# 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	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.
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on $\frac{2201}{202}$
	5 74 -	CHAIRMAN
	· · · · · ·	
	22.01.2021	Appellant present through counsel. Preliminary arguments heard. File perused.
AR	Deposited UVP8 Process Fee 59/1/2/	Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. • Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 20.04.2021 before S.B.
		(Rozina Rehman) Member (J)

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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.



28.10.2021

Mr. Junaid Khan (junior of learned counsel for the appellant) present. Mr. Khalid Mehmood, Head Constable alongwith Mr. Riaz Ahmed Paindakhel, 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)

DB is on Tows case to come up? Por the Same on Dated. 28-1-22

Reides

 $\mathcal{J}_{\mathcal{F}}$ 

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17.12.21

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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

REEN) (AHM 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

REEN) (AHMA **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 wellsettled 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.

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O6. 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)

#### <u>VERSUS</u>

Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others. ... (Respondents)

Javed Iqbal Gulbela & Taimur Ali Khan, Advocates

Muhammad Adeel Butt, Additional Advocate General

ATIQ-UR-REHMAN WAZIR

AHMAD SULTAN TAREEN

CHAIRMAN MEMBER (EXECUTIVE)

For Appellant

For respondents

#### 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

<i>S</i> #	Description of Documents	Annex	Pages
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2.	Affidavit		9
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 <sup>nd</sup> Departmental Appeal	"J"	22
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Dated: 12/12/2020

APPELANT

Through CULLER

**Javed Iqbal Gulbela** Advocate, High Court Peshawar.

Off Add: <u>9-10A Al-Nimrah Centre, Govt College Chowk Peshawar</u>

# BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In Re S.A No. <u>159/1</u> /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

Khyber Pakhtukhw Service Tribunal

Diary No. 164

### VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa

Regional Police Officer Mardan.
 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

# CLASSICAL, CURSORY & WHIMSICAL MANNER.

## <u>Respectfully Sheweth,</u>

 That the Appellant is a naturally born bonafide citizen of Islamic Republic of Pakistan & hails from a respectable family of District Mardan.

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- 2. That the Appellant got inducted onto the rolls of Respondent Department 8 years back & have always performed his duties with full fanatism, 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, corumnon-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 (Copy of Charge Appellant. 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

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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 the by 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 2<sup>nd</sup> Departmental Appeal is annexed herewith as Annexure "J")

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

# <u>GROUNDS:-</u>

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 No:3495-98/PA dated order 05/10/2020 which clearly proves malafide & malintention 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

Through Javed Iqbal Gulbela Saghir Iqbal Gulbela

Ahsan Sardar & Tahir Khan

Advocates, High Court Peshawar.

Advocate.

#### 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.

# BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

9

In Re S.A \_\_\_\_\_ /2020

Jawad

# VERSUS

**Inspector General of Police and Others** 

## **AFFIDAVIT**

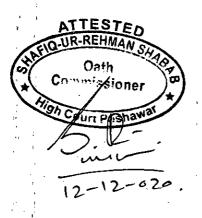
I, Jawad S/o Habib Ur Rehman R/o Mohallah Katan Khel, Gojaran, Nehar Kinara, Takar, Tehsil Takht Bhai, District Mardan., do hereby solemnly affirm and declare that all the contents of the accompanied appeal is true and correct to the best of my knowledge and belief and nothing has been concealed or withheld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

DEPONENT

CNIC#: 16102-5526165-9

IDENWIFTED BY:

*Javed Iqbal Gulbela* Advocate High Court Peshawar.



# BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In Re S.A No. \_

/2020

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### Jawad

### <u>VERSUS</u>

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.

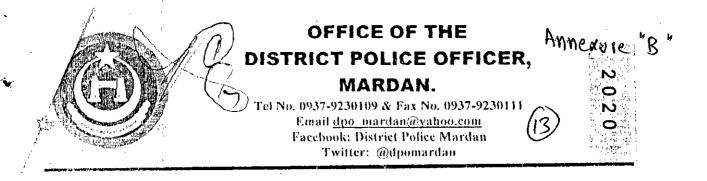
Dated: 12/12/2020

Through

**Javed Iqbal Gulbela** Advocate, High Court Peshawar.

16101-1267985-9 Annequie A 0398-5714090 -ראנדעיים ארא וקילעד المرافع 3-82 - 364 - 1000 - 1000 ابتدائي اطلاع ريورت والس سيدين 1926 - 346 - 346 ابتدائي اطلاع ريورت ابتدائى اطلاع تبعت قاتل دست اندازى يوليس ريورث شده زيردف مجوعه منابط فوجدارى \_\_\_\_ مناع حردان Blastis النادة بدن مدم 11 ومت 130 غ الم تاطان بد سند بر المال 251 ولا مى روال ال المدن ليمر عليه سال لاين الرحان كيل 324-353 37A (1, 34) 24 - 149 - 149 - 149 باعدود ما القانات وروال مدر مروط فدوم ورور آباد جوم نام وسكون الر ف طال عما الم - @ معد () عرال () عدا) ج شاختى كارد نبر ام بالى بر ٢٠ عنمال ومرف ٢٠ قسو در ما عدم ما كران مل اعطر در الراعظم كاردائى جوتعيش ك متعلق كى كى اكراطلاح درج كرف ش أوقف موامدة وربيان كرد 1000 (11 (1) 6CV قعاند بردانج كاتار خووقت حمد جان أيبل بدمت كن المتواني والله عن تجروج كروليون تما رتت مان - وروس تبن طالد ديرا ولد على ركان توم العال لارداب ل ج دل م من م م مت م الم م ب التر 25% ولكر مدينر خان حوم المعال للمرد 26 مال تحايز لوند خور عمر المروم الدخان، مفارجان ليران حصفه خان ماكنان خلت أما دلوند خور محمد التروم برتاب كراج مي رد، حالد قيم - مغنى خان برن حضرمان مائمان من . جالد : متر 6501 يد - COM c - سے در موسر کار عثمان ومرتضا) ، وترور ما حلوم الخطم ولد البر لحنظ مأمان لكرمت مراري وكالترن لإريب المسيقير آساره ديمريد یم فرفورین ندم مریدن ارزر در ا إرزالي كم تبون أدروستون متارز ا بکی ٌلزارات مے میں هورهم المرس الم تش سف الله فاقور ا در الرم الم المنال عقيد بالرزيض بترية لعبر مارمين في مدرمان كالرس في إن بركروا ي الستول مت مرارا دو متن ما سرما مستر علی مند ملاح مال مال رز من سر مرمان بارد این این مرسر کا رمین توریج کر قرار بیخ وط مماد ما دین از مرار ب معزون ا مدرم الدونس وماسن تبارمد مرا- من والماعل جارت فغرم م مس مسلم مر والبلوول من المر من مسلم منه الما المد و المب مي الج ادر جراب ادر مار مرد بر بر ب ا ارد ا و مرد من ا

