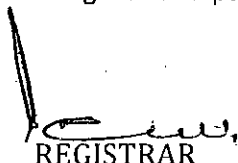

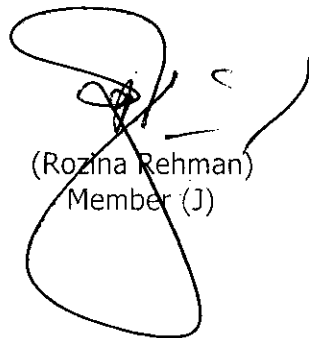


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 15911 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/12/2020	<p>The appeal of Mr. Jawad Khan presented today by Mr. Javed Iqbal Gulbella Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	22.01.2021	<p>Appellant present through counsel. Preliminary arguments heard. File perused.</p> <p>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.</p> <p>Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 20.04.2021 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

Amount Deposited
Security & Process Fee
59/1/21

20.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 15.06.2021 for the same as before.



Reader

15.06.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Khial Roz, Inspector for the respondents present.

Respondents have submitted written reply. The appeal is entrusted to D.B for arguments on 28.10.2021.

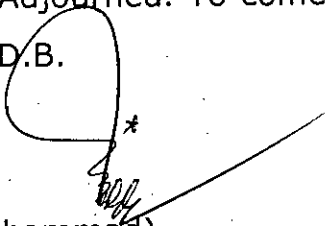


Chairman

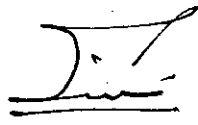
28.10.2021

Mr. Junaid Khan (junior of learned counsel for the appellant) present. Mr. Khalid Mehmood, Head Constable alongwith Mr. Riaz Ahmed Painsdakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant submitted rejoinder, copy of which handed over to learned Assistant Advocate General. Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 17.12.2021 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

17-12-21

DB is on Tour case to come up?
For the same on Dated. 28-1-22

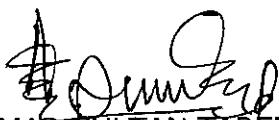
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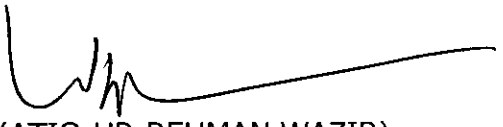
ORDER
28.01.2022

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, separately placed on file, 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
28.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN


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

08. In view of the foregoing discussion, 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
28.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

07. The criminal case was decided vide judgment dated 21-06-2021 and the appellant was discharged under section 4C (ii) of Prosecution Act, 2005 on the request of prosecution, hence the appellant was exonerated of the charges. In a situation, if a civil servant is dismissed from service on account of his involvement in criminal case, then he would have been well within his right to claim reinstatement in service after acquittal from that case. Reliance is placed on 2017 PLC (CS) 1076. In 2012 PLC (CS) 502, it has been held that if a person is acquitted of a charge, the presumption would be that he was innocent. Moreover, after acquittal of the appellant in the criminal case, there was no material available with the authorities to take action and impose major penalty. Reliance is placed on 2003 SCMR 207 and 2002 SCMR 57, 1993 PLC (CS) 460. Supreme Court of Pakistan in its judgment reported as PLD 2003 SC 187 has held that where the departmental proceedings were initiated only on the basis of criminal charge, which was not subsequently proved by the competent court of law and resulted in acquittal, would be entitled to be re-instated in service. It is a well-settled legal proposition that criminal and departmental proceedings can run side by side without affecting each other, but in the instant case, we are of the considered opinion that the departmental proceedings were not conducted in accordance with law. The authority and the inquiry officer badly failed to abide by the relevant rules in letter and spirit. The procedure as prescribed had not been adhered to strictly. All the formalities had been completed in a haphazard manner, which depicted somewhat indecent haste. Moreover, the appellant was acquitted of the same charges by the criminal court; hence, there remains no ground to further retain the penalty so imposed. Accused civil servant in case of his acquittal was to be considered to have committed no offense because the criminal court had freed/cleared him from the accusation or charge of crime – such civil servant, therefore, was entitled to grant of arrears of his pay and allowances in respect of the period. Reliance is placed on 1998 SCMR 1993 and 2007 SCMR 537.

05. Record reveals that the appellant being involved in case FIR U/Ss, 324/353/337-A(i)/148/149 PPC Dated 31-08-2020 was proceeded departmentally in absentia as the appellant was in jail and was released on bail vide judgment dated 26-09-2020 and was later on acquitted from the criminal charges vide judgment dated 21-06-2021, but before his acquittal from criminal charges, the appellant was dismissed on 05-10-2020, hence the appellant in the first place was not afforded opportunity of defense, as the appellant was not associated with proceedings of the departmental inquiry, as he was proceeded against in absentia. To this effect, the Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

WM 06. Being involved in a criminal case, the respondents were required to suspend the appellant from service under section 16:19 of Police Rules, 1934, which specifically provides for cases of the nature. Provisions of Civil Service Regulations-194-A also supports the same stance, hence the respondents were required to wait for the conclusion of the criminal case, but the respondents hastily initiated departmental proceedings against the appellant and dismissed him from service before conclusion of the criminal case. It is a settled law that dismissal of civil servant from service due to pendency of criminal case against him would be bad unless such official was found guilty by competent court of law. Contents of FIR would remain unsubstantiated allegations, and based on the same, maximum penalty could not be imposed upon a civil servant. Reliance is placed on PLJ 2015 Tr.C. (Services) 197, PLJ 2015 Tr.C. (Services) 208 and PLJ 2015 Tr.C. (Services) 152.

dated 16-03-2021, hence the instant service appeal with prayers that the impugned orders dated 05-10-2020, 20-11-2020 and 16-03-2021 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned orders are against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that the inquiry so conducted against the appellant would reveal that the appellant was not associated with proceedings of the inquiry, which is against the norms of justice and fair play, as the appellant at that particular time was in jail, hence no charge sheet/statement of allegation was served upon the appellant, nor any showcause notice was served upon the appellant, thus deprived the appellant to defend his cause in a proper way; that the appellant was falsely implicated in a criminal case and as per rule, the appellant was required to be suspended from service and to wait for conclusion of the criminal case but the respondents hastily proceeded the appellant and dismissed him from service illegally; that the appellant has been acquitted of the criminal charges, hence there remains no ground to maintain such penalty anymore.

03. Learned Additional Advocate General for the respondents has contended that upon his involvement in a criminal case, FIR U/Ss 324/353/337-A(i)/148/149 PPC Dated 31-08-2020 and the appellant was proceeded departmentally on the same charges; that regular inquiry was conducted against the appellant and as per recommendation of the inquiry officer, the appellant was removed from service vide order dated 05-10-2020; that though the appellant was acquitted of the criminal charges, but it is a well settled legal proposition that departmental and criminal proceedings can run side by side and the appellant was held guilty in the departmental proceedings, hence was awarded with appropriate punishment.

04. We have heard learned counsel for the parties and have perused the record.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR:

Service Appeal No. 15911/2020

Date of Institution ... 14.12.2020

Date of Decision ... 28.01.2022

Jawad (Ex-Constable Belt No: 2976) S/o Habib Ur Rehman R/o Moh: Katan Khel,
Gojraan, Neher Kinara, Takar, Tehsil Takht Bhai, District Mardan.

... (Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others.

... (Respondents)

Javed Iqbal Gulbela & Taimur Ali Khan,
Advocates

... For Appellant

Muhammad Adeel Butt,
Additional Advocate General

... For respondents

AHMAD SULTAN TAREEN

...

CHAIRMAN

ATIQ-UR-REHMAN WAZIR

...

MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are

that the appellant, while serving as Constable in Police Department was proceeded against on the charges of his involvement in FIR U/Ss 324/353/337-A(i)/148/149 PPC Dated 31-08-2020 and was arrested. The appellant was suspended from service vide order dated 02-09-2020. The appellant was proceeded departmentally and was ultimately dismissed from service vide order dated 05-10-2020. In the meanwhile, the appellant was granted bail vide judgment dated 26-09-2020 and later on acquitted of the criminal charges by the competent court of law vide judgment dated 21-06-2021. After release from jail, the appellant filed departmental appeal, which was rejected vide order dated 20-11-2020. The appellant filed revision petition, which was rejected vide order

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In Re S.A No. _____/2020

Jawad

VERSUS

Govt. of Khyber Pakhtunkhwa and Others


INDEX

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3.	Addresses of Parties.		10
4.	Copy of FIR & Suspension Order dated 02/09/2020	"A & B"	11-13
5.	Copy of Charge Sheet & Statement of Allegation	"C & D"	14-15
6.	Copy of Order dated 26/09/2020	"E"	16-17
7.	Copy of Office Order dated 24/09/2020	"F"	18
8	Copy of Order dated 05/10/2020	"G"	19
9	Copy of Departmental Appeal & Order dated 20/11/2020	"H & I"	20-21
10	Copy of 2 nd Departmental Appeal	"J"	22
11	Copy of Compromise Deed	"K"	23
12	Other Documents	-	-
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Dated: 12/12/2020


APPELLANT

Through


Javed Iqbal Gulbela
Advocate, High Court
Peshawar.

Off Add: 9-10A Al-Nimrah Centre, Govt College Chowk Peshawar

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

In Re S.A No. 15911 /2020

Diary No. 16455
Dated 14/12/2020

Jawad (Ex-Constable Belt No: 2976) S/o Habib Ur
Rehman R/o Moh: Katan Khel, Gojraan, Neher
Kinara, Takar, Tehsil Takht Bhai, District Mardan.

....Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa
2. Regional Police Officer Mardan.
3. District Police Officer, Mardan.

....Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES
TRIBUNAL ACT 1974 AGAINST
THE IMPUGNED OFFICE ORDER
NO:3495-98/PA DATED:05/10/2020
OF THE OFFICE OF DISTRICT
POLICE OFFICER MARDAN,
WHEREBY THE APPELLANT
WAS DISMISSED FROM SERVICE
AND HIS DEPARTMENTAL
APPEAL WAS ALSO TURNED
DOWN VIDE OFFICE ORDER NO:
7206/ES, DATED 20-11-2020 OF
THE OFFICE OF REGIONAL
POLICE OFFICER MARDAN, IN A

Filed to-day

Registrar

14/12/2020

CLASSICAL, CURSORY &
WHIMSICAL MANNER.

