Copy for information and necessary action to the:-

1. Deputy Inspector General of Police, Mardan Region-I, Mardan.
2. S.P Operations, Mardan.
3. DSP/ HQrs, Mardan.
4. Pay Officer (DPO) Mardan.
5. E.C (DPO) Mardan.
6. OSI (DPO) Mardan.

*****!!!!*****



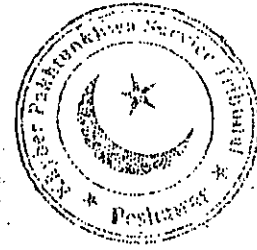
Ammeable
"B" (6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 234/2018

Date of Institution ... 19.02.2018

Date of Decision ... 13.03.2019



Hayat Zaman Ex-Constable No. 2931, Police Station Takht Bhai District Mardan. (Appellant)

VERSUS

Inspector General of Police/Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others. (Respondents)

Present.

Mr. Muhammad Usman Khan Turlandi,
Advocate.

... For appellant

Mr. Muhammad Riaz Khan Paindakhel,
Asst. Advocate General,

... For respondents.

MR. HAMID FAROOQ DURRANI,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER

JUDGMENT

ATTESTED

HAMID FAROOQ DURRANI, CHAIRMAN:-

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Instant appeal is directed against the order of respondent No. 3 passed on 20.11.2017, whereby, major punishment of dismissal from service with immediate effect was passed against the appellant. His departmental appeal was also rejected on 19.01.2018 by respondent No. 2.

2. The facts as available on record, suggest that the appellant joined the service in Police Department Khyber Pakhtunkhwa as constable in the year 2009. At the relevant time the appellant was posted at Police Station Takht Bhai Mardan, when he was proceeded against departmentally on the allegations of corrupt practices, in-efficiency, close association with criminals and sharing information regarding the movement of Police Officers with miscreants. The appellant was suspended and closed to the Police Lines, Mardan.

3. We have heard learned counsel for the appellant and learned Asstt. A.G on behalf of the respondents:

Learned counsel for the appellant vehemently argued that no proper/formal enquiry was conducted against the appellant in order to prove the grave allegations contained in the charge sheet and statement of allegations, issued on 12.10.2017, to the appellant. He further contended that the allegations in the charge sheet were different than those which prevailed with the enquiry officer who had submitted a scanty report on 03.011.2017. Further stated that no show cause notice was ever issued to the appellant before imposition of major penalty upon him.

On the other hand, learned Asstt. A.G argued that all the codal formalities were fulfilled in the process of proceedings against the appellant. That, the appellant was dismissed on 24.02.2017 due to misconduct and was subsequently reinstated on 10.04.2017. In his view,

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(8)

303

the appellant was habitual offender and was rightly awarded the impugned major penalty.

4. We have carefully gone through the available record. The respondents had submitted alongwith their reply to the appeal a purported departmental enquiry report dated 03.11.2017, wherein, it was noted that "on receipt of enquiry constable Hayat Zaman No. 2931 was called in the office and heard at length. His statement was part of the enquiry file. He was questioned and counter questioned. From enquiry following facts were transpired:-

"While posted in Police Post Sari Behlol constable Hayat Zaman on receiving the graft willfully let the accused Hazrat Karim go. Hazrat Karim was wanted in many theft cases and he was under interrogation for the purpose."

The dismissal from service was recommended as punishment against the appellant. The record also contained statement of allegations and charge sheet dated 12.10.2017, wherein, the allegations were of altogether different nature. It was noted therein that constable Hayat Zaman No. 2931 was proceeded against departmentally for the charges of corrupt practices, inefficiency, close association with criminals and sharing information regarding the movement of Police Officers with miscreants. S.P (OPS) was, therefore, appointed as enquiry officer in the matter. Similar allegations contained in the latter as well.