ارت فاعدون مدرو بالد مدور والرار مولد معود والورار الموقيط الكري ف سف اسر 36 ، عالو رسمالا كا ما مد ولتر رق ك مرمناما جائر حسط درمت شم ركم و تروبور - حد " مدين ، درمق بى مي تقديق كرما مون - جرومين كالمت مخرر مات بر مرس عد عورات والمرس مريضامت شرا فرد والر موسم جمد جريح مير ماسية الي MM درون رجاما حدم عنوا حطافة القرم - مرت ما حدم المي الجاري مد شرخان المو كد المراح وكابن معيون ميت حرك بالركد باغ جاكر جزار الوح فآي وق مردم فرام بالموج معران مع مات س عام من - برحر رز <u>۔</u>ے ہ KBr isi-Ps-Then 31.8.2020 اللاراك في ويمده كاد تحل موليا مح مونتان الكيامات كاروا المرق يكتمد ما يتد على المقاد راكاد يحد المحد المعالية الم --ایک فرمیا شتیم کی المترتیب ما سط باشع کمان ملکات فیم باد ما این میا میافتان میں مود دل اعد المحت بیا بیط۔



# <u>ORDER</u>

Being charged in case vide FIR No. 767 dated 31.08.2020 u/s  $324/353/337-\Lambda(1)/148/149$  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 Qaişar Ali	2823	Guard Banglow Ex-IGP Mr. Akbar Hoti
2.	FC Jawad Khan	2976	Plumber Police Line Mardan

Dated 31 08 /2020.

UB No. 1453

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN. No.4457.60/OSI, dated Mardan the  $0\frac{3}{09}/09/2020$ 

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.

ED IQBAL Gui Bela Daudtai Law Chamber Advocate High Court Peshawar Mob. 0345-9405501

Distrie

Mardań

# OFFICE OF THE STRICT POLICE OFFICER,



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Annexure

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

### <u>CHARGE SHEET</u>

4.

h, <u>DR. ZAHID ULLAH (PSP)</u>, District Police Officer Mardan, as competent authority, hereby charge <u>Constable Jawad Khan No.2976</u>, while posted at Police Lines Mardan (Now under suspension Police Lines), as per attached Statement of Allegations.

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 <u>07 days</u> 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.

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 wigh Court Peshawar Mob. 0345-9405501

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# OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

2020

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

Dated 7 15 /2020

## **DISCIPLINARY ACTION**

PA/

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I, <u>DR. ZAHID ULLAH (PSP)</u>, 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, <u>Constable Jawad Khan No.2976</u>, 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, <u>Mr. Adnan Azam DSP/Rural is nominated as Enquiry Officer</u>.

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.

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

JAVED IOBAL Gul Bela Daudzai Law Chamber Advocate High Court Peshawar Mob: 0345-9465301

(Dr.:Zabid-Üllah) PSP District Police Officer 6 Mardan

Annexure "E

(1b)

6166

IN THE COURT OF FAISAL ANJUM,	
Additional District & Sessions Judge-II, Mardan at Tal	<u>kht Bhai</u>

BBA Petition No Date of Institution	
Date of Decision	
دوعمالہ Vs	
StateVs	Jawad Ali

O-----03 26.09.2020

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 coaccused 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.

A. CR. No

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Examiner Copying Branch Session Court Mardan State -----Jawad Ali

O-----03 26.09.2020

> Complainant Khalid Rehman No 1125, Saif Ullah No 1036 as well as Qayyum Khan, Fazal Khan and Khalid Khan, sons of Jaffar Khan (injured) submitted compromise deed Ex.PA, wherein injured Qayyum Khan, Fazal Khan and Khalid Khan, sons of Jaffar Khan stated that they have effected compromise with the accused/petitioner and have got no objection on their release on bail. On the other hand, the complainant Khalid Rehman No 1125, Saif Ullah No 1036 stated that with the consent of their high ups, they have got no objection on the acceptance of the bail petition of the accused/petitioner.

> Since, the main offence under section is compoundable, therefore, the bail application of accused/petitioner is accepted on the sole ground of compromise and no objection of the complainant and Constable Saif Ullah. Accused/petitioner be released on bail, if he furnish bonds in sum of Rs. 1, 00,000/- with two sureties, each in the like amount, to the satisfaction of this court. Copy of this order be placed on the police/judicial file.

<u>Announced</u>. 26:09.2020 (Faisal Anjum) vb. F. vov

Additional Sessions Judge-II, Takht Bhai.

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Name of Applicant	101.72-	
Application	18472	- 2020
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Examiner Copying Branch Session Court Mardan

· /	OFFICE OF THE
*	DEPUTY SUPERINTER DENT OF POLICE, BURAL CIRCLE, MARDAN. Phone: 0987-580322 E-mail: dsp.ruralmdn@gmail.com
° © ∉_ ins	(18)
, .	The Worthy District Police Officer, Mardan
/	No. TIR /ST, Dated: Ry / 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

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 eharged 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.

subject case. Its step-wise detail is given below:

#### 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:

#### JAVED IOBAL Gul Bela Daudzai Lav Chamber Advocate High Court Pesbawar Mob. (345-9405591

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) Deputy Superintendent lice, Rural-Circle, Mard an.

Annexule 1 6 FFICE OF POLICE OFFICER, 10 mardan č: Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpomdn@gmail.com

ST-SP/PA

# Dated @ J/ AC /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  $0 \gamma / 10/2020$ .

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

Copy forwarded for information & n/action to:-

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

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

D.I.G of Mardan Region Mardan

Anneavie "H"

Subject:

Appeal Against the order of D.P.O Mardan dated 05 Oct, 2020 vide

## which the appellant was dismissed from Service.

#### **Respected Sir**,

#### <u>Facts:</u>

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 IQB/L Gul Bela Daudzai Law Chamber Advocate High Court Peshawar Mob: 0345-9405501

e obe

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

Dated: \_\_\_\_/ 2020

To:

#### <u>ORDER.</u>

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 3108.2020 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 Regional Police Officer, Advocate High Court Peshawar MUD: 0345-9485501 Mardan. No. 720.6 2o - 11 - 12020./ES. Dated Mardan the\_\_\_ 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.