Respectfully Sheweth,

1. That the Appellant is a naturally born bonafide citizen of Islamic Republic of Pakistan & hails from a respectable family of District Mardan.
2. That the Appellant got inducted onto the rolls of Respondent Department 8 years back & have always performed his duties with full fanaticism, zest and devotion & have never left any stone unturned in performance of his duties and have always won felicitations & appreciations of the High-ups at certain junctures.
3. That it was in this backdrop that the Appellant was falsely charged in case FIR NO: 767, Dated 31/08/2020, U/s 324/ 353/ 337-A (i)/ 148/ 149 PPC, PS. Takht Bhai and in pursuance of the above mentioned false implication, the services of the Appellant was suspended from the rolls of the Respondent Department vide Office Order No: 4457-60/OSI dated 02/09/2020 of the Office of District Police Officer Mardan,

which is not only illegal, unlawful, corum-non-judice, void ab-initio but is also against Civil Service Laws and is liable to be set aside. (Copy of FIR & Suspension Order dated 02/09/2020 are annexed herewith as annexure "A & B" respectively)

4. That thereafter, charge sheet along with statement of allegation was served upon the Appellant, and in accordance of the same, Mr. Adnan Azam, DSP Rural was nominated as Inquiry Officer in case of the Appellant. (Copy of Charge Sheet & Statement of Allegation is annexed herewith as Annexure "C & D" respectively).
5. The as per the supra-mentioned certainties, coupled with the vivid fact of his suspension, it would appropriate to mention here that the Appellant has already been released on bail vide order dated 26/09/2020 by the Additional Sessions Judge II, Takht Bhai. (Copy of Order dated 26/09/2020 is annexed herewith as annexure "E")
6. That later on the inquiry officer submitted his inquiry report and findings in case of

the Appellant vide Officer Order No: 712/ST dated 24/09/2020, whereby recommendation for imposing major penalty upon the Appellant was given. **(Copy of Office Order dated 24/09/2020 is annexed herewith as Annexure "F")**

7. That following the recommendations of the inquiry officer, the Respondent No: 3 being Competent Authority awarded major penalty of dismissal from service upon the Appellant vide Office Order No: 3495-98/PA, dated 05/10/2020. **(Copy of Order dated 05/10/2020 is annexed herewith as annexure "G")**

8. That feeling aggrieved from the impugned dismissal order of the office of the D.P.O Mardan, the Appellant preferred Departmental Appeal to the Worthy Regional Police Officer Mardan, which was decided vide Office Order No: 7206/ES dated 20/11/2020 whereby the Appellate Authority also rejected the Departmental Appeal of the Appellant in a classical, cursory & whimsical manner. **(Copy of Departmental Appeal & Order dated**

20/11/2020 are annexed herewith as Annexure "H & I" respectively)

9. That again feeling aggrieved from the actions of Appellate Authority, the Appellant moved a revision petition to the worthy Inspector General of Police Khyber Pakhtunkhwa, but the same has also been shelved by the Respondent Inspector General of Police Khyber Pakhtunkhwa and till date no action has ever been taken upon the revision petition of the Appellant. (Copy of 2nd Departmental Appeal is annexed herewith as Annexure "J")

10. That feeling aggrieved from the supra-mentioned acts of the Respondent Department, the Appellant approaches this Hon'ble Tribunal upon the following grounds inter-alia:-

GROUND:-

- A. That the impugned dismissal from the service order is unwarranted, against the fact & law on the subject and is not sustainable at all.

- B. That no Show-Cause Notice was given to the Appellant, nor any opportunity of personal hearing was extended to the Appellant to defend and clear his stance, neither was allowed to cross-examine any witness and without any fault, the Appellant was dismissed from service, therefore the impugned dismissal order is not only illegal & unlawful but also is against the norms and principles of natural justice.
- C. That no final Show-Cause Notice was given to the Appellant and as well as no fair inquiry was ever conducted & the Respondent passed the impugned dismissal order No:3495-98/PA dated 05/10/2020 which clearly proves malafide & mal-intention as well as mal-practices of the Respondents against the Appellant, hence the impugned order is not justified in any cannon of law.
- D. That the impugned dismissal from service order is unlawful, illogical and is liable to be cancelled because the Respondent utterly violated the service laws, rules, regulations & policy of the Government for Civil Servants while passing the impugned dismissal order.
- E. That the impugned dismissal order is the violation of fundamental rights of the Appellant which is guaranteed & protected

by the Constitution of Islamic Republic of Pakistan 1973.

- F. That under the mandate of Article 4 of the Constitution, no one should be treated otherwise than in accordance with law, but here the case of the Appellant is volta-facie and a totally different yardstick has been used to treat the Appellant.
- G. That a genuine compromise has already been effected in Case FIR No: 767 dated 31/08/2020 U/s 324/ 353/ 337-A (i)/ 148/ 149 PPC, PS, Takht Bhai on the ground of no objection from the rival party, and there is likelihood of acquittal of the Appellant in the instant case being innocent. Thus being innocent the impugned dismissal order is ineffective upon the rights of the Appellant, and is not sustainable at all. **(Copy of Compromise Deed is annexed herewith as Annexure "J")**
- H. That the Respondents has clearly violated the basic ingredients of law and have deprived themselves from the service laws in case of the Appellant and due to this deprivation and not following the codal formalities, the impugned dismissal order is illegal & void.
- I. That from all prospectives, the impugned dismissal order is wrong, illegal, void, against the rights of the Appellant & is liable to be set aside & by doing so the

Appellant is entitled to be re-instated into service with all back benefits.

J. That the Appellant seeks permission of this Hon'ble Tribunal to advance other relevant grounds at the time of arguments.

It is therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned dismissal order No: 3495-98/PA dated 05/10/2020 of the office of District Police Officer Mardan, and impugned office Order No: 7206/ES dated 20/11/2020 of the office of Regional Police Officer Mardan, may kindly be set aside and by doing so the Appellant may very graciously be reinstated into service with all back benefits.


Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Dated: 12/12/2020


APPELLANT

Through


Javed Iqbal Gulbela
Saghir Iqbal Gulbela


Ahsan Sardar
&
Tahir Khan
Advocates, High Court
Peshawar.

NOTE:-

As per information of my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.


Advocate.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2020

Jawad

VERSUS

Inspector General of Police and Others

AFFIDAVIT

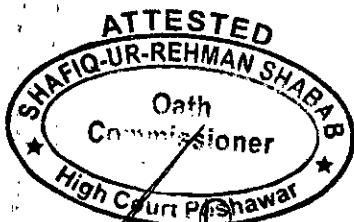
I, Jawad S/o Habib Ur Rehman R/o Mohallah Katan Khel, Gojaraan, Nehar Kinara, Takar, Tehsil Takht Bhai, District Mardan., do hereby solemnly affirm and declare that all the contents of the accompanied appeal is true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.


DÉPONENT

CNIC#: 16102-5526165-9


IDENTIFIED BY:

Javed Iqbal Gulbela
Advocate High Court
Peshawar.



12-12-2020

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In Re S.A No. _____/2020

Jawad

VERSUS

Inspector General of Police KPK and Others

ADDRESSES OF PARTIES

PETITIONER.

Jawad (Ex-Constable Belt No: 2976) S/o Habib Ur
Rehman R/o Moh: Katan Khel, Gojraan, Neher
Kinara, Takar, Tehsil Takht Bhai, District Mardan.


ADDRESSES OF RESPONDENTS

1. Inspector General of Police, Khyber Pakhtunkhwa
2. Regional Police Officer Mardan.
3. District Police Officer, Mardan.

Dated: 12/12/2020


APPELLANT

Through


Javed Iqbal Gulbela
Advocate, High Court
Peshawar.

مدعی 9-1267985-16101

0398-5714090

ایگزیرل پولیس KPM 24

Annexure 'A'

قائم نمبر 3-0344258-1608 ابتدائی اطلاع رپورٹ

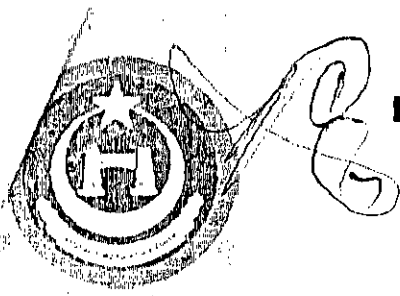
قائم نمبر 9361492-0346 ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

نمبر	تاریخ وقت	مطلع حیران	تاریخ وقت وقوعہ
1	31/2020 وقت 11:30 بجے	چاندنی بھگت	31/2020 وقت 12:00 بجے
2	نام و سکونت اطلاع دہندہ مستفیض شامی کارڈ نمبر ابو بکال نمبر	نیل خالد 1125 ولد علی رشان قوم انصاف لہر 24 سال لائن الرحمان کھار	25
3	مقتور کیفیت جرم (محدودہ) حال اگر کچھ لیا گیا ہو	378 (1) 324-353 148-149	
4	جائے وقوعہ فاصلہ قحانہ سے اور سمت	حیران سید نڈر روڈ نڈر نڈر دور آباد چوک	
5	نام و سکونت لڑکے 1) خان غالب 2) سعد 3) عمران 4) عظیم 5) عزیز	عظیم ولد ابرار اعظم خان نڈر	5) حوادہ ولد عظیم
6	کارروائی جو تحقیق کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	سر سید بی درالہ قحہ قحہ قائم لیا	
7	قحانہ سے روانگی کی تاریخ و وقت	بسیل ڈاٹ	

محمد خان بیگم بدست نیل مستفیض اطلاع نچرہ ج کرو۔ یوسف محمد ربیع حیران کے پاس
تھانہ وقت بیان - حیران نیل خالد 1125 ولد علی رشان قوم انصاف لہر 24 سال لائن الرحمان کھار
سید اللہ 1036 ولد نڈر شرف خان قوم انصاف لہر 26 سال تھا نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر
خالد خان، فضل خان لہر ان حفصہ خان نائمان ٹکٹن آباد لہر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر
اگر خالد 1125 لولا لورڈ نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر
خالد - قیوم - فضل خان لہر ان حفصہ خان نائمان ٹکٹن آباد لہر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر
لہر نڈر
رہے تھے۔ جب جائے وقوعہ مارے گئے۔ تو ہمارے ایک ایک سے دو خوشگوار آئے تھے
جن سے حیران خان غالب، سعد، عمران، عظیم حبیب لہر ان سعد حبیب حوادہ ولد عظیم
عثمان ولد نظام، قیوم ولد ناہم، عظیم ولد ابرار اعظم خان نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر
ہمارے ایک ایک اشارہ کے کر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر
تذکرہ مال میرا کولوں، سر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر
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فضل خان - قیوم مال لہر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر نڈر
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INTERNET Gul Bela
Law Chamber
0345-9405501



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

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

Annevoie "B"

2020

(13)

ORDER

Being charged in case vide FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(I)/148/149 PPC PS Takht Bhai, the following Lower Subordinates of this District Police are hereby placed under suspension and closed to Police Lines Mardan with immediate effect.

S No	Name & Ranks	Belt No	Present Posting
1.	FC Qaisar Ali	2823	Guard Banglow Ex-IGP Mr. Akbar Hoti
2.	FC Jawad Khan	2976	Plumber Police Line Mardan

OB No. 1453

Dated 31/08 /2020.

[Signature]
District Police Officer
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN.

No. 44576/OSI, dated Mardan the 02/09/2020

Copies are forwarded to the:-

1. DSP HQrs: Mardan.
2. Pay Officer to Stop Pay
3. EC.
4. PA to issue Charge Sheet & Summary of allegation to the defaulter Lower Subordinates.

[Signature]
JAVED IQBAL Gul Bela
Dawlati Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501



[Handwritten signature]



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

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



(14)

CHARGE SHEET

I, **DR. ZAHID ULLAH (PSP)**, District Police Officer Mardan, as competent authority, hereby charge **Constable Jawad Khan No.2976**, while posted at Police Lines Mardan (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

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9465501

Anne... Dv

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

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



(15)

344

/PA

Dated 7/18/2020

DISCIPLINARY ACTION

I, **DR. ZAHID ULLAH (PSP)**, District Police Officer Mardan, as competent authority am of the opinion that **Constable Jawad Khan No.2976**, 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 Jawad Khan No.2976**, while posted at Police Lines Mardan (Now under suspension Police Lines), has been charged in a case vide FIR No.767 dated 31-08-2020 U/S 324/353/337-A(i)/148/149 PPC PS Takht-Bhai.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, **Mr. Adnan Azam DSP/Rural 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.

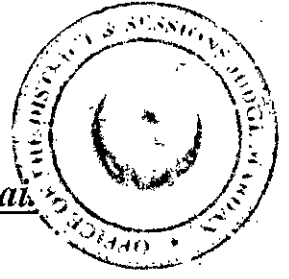
Constable Jawad Khan is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9465501

Annexure 'E'

(16)



IN THE COURT OF FAISAL ANJUM,
Additional District & Sessions Judge-II, Mardan at Takht Bhai.