ATTENDED

(Signature)

POLICE OFFICER
IN CHARGE

5. It is evident from one page enquiry report dated 03.11.2017 that in pursuance to memo. dated 12.10.2017 (statement of allegations and charge sheet) the proceedings were conducted in a cursory manner and, except the statement of appellant, no other evidence was ever collected to connect the appellant with serious allegations contained in the statement/charge sheet. The enquiry officer came up with the findings which were not only based on grounds extraneous to those contained in the statement/charge sheet but were rebutted from other record including FIR No. 1611, recorded on 08.10.2017, at P.S Takht Bhai District Mardan as well as Daily Diary of the same Police Station dated 14.10.2017. The FIR pertained to nomination of Hazrat Karim son of Amra Ali alongwith some other persons in offence recorded under Sections 457/380-PPC, while Mad No. 7 dated 14.10.2017 was regarding the arrest of said Hazrat Karim alongwith others on even date. The said record when examined in juxtaposition to the contents of enquiry report and the statement of allegations suggested that on the date the letter was issued Hazrat Karim was not even arrested. On the contrary in the report the only allegation against the appellant was in terms that he willfully let the accused Hazrat Karim go on receiving the graft. We have also remained unsuccessful in laying hands on any show cause notice throughout the record including the reply of respondents. The said factum alone would suggest that the departmental proceedings against the appellant were not conducted in the mode and manner required by the

ATTESTED

EXAMINER
Khan, M. A. H. Khan
D. O. No. 1000/2017
Mardan

rules, that too, in a case where major penalty of dismissal from service was awarded to a civil servant;

In view of the above discussion, the appeal in hand is allowed as prayed for. Consequently, the appellant is reinstated in service with all back and consequential benefits.

Parties are left to bear their respective costs. File be consigned to the record room.

[Signature]
(AHMAD HASSAN)
MEMBER

[Signature]
(HAMID FAROOQ DURRANI)
CHAIRMAN

Announced
3-03-2019

[Signature]
EXAMINER
Ber Pukhtunkhwa
vice Tribunal,
Peshawar

Date of Presentation of Application	12-3-19
Number of Words	212522
Copying Fee	12
Stamp	
Total	12
Date of Copying	
Date of Presentation of Copy	04-04-19
Date of Copying	04-04-19

Serial No.

14. COMMENDATORY ENTRIES.

Selected for short
A.T.S. course.

OB No: 2181

4-6-11

[Signature]
DPO/MR

Passed A-1, Examination
vide Commandant PTC Hangu Notification
No. 581-83/S, dt 7-2-013.

OB No. 513
dt 20.2.013

[Signature]
DPO/MR

ORDER

He is hereby promoted as
List C-II with immediate effect for
his good performance.

OB No 1859
13/10/15.

[Signature]
DPO/MR

ORDER

Withdrawn from List C
vide OB No. 2708 dt 10-11-16

[Signature]
DPO/MR

14. COMMENDATORY ENTRIES -- Contd.

ORDER

Name brought on List C-II for his good performance with immediate effect.

OB No. 2849
22/11/16

[Signature]
DPO/MR

ORDER

Avoided Major Punishment of Dismissal from Service while his absence period is counted as leave with-sal pay with immediate effect under the Police Rules 1975.

OB No. 530
24-2-17

[Signature]
DPO/MRD

ORDER

~~The appeal against the order of DPO/Mardan awarded vide OB No. 671 dt. 13-03-2017, is rejected vide OIG Mardan, Endst. No. 2682/es, dt. 10-4-17.~~

[Signature]
DPO/Mardan

2

ian
lica

MR

as
70

Ren
20/11/16

11-10
[Signature]
DPO/MR

14. COMMENDATORY ENTRIES - Concl.

Serial No.

Serial No.

ORDER

Keeping in view his poor family background, his Penalty of dismissal from service is converted into stoppage of one year increment without accumulative effect. The intervening period is treated as leave without pay. vide DIG Mardan Endst. No. 2580 of ES, dated 10-4-17. and pay fixed

Rs. 1110 H.P. *[Signature]*

OB No. 952

07.13.4.17.

[Signature]
District Police Officer

18 Mardan

MF 665 Active (Re-Instated)
195 *[Signature]* 12/17

MF SP
9/7/17

Drawn B = 16109/ *[Signature]*
As from 13/17
to 30/17. Adj. *[Signature]*
07/17

[Signature]
DCB
[Signature]

[Signature]
DCB
[Signature]

16. CENSURES AND PUNISHMENTS.

ORDER

He is hereby awarded major punishment of
"Dismissal from Service" with immediate effect
in exercise of the power vested in me under
Police Rules 1975.


OB No. 2688

dt 20-11-17


District Police Officer
Mardan

ORDER

Appeal is rejected. vide DPO, Mardan order
cuddt No. 449/ES, dated 19-1-2018.



DPO, Mardan

Pay on 1-7-17 Rs. 13260/PM.