# Inspector General of Police

### 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

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

Dated: \_\_\_\_/ \_\_\_/ 2020 /

JAVED OBAL Gui Bela Daudzał Law Chamber Advocate(High Court Peshawar Mob: 0345-9405501

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To:

316977 Anneaure 200 Rupees ا فتراد فاحد مامت واجف قامه ما مين فريش بی دینرد و زمان بین فرین (ول قیوم فان، فالإفان ، منسل فالن میرون همز فان سائنان تمل میرد کور خور ممثل مند بداق منام در سے و فریغ درم حورد خان ولد جسیب الروا سے ، مذرم حسیب ، خان خان المران السعيد مير ال مرد مبيد سائنات ممكر نمنة ملاقت مالم من عرر ميان 19 بر وحت 19.9 المران السعيد مير مبيد مبيد من مناحث ممكر نمنة ملاقت مناح مالي المراج بر وحت 19.00 كو كمبند توريان ذبل ورزد در مر مر ممروف خطر تمرير ما ما ما من ما من ما من ما كم مرمين ماسين لوه كسرمو ومشته تنا دم ميند عرصه قبل فكرو مدانيا حد مربعه از و\_\_\_\_ مسوت رضیا در اور وی دور بر باطام ف اور مداق فا ترس میں مربع تم - اس مللے مريق درم ك قرف سرمود ف مرين اول عدد است متعلقه مي دميم دمغ تخت 164 حق ف ميا نات من مكمبنديون في عس برمرين دوم كن منع ك مزيد خا مون كارور في من يا - جبس م "معموان نه ويرا مرد مادي ارد مرد ما بن مربع مربع دونو فريس مر رفعات الع فرمین می دوی نامه کرما ہے - اور ایک دوسرانے الل ملاحی من ط کان دور مو مواف کر طلع میں ترثیندہ کے لیے کوئی فریش دور میں فرین کے طلاق کوئی کا رودن مذکر نے کے یا بنہ جد کی کے اور نزائندہ کا یے سیٹر موشکہ ٹی غمر کے زند کی کنوں رہے کے بیابنہ جول تے۔ میوم خان قکه قبره ن dzai Lav. Chambe. S. S. Sale High Court Peshawa: 16102.6200573-7 ف لرف را دو المعني في المعني المعني المعني المعني في الم معني المعني في المعني ف معني المعني في المعني منل خالف ولرحبز خال 16102-3667300-5 \_\_\_\_l \_\_\_\_\_/ الس ، دوی ن دلرحبیب (مرطان ۲۰۱۶ ۲۰ ۲۶ ۲۰ ۲۰ ۱۵ تحويه شروجه أم ممبران <sup>6</sup> ما بدمان مرمز نی ولهمینید خان (2) حکم مزر ام مان Kana livet (ع) ابنورها ن (<sup>4) کمل</sup>ل الرمین خان و مل مسالى ولدوم موزون 16102-2903542-3 1. Car. 399 16102 - 3063 894-3 16102-1745513-7 16-2-0732746-7

﴿ وكالت نامه ﴾

ىش يېوىل غېيرىختو كۇ<sup>10</sup> ئ -15 بعدالت: \_\_ \_ بنام <u> آئی بی و عنبر 0</u> جو ار \_ دعویٰ مسروس ایسل Appellout not تاريخ

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عث تحر بر آنک ے مقدر مہ مندرجہ بالاعنوان این طرف سے واسطے پیر**دی د**جواہد ہی بقام ... ب<u>ت وريد کيل</u>ئ**ے جاويدا قبال گل** ل ایڈو کیٹ ہائی کورٹ کوہدیں شرط و کی مقرر کیا ہے۔ کہ میں ہر پیشی کا خودیا بز ربعہ مختار خاص روبر وعدالت حاضر ہوتا رہولگا. صاحب موصوف کواطلاع د ے کر حاضر عد الت کر ونگا، اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میر کی غیر حاضر کی دجہ سے کسی طور پرمیرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دارنہ ہو تگے ۔ نیز دکیل صاحب موصوف مقام کچہری کی کسی اورجگہ یا بچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تغطیل پیروی کرنے کے ذمہ د ارنه <del>بو نگ</del> - اگر مقد مہ علاوہ صدر مقام کچہری کے کسی اور جگہ ساعت ہونے یابر دز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کوکوئی نقصان پنچیتو اس کے ذمہ داریا اس کے واسط کسی معاوضہ کے اداکر نے یا مختارا نہ داپس کرنے کے بھی \_ موصوف مثل کرد ہ ذات خو د منظور وقبول ہوگا۔اور صاحب موصوف ذمه دارنه ہو نگے۔ مجھے کوکل ساختہ پر داختہ صاحہ صاحب موصوف كوعرضي دعوى وجواب دعوى اور درخواست اجرائح ذكري ونظر ثاني ابيل ونكراني مرشم كى درخواست ير د شخط و تصدیق کرنے کابھی اختیار ہوگا اور کسی تھم یا ڈگری کے اجراء کرانے اور ہوتم کے رو پیدوصول کرنے اور رسید دینے اور داخل کرنے اور ہرتم کے بیان دینے اور سپر وثالثی وراضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کابھی اختیار ہوگا۔اور بصورت اپیل دبرآ مدگی مقدمه پامنسوخی ڈگری یکطرفہ درخواست تھم امتناعی یا قرقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف كوبشرط ادائيكى عليجده مخنارانه پيروى كااختيار ہوگا۔اوربصورت ضرورت صاحب موصوف كوبھى اختيار ہوگايا مقد مه مذكور ہيا اس کے کسی جز دکی کار دائی کے داسطے یا بصورت اپیل، اپیل کے داسطے دوسرے دکیل پا ہیرسٹر کو بجائے اپنے پا اپنے ہمراہ مقرر کریں اورا یے مشیر قانون کے ہرامردہی اور ویسے ہی اختیارات حاصل ہوئے جیسے کے صاحب موصوف کو جاصل ہیں۔اوردوران مقدمہ میں جو پچھ ہر جانہ التواء پڑے گا۔اورصا حب موصوف کاحق ہوگا۔اگروکیل صاحب موصوف کو پوری فیس تاریخ بیش سے پہلےادانہ کرونگا توصاحب موصوف کو پوراا ختیار ہوگا کہ مقدمہ کی پیردی نہ کریں ادرالی صورت میں میر اکوئی مطالبہ کسی قشم کا صاحب موصوف کے برخلاف نہیں ہوگا۔لہذا مختار نا مہلکھ دیا کہ سندر ہے۔ <u> مرد سے دا - برا - برا - م</u>طمون مختار نامہ تن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظو Deupled otter

#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

#### Service Appeal No. 15911/2020

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

#### VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar & others

#### 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").
- 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 of Police, Khyber Pa khtunkhwa, eshawar. (Respondent No. 01)

**Regional Police Officer,** 

Mardan. (Respondent No. 02)

Dist fficer,

(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 Ceneral of Police, Khyber Pakhtunkhwa, Peshawar. (Respondent No. 01)

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

olice Officer, District

Mardan (Respondent No. 03)

CHARACTER ROLL OF

(Continued 14. COMMENDATORY ENTRIES Serial No ORDER: Being charged in Care vide FIRN10.767 dated 31-08-2020 US 324 353 337-AM PSTBI, he is here by placed 148/149 PPC under surpension and closed to Police line with inneelials effect. ppo/marden 0BN0.1453 31-08-2020 sub reco ORDER Awarded him Major punishment of Dismissal <u>Fin:</u> From service with immediate effect. any fron CBNO 1700 05/10/202 DPO MARDAN OB Date ORDER The appeal is rejected vide DiG MARDAN order po: 7206/ES, dt 20-11-2020 DPO MARDAN

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HARACTER ROLL OF

🧫 (Continued) 2) days Extra drill for his Absqueen 03 NO0 - 2204 2-10-13 DPO MAR Edays Extra drill for his Absence. DROMIR 0B No 2425 4-11-15 @ days Ether del Ger his Absce 03Noc-354 DRAM 7-2-m O Lys Eath dud for has Absen 03-100 - 525 QROMM. 26-2-14