BBA Petition No -----591/BA
Date of Institution-----21.09.2020
Date of Decision-----26.09.2020

State ----- Vs ----- Jawad Ali

6164
820

O-----03
26.09.2020

3

APP for the State present. Accused/petitioner through counsel present. Complainant as well as all the injured are present. Record received.

Accused/petitioner Jawad Ali, son of Habib Ur Rehman resident of Gojran Takkar seeks his post arrest bail in case FIR No 767 dated 31.08.2020 under section 324/353/337 A (ii)/337 F (iv)/148/149 PPC of Police Station Takht Bhai.

Brief facts of the case are that complainant/constable Khalid No 1125 reported the matter to the local police at casualty of Ganjai Hospital that on 31.08.2020, at 10:45hours, he along with constable Said Ullah No 1036 were taking the accused namely Khalid Khan, Fazal Khan and Qayyum, sons of Jaffar Khan charged u/s 107/151 Cr.P.C from Police Station Lund Khwar to the court of MOD, Mardan in a private pick up. When they reached to the spot, two motorcars came across their pick up and stopped in front of their vehicle from which the accused/petitioners along with co-accused armed with sticks deboarded from the motorcars and started beaten the complainant, police officials and the accused charged u/s 107/151 Cr.P.C, resultantly, the complainant, constable Saif Ullah and arrested accused Khalid Khan, Fazal Khan and Qayyum received injuries. The co-accused Jawad started firing upon the complainant from his pistol, but the complainant and other police contingents escaped unhurt. The accused/petitioner and co-accused decamped from the spot. Motive for the occurrence was described that the parties have dispute on woman folk. The complainant charged the accused/petitioner and co-accused for the commission of attempt to commit their murder and causing injuries. On this report the present FIR was registered.

26.09.2020

Certified To Be True Copy

02 DEC 2020

Examiner Copying Branch
Session Court Mardan

OFFICE OF THE
DEPUTY SUPERINTENDENT OF POLICE,
RURAL CIRCLE, MARDAN.

Phone: 0937-580322 E-mail: dsp.ruralmdn@gmail.com

Ammeure 'F'

(18)

The Worthy District Police Officer,
Mardan

No. 712 /ST, Dated: 24/09/2020

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE JAWAD NO: 2976

Memo:

Kindly refer to your office Diary No. 344/PA, dated 07.09.2020.

In pursuance of your kind order, the undersigned conducted enquiry in the above subject case. Its step-wise detail is given below:

Respected Sir,

Enquiry was conducted in charge sheet, issued, to Constable Jawad No: 2976 vide your office No 344/PA dated 07.09.2020.

Constable Jawad No: 2976 while posted at Police Line Mardan (Now under suspension) has been charged in case vide FIR No: 767 dated 31.8.2020 u/s 324/353/337-A (i)/ 148/149 PPC PS Takht Bhai.

During the enquiry following steps were taken.

- Charge sheet was issued to Constable Jawad No: 2976.
- Constable Jawad No: 2976 was heard and his statement was recorded.
- Service record of Constable Jawad: 2976 was observed.
- Statement of OI of the case was recorded and place on file.
- CDR was obtained and place on file.

FINDINGS:

During enquiry it was found that Jawad No 2976/FC is found guilty in case FIR No: 767 dated 31.08.2020 u/s 324/353/337-A (i) 148/149 PPC PS Takht Bhai. His previous record was obtained; there are 10 Bad entry and previous absentee 09 days with no good entry. While from his previous record it is evident that his is not interested in his official duties.

RECOMMENDATION:

In view of the above facts & circumstances, the undersigned has reached to the conclusion that he may be awarded Major Punishment, if agreed, please.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9403501

Enclose (10)

Handwritten signature and date: 24.9.2020

(DIA)

Abdul Aziz
Deputy Superintendent of Police,
Rural-Circle, Mardan.



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Annexure 'G'

2020

(19)

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

No. 3485-98/PA

Dated 05/10/2020

ORDER ON ENQUIRY OF CONSTABLE JAWAD KHAN NO.2976

This order will dispose-off a Departmental Enquiry under Police Rules 1975; initiated against the subject official, under the allegations that while posted at Police Lines Mardan (Now under suspension Police Lines), was placed under suspension and closed to Police Lines vide this office OB No.1453 dated 31-08-2020, issued vide order/endorsement No.4457-60/OSI dated 02-09-2020, on account of charging in a case vide FIR No.767 dated 31-08-2020 U/S 324/353/337-A(i)/148/149 PPC Police Station Takht-Bhai and proceeded against departmentally through Mr. Adnan Azam DSP/Rural Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.344/PA dated 07-09-2020, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.712/ST dated 24-09-2020, recommending the alleged official for major punishment.

Final Order

Constable Jawad was heard in O.R on 30-09-2020, but failed to present any plausible reasons in his defense, therefore, awarded him Major Punishment of Dismissal from service with immediate effect, in exercise of the power vested in me under Police R-1975.

OB No. 1700

Dated 05/10/2020.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The SP/Investigation Mardan.
- 2) The DSP/HQrs: Mardan.
- 3) The P.O & E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with 02 Sheets.

JAVED IQBAL Gul Bela
Daudza Law Chamber
Advocate High Court Peshawar
Mob/ 0345-9405501

Handwritten signature and date at the bottom right corner.

To: D.I.G of Mardan Region
Mardan

Annexure 'H'

Subject: Appeal Against the order of D.P.O Mardan dated 05 Oct, 2020 vide which the appellant was dismissed from Service.

(20)

Respected Sir,

Facts:

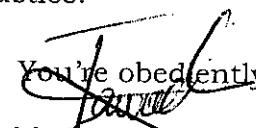
The appellant while posted at police lines Mardan under suspension as F.C was departmentally processed against on the allegation of involvement in case F.I.R no 767 dated 31 Aug, 2020 U/S 324/353/337- A (i)/148/149 PPC P.S Takht Bhai. After departmental inquiry which was carried out by Mr. Adnan Azam DSP/rural the appellant was dismissed from his service vide worthy D.P.O order O.B no 1700 dated 05 Oct, 2020. Hence, aggrieved this appeal against the said order.

Grounds for Appeal

1. That the order of DPO Mardan is against the law and facts on record.
2. That the appellant has never participated in the occurrence.
3. That the appellant being constable of police department even not imagine to attack on police officials.
4. That the appellant has been dragged in the matter on the insolent of appellant rival_ for some other motive.
5. That order of learned DPO Mardan as pre-mature and the case is still pending in the court of law and the appellant has granted bail due to false and fabricated case against the appellant and others.
6. That during the departmental inquiry no opportunity has been given but the allegations leveled against the appellant.
7. That no evidence has been brought in course of investigation to establish the charges.
8. That many elder of the locality has deposited about the innocence of the appellant before the police which fact can be mentioned by appellant opponent if they are summed and examine.
9. That the inquiry officer has ignored all my defense plea and has held responsible the appellant for the alleged misconduct on mere hear say evidence.
10. That the appellant has baseless record of eight years and always performed his duty to the satisfaction of superiors/high ups.

In view of the above; it is humbly requested that the appellant being innocent in the matter may kindly be re-instated in service for grate interest of justice.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-2405501

You're obediently

Ex-Constable Mr. Jawad Ali
Belt No. 2976
Address: Takkar Tehsil Takht Bhai
Distirct Mardan

Dated: ____/____/ 2020

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Jawad Ali No. 2976 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. 1700 dated 05.10.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Mardan, on account of involvement in a criminal case vide FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(i)/148/149-PPC Police Station Takht Bhai District Mardan.

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

He was also provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Mardan on 30.09.2020. But he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of dismissal from Service vide OB: No. 1700 dated 05.10.2020.

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 17.11.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. 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. Moreover, during the course of personal hearing, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

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.

JAVED IQBAL Gul Bela
Daudzai Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501


Regional Police Officer,
Mardan.

No. 7206 /ES, Dated Mardan the 20-11- /2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 314/LB dated 23.10.2020. His service record is returned herewith.

To: Inspector General of Police
KP

Subject: Request for Re-Instatement on Humanitarian Grounds

Respected Sir,

Facts:

The appellant while posted at police lines Mardan under suspension as F.C was departmentally processed against on the allegation of involvement in case F.I.R no 767 dated 31 Aug, 2020 U/S 324/353/337- A (i)/148/149 PPC P.S Takht Bhai. After departmental inquiry which was carried out by Mr. Adnan Azam DSP/rural the appellant was dismissed from his service vide worthy D.P.O order O.B no 1700 dated 05 Oct, 2020. Hence, aggrieved this appeal against the said order.

Grounds for Appeal

1. That the order of DPO Mardan is against the law and facts on record.
2. That the appellant has never participated in the occurrence.
3. That the appellant being constable of police department even not imagine to attack on police officials.
4. That the appellant has been dragged in the matter on the insolent of appellant rival for some other motive.
5. That order of learned DPO Mardan as pre-mature and the case is still pending in the court of law and the appellant has granted bail due to false and fabricated case against the appellant and others.
6. That during the departmental inquiry no opportunity has been given but the allegations leveled against the appellant.
7. That no evidence has been brought in course of investigation to establish the charges.
8. That many elder of the locality has deposited about the innocence of the appellant before the police which fact can be mentioned by appellant opponent if they are summed and examine.
9. That the inquiry officer has ignored all my defense plea and has held responsible the appellant for the alleged misconduct on mere hear say evidence.
10. That the appellant has baseless record of eight years and always performed his duty to the satisfaction of superiors/high ups.

In view of the above; it is humbly requested that the appellant being innocent in the matter may kindly be re-instated in service for grate interest of justice.

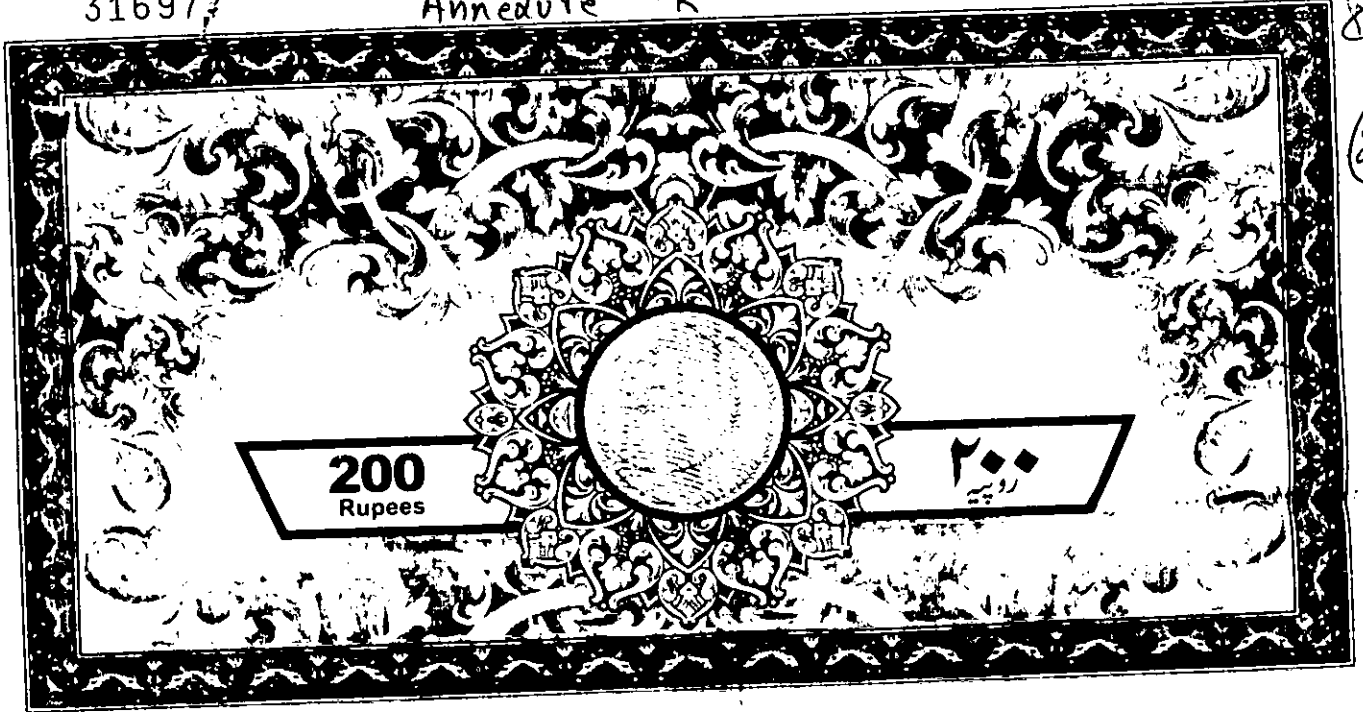
You're obediently

Ex-Constable Mr. Jawad Ali
Belt No. 2976

Dated: ____/____/2020

Address: Takkar Tehsil Takht Bhai Distirct Mardan

JAVED QBAL Gul Bela
Daudza Law Chamber
Advocate High Court Peshawar
Mob: 0345-9405501