1-12-17 Rs. 13760/PM

B-5+07 - 3-1-18 Rs. 14040/PM.

1-12-18 Rs. 14650/PM.


DPO, Mardan

W
J
S
L
P
U
A
H

Serial no.

15. CENSURES AND PUNISHMENTS. -- Contd.

ORDER

He is hereby placed under suspension and closed to Police lines with immediate effect

Note:- He is also proceeded against departmentally for corruption charges as well as closed contacts and sharing informations of Police officers movements with criminals/miscreants.

OBNO 2317

07-10-10-17



District Police Officer
Mardan

ORDER:-

He is hereby reinstated in service from the date of suspension with counting his suspension period as duty

OBNO 2449

12-11-19

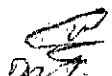

SPO Mardan

ORDER

(07) day Quarter guard awarded

OBNO 1767

21.11.19


SPO Mardan

(16)

ORDER:-

Being charged in case vide FIR NO. 246 dated 17-02-2020 U/S 223/224 PPC PS Kabali Peshawar he is hereby place under suspension and closed to police line Mardan with immediate effect.

OB NO. 361
19-02-2020

JK
DPO/Mardan

gms
Hono
Sera
Sera
Zack
meo
4/21

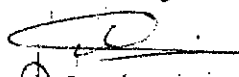
(3)

17

UK-Voy

He is hereby exonerated of charges levelled against him and is re-instated in Service from the date of suspension with counting his suspension period as duty.

OB No. 1039
23/06/2020


DPO/Mardan

ORDER

Being Charged in Case vide FIR NO. 1048 dated 25⁰⁹/₂₀₂₀ U/S 419/420/468/451/188/34 PPC PS Holi. He is hereby placed under suspension & close to Police Line with immediate effect.

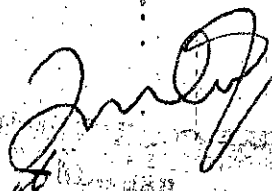
OB NO 1625
21/09/2020


DPO/MARDAN

ORDER

Awarded him Major Punishment of dismissal from Service with immediate effect.

OB NO : 2323
Dated : 29-12-2020


DPO/MARDAN

ORDER

Awarded him - appeal is Rejected vide RPO Mardan order no 389/ES, dt. 22/1/2021.

ORDER:

Warned to be careful in future

OBN No. 2803
Dt: 30/12/2019

[Signature]
DPO/MRD

18

14

Warned to be careful in future

OBN No. 96
Dt: 13/01/2020

[Signature]
DPO/MR

one day Extra drill for his absence

OBN No. 274
Dt: 06/02/2020

[Signature]
DPO/MR

Warned to be careful in future

OBN No. 615
06/04/2020

[Signature]
DPO/MR

Warned to be careful in future

OBN No. 725
02/05/2020

[Signature]
DPO/MR

ORDER

hereby awarded 05 days Quarter Guard

OBNO 1615
15/9/2020

[Signature]
DPO MRD

ORDER

Warned to be careful in future

OBNO 2002
11-11-2020

[Signature]
DPO MRD

Date

To

- 05 2693 Leave w/o pay. John
 8-11-18 DPo/mr
- 01 2136 - do - DPo/mr
 7/10/018
- 01 2227 - do - DPo/mr
 14/10/018
- 02 2293 - do - DPo/mr
 21/10/018
- 01 2422 - do - DPo/mr
 7/11/018
- 01 2610 - do - DPo/mr
 02/12/018
- 01 2764 - do - DPo/mr
 26/12/018
- 02 447 - do - DPo/mr
 03/03/2020
- 01 1012 - do - DPo/mr
 22/06/2020

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

Annexure "E"



22

367 /PA

Dated 05/10/2020

DISCIPLINARY ACTION

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Hayat Zaman No.2931, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, Constable Hayat Zaman No.2931, while posted at PS Saddar (now under suspension Police Lines), has been charged in a case vide FIR No.1048 dated 20-09-2020 U/S 419, 420, 468, 451, 188 & 34 PPC Police Station Hoti.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Bashir Ahmad SDPO TBI is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable Hayat Zaman is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

2

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

23



Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

CHARGE SHEET

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority, hereby charge Constable Hayat Zaman No.2931, while posted at PS Saddar (now under suspension Police Lines), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

05-10-2020

میں نے اس کے ساتھ ساتھ
اس کے ساتھ ساتھ
میں نے

constable Hanyal zaman 2931

12/10/2020



Annexure "f"
SUB-DIVISIONAL POLICE OFFICER,

TAKHT BHAI CIRCLE

Tel. & Fax: 0937552211, E-Mail: dsp.tbi@gmail.com

No. 1560 /ST, Dated: 28 / 12 / 2020.