13 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 Description of leave i.e privilege hospital, No. Of District sick leave or of absence, Months Order From То Years or forfeiture of approved service. Days 149 w/o pay- DPo/mas -C214 DROTOR ſŢ 2204 DRAIR 3 411-Hill O -14 OPIMER 523 Ø SIMRD 61  $|||\mathbf{u}||$ DO 16/1/018 1374 DPO/MRD 01 GS&PD/ N.W.F.P. 2238 FS. - 15,000 - 27-4-1987 - (98)

1. Now 2902758-10/ 16/01-1267 985-9 Ju الججرينية المجلال بالمراجع خالانكالىب مى ابتدائى اطلاع نبست قابلى دست اعمادى پايس ئېرىك شدەزىد نده مەجمىلىك بر مەدەرە مەرىپى ملاكا حييب مى تىچ جەم كۈكۈكۈرە ئەلارى ملاكا حييب مى تىچ مەج كۈكۈكۈر مەلارى <u>\_</u> 6 \_\_\_\_\_\_ المنظ فيعذ وقط <u>Gais 3/1/2</u> الم التدريس 1/ مرمد/ 18 وقت 11/30 ع الكر المركزة اللال الدينة معنية كرام طالب 25 من ولا لي توك ۳. م<u>وس</u>س سال الروالي \_r بك الموعدة اصليتني بريبيد وير ال مرتزم مرف الروس المارج تام دسکونت ملون خلال علا - Oran O All Quil sur \_\$ 1, 17 Q فالمعاد المرارد ومقال ومذكل ومور باللدم بالزالة كاردانى يوتعيش يرمتعلق كماكراطان تايهن كريف ترفقت موامدة ويبيان كرد Wriber 2- كان عدرالى كالمدن وراك حسفان تطريب كيش اجتها الطور فحمد بجرك لوتت جمد ال ثمارتت مان - مرمص بن معلم در معمون مرار به محمون مرار بن من ، مرجع - ۱۱ دم سف الشريدة ، ونعر مدينتر خان خرانغان لا درا وليف لي رعان موم اختيان لغيره العمال كميل خالدخان ، مقتل جان بسران خعط خان عرانغان لا درا ورا مي محا بزلوند خرار عدد ورسن مركز الله مان مسران خطف بالنان عن الا در مدينتر فرق المعان مي المان مي المان المرد ورسن time in the and الكرندين فحوث طلرى الرقالة تولالورز ひをひたり خالا مقبوم - مُفْتِن خان بران صغر مان ما مان مان ما در در در در لو مُغرف مردم به برد فيوسط بي المي المي المان مان من ما در در در در در مردم مع در در برد برد فيوسط بي المي المي من ما مردان مي لونىغۇر سى ئېرىرىم بېرىغى بىي بىي مەسىرى رىچ تى - جې جانى مۇر بار بىچى - تربىاتى بې ب -مەمىرزىن حل سے میان خان فاس بعد، عران ،عبد مرجد منال ومرفعا)، قدم ومربامهم ، وغلم ومراكز لخلم باتون عكر مرآشاده بخكرش طافرون عام محيدن آرزام اس توذکرد مالر مراد تقول مکون با سریشون آرته زاری تر شون (رب بنگی گذارای سے میں جہ سمرانی ایک سف انڈ بالاس خرذكره مالرمركا قول متلول باسبر كول مفتور التدنية ورزير جراست مترمن خاله خان. مضل خان عقيد ما برز عن شريط المد مارمذان سلزمان بالرس سے جاد دند درج مربر السترل سے مرارا دوس ما نزمان سر علی مشرع می ملک بال بال نے نے سروان بادر معدد ایسے دنیے حوظ کا رس کار برائر جار ہو کہ دوم عماد سما دی تو زیر است مدنون اور دونون مذكر المفرسين تدما ومدفعة والترابي المراجات قدر المراسة فرومين س محقوم کو را بکرول نے دوسط بیتال روی ہے ای اور پر ای الحظی سند الديمات بالكر زيرواست بن سرمان بالمرح جروميت ، مار م بي الد بالراده من ماد

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## OFFICE OF THE

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

# 2020

#### CHARGE SHEET

I, <u>DR. ZAHID ULLAH (PSP)</u>, District Police Officer Mardan, as competent authority, hereby charge <u>Constable Jawad Khan No.2976</u>, 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.

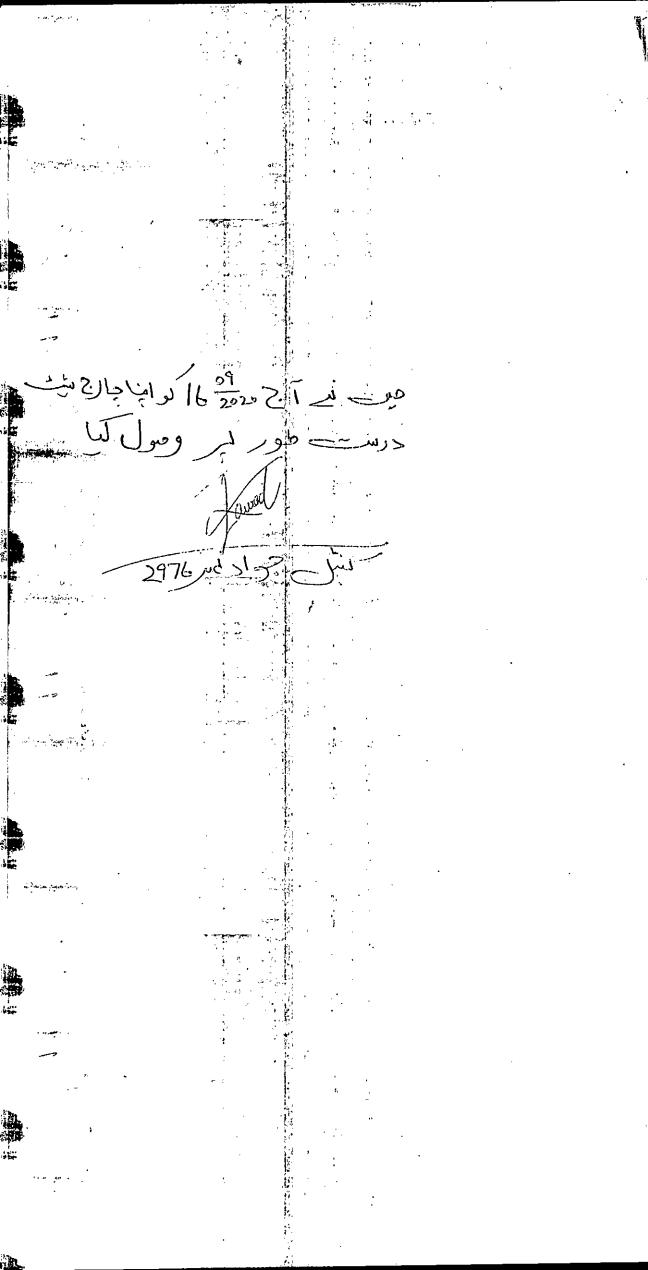
2. You are, therefore, required to submit your written defense within <u>07 days</u> of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

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.