اقم اور نامہ بابت لائی نامہ مابین فریقین

دستاویز معذرا مابین فریق اول قیوم خان، خالد خان، فضل خان، سید انور حسین خان، سائمن خان، گل میرہ، لوند خور، کشتیل ٹنڈ بھائی، منگدرت و فریق دوم جواد خان ولد حبیب الرحمن، عزم حبیب، خان غائب، عمران، سعید، سید صیب سائمن، گنگر ٹنڈ بھائی، منگدرت اور مہمان آج بروہے 15/9/2020 کو کھینڈ ٹویان ذیل و بزرگہ جسٹس محمد عمران ذیل تحریر کیا گیا تھا یہ سہ سہ

کہ فریقین کے مابین جوہ سر بلور شہہ تنازعہ چند عرصہ قبل صوبہ ایدنا جو کہ بعد از ان شہوت اختیار کیا گیا تھا اور ایک دوسرے پر بائیکاٹ اور ہوائی فائرنگ بھی کر چکے تھے۔ اس سلسلے فریق دوم کی طرف سے بہ خلاف فریق اول عدالت متعلقہ میں زیر دفعہ تحت 164 طرف بیانات میں قلمبند ہوئے تھے جس پر فریق دوم کی قسم کی مزید قانون کاروائی لینی چاہیگا۔ جبکہ جسٹس محمد عمران نے دستاویز معذرا کی رو سے بلا کی ادبیات مابین دونوں فریقین بہ رضائے الیوں فریقین نے لائی نامہ کر لیا ہے۔ اور ایسا دوسرے کو بہ رضائے الیوں بلا کی شہہ ط کے ایک دوسرے کو مصاف کر چکے ہیں آئندہ کے لیے کوئی فریق دوسری فریق کے خلاف کوئی کاروائی نہ کرنے کا پابند ہیں گے اور آئندہ کے لیے شہہ و شہہ کی طرح ذمہ دار نہ ہونے کے پابند ہیں۔

یہ لکھنڈر و ف بعد و اتر نامہ بابت لائی نامہ مابین فریقین فریق اول اور مہمان ایدنا جو کہ

JAVED IQBAL, Gul Bela
 Dardari Law Chamber
 Advocate High Court Peshawar
 Mob. 0345-9415591
 خالد خان ولد حبیب الرحمن
 16102-1328777-9

قیوم خان ولد حبیب الرحمن
 16102-6200573-7

محمد خالد سلطان سائمن خان
 16102-3667300-5

- 1) خان غائب ولد حبیب الرحمن 16102-5526165-9
- 2) عزم حبیب ولد سعید حبیب
- 3) خان غائب ولد حبیب الرحمن
- 4) عمران ولد سعید حبیب
- 5) گل میرہ ولد حبیب الرحمن
- 6) سید صیب ولد سعید حبیب
- 7) سائمن خان 16102-1745513-7
- 8) خالد خان 16102-3068894-3
- 9) سائمن خان 16102-2903542-3
- 10) سائمن خان 16102-0732746-7

وکالت نامہ

بعدالت: سردسٹر ٹریبونل، ضلع تھتہ خواہ، پٹانہ

جوار: بنام آئی. بی. پی. وغیرہ

منجانب صاحب Appellant دعویٰ سردسٹر اپیل

تاریخ

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی

بمقام پٹانہ کیلئے جاوید اقبال گل بیلہ / صغیر اقبال گل بیلہ / ایڈووکیٹ ہائٹی کورٹ کو بدین شرط وکیل

مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل

صاحب موصوف کو اطلاع دے کر حاضر عدالت کرونگا، اگر پیشی پر من مظهر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے

کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر

مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر

مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر

من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی

صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور

صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و

تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل

کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور

بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتہائی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف

کو بشرط ادا ہنگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا

اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرٹر کو بجائے اپنے یا اپنے ہمراہ

مقرر کریں اور ایسے مشیر قانون کے ہر امر دہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل

ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو

پوری فیس تاریخ پیشی سے پہلے ادا نہ کرونگا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت

میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند رہے۔

مورخہ 12-12-2020 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested
by Accepted

Ahsan

Farooq

Sigra

Amir

سردار
ایڈووکیٹ
طاہر خان
ایڈووکیٹ

C

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 15911/2020

Jawad Ex Constable Belt No. 2976 s/o Habib-ur-Rehman r/o Moh: Katan Khel
Gojraan Neher Kinara, Takar Tehsil Takht Bhai District Mardan.....Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar & others

.....Respondents

Para-wise comments 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 Hon'ble Tribunal has no jurisdiction to adjudicate the matter.

REPLY ON FACTS

1. Pertains to personal information of the appellant needs no comments.
2. Incorrect. Plea taken by the appellant is not plausible because every police officer / official is under obligation to perform his duty regularly and with devotion because in this department no room lies for lethargy. Moreover, the perusal of service record of the applicant revealed that due to his lethargic attitude his entire service record is tainted with bad entries (Copy of list of bad entries with dismissal orders are attached as Annexure "A").
3. Incorrect. Stance taken by the appellant is baseless, because he has been charged in a case vide FIR No.767 dated 31.08.2020 u/s 324/353/337-A(i)/148/149 PPC PS Takht Bhai, due to which he was suspended by the competent authority.
4. Correct to the extent that the appellant was charge sheeted and statement of allegations was duly served upon him and enquiry was entrusted to Mr. Adnan Azam Acting SDPO Rural Mardan.
5. 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. Moreover, release on bail does not mean acquittal from the charges rather the same a release from the custody and in the case of appellant, he has merely been released on bail.
6. Correct. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense but

in fiasco. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major punishment as allegations against the appellant have been proved to the hilt.

7. Incorrect. The appellant was called in orderly room on 30.09.2020, but the appellant failed to present any plausible reasons in his defense, therefore, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.
8. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because the appellant was provided full-fledged opportunity of defending himself by the appellate authority but he bitterly failed to produce any cogent reason in his defense. Therefore, the same was rejected/filed being devoid of any merit.
9. Correct to the extent that the appellant preferred revision petition under Rule 11-A KP Police Rules 1975 as amended 2017 to the Inspector General of Police Khyber Pakhtunkhwa Peshawar. The revisionary authority by taking a lenient view and decided the revision petition on merit. Therefore, the same was rejected.
10. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

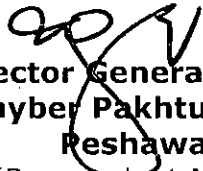
- A. Incorrect. Order passed by the competent authority is legal, lawful hence, liable to be maintained.
- B. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been properly proceeded against departmentally by issuing him Charge Sheet with Statement of Allegations, which was served upon the appellant himself and he duly signed the photo copy of charge sheet as token of its receipt. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense but in fiasco. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major punishment. In the light of above, the appellant was called in orderly room, but the appellant 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 (Copies of charge sheet with statement of allegations are attached as annexure "B").
- C. Para explained earlier needs no comments.
- D. Incorrect. Order passed by the competent authority is in accordance with law, facts and material available on record. Hence, tenable in the eye of law. Stance of the appellant is totally ill-based because no basic fundamental

rights of the appellant have been violated rather he has been treated in accordance with law and rules.

- E. Incorrect the appellant has been treated in accordance with law, rules, policy & norms of natural justice. Hence plea of the appellant is devoid of any merits.
- F. Incorrect the appellant himself admitted his involvement by affecting compromise rather he was supposed to wait for the court verdict on merit but the appellant attached compromise on which the Additional Sessions Judge-II, Takht Bhai extended him the benefit and granted bail. Moreover, 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.
- G. Para already explained needs no comments.
- H. Para explained earlier needs no comments.
- I. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

PRAYER:-

Keeping in view the above facts narrated facts it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation may kindly be dismissed with costs please.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 01)


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


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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 15911/2020

Jawad Ex Constable Belt No. 2976 s/o Habib-ur-Rehman r/o Moh: Katan Khel
Gojraan Neher Kinara, Takar Tehsil Takht Bhai District Mardan.....Appellant


VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar & 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.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 01)


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


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

Serial No.

14. COMMENDATORY ENTRIES.

ORDER

Being charged in case vide FIR NO. 767 dated 31-08-2020 u/s 324/353/337-A0

148/149 PPC
 PS TBI, he is hereby placed under suspension and closed to Police line ~~with~~ with immediate effect.

OB No. 1453

31-08-2020

DPO/Mardan

ORDER

Awarded him Major punishment of Dismissal From service with immediate effect.

OB NO 1700
 05/10/2020


 DPO MARDAN

ORDER

The appeal is rejected vide DIG MARDAN order no. 7206/ES, dt. 20-11-2020.