THE DISTRICT POLICE OFFICER,
MARDAN.

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE HAYAT ZAMAN
NO. 2931

Memo:

Kindly refer to your office Diary No. 367/PA, dated 05.10.2020.

BRIEF FACTS:

Constable Hayat Zaman No. 2931, while posted at PS Saddar (now under suspension Police Lines), has been charged in a case vide FIR No. 1048 dated 20.09.2020 u/s 419, 420, 468, 451, 188 & 34 PPC Police Station Hoti.

The competent authority designated undersigned as enquiry officer.

PROCEEDINGS:

Enquiry proceedings were initiated and the alleged Constable Hayat Zaman No. 2931 was summoned and copy of charge sheet was handed over to him accordingly. He produced his written statement and he was heard in person (Annex, "A"). He stated that on 20.09.2020 he was present in the examination hall of B1 paper which was conducting through ETEA; in the meanwhile SHO/SI Ashiq Hussain entered the examination hall and took the paper sheet from him that he was cheating and using unfair means. The alleged constable stated that he was not using unfair means to solve the paper.

Constable Hayat Zaman was questioned and counter questioned at length. While proceeding further in the enquiry, investigation officer of the case was summoned and the case file was perused. A report/statement of Investigation Officer was also got recorded (Annex, "B").

2

25


SERVATIONS:

The undersigned went through the contents of FIR, statement of the delinquent police official, report of investigation officer and other record including case file, the following observations were made:

1. Constable Hayat Zaman was found guilty during the course of investigation.
2. Delinquent constable being part of discipline force failed to maintain discipline in the hall of examination.
3. He was solving B1 paper through unfair means and cheating which is against the rules of B1 examination hall.

RECOMMENDATION:

Keeping in view the above facts, it is recommended that Constable Hayat Zaman No. 2931 may please be awarded Major Punishment, if agreed.


Muhammad Qais Khan (PSP)
Sub-Divisional Police Officer,
Takht Bhai

The officer was heard in O.R.
He was given opportunity to
clarify in person but in vain.
The officer was caught cheating during

BI exam.
Keeping in view the findings of the
F.O & material on record, Constable
Hayat Zaman 2931 is awarded

major punishment of
dismissal from service.

Jules

29.12.2020

DIS
35
36

بیان ازاں حیات زمان 2931

مورخہ: 05-10-2020

چارج شیٹ
شوکار نمبر: 367

جواب:-

جناب عالی!

مورخہ 20-09-2020 کو ہمارا IATA B1 امتحان تھا کہ ہم پڑچے میں مصروف تھے کہ انسپکٹر عاشق تعینات SHO ہوتی جسکی حال سے باہر سیکورٹی ڈیوٹی تھی۔ امتحان حال کے اندر آ کر مجھے پڑچے سے اٹھایا اور کہاں کہ آپ ادھر ادھر دیکھ رہا ہے اور نقل کر رہا ہے میں بار بار عاشق خان SHO ہوتی کو کہہ رہا ہوں کہ میں نے کسی قسم کی نقل نہیں کی لیکن عاشق خان SHO نے ہماری نہیں سنی اور ہمیں پڑچے سے اٹھا کر اپنے جائے تعیناتی تھانہ ہوتی لے آیا اور ہمارے خلاف دفعہ FIR 419/420 درج کیا جو کہ ہم نے اس FIR کو ڈسچارج کرنے کیلئے عدالت سے رجوع کیا کہ ہمارے خلاف FIR اور امتحانی حال میں نقل کرنے کی الزام سراسر غلط اور بے بنیاد ہے اور نہ ہی ہمارے خلاف ETEA Invigilator سٹاف کی طرف سے ہمارے اوپر کسی قسم کا الزام ہے اور نہ کوئی تحریری شکایات ہے البتہ پورے ETEA Invigilator سٹاف کے ساتھ اچھی طریقے سے پیش آئے ہے اور سٹاف کے ساتھ پورا ہر ممکن تعاون کیا ہے۔