Jillah) PSP (Dr. **District Police Officer** Mardan



## OFFICE OF THE

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

Dated /

#### DISCIPLINARY ACTION

I, <u>DR: ZAHID ULLAH (PSP)</u>, 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, <u>Constable Jawad Khan No.2976</u>, while posted at Police Lines Mardan (Now under suspension Police Lines), has been charged in a case vide FIP 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.

date + time and place fixed by the Enquiry Officer.

lah) PSP District Police Officer - Mardan

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2978)13 0 Jun Uii U - 12 Ropes 07 200 - 63 344/24 (5, 10 - 34 6/2) لم الح جارج الموجد بين مالد كرده الزمارة ع بارد من ا مى بيران بروى بور الموراني سولي 1.5 مل مردان ، 10 27 25 AV 10, 20 2 5 10 100 The 1 w EI SUN ESI (3 28 2020, ( Unity in 2 Uping Unity in 2 m Up 6 365 21 23- 100, 101 - 25 is 12 1, Lav 612, 1, 2, 2, 2, 2, 1, 2, 1, 1, 1, 1, 1, 2, 1, 1, 1, 2 9 (MIC-ت الحري على معالى مسلط عرار ال عنا مع المراح المحري المح لم بين كالمال دي تي الالال مي الجازال مي الجازار كاليون UN U122 3 23 EN BUSTI SUM لو تول خدم میں لی خال کی تحد اور میں اخ دی تقل ایا ال او و اور ایج ان کر قرص کی اور میں اخ دی تقل ایا ال او



## No. 3495-98/PA

#### Dated # J/ At /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 Grder

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.  $/ 2\omega$ 

Dated 05/ 10/2020.

(Dr. Zahid Ullah) PSP District Police Officer 少 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.

(1) The OSI (Police Office) Mardan with (1) Sheets.

## OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE, BURAL CIRCLE, MARDAN. Phone: 037-580322 E-mail: dsp.ruralmdn@gmail.com

The Worthy District Police Officer, Mardan

No. 112 /ST; Dated: 24 / 09 /2020

 Subject:
 DISCIPLINARY ACTION AGAINST CONSTABLE JAWAD NO: 2976

 Memo:
 Image: Discussion of the state of the

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.
- $\succ$  CDR was obtained and place on file.

#### FINDINGS:

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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)

Deputy Superintendent Rural-Circle, Mardan.

#### <u>ORDER.</u>

No.

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 3108.2020 u/s 324/353/337-A(i)/148/149-PPC Police Station Takht Bhai District Mardan. siC

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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, Marden averia the appellant preferred the instant appeal. He was summoned and heater in person in Orderly Room held in this office on 17.11.2020.

From the perusal of the enquiry file and service record if the 2 4 11 appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. The retention of appellant in velice Department will stigmatize the prestige of entire Police Force as instead of the 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.

7206 /ES, Dated Mardan the 20 -

20-11- 12020.

Copy forwarded to District Police Officer, Mardan for information 23/1/2, and necessary w/r to his office Memo: No. 314/LB dated 23.10.2020. His service record is returned herewith.

#### ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkheve Rolice Rule-1975 (amended 2014) submitted by Ex-FC Jawad Ali No. 2976. The petitioner will 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 31.09, 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.

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.

sr 14656 121,

Ne: §

Copy of the above is forwarded to the:

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

Logoet Police Officer, Mardan.

Q for any show the

3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.

. Legal, Khyber Pakhtunkhwa, Peshawar.

15. BA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.

to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.

Sifice Supdu E-IV CPO Peshawar.

ECIDPOLMandan Jor n Taroph

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

#### 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 Rakhtunkhwa, Reshawar. (Respondent No. 01)

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

Distr fficer. ardan./ (Respondent No. 03)

## DB 28/10

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#### BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

SA No.1591	1/2020			S SO STE
СМ №	2021			Diary No 19
Put up to the conversion of the conversion of the product of the p	annt Will J. Govt of Kh	Jawad Versus yber Pakhtunkhwa &	others	to 292
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77/21.		<u>E THE ORDER</u>		∠
Neodu	MAGISTRATE T. ORDER OF DPP D	AKHTBAI DATEI DATED 17/06/2021.	<u>) 21-06-2021 &amp;</u>	

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

Plainti Through Javed Itta Ğulbela

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.

n Bhill

## IN THE COURT OF MUHAMMAD ISHAQ MARWAT, JUDICIA <u>M'AGISTRATE, TAKHT BHAI, MARDAN</u> State...Vs. Jawad etc FIR No. 767 dated 31.08.2020 u/s 324/353/337-A(ii)/337-AF(v)/148/149-PPC PS Takht Bhai Order---02 01621 218/2 21.06.2021 The case file received from Prosecution. The same be registered in the 1 relevant register. Mr. Sahibzada Khurshid, SPP for the State present. Accused namely 2-(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. The prosecution has annexed application for discharge of the accused 3u/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. 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. Case property be disposed of in accordance with law. File be consigned 5to record room after its necessary completion and compilation. <u>A'nnounced</u> 21.06.2021

(Muhammad Ishaq Marya) Judicial Magistrate, Takht Buai

IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAL State .... Vs.... Ichan ghalip. & others. APPLICATION FOR THE DISCHARGE OF THE ACCUSED Subject: -U/S 4 C (II), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST 111M, IN CASE FIR NO. DATED 31 108 1 2021 U/S 353-3214-332 AUS 11 US 11 19 <u>767</u> OF P.S TANA V Conference effected by us complainant 1. own injured histion and twy not Suppose and Croseportion Carte and make 16-2, 1h Gifance, has mot be Yec vova 14ml 1/17 empting Saint to Fish 1 140 3. mune: ~.-/ 1/0 Contait is blood not blood Stained Jasment 10 4. taken hite possible ete in Caze 16 emilance on 5. e in which Sufficient for Committee tion and it will be wantage of preasing time of Comet 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, District Public Prosecution APP Takht Bhai