DPO MARDAN

16. CENSURES AND PUNISHMENTS.

① days Extra drill for his Absence

OB No. - 2204
2-10-13

DPo MR

① days Extra drill for his Absence

OB No. 2425
4-11-13

DPo MR

② days Extra drill for his Absence

OB No. - 354
7-2-14

DPo MR

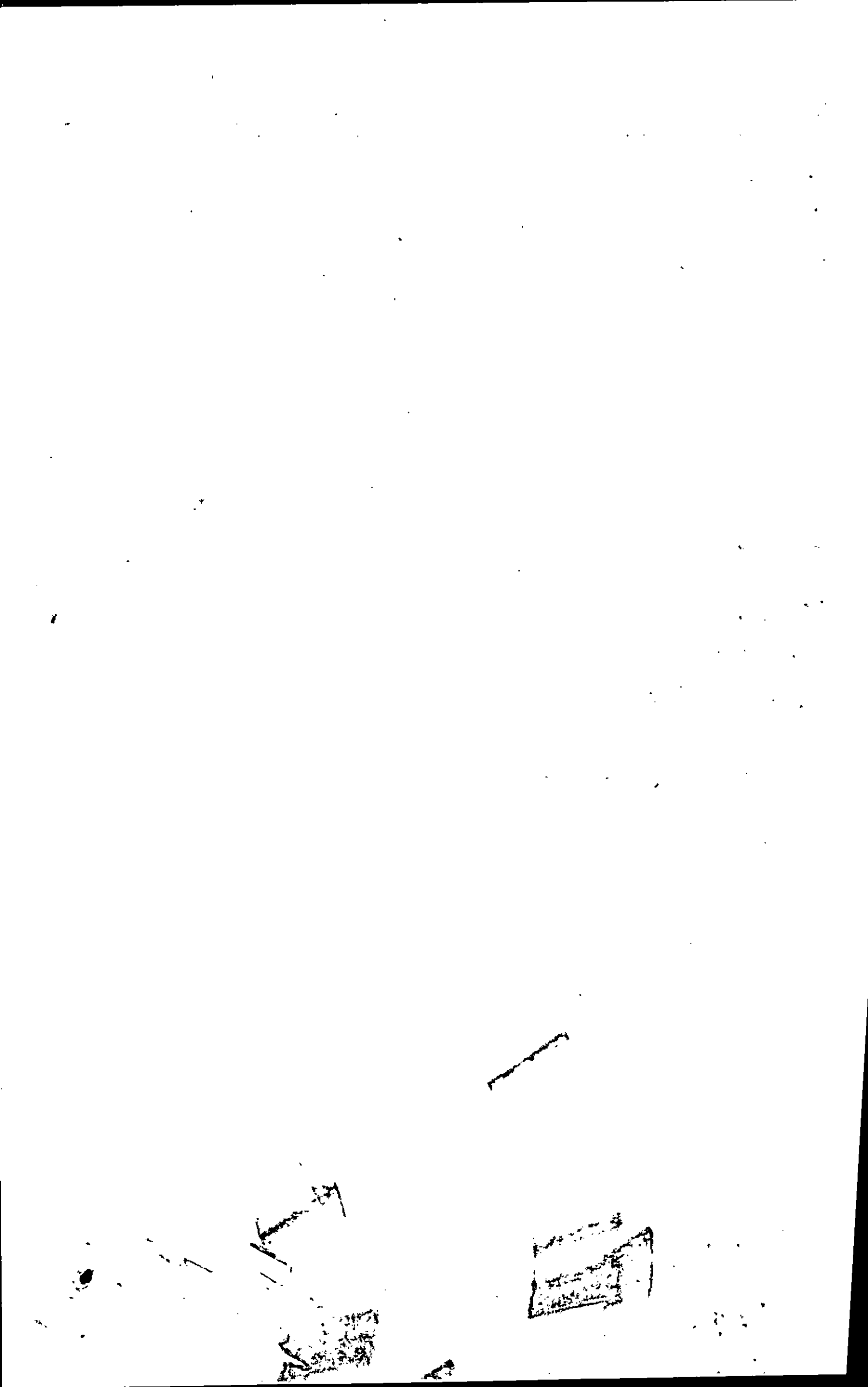
② days Extra drill for his Absence

OB No. - 525
28-2-14

DPo MR

16. LEAVE, ABSENCE AND BREAKS IN SERVICE.
 All Periods not counting as "approved service" to be entered in red ink.

1.		2.			3.	4.
Date		Extent			No. of District Order	Description of leave i.e privilege hospital, sick leave or of absence, or forfeiture of approved service.
From	To	Years	Months	Days		
				(2)	149 15-1-13	Leave w/o pay - DPO/MR
				(1)	2204 9-16-13	16 DPO/MR
				(3)	2425 4-11-13	1 DPO/MR
				(1)	354 7-2-14	1 DPO/MR
				(1)	525 26-2-14	1 DPO/MR
				(01)	114 16/1/018	DO - DPO/MR ^{YK}
				(01)	1374 17/8/2020	DO - DPO/MR ^{JK}



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31.8.2000

Dr. P. P. P. P. P.

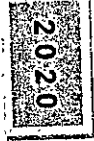
(Circular stamp)

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**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 Jawad Khan No.2976**, while posted at Police Lines Mardan (Now under suspension Police Lines), as per attached Statement of Allegations:

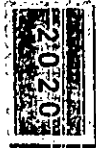
1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within **07 days** of the receipt of this Charge Sheet 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)
(Dr. Zahid Ullah) PSP
District Police Officer
Mardan



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

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



No. 344 /PA

Dated 7 18 /2020

DISCIPLINARY ACTION

I, DR. ZAHID ULLAH (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Jawad Khan No.2976, 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 Jawad Khan No.2976, while posted at Police Lines Mardan (Now under suspension Police Lines), has been charged in a case vide FIR No.767 dated 31-08-2020 U/S 324/353/337-A(i)/148/149 PPC PS Takht-Bhai.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Adnan Azam DSP/Rural 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 Jawad Khan 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

بیان اذعان کتبیل و چوا (2976)

۱۷۸

محوالہ خارج ٹیٹ مہری 344/99 07/09/2020 عہدہ میں فہرست

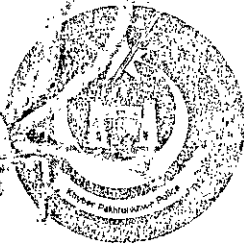
کہ اے جارج ٹیٹ میں علائکہ کردہ الزامات کے بارے میں اور
موصوفے کو اسکا بیان کیا گیا ہے کہ مہری میں کوئی
میں بیان ہوئی ہے اور اسکا بیان اس کے عہدہ کے
میں ہے اور اسکا بیان اس کے عہدہ کے
میں ہے اور اسکا بیان اس کے عہدہ کے
میں ہے اور اسکا بیان اس کے عہدہ کے

۲۹/08/2020 کو اپنی اپنی کتب کو اسکا
اور ہمارے ملنے کے اور اسکا بیان اس کے
اور اسکا بیان اس کے عہدہ کے
میں ہے اور اسکا بیان اس کے عہدہ کے
میں ہے اور اسکا بیان اس کے عہدہ کے

۳۱/08/2020 کو اسکا بیان اس کے
میں ہے اور اسکا بیان اس کے عہدہ کے
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میں ہے اور اسکا بیان اس کے عہدہ کے



CNIC = 16102-55261659
Mdb = 0315-9594857



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

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

2020

No. 3485-98/PA

Dated 05/10/2020

ORDER ON ENQUIRY OF CONSTABLE JAWAD KHAN NO.2976

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Lines Mardan (Now under suspension Police Lines), was placed under suspension and closed to Police Lines vide this office OB No.1453 dated 31-08-2020, issued vide order/endorsement No.4457-60/OSI dated 02-09-2020, on account of charging in a case vide FIR No.767 dated 31-08-2020 U/S 324/353/337-A(i)/148/149 PPC Police Station Takht-Bhai and proceeded against departmentally through Mr. Adnan Azam DSP/Rural Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.344/PA dated 07-09-2020, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.712/ST dated 24-09-2020, recommending the alleged official for major punishment.

Final Order

Constable Jawad was heard in O.R on 30-09-2020, but failed to present any plausible reasons in his defense, therefore, awarded him Major Punishment of Dismissal from service with immediate effect, in exercise of the power vested in me under Police R-1975.

OB No. 1700

Dated 05/10/2020.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The SP/Investigation Mardan.
- 2) The DSP/HQrs: Mardan.
- 3) The P.O & E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with 12 Sheets.

OFFICE OF THE
DEPUTY SUPERINTENDENT OF POLICE,
RURAL CIRCLE, MARDAN.

Phone: 0937-580322 E-mail: dsp.ruralmdn@gmail.com

The Worthy District Police Officer,
Mardan

No. 712 /ST; Dated: 24 / 09 / 2020

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE JAWAD NO: 2976

Memo:

Kindly refer to your office Diary No. 344/PA, dated 07.09.2020.

In pursuance of your kind order, the undersigned conducted enquiry in the above subject case. Its step-wise detail is given below:

Respected Sir,

Enquiry was conducted in charge sheet, issued, to Constable Jawad No: 2976 vide your office No 344/PA dated 07.09.2020.

Constable Jawad No: 2976 while posted at Police Line Mardan (Now under suspension) has been charged in case vide FIR No: 767 dated 31.8.2020 u/s 324/353/337-A (i)/ 148/149 PPC PS Takht Bhai.

During the enquiry following steps were taken.

- ✓ Charge sheet was issued to Constable Jawad No: 2976.
- ✓ Constable Jawad No: 2976 was heard and his statement was recorded.
- ✓ Service record of Constable Jawad: 2976 was observed.
- ✓ Statement of OII of the case was recorded and place on file.
- ✓ CDR was obtained and place on file.

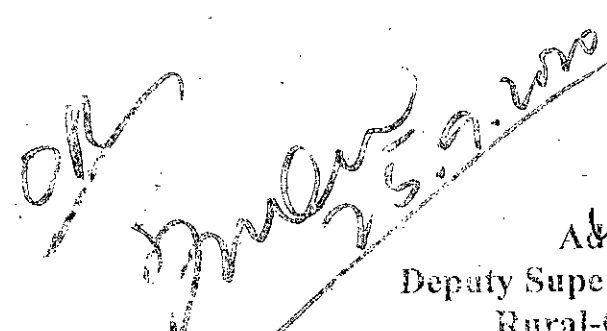
FINDINGS:

During enquiry it was found that Jawad No 2976/FC is found guilty in case FIR No: 767 dated 31.08.2020 u/s 324/353/337-A (i) 148/149 PPC PS Takht Bhai. His previous record was obtained; there are **10 Bad** entry and **previous absentee 09 days with no good entry**. While from his previous record it is evident that his is not interested in his official duties.

RECOMMENDATION:

In view of the above facts & circumstances, the undersigned has reached to the conclusion that he may be awarded **Major Punishment**, if agreed, please.

Enclose (10)


Adnan Azam
Deputy Superintendent of Police,
Rural-Circle, Mardan.

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Jawad Ali No. 2976 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. 1700 dated 05.10.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Mardan, on account of involvement in a criminal case vide FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(i)/148/149-PPC Police Station Takht Bhai District Mardan.

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

He was also provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Mardan on 30.09.2020. But he failed to advance any cogent reason in his defense. Hence, he was awarded major punishment of dismissal from Service vide OB: No. 1700 dated 05.10.2020.

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 17.11.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. 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. Moreover, during the course of personal hearing, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

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.

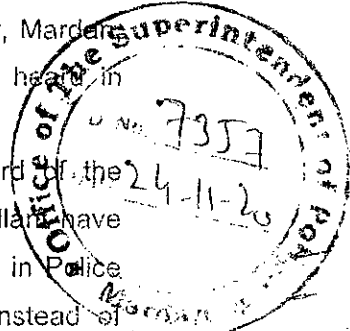
Order Announced.

Regional Police Officer,
Mardan.

No. 7206 /ES, Dated Mardan the 20-11 - 2020.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 314/LB dated 23.10.2020. His service record is returned herewith.

(*****)



*DSPLegal,
ECV
for information*

*DPD Mardan
23/11/20*

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OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/1145/21, dated Peshawar the 16/03/2021.

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 Jawad Ali No. 2976. The petitioner was dismissed from by District Police Officer, Mardan vide OB No. 1700, dated 05.10.2020 on the allegations that he while posted at Police Lines, Mardan was involved in a criminal case vide FIR No. 767, dated 31.08.2020 u/s 324/353/337-A(i)/148/149 PPC Police Station Takht Bhai district Mardan. His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 7206/ES, dated 20.11.2020.

Meeting of Appellate Board was held on 02.03.2021 wherein petitioner was heard in person. Petitioner contended that he has never participated in the occurrence. He also contended that he has been released on bail by the court.

The petitioner was heard and all record perused. His case is under trial in the court. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-

KASHIF ALAM, PSP

Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/114656/21,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. One Service Roll and one Fauji Missal of the above named Ex-FC received vide your office Memo: No. 8139/ES, dated 30.12.2020 is returned herewith for your office record.
2. District Police Officer, Mardan.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. Legal, Khyber Pakhtunkhwa, Peshawar.
5. DPA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(IRFAN ULLAH KHAN) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

3/5
DPO/Establishment
AIG/5
FC/DPO/Mardan
For AIG/5
RM/Mardan
19-03-2021

No - 108
DQ - 20
Said (SP)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 15911/2020

Jawad Ex Constable Belt No. 2976 s/o Habib-ur-Rehman r/o Moh: Katan Khel
Gojraan Neher Kinara, Takar Tehsil Takht Bhai District Mardan.....Appellant


VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar & others

..... Respondents

AUTHORITY LETTER.