لہذا آپ صاحبان سے موذبانہ گزارش ہے کہ سائل زیر بحث معاملے میں بری الزام قرار کر کے ملازمت پر بحال کرنے مناسب احکامات صادر فرمائیں بندہ تاحیات دُعا گور ہے گا۔

صالحہ کھٹار
سائل حیات زمان
نمبر 2931



Annexure G
27

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com



No. 4320-23 /PA

Dated 29/12/2020

ORDER ON ENQUIRY OF CONST: HAYAT ZAMAN NO.2931

This order will dispose off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at PS Saddar (now under suspension Police Lines Mardan), was placed under suspension vide this office OB No. 1625 dated 21.09.2020, issued vide order/endorsement No. 4837-40/EC dated 23.09.2020 on account of charging in a case vide FIR No. 1048 dated 20.09.2020 U/S 419, 420, 468, 451, 188, 34 PPC PS Hoti & proceeded against departmentally through Mr. Muhammad Qais Khan SDPO Takht-Bhai vide this office Statement of Disciplinary Action/Charge Sheet No.367/PA dated 05-10-2020, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.1560/ST dated 28-12-2020, holding responsible the alleged official of misconduct & recommended for major punishment.

Final Order

Constable Hayat Zaman was heard in OR on 29-12-2020, who failed to satisfy the undersigned, therefore, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 2323

Dated 29/12-2020.


**(Dr. Zahid Ullah) PSP
District Police Officer
Mardan**

Copy forwarded for information & n/action to:-

- 1) The Regional Police Officer Mardan, please.
- 2) The SP/Investigation & DSP/HQrs Mardan.
- 3) The P.O & E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with () Sheets.

ORDER.

Amr... 28

This order will dispose-off the departmental appeal preferred by Ex-Constable Hayat Zaman No. 2931 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 2323 dated 29.12.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station Saddar, Mardan was found involved in a case FIR No. 1048 dated 20.09.2020 u/s 419/420/468/451/188/34-PPC Police Station Hot District Mardan being involved in unfair means during B-I examination.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer, Takht Bhal, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings, wherein he recommended the delinquent Officer for major punishment.

He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Mardan on 29.12.2020, but he failed to advance any cogent reasons in his defense. Hence, he was awarded major punishment of dismissal from service vide OB: No. 2323 dated 29.12.2020.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 20.01.2021.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations of misconduct against the appellant have been proved beyond any shadow of doubt. Being a member of disciplined/uniformed force, the involvement of the delinquent Officer in such like activities has brought a bad name to the entire Police Force in the eyes of the general public. On perusal of previous service record of the appellant, it was noticed that he is habitual absentee and prior to this, the appellant was also dismissed from service twice for his disinterest in the official duties. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

[Signature]
Regional Police Officer,
Mardan.

606
25-1-2021

DSP/legal
EC ✓
for information

DP/Amr...
22/1/21

No. 389 /ES, Dated Mardan the 22-01-2021.

✓ Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 14/LB dated 14.01.2021. His service record is returned herewith.

(*****)

KPO/Mard

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

(29)

Service Appeal No. 2961/2021

Hayat Zaman Ex-Constable No. 2931 Police Station Saddar Mardan

Appellant


VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

Respondents

AUTHORITY LETTER.

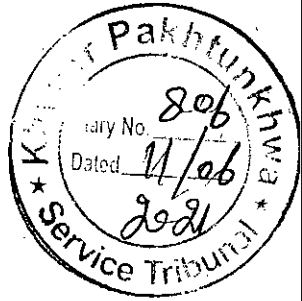
Mr. Khyal Roz Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 01)


Regional Police Officer,
Mardan
(Respondent No. 02)


District Police Officer,
Mardan.
(Respondent No. 03)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.



Put up to the worthy chair-man
with relevant app-
1.

Appeal No. _____/2021

Hayat Zaman

11/6/2021

V/S

Police Deptt:

Reader

APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF 29.08.2021

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 29.12.2020, where the appellant has dismissed from service.
2. That the instant appeal was fixed for preliminary hearing on 03.05.2021, however due to sad demise of Honourable Chairman of KP Service Tribunal, the Service was non-functional and case was adjourned to 18.07.2021 on date fixed i.e 03.05.2021.
3. That as the appellant was dismissed from service, due to which his financial position is very hard and not bearable.
4. That it will be in the interest of justice to fix the case at an early date.