Folo 7/6/07

HARS - Err

16101.1267.985-9 JN 0348.57 M1090 FL (1)0\_10010 (1) KA فارم نبر ٢٢ الع 3-32 4 4 50 - 50 مار مرتب 3-2 - 13 59 - 3 محد ابتدائي اطلاع ريور ف ابتدائى اطلاع نسبت قابل دست المدازى بوليس ربورث شده زير دفعه ١٥ مجموعه ضابط فوجدارى <u>قت تعاثی اللہ مرزن 8 نے کے</u> <u>ملح مونت مرزن 8 منت کا منت 104 منت 104 منت 104 منت 104 منت 6 منت 6 منت 6 منت 104 منت 104 منت 104 منت 104 منت 10</u> تاب ودت ر الله وتبت 120 211 2 21 130 - 202 14 20 - 202 4 نام دسکونت اطلاع د بنده ستغیث بن ساله دیدا و در معن رومان تو اس نام 25 من مارین الوحال محط شاختی کارڈ نمبر **م**روبائل نمبر ۳. جائ وتوعد فاصله تقاليت اورست حروال مستر مرور المروم ورد 1 با د حوم Aun () 5 ( , 14 ) نام دسکون از ال مالب ال معد () عرال () عدا) در ال ال ۵\_ شاخى كارد نمراموبال نمر @ عمال ومرف ) @ عمر وسرما على بما زان را @ معمر مامر عم سر كاردائى جوتنيش ي متعلى كى اكراطلاع درج كرف مي توقف موا مختوجة بيان كرد مرسم قر فرم مرس فر حد حاس كرابرا تھاند سے روائگی کی تاریخ ووقت \_\_\_ چهد جان المر مرت کی سابقدانی اطلاع شیخ درج کرولیوات حمد السیعیمین مرت بر چهد جان المر مرت کی سابقدانی اطلاع شیخ درج کرولیوات مدار به منابع مرت بر المراح طالا قديم - منتقال بسران معفر مال مانون مل ن الادلو ندفر المرار من مع لوند خور من مذہب مراس من بنا اب من مران کو سب اردار من مع رہے تھے۔ مب جانے وتو شربار بنیے تربیمارے کے اب من در مرار از تربی کے لیے حبن محسيان خان مايب بسغيد ، غران ، غرية جبيب مران سيد جب مرار منان ورفعال ، ورمد ماهدم ، عظم ورور مراخط مانان المرسط مراري ولا عيون ا بماريب الب تو آسهارد وغرر المرم خرنورين على منيدي ارزر ارت ميرا خرز الاسرام تون سون المرن المسم معيون (... السلح مر تبول ١٠, وستحاب المت زا المست من حتى تدري من مسمري الميس في مدر فاد مادر المرار مت المزمان فالرقال محسن خال معيد بالرم جي بترية اولرمار بثان مسلمان بالرمي تدود المركز والمرمي اليترك عدمارا دومن ما بردت مسرع م ومديم ال بال بال بال م ف مدون الدين ابن ابن مرسر مرسوم فرار التي وحر عماد بما رسما خدم مراسب مدن المار در در مذمر بالفرسين عامين منا رمد صورت برحد را الوعل بما يتا عارم ستجروس و المعنوم مر راندون الم و المسلط سيمال الم و من ا ب الم المرب المن الم ا مديمان ريد بي سن مرين بالريد وحد ، ماري المن الم المريد المريد المريد المريد المريد

يريك حمال حدير بالتر محديث ومويد رمون - المحتطي جران بن السب الله 36 مالور مالور الله الله ولي المر حربت ترت المرض علاج ورائح والمرى زرجيالات شا فررجه فوارزار الن حص مرت جد فريح مند ما سينا الم الله مردان لي ما ما منه و مطافة المرم مرتب الما ماطر المراري رج مراسرمان الوكو اطراع ومن معرف الم الواف المورد المست حديث مرا المرم الم المراح المراح ما ي تق مد من مسين 25 ارسال قد ارسال قد ارسال الم حميان مع سنال ممر والمرون مودو كاروان فها آب دم المروا ki د دی مرد بند مرجز محرم فوق جام دیا الحول مرجب دار در مراب المرجل مراب المراب مراب الم عراباس فرام الملائي معارف معارف في ما تم ايس - مرحد مدر الم 19 151 - Ps - TBlen 31. 8.2020 أيك طزم يامشتهم لى الترتيب واسط بأشتدكان علاقه فير بإدسط ايشيا وياا فغانستان جال موزول مول لكعتا عاسية-

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

SA No.15911/2020

CM No.\_\_\_\_\_2021

Jawad Versus

Gout of Khyber Pakhtunkhwa & others

APPLICATION FOR GRAN	ITING PERMISSION TO
APPLICATION TOR	ORDER OF ILIDICIAL
PLACE ON FILE THE	UNDER OF TOPEN
MAGISTRATE TAKHTBAI	DATED 21-06-2021 8
	nc/2021
ORDER OF DPP DATED 17/	JB/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(11) 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

Gulbela Javed 1 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

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

 PS Takht Bhai
 PS Takht Bhai

Order---02 21.06.2021

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The case file received from Prosecution. The same be registered in the relevant register.

Nr. 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)- Azam son of Akbar Khan
(7)- Jawad son of Habib Ur Rehman on bail absent while accused
(8)-Nizam son of Usman is absconding.

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.

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Case property be disposed of in accordance with law. File be consigned to record room after its necessary completion and compilation.

Announced 21.06.2021

(Muhammad Ishaq Marka) Judicial Magistrate, Takht Bhai

**新忙**停芋

9-0-20

IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAL State .... Vs. 121 & others, APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 Q (11), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST HIM, IN CASE FIR NO. Subject: -Bill Contrat DATED 31 108 1 2021 U/S 353-3744 <u>767</u> OF P.S  $\{ (i,j) \in \mathcal{A}_{i} \}$ ١. Se . P. f. fecto-1 C.s Cit Co Vin 6 visit dilleictiving and 6 Nrs an 16-C. ( ~ 3-e Conte tion 2. 11 C ù١ Q\_~~^ 3. ( Mr. . . 6.10 4. blood rd'r 改 61000  $\sim 0$ tarea 876 (Gr الد ٥ 5. 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. veak evidence and for non-prosecution by the Prosecution Agency. District Public Prosecution Rashid-Khan, . S APP Takht Bhali 1

16101.1267.90 - 9 Ju 0348.57 K1090 - 16 K 1216 (1) م د مح د 4 بود - دوروز م د 19 برم ای دو کی بود ابتدائی اطلاع رپورٹ ابتكرائي اطلاع نسبت قابل دست امدازي بوليس ريورب شده زيرد فعيه هما مجموعه ضابط فوجداري الا معد 30 / عدم المالية المالية معد معد المالية معد 130 معد المالية الموالية المو موالية الموالية الموالي م بلكي الرحال 324-353 376 وال طندتين رود تدوسادي نام بكر الرا في عام ف معد في عرال في عدا (1) حو<sup>1</sup> د و لرعمد که وبرابوبال بر وعدال وسرف ال قمودر با م بما روال المحال معم مأمرا علوما دوالى جوافتيش بح على في تكر اطلاع درج كرف من توقف موامطة ومديان كرو 1 Port تحاله ف روانگی کا الم بخ دونت حبدمان ومرمدت فن لهام مت مان مرجع بالم مرجع والمرحد ومرجع بالم مرجع بالمربع بالمربع بالمربع بالمربع بالمربع بالمربع بالمربع بالم سبب الربطي عدم ولا مسلم على حرب العال لمرود على ما من المربع المربع المربع المربع المربع المربع المربع المربع ا مسلم والد عاد المربع المربع مرجع العال لم ودراع و ما معام لو مرفو فر المدا و رو المربع والم عاد المرابع المربع الم انجر جالد محدد موں لیے انجمع حوال مال لار دربال میں اندا جالد افعی - سرجان لیے ان حصفہ حال ماران قلب ن آرا جالد افعی - سرحان لیے ان حصفہ مال ماری مرب ان مارد ریسے تو - قات وتولم جن سي المان ال وتدليطاك ، ومقروم بالعدم ومبر مسبد م ج م کا خبر ن 12/1/1/02 متراطك خرم كالرزا مارمان متهبين م مرس تعواد بتركر بج ي The way of the second - - - K. UNUN - - USE والمجر مرجومة وحنا عرادهما يستاغه زر م محمد میں میں اس معام مصمور ت مرجع را اس اما جما ہے ، کا تاک کا در را . محمد محمد میں میں دیست سیسان نے زیاب س اب ال سر آب د مع معاد المال الوجد المسلم مع معال بالم ما تحرد صل ، دار م المال المال المال الم