Mr. Khyal Roz Inspector Legal Branch, (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.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 01)


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


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

DB
28/10

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

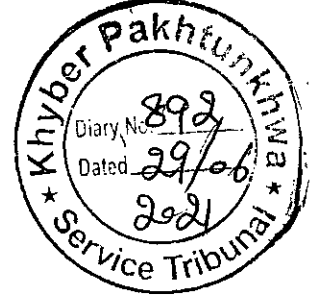
SA No.15911/2020

CM No. _____ 2021

Jawad

Versus

Govt of Khyber Pakhtunkhwa & others



Put up to the court with
relevant appeal.

APPLICATION FOR GRANTING PERMISSION TO
PLACE ON FILE THE ORDER OF JUDICIAL
MAGISTRATE TAKHTBAI DATED 21-06-2021 &
ORDER OF DPP DATED 17/06/2021.

Respectfully Sheweth,

1. That the above captioned case is pending before this Hon'ble court in which date of hearing is fixed on i.e. 28/10/2021.
2. That accused has filed an instant application U/S 4C(II) of prosecution Act 2005 to District Public Prosecutor on dated 15-06-2021.
3. That on acceptance of above mention application Learned Judicial Magistrate Takhtbai, Mardan order to discharge the said accused from the charges level against him, in case FIR No 767 dated 31-08-2021 U/S 353, 324, 337-A(II)337-AF(V),148/149 of PPC at PS Takhtbai. (Copies Of The Applications & Orders Are Annexed Herewith)

It is, therefore, requested that on acceptance of this application the orders of the Learned Magistrate Takhtbai may kindly be place on file.

Dated: 29/06/2021

Jawad

Plaintiff

Through

Javed Iqbal Gulbela
Advocate Supreme Court
Pakistan

Affidavit:

I, Jawad S/O Habib ur Rehman R/O Takhtbai, do hereby solemnly affirm and declare on oath that the contents of the this application are true and correct and nothing has been concealed from this Hon'ble Court.

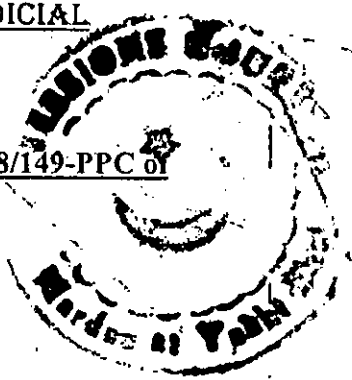
Jawad
Deponent

2

IN THE COURT OF MUHAMMAD ISHAQ MARWAT, JUDICIAL
MAGISTRATE, TAKHT BHAI, MARDAN

State...Vs...Jawad etc

FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(ii)/337-AF(v)/148/149-PPC of
PS Takht Bhai



Order---02
21.06.2021

Handwritten notes: 2/5/21, 2/5/21, 2/5/21, 2/5/21

- 1- The case file received from Prosecution. The same be registered in the relevant register.
- 2- Mr. Sahibzada Khurshid, SPP for the State present. Accused namely (1)- Qaiser son of Zakir, (2)- Khan Ghalib (3)- Saeed (4)-Imran (5)- Ghulam Habib sons of Said Habib (6)- Azar son of Akbar Khan (7)- Jawad son of Habib Ur Rehman on bail absent while accused (8)-Nizam son of Usman is absconding.
- 3- The prosecution has annexed application for discharge of the accused u/s 4-C (ii) of the Prosecution Act 2005 on the ground, inter alia, that the weapon of offence has not been recovered by the IO, the empties were not sent to FSL for keeping in safe in custody, no bloods nor blood stained garments etc taken into possession, the evidence on the case file is not sufficient for conviction and its trial will be wastage of precious time of court.
- 4- In the above backdrop, all the accused named above alongwith absconding accused are hereby discharged under section 4 C (ii), of Prosecution Act, 2005. Accused are on bail, their bail bonds are cancelled and sureties are absolved accordingly.
- 5- Case property be disposed of in accordance with law. File be consigned to record room after its necessary completion and compilation.

Handwritten notes: 2/5/21, 2/5/21

Announced
21.06.2021

(Muhammad Ishaq Marwat)
Judicial Magistrate, Takht Bhai

Handwritten signature of Muhammad Ishaq Marwat

Handwritten notes and stamps: No. 1896, 24/6/21, 24/6/21, 24/6/21, 24/6/21, 24/6/21

Handwritten notes: 24-6-21, 24-6-21

3

IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAI

State ... Vs ... Khan Ghali & others.

Subject: - APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 C (II), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST HIM, IN CASE FIR NO. 767 DATED: 31/08/2021 U/S 353-324-337 AIS OFF.S

1. Compromise effected by the Complainant and other injured parties and they not supporting the prosecution case any more.
2. The weapon of offence has not been recovered by them 1/0
3. The empties were not sent to FSL for keeping in safe in custody.
4. No blood not blood stained garment etc taken into possession
5. The evidence on the case file is not sufficient for conviction and its trial will be wastage of precious time of Court.

It is, therefore, requested that the accused charged in the aforementioned case may kindly be discharged U/S 4 C (ii) of the Prosecution Act, 2005 of the charges leveled against him, for deficient, weak evidence and for non-prosecution by the Prosecution Agency.

Rashid Khan,
APP Takht Bhai

[Signature]
15-06-21

District Public Prosecution

[Signature]
17/6/21

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

SA No.15911/2020

CM No. _____ 2021

Jawad

Versus

Govt of Khyber Pakhtunkhwa & others

APPLICATION FOR GRANTING PERMISSION TO
PLACE ON FILE THE ORDER OF JUDICIAL
MAGISTRATE TAKHTBAI DATED 21-06-2021 &
ORDER OF DPP DATED 17/06/2021.

Respectfully Sheweth,

1. That the above captioned case is pending before this Hon'ble court in which date of hearing is fixed on i.e. 28/10/2021.
2. That accused has filed an instant application U/S 4C(II) of prosecution Act 2005 to District Public Prosecutor on dated 15-06-2021.
3. That on acceptance of above mention application Learned Judicial Magistrate Takhtbai, Mardan order to discharge the said accused from the charges level against him, in case FIR No 767 dated 31-08-2021 U/S 353, 324, 337-A(II)337-AF(V),148/149 of PPC at PS Takhtbai. (Copies Of The Applications & Orders Are Annexed Herewith)

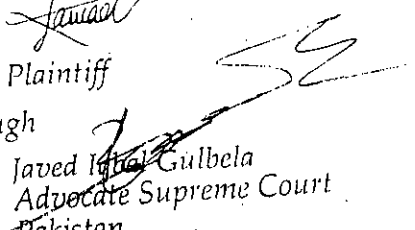
It is, therefore, requested that on acceptance of this application the orders of the Learned Magistrate Takhtbai may kindly be place on file.

Dated: 29/06/2021



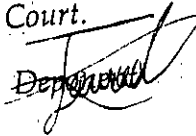
Plaintiff

Through


Javed Iqbal Gulbela
Advocate Supreme Court
Pakistan

Affidavit:

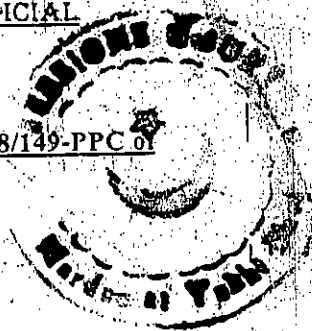
I, Jawad S/O Habib ur Rehman R/O Takhtbai, do hereby solemnly affirm and declare on oath that the contents of the this application are true and correct and nothing has been concealed from this Hon'ble Court.



IN THE COURT OF MUHAMMAD ISHAQ MARWAT, JUDICIAL
MAGISTRATE, TAKHT BHAI, MARDAN

State...Vs...Jawad etc

FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(ii)/337-AF(v)/148/149-PPC of
PS Takht Bhai



Order---02
21.06.2021

Handwritten notes: 21/6/21, 21/6/21, 21/8/21

- 1- The case file received from Prosecution. The same be registered in the relevant register.
- 2- Mr. Sahibzada Khurshid, SPP for the State present. Accused namely (1)- Qaiser son of Zakir. (2)- Khan Ghaliib (3)- Saeed (4)-Imran (5)- Ghulam Habib sons of Said Habib (6)- Azara son of Akbar Khan (7)- Jawad son of Habib Ur Rehman on bail absent while accused (8)-Nizam son of Usman is absconding.
- 3- The prosecution has annexed application for discharge of the accused u/s 4-C (ii) of the Prosecution Act 2005 on the ground, inter alia, that the weapon of offence has not been recovered by the IO, the empties were not sent to FSL for keeping in safe in custody, no bloods nor blood stained garments etc taken into possession, the evidence on the case file is not sufficient for conviction and its trial will be wastage of precious time of court.
- 4- In the above backdrop, all the accused named above alongwith absconding accused are hereby discharged under section 4 C (ii), of Prosecution Act. 2005. Accused are on bail, their bail bonds are cancelled and sureties are absolved accordingly.
- 5- Case property be disposed of in accordance with law. File be consigned to record room after its necessary completion and compilation.

Handwritten notes: سکا، نیا، 15 جولائی

Announced
21.06.2021

(Muhammad Ishaq Marwat)
Judicial Magistrate, Takht Bhai

Handwritten signature and date: 21/6/21

Handwritten notes: No-1996, 24/6/21, 24/6/21, 24/6/21

Handwritten notes: 24/6/21, 24/6/21

3

IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAI

State Vs.... Khan Ghali & others.

Subject: - APPLICATION FOR THE DISCHARGE OF THE ACCUSED
U/S 4 C (II), PROSECUTION ACT 2005, FROM THE
CHARGES LEVELLED AGAINST HIM, IN CASE FIR NO.
767 DATED 31/08/2021 U/S 353-324-337 A.S.
O.P.S.

1. Complaint effected by the Complainant
and other injured victims and they not supporting
the prosecution case any more
2. The weapon of offence has not been
recovered by the I/O
3. The amputees were not sent to FSL for
keeping in safe in custody
4. No blood not blood stained garment
etc taken into possession
5. The evidence on the case file is not
sufficient for conviction and its trial
will be wastage of precious time of Court

It is, therefore, requested that the accused charged in the
forementioned case may kindly be discharged U/S 4 C (ii) of the
Prosecution Act, 2005 of the charges levelled against him, for deficient,
weak evidence and for non-prosecution by the Prosecution Agency.

Rashid Khan,
APP Takht Bhai

District Public Prosecution

[Signature]
15-06-21
Date

[Signature]
17/6/21

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

SA No.15911/2020

CM No. _____ 2021

Jawad

Versus

Govt of Khyber Pakhtunkhwa & others

APPLICATION FOR GRANTING PERMISSION TO
PLACE ON FILE THE ORDER OF JUDICIAL
MAGISTRATE TAKHTBAI DATED 21-06-2021 &
ORDER OF DPP DATED 17/06/2021.

Respectfully Sheweth,

1. That the above captioned case is pending before this Hon'ble court in which date of hearing is fixed on i.e. 28/10/2021.
2. That accused has filed an instant application U/S 4C(II) of prosecution Act 2005 to District Public Prosecutor on dated 15-06-2021.
3. That on acceptance of above mention application Learned Judicial Magistrate Takhtbai, Mardan order to discharge the said accused from the charges level against him, in case FIR No 767 dated 31-08-2021 U/S 353, 324, 337-A(II)337-AF(V),148/149 of PPC at PS Takhtbai. (Copies Of The Applications & Orders Are Annexed Herewith)

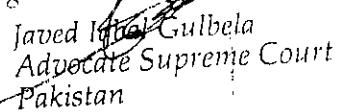
It is, therefore, requested that on acceptance of this application the orders of the Learned Magistrate Takhtbai may kindly be place on file.