It is, therefore, most humbly prayed that on acceptance of this application, an early date of hearing may kindly be fixed in the above Service Appeal instead of 18.07.2021.

Fix in July, 2021
26/07
17/07/2021

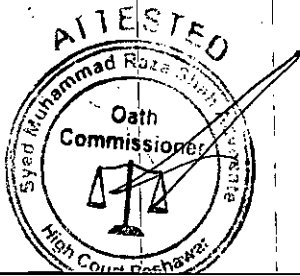
APPELLANT

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2021

Hayat Zaman

V/S

Police Deptt:

.....
**APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF 29.08.2021**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 29.12.2020, where the appellant has dismissed from service.
2. That the instant appeal was fixed for preliminary hearing on 03.05.2021, however due to sad demise of Honourable Chairman of KP Service Tribunal, the Service was non-functional and case was adjourned to 18.07.2021 on date fixed i.e 03.05.2021.
3. That as the appellant was dismissed from service, due to which his financial position is very hard and not bearable.
4. That it will be in the interest of justice to fix the case at an early date.

It is, therefore, most humbly prayed that on acceptance of this application, an early date of hearing may kindly be fixed in the above Service Appeal instead of 18.07.2021.

APPELLANT

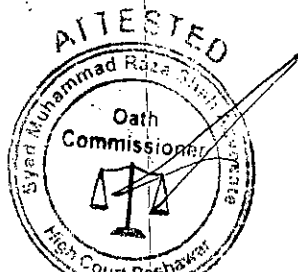
THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.


DEPONENT



BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2021

Hayat Zaman

V/S

Police Deptt:

.....
**APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF 29.08.2021**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 29.12.2020, where the appellant has dismissed from service.
2. That the instant appeal was fixed for preliminary hearing on 03.05.2021, however due to sad demise of Honourable Chairman of KP Service Tribunal, the Service was non-functional and case was adjourned to 18.07.2021 on date fixed i.e 03.05.2021.
3. That as the appellant was dismissed from service, due to which his financial position is very hard and not bearable.
4. That it will be in the interest of justice to fix the case at an early date.

It is, therefore, most humbly prayed that on acceptance of this application, an early date of hearing may kindly be fixed in the above Service Appeal instead of 18.07.2021.

APPELLANT

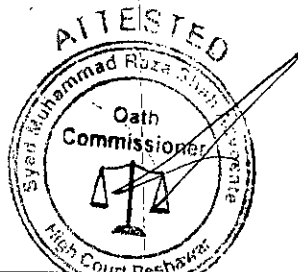
THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.


DEPONENT



BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2021

Hayat Zaman

V/S

Police Deptt:

.....
**APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF 29.08.2021**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 29.12.2020, where the appellant has dismissed from service.
2. That the instant appeal was fixed for preliminary hearing on 03.05.2021, however due to sad demise of Honourable Chairman of KP Service Tribunal, the Service was non-functional and case was adjourned to 18.07.2021 on date fixed i.e 03.05.2021.
3. That as the appellant was dismissed from service, due to which his financial position is very hard and not bearable.
4. That it will be in the interest of justice to fix the case at an early date.

It is, therefore, most humbly prayed that on acceptance of this application, an early date of hearing may kindly be fixed in the above Service Appeal instead of 18.07.2021.

APPELLANT

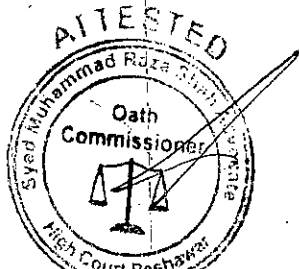
THROUGH:

(TAIMUR ALI KHAN) .
ADVOCATE HIGH COURT,

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.

DEPONENT



BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2021

Hayat Zaman

V/S

Police Deptt:

.....
**APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF 29.08.2021**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 29.12.2020, where the appellant has dismissed from service.
2. That the instant appeal was fixed for preliminary hearing on 03.05.2021, however due to sad demise of Honourable Chairman of KP Service Tribunal, the Service was non-functional and case was adjourned to 18.07.2021 on date fixed i.e 03.05.2021.
3. That as the appellant was dismissed from service, due to which his financial position is very hard and not bearable.
4. That it will be in the interest of justice to fix the case at an early date.

It is, therefore, most humbly prayed that on acceptance of this application, an early date of hearing may kindly be fixed in the above Service Appeal instead of 18.07.2021.

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.


DEPONENT