بر به کاهم ان خدر بالد محد و مورد ارس - ارتحط هزان من ان سع الله کاچ مالو من الله من الله من الله ولی ا مرد المرب مارد ان ولی منتخب از مرد بو من مرد ما سر بن درج مان سرم الما حار من منتخب مر مرد بو من مرد ما سر بن منه مرد مدارد منتخب منتخب منتخب مرد ما مرد المو من ما مند مرد مدارد منتخب منتخب منتخب مرد ما مرد المو من ما مند مرد ما مدارد منتخب منتخب منتخب منتخب مرد ما مرد ما مرد ما مرد ما مند مرد ما مدارد منتخب منتخب منتخب منتخب مرد ما مرد ما مرد ما مرد من ما مند مرد ما مدارد منتخب منتخب منتخب منتخب مرد ما مرد ما مرد ما مرد ما مرد ما مرد من ما مند ما مد من ما مرد من ما مرد من من ما مرد ما م J. 

#### IE SERVICE TRIBUI

SA No.15911/2020

2021 CM No.

#### Iawad Versus

Goot of Khyber Pakhtunkhwa & others

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

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- 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(11) of prosecution Act 2005 to District Public Prosecutor on dated 15-06-2021.
- 3. That on acceptance of above mention application Learned Judicial Magistrate Takhthai, 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

Plaintif Through

javed labe ulbela Advocate Supreme Court Pakistan

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

Order---02 21.06.2021

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The case file received from Prosecution. The same be registered in the relevant register.

Mr. Sahibzada Khurshid, SFF 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)- Azam 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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Announced 21.06.2021

(Muhammad Ishaq Marya) Judicial Magistrate, Takhi Bha

IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAL 121 State .... Vsl. & others. APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 C (11), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST HIM, IN CASE FIR NO. Subject: -- Jan Manilla DATED 31 /08 / 2011 U/S 353-524 7.67 OF P.S T 2 f f  $c_{\alpha\gamma}$ Sle ecto-1 ÷С.к 1. SN BAA COWX ined Wictim and. i wit and Conje 16-المتح يو CI-AA tion 11 2. 51 11. 3. ard 61000 1.10 blood 204 4 talka et Care ۱۴ 5. 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. District Public Prosecution Rashid Khan, I APP Takht Bhaji

16101-126790 - 9 00 2,16 (7) 0348.5714090 یه د ادر د ۶۶ وه . دهر در مدید ۱۹۹۶ بر ای دوج کامید جوابتدانی اطلاح رپورٹ ابتدائي اطلاح نسبنت قابل دست المداري بوليس ريورث شده زير دفعه اها مجموعه ضابط لوجداري من ملع مزو ال NO21130-المالديد وروسي وسال تو امن ل ي لا بي ال 24-353 374-149 وال طعر مرر وفر المروف الروار 11 ما د - ٥ سعيد () عرال () عدام سلز & طان بماہمہ (i) **حو**ر والمرطمة د ابرا بوبال لبر ( عمال وسرخ ا) ( قرم وسر ما م ل راگ م کاردانی جرافتی سے علم کی تن اگراطلاع درج کرنے میں تو تف ہوا ہوتا وجہ بیان کرد 1 El V تحاسه بنار دانگی کی تاریخ دودت ومعان الم مات ل المار میں عان فریض کتن حالیہ دور ویر میں کتاب ہوتی المان کو راہیں ا سب ایس کادور ولم سند خان موم العال کو درائی ال تھا برلوں دور ایر در پر ا الحدوم ولم تعديم طال حرم العمال لم درباط بالم تحام وحس حال ليسال جعفة حال مائن في مارار من حلما مديد لون الورم المسلم جعفة حال مائن في مارار من حلما - سل حال ليسال جعفة مال مائن مسال ماري الدرم الم مالدهاني ، وسرح الجرحالر 2 1 ل الدلون ے وقولیم ماکر تربما رب 38, 6 سرم مكركورس أعام بديرة كالربري تون باون 6 2 2 ··· (بطال: حَيم بابرر رمار شان م تر م الم الم الم الم الم الم الم سريح کي . مد بر ما مال مريم مرجر رتوت وح مراد مما رحرا تد ر مسل مبارعسيس وشري برجع والمع الما مماري مع مع معلي المع وسيسية مسل 2 ماس الم الم بر برا المراجع المحال المرجع المحال المرجع المرجع المرجع المحال المراج المحال المراج المحال المراج المحال المراج المحال

تر بر المحم ال فلد مرد بالد م صد - ومويد أرسول - ارور في مران من كن سعة الله 36 مالور بالور بالكول لاير ولو أسر الاسر ما در المولسين مناجب رابر دست من الورب د ر البورمب و ل حرف ما سريس ب می س تقدیق کرتا ہوں ۔ حروص بالد میں مرار بل میں تقدیق کرتا ہوں ۔ حروص بالد مرار اللہ ما اعمار جات ہو کہ ما مولی مراج میں اللہ مرد حرک بال مراح کا مراح کا مولی میں مراح کا مراح کا کہ مرد حرک بال میں بالہ کا تو کا مراح کا مراح کا مراح کا کہ موجود مال میں مراح کا مراح کا مراح کا مراح کا مراح کا کہ موجود میں مراح کا مراح کا مراح کا مراح کا مراح کا کہ مراح کا کہ مراح کا مراح مراح کا کا مراح 251 PS 78 بن كل مرشان لكا بالملتج علما ورا نسر ترير ب كل مرشان لكا بالملتج علما ورا نسر ترير شند كان علاقه عبر الادنية السياميا العالية ايك لمزم بالمشتهركل ألتر تند

## BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

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SA No.15911/2020

CM No.\_\_\_\_\_2021

Jawad Versus

Gout of Khyber Pakhtunkhwa & others

APPLICATION FOR GRANTING PERMISSION TO	2
PLACE ON FILE THE ORDER OF JUDICIA	L
PLACE ON FILE THE ORDER 21 06 2021	ہ،
MAGISTRATE TAKHTBAI DATED 21-06-2021	1
ORDER OF DPP DATED 17/06/2021.	
ORDER OF DIT DITE	ł

## Respectfully Sheweth,

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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 Takhthai, 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

1

Plaintif Through

Gulbela Javed In Advocate Supremie Court Pakistan

Affidavit:

avit: 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. Decomposition

IN THE COURT OF MUHAMMA MAGISTRATE, TAKHT BH

 State...Vs.
 Jawad etc

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

 PS Takht Bhai

Order---02 21.06.2031

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The case file received from Prosecution. The same be registered in the relevant register.