Dated: 29/06/2021



Plaintiff

Through


Javed Iqbal Gulbela
Advocate Supreme Court
Pakistan

Affidavit:

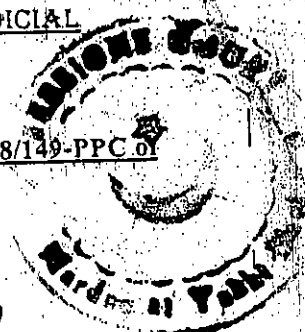
I, Jawad S/O Habib ur Rehman R/O Takhtbai, do hereby solemnly affirm and declare on oath that the contents of the this application are true and correct and nothing has been concealed from this Hon'ble Court.


Deponent

IN THE COURT OF MUHAMMAD ISHAQ MARWAT, JUDICIAL
MAGISTRATE, TAKHT BHAI, MARDAN

State...Vs...Jawad etc

FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(ii)/337-AF(v)/148/149-PPC of
PS Takht Bhai



Order--02
21.06.2021

21/6/21
81621 21812

- 1- The case file received from Prosecution. The same be registered in the relevant register.
- 2- Mr. Sahibzada Khurshid, SPP for the State present. Accused namely (1)- Qaiser son of Zakir, (2)- Khan Ghaliib (3)- Saeed (4)-Imran (5)- Ghulam Habib sons of Said Habib (6)- Azam son of Akbar Khan (7)- Jawad son of Habib Ur Rehman on bail absent while accused (8)-Nizam son of Usman is absconding.
- 3- The prosecution has annexed application for discharge of the accused u/s 4-C (ii) of the Prosecution Act 2005 on the ground, inter alia, that the weapon of offence has not been recovered by the IO, the empties were not sent to FSL for keeping in safe in custody, no bloods nor blood stained garments etc taken into possession, the evidence on the case file is not sufficient for conviction and its trial will be wastage of precious time of court.
- 4- In the above backdrop, all the accused named above alongwith absconding accused are hereby discharged under section 4 C (ii), of Prosecution Act, 2005. Accused are on bail, their bail bonds are cancelled and sureties are absolved accordingly.
- 5- Case property be disposed of in accordance with law. File be consigned to record room after its necessary completion and compilation.

Handwritten notes in Urdu script on the right margin.

Announced
21.06.2021

(Muhammad Ishaq Marwat)
Judicial Magistrate, Takht Bhai

Handwritten signature of the Magistrate.

Handwritten notes and signatures at the bottom left, including 'No-1996' and '24/6/21'.

Handwritten notes and signatures at the bottom right, including '24/6/21'.

3
IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAI

State Vs. ... Khan Ghali & others.

Subject: - APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 C (II), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST HIM, IN CASE FIR NO. 767 DATED 31/08/2021 U/S 353-324-332A U OF PS

1. Complaints effected by the complainant and other injured victims and they not supporting the prosecution case any more
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It is, therefore, requested that the accused charged in the aforementioned case may kindly be discharged U/S 4 C (ii) of the Prosecution Act, 2005 of the charges leveled against him for deficient, weak evidence and for non-prosecution by the Prosecution Agency.

Rashid Khan,
APP Takht Bhai

District Public Prosecution

[Signature]
15-06-21

[Signature]
17/6/21

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

SA No.15911/2020

CM No. _____ 2021

Jawad

Versus

Govt of Khyber Pakhtunkhwa & others

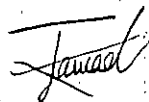
APPLICATION FOR GRANTING PERMISSION TO
PLACE ON FILE THE ORDER OF JUDICIAL
MAGISTRATE TAKHTBAI DATED 21-06-2021 &
ORDER OF DPP DATED 17/06/2021.

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2. That accused has filed an instant application U/S 4C(II) of prosecution Act 2005 to District Public Prosecutor on dated 15-06-2021.
3. That on acceptance of above mention application' Learned Judicial Magistrate Takhtbai, Mardan order to discharge the said accused from the charges level against him , in case FIR No 767 dated 31-08-2021 U/S 353, 324, 337-A(II)337-AF(V),148/149 of PPC at PS Takhtbai. (Copies Of The Applications & Orders Are Annexed Herewith)

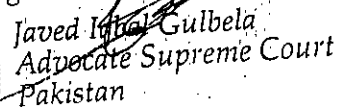
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Dated: 29/06/2021



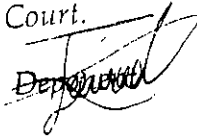
Plaintiff

Through


Javed Iqbal Gulbela
Advocate Supreme Court
Pakistan

Affidavit:

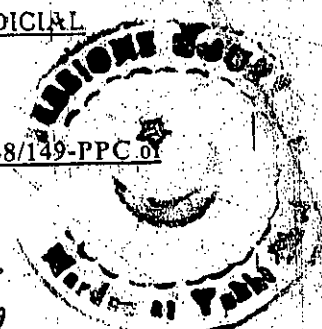
I, Jawad S/O Habib ur Rehman R/O Takhtbai, do hereby solemnly affirm and declare on oath that the contents of the this application are true and correct and nothing has been concealed from this Hon'ble Court.


Defendant

IN THE COURT OF MUHAMMAD ISHAQ MARWAT, JUDICIAL
MAGISTRATE, TAKHT BHAI, MARDAN

State...Vs...Jawad etc.

FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(ii)/337-AF(v)/148/149-PPC of
PS Takht Bhai



Order---02
21.06.2021

دستور 21/6
21/6/21 218/2

- 1- The case file received from Prosecution. The same be registered in the relevant register.
- 2- Mr. Sahibzada Khurshid, SPP for the State present. Accused namely (1)- Qaiser son of Zakir, (2)- Khan Ghalib (3)- Saeed (4)-Imran (5)- Ghulam Habib sons of Said Habib (6)- Azar son of Akbar Khan (7)- Jawad son of Habib Ur Rehman on bail absent while accused (8)-Nizam son of Usman is absconding.
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- 5- Case property be disposed of in accordance with law. File be consigned to record room after its necessary completion and compilation.

Handwritten notes and signatures on the right margin.

Announced
21.06.2021

(Muhammad Ishaq Marwat)
Judicial Magistrate, Takht Bhai

Handwritten signature of the Magistrate.

Handwritten notes and signatures at the bottom left, including 'No-1896'.

Handwritten notes and signatures at the bottom right, including '24-6-21'.

Subject: - APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 C (II), PROSECUTION ACT 2005, FROM THE CHARGES LEVELLED AGAINST HIM, IN CASE F.R. NO. 767, DATED: 21/08/2021, U/S 353-324-337 IAS, OP.P.S.

1. Compromise effected by the complainant and other injured victims and they not supporting the prosecution case any more
2. The weapon of offence has not been recovered by the I/O
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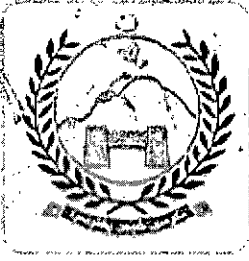
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Rashid-Khan,
APP Takht Bhai

District Public Prosecution

[Signature]
15-06-21

[Signature]
17/6/21



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 921 /ST

Dated: 13-4-2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Mardan.

Subject: JUDGMENT IN APPEAL NO. 15911/2020, MR. JAWAD

I am directed to forward herewith a certified copy of Judgement dated 28.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A _____/2021

Jawad

Versus

Inspector General of Police Khyber Pakhtunkhwa & Others

INDEX

S#	Description of Documents	Annexure	Pages
1	Rejoinder		1-4
2	Affidavit		5
3	Copy of Discharge Order	"A"	6-8

Through


Appellant

JAVED IQBAL GULBELA

Advocate

Supreme Court of Pakistan

Dated: 28/10/2021

(1)

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A _____/2021

Jawad

Versus

Inspector General of Police Khyber Pakhtunkhwa & Others

Rejoinder on Behalf of the Appellant to the
comments filed by the Respondents 1,2 & 3

Respectfully Sheweth,

Reply to Preliminary objections: -

Para 1 to 6:

All the Preliminary Objections raised & agitated by the Respondents are false, concocted, misleading & hypocritic hence all are denied sternly. Not only the Appellant has got a good prima facie case having locus standi, to file the instant Appeal, but the instant Appeal is strictly as per law & has rightly been moved against the impugned Office Order No. 3495-98/PA Dated 05-10-2020 of the office of D.P.O Mardan & Office Order No. 7206/ES Dated 20-11-2020 of the office of R.P.O Mardan, which impugned orders are not only illegal and unlawful but are rather due to the colorful exercise of discretionary powers, vested in the respondents. The instant Appeal is well maintainable and has duly been moved upon all fours of law. The present Appeal is well in time and no material facts have ever been concealed by the Appellant, but a true and detailed picture has been portrayed. Moreover, this Hon'ble Tribunal has got the jurisdiction to entertain the instant service Appeal.

On Facts: -

1. No Comments.
2. Incorrect, false, fabricated, vexatious, hence sternly denied. The Appellant has always served the prestigious Police Department with full devotion and for the same reason was always appraised by the high ups.
3. Incorrect, false and fabricated hence denied. The Appellant has been discharged in the criminal case registered against him vide Order Dated 21-06-2021 from the Court of Judicial Magistrate Takht Bhai, and on this score, the Appellant is entitled to be reinstated onto the rolls of the Police Department. (Copy of Order Dated 21-06-2021 is annexed herewith as Annexure "A").
4. No Comments.
5. Incorrect and denied. As mentioned earlier, the Appellant was already released on Bail on effecting a genuine compromise with the complainant party and Later on the Appellant has been Discharged from the Court of Judicial Magistrate Takht Bhai.
6. Incorrect and denied. No fair inquiry got conducted in case of the Appellant, and without fulfilling the codal formalities, recommendations for imposing major penalty upon the Appellant was recommended.

7. Incorrect, false, hypocritic and misleading, hence denied sternly. The Appellant has neither been heard nor any opportunity of being heard was ever extended to the Appellant. Moreover, the ingredients of Law has not been fulfilled in case of the Appellant, as no show cause notice no final show cause notice was ever issued to the Appellant.
8. Incorrect and denied. The Appellate Authority decided the Departmental Appeal of the Appellant in hurry and without following the due process of law and without extending the opportunity to the Appellant to defend himself and to prove and clear his stance.
9. Incorrect and misleading hence sternly denied. The Revisionary Authority didn't decided the Mercy Petition of the Appellant even after the lapse of statutory period, which has simply been shelved and which constrained the Appellant to move the Hon'ble Services Tribunal for redressal of his grievances.
10. Incorrect & Denied.

GROUND:

- A. Incorrect and denied. True and detailed picture has been portrayed above.
- B. Incorrect, false and misleading hence denied sternly. Stance taken by the respondents is totally silent regarding issuance of Show Cause Notice of even Final Show Cause Notice, even no inquiry dispensation

(4)


order has been provided by the Respondents, hence major ingredients of Law remained missing in case of the Appellant. Moreover, the Appellant was never ever provided with any opportunity to make his defense or rather to defend himself.

- C. Incorrect & Denied. True picture has been given above.
- D. Incorrect & denied. True picture has been given above.
- E. Incorrect & denied.
- F. Incorrect & denied. The Superior courts of the land have time and again held in its landmark judgements that acquittal on the basis of compromise should be treated as acquittal on merits in service cases.
- G. Incorrect & denied.
- H. Incorrect & denied.
- I. No comments.

It is therefore, most humbly prayed that on acceptance of the instant rejoinder, the Service Appeal of the Appellant may very graciously be allowed as prayed for therein.


Appellant

Through


JAVED IQBAL GULBELA
Advocate,
Supreme Court of Pakistan

Dated: 28/10/2021

5

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A _____/2021

Jawad

Versus

Inspector General of Police Khyber Pakhtunkhwa & Others

AFFIDAVIT


I, the Appellant do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.


Deponent

CNIC

Mobile No.

Identified By:-


Javed Iqbal Gulbela
Advocate High Court
Peshawar


Oath
Commissioner
Peshawar
19-2-21

(2)

(6)

Annex "A"

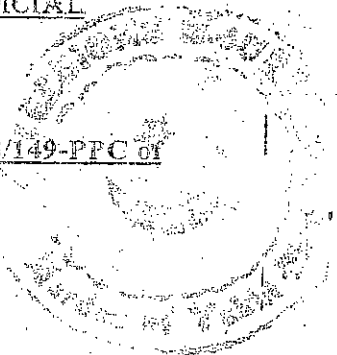
IN THE COURT OF MUHAMMAD ISHAQ MARWAT, JUDICIAL
MAGISTRATE, TAKHT BHAI, MARDAN

State...Vs...Jawad etc

FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(ii)/337-AF(v)/148/149-PPC of
PS Takht Bhai

Order---02
21.06.2021

21/6/21
21/6/21 218/2



- 1- The case file received from Prosecution. The same be registered in the relevant register.
- 2- Mr. Sahibzada Khurshid, SPP for the State present. Accused namely (1)- Qaiser son of Zakir, (2)- Khan Ghalib (3)- Saeed (4)-Imran (5)- Ghulam Habib sons of Said Habib (6)- Azara son of Akbar Khan (7)- Jawad son of Habib Ur Rehman on bail absent while accused (8)-Nizam son of Usman is absconding.
- 3- The prosecution has annexed application for discharge of the accused u/s 4-C (ii) of the Prosecution Act 2005 on the ground, inter alia, that the weapon of offence has not been recovered by the IO, the empties were not sent to FSL for keeping in safe in custody, no bloods nor blood stained garments etc taken into possession, the evidence on the case file is not sufficient for conviction and its trial will be wastage of precious time of court.
- 4- In the above backdrop, all the accused named above alongwith absconding accused are hereby discharged under section 4 C (ii), of Prosecution Act, 2005. Accused are on bail, their bail bonds are cancelled and sureties are absolved accordingly.
- 5- Case property be disposed of in accordance with law. File be consigned to record room after its necessary completion and compilation.

Handwritten notes in Urdu script on the right margin.

Announced
21.06.2021

(Muhammad Ishaq Marwat)
Judicial Magistrate, Takht Bhai

Handwritten signature of the Magistrate.

No-1996
24-6-21
24-6-21

Handwritten signature and date: 24-6-21

Additional handwritten notes and signatures at the bottom left.

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IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAI

State Vs.... Khan Ghaliq & others.

Subject: - APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 C (II), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST HIM, IN CASE FIR NO. 767 DATED 31/08/2021 U/S 353-324-357 AIO 11/68/10/9
OP.P.S. -

1. Compromise effected by the complainant and other injured parties and they not supporting the prosecution case any more
2. The weapon of offence has not been recovered by the I/O
3. The empties were not sent to FSL for keeping in safe in custody
4. No blood not blood stained garment etc taken into possession
5. The evidence on the case file is not sufficient for conviction and its trial will be wastage of precious time of Court

It is, therefore, requested that the accused charged in the aforementioned case may kindly be discharged U/S 4 C (ii) of the Prosecution Act, 2005 of the charges leveled against him, for deficient, weak evidence and for non-prosecution by the Prosecution Agency.

Rashid Khan,
APP Takht Bhai

District Public Prosecution

[Signature]
15-06-21
17/6/21

[Signature]
17/6/21

16101-1267985-9
0348-5741090

فارم نمبر ۳۳

(۱)

۱۶۱۰۳-۰۳
۰۳۴۶-۹۳ ابتدائی اطلاع رپورٹ

بابت قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ ۱۵۳ مجموعہ ضابطہ نو جداری

767	تاریخ و وقت وقوعہ	31	وقت 10:15
31	وقت 11:30	31	وقت 12:00
بیشل خالد ۱۱۲۵ ولد علی رحمان سوم اعلان لکھ 24 سال مان الوصال لکھ 25			
324-353			
عبدالغفور ولد محمد نور آباد جوٹ			
ب ۲ سعید ۳ عمران ۴ عیسیٰ سعید پیران سعید حبیب ۵ حواد ولد سعید			
عبدالغفور ولد سعید ۶ قیصر ولد سعید ۷ انعام ولد سعید ۸ انعام ولد سعید			
نرا اطلاع درج کرنے میں توقف ہوا تھا وجہ بیان کرو			
پہنچا ہوا ہے			

بیشل سعید پیران ولد علی رحمان سوم اعلان لکھ ۲۴ سال مان الوصال لکھ ۲۵ سال
 ولد سعید رحمان سوم اعلان لکھ ۲۶ سال ۲۶/۱۲/۱۹۸۰ سال مان الوصال لکھ ۲۷ سال
 مان سعید رحمان سوم اعلان لکھ ۲۸ سال ۲۸/۱۲/۱۹۸۰ سال مان الوصال لکھ ۲۹ سال
 ولد سعید رحمان سوم اعلان لکھ ۳۰ سال ۳۰/۱۲/۱۹۸۰ سال مان الوصال لکھ ۳۱ سال
 ولد سعید رحمان سوم اعلان لکھ ۳۲ سال ۳۲/۱۲/۱۹۸۰ سال مان الوصال لکھ ۳۳ سال
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BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A _____/2021

Jawad

Versus

Inspector General of Police Khyber Pakhtunkhwa & Others

INDEX

S#	Description of Documents	Annexure	Pages
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2	Affidavit		5
3	Copy of Discharge Order	"A"	6-8

Through


Appellant


JAVED IQBAL GULBELA

Advocate

Supreme Court of Pakistan

Dated: 28/10/2021

①

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A _____/2021

Jawad

Versus

Inspector General of Police Khyber Pakhtunkwha & Others

Rejoinder on Behalf of the Appellant to the
comments filed by the Respondents 1, 2 & 3

Respectfully Sheweth,

Reply to Preliminary objections: -

Para 1 to 6:

All the Preliminary Objections raised & agitated by the Respondents are false, concocted, misleading & hypocritic hence all are denied sternly. Not only the Appellant has got a good prima facie case having locus standi, to file the instant Appeal, but the instant Appeal is strictly as per law & has rightly been moved against the impugned Office Order No. 3495-98/PA Dated 05-10-2020 of the office of D.P.O Mardan & Office Order No. 7206/ES Dated 20-11-2020 of the office of R.P.O Mardan, which impugned orders are not only illegal and unlawful but are rather due to the colorful exercise of discretionary powers, vested in the respondents. The instant Appeal is well maintainable and has duly been moved upon all fours of law. The present Appeal is well in time and no material facts have ever been concealed by the Appellant, but a true and detailed picture has been portrayed. Moreover, this Hon'ble Tribunal has got the jurisdiction to entertain the instant service Appeal.

On Facts: -

1. No Comments.
2. Incorrect, false, fabricated, vexatious, hence sternly denied. The Appellant has always served the prestigious Police Department with full devotion and for the same reason was always appraised by the high ups.
3. Incorrect, false and fabricated hence denied. The Appellant has been discharged in the criminal case registered against him vide Order Dated 21-06-2021 from the Court of Judicial Magistrate Takht Bhai, and on this score, the Appellant is entitled to be reinstated onto the rolls of the Police Department. (Copy of Order Dated 21-06-2021 is annexed herewith as Annexure "A").
4. No Comments.
5. Incorrect and denied. As mentioned earlier, the Appellant was already released on Bail on effecting a genuine compromise with the complainant party and Later on the Appellant has been Discharged from the Court of Judicial Magistrate Takht Bhai.
6. Incorrect and denied. No fair inquiry got conducted in case of the Appellant, and without fulfilling the codal formalities, recommendations for imposing major penalty upon the Appellant was recommended.

7. Incorrect, false, hypocritic and misleading, hence denied sternly. The Appellant has neither been heard nor any opportunity of being heard was ever extended to the Appellant. Moreover, the ingredients of Law has not been fulfilled in case of the Appellant, as no show cause notice no final show cause notice was ever issued to the Appellant.

8. Incorrect and denied. The Appellate Authority decided the Departmental Appeal of the Appellant in hurry and without following the due process of law and without extending the opportunity to the Appellant to defend himself and to prove and clear his stance.

9. Incorrect and misleading hence sternly denied. The Revisionary Authority didn't decided the Mercy Petition of the Appellant even after the lapse of statutory period, which has simply been shelved and which constrained the Appellant to move the Hon'ble Services Tribunal for redressal of his grievances.

10. Incorrect & Denied.

GROUND:

A. Incorrect and denied. True and detailed picture has been portrayed above.

B. Incorrect, false and misleading hence denied sternly. Stance taken by the respondents is totally silent regarding issuance of Show Cause Notice of even Final Show Cause Notice, even no inquiry dispensation

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order has been provided by the Respondents, hence major ingredients of Law remained missing in case of the Appellant. Moreover, the Appellant was never ever provided with any opportunity to make his defense or rather to defend himself.

C. Incorrect & Denied. True picture has been given above.

D. Incorrect & denied. True picture has been given above.

E. Incorrect & denied.

F. Incorrect & denied. The Superior courts of the land have time and again held in its landmark judgements that acquittal on the basis of compromise should be treated as acquittal on merits in service cases.

G. Incorrect & denied.

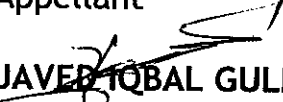
H. Incorrect & denied.

I. No comments.

It is therefore, most humbly prayed that on acceptance of the instant rejoinder, the Service Appeal of the Appellant may very graciously be allowed as prayed for therein.

Through


Appellant


JAVED QOBAL GULBELA
Advocate,
Supreme Court of Pakistan

Dated: 28/10/2021

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BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A _____/2021

Jawad

Versus

Inspector General of Police Khyber Pakhtunkhwa & Others

AFFIDAVIT

I, the Appellant do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.




Deponent

CNIC

Mobile No.

Identified By:-


Javed Iqbal Gulbela
Advocate High Court
Peshawar


Oath
Commissioner
28/10/21

(2)

(6)

Annex "A"

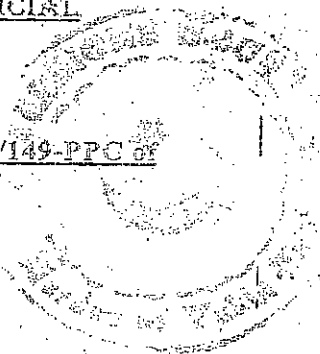
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State...Vs...Jawad etc

FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(ii)/337-AF(v)/148/149-PPG of
PS Takht Bhai

Order---02
21.06.2021

21/6/21
91821 2186



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سرفا
21
سوالیہ

Announced
21.06.2021

(Muhammad Ishaq Marwat)
Judicial Magistrate, Takht Bhai

[Signature]

No-1996
24-6-21
24-6-21
24-6-21

24-6-21

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7

IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAI

State Vs.... Khan Ghali & others.

Subject: - APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 C (II), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST HIM, IN CASE FIR NO. 767 DATED 31/08/2021 U/S 353-324-352 AIS OF P.S. Takht Bhai

11/10/21

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Rashid Khan,
APP Takht Bhai

District Public Prosecution

[Signature]
15-06
21

[Signature]
17/6/21