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)- Azam son of Akbar Khan (7)- Jawad son of Habib Ur Rehman on bail absent while accused (8)-Nizam son of Usman is absconding.

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.

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.

Announced 21.06.2021

(Muhammad Ishaq Marya) Judicial Magistrate, Takht Buai

State .... Vs!  $|\langle |$ & others, APPLICATION FOR THE DISCULARGE OF THE ACCUSED U/S 4 O (11), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST I IM, IN CASE FROM. Subject: -767 DATED 31 108 1 2021 US 353-5 Rel AN ROLL CAR OF P.S provide R. f. fector 1. (can 1 6.5 websit t. Wiet د النه and Crnr ١۴ **う・< ごう**を 'Cnic Time 2. 11 0 Yec 1ks  $\mathcal{O}$ o14 an 3. Ins. one. Stamed Pland ay 4, 1.10 blood Nut ъ 64 <u>(</u> <u>A</u> 1 Ca 14 0 mi 2 C 5. Q ن درا pet 16 UN 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 leveled against him, for deficient. veak evidence and for non-prosecution by the Prosecution Agency 19. Sp Rashid-Khan. District Public Prosecution . APP Takht Bhaji 

•

16101.1267.9857.9 100 2016 (1) 0348.5714090 K فارم نمبر ۲۷ ن ذی از ۲۶ ۲۶۰ - ۲۵۱۶۶ - ۲۵۱۶۶ روید ۲۶ ۲۰۱۶ - ۲۵۶۶ - ۲۵۶۶ ابتدائی اطلاع ریور ب ابتدائي اطلاع نسبت قابل المست امدازي بوليس ربورث شده زير دفعة ١٥ مجموعه ضابط فوجداري \_\_\_\_ <sup>طل</sup>ع مرزن <u>الا بوزت</u> . تاريخ <u>و م</u> ق المريد ويسعى روان ال ويسير سال ماي الوحال 53 374 مدفا منا بقرار می مربع مر مدفا منا به مقابلہ ہے اور سمت ال خد ترزرود ازد ינו דער קני - ٥ معد ٥ عرال ٦ يا نام دسکونت لز D طان عالم شاخى كارد بمراموبان بمر ٢ عمال ولر في ٢ ٢ متم ولر isv ( کاردائی جرآمنیش سے نعلی کی تک اگراطلاع درج کرنے میں تو قف ہوا ہوتا وہ بیان کرد 2 L تھانہ سے روائگی کی تاریخ دومت جرومان المر وست بس تعامر تقت معان مرمص بن حالم دور موجون حول در بع من من مرمعه من ال سبف التر محدم ولمر مرتض بن حالم دور ولا على رقبان موم ادمان له درام ان ب احاله حان وفسر حان ميران حوم العان لمه دد اعد ما محا ماور دور العرجر المرجاله دور بول الورم من مرتبا ب مرز جم من مان ما دلور دور محول بي من جاله قوم منابع مان سران حضومان بابنان مل ما با دلور دور من من من من لا قبوم - مدنون مرفع من مدروب اردام من بما ترىما رئيم ، عبيد خريد رويد السرانجي في وتسر مسلام فبريه ولا في ل م مركورس سام مريد ف 1. رور ح 624 ش ت فتحتق طاك وقرين بالررم UNU.U العكرمار مثران مستربان ماير مين السترابي بنه مرارز د د متل ما سرات السرع من - تسريم مال مال الم -الرجيع مسط من من مرار مربع مر قرار الموجود عماد سما المجمع ترم الرا - سريع من - شمير مال بال زيم ف والمحصين عساس ساريس وروات برجور الموالما الماري لالحد يرم 

برند کامیں کی مذہر بالد محمد ویور بریوں - ارجن کی مراب کی کی کی سب اسر 36 مر عالورت کا کالی تابید ولی ا استفا الکی کا در الولی منتظر برید دست میں درجالا دیا ہے سریک سایا جا برجی محمد میں تعدیق تر ابور احمد کا برید بن مدیر مراب تر میں علاق ور نے والی کی زمانوں - جروض بلات مراب ال بنه 18 بر 18 بر 18 بر 19 مال مان 3/ 8 2 مرد 3/ 8 2 مرد المعال مان ) • ايك لزم يامشتهر في الرتيب واسط المتروكان علاقد في ياوسط الشياء الفالستان جال موردن بول لكمتام



**KHYBER PAKHTUNKWA** SERVICE TRIBUNAL, PESHAWAR No.<u>921</u>/st

Dated: 13 - 4 - 1202

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

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

То

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

In Re. S.A \_\_\_\_\_/2021

Jawad

Versus

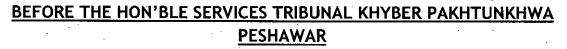
Inspector General of Police Khyber Pakhtunkwha & Others

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Appellant Through JAVED LOBAL GULBELA

.

Supreme Court of Pakistan



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.

 Incorrect, false, fabricated, vexatious, hence sternly denied. The Appellant has always served the prestigious Police Department will 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.

## **GROUNDS:**

- 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

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 TOBAL GULBELA Advocate, Supreme Court of Pakistan

In Re. S.A \_\_\_\_\_/2021

Jawad

Versus

Inspector General of Police Khyber Pakhtunkwha & 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 Idbal Gulbela

Advocate High Court Peshawar

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

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

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The case file received from Prosecution. The same be registered in the relevant register.

Mr. Sahibzada Khurshid, SPP for the State present. Accused namely (1)- Qaiser son of Zakir, (2)- Khan Ghalib (3)- Saeed<sup>†</sup> (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.

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 bf 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.

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.

Case property be disposed of in accordance with law. File be consigned to record room after its necessary completion and compilation.

Announced 21.06.2021

No 1896 24-6-21 24-6-21 24-6-21 (Muhammad Ishaq Marka) Judicial Magistrate, Takhtikai

24-6-01

Annex

لىركى)

IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAL

State .... Vs. ... Khan ghalio & others.

Subject: -

1

APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 C (11), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST HIM, IN CASE FIR NO. 7-67 DATED 3 / 262 U/S 353-324-33 AUS HUS

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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

Wen 61021

ر جنبر ۲۳ 16101.1267985-9 c 0348.5741090 ده - 10,3% ۱۳۶۹ - ۲۵,۵۶۵ ابتدائی اطلاع ریور ب ې نسبت قابل دست امداز کې پولیس رېږرث شده زېږ د فعه ۱۵ مجموعه ضابطه نو جدارې \_ تريخ وعنت وتور 12 JA (12) بر تر رود ند مدر آباد جو - @ معد () عرال () عدا) ممال ومرفط ) ( متوور ما فد ار اطلاع در ب<sup>2</sup> کرنے میں تو قف موا ہوتا وجہ عیان کرو いらかっと ب میں دو وقد محد صور کالو کر در بیخ مشکل کہ میں اس کے معالم کالی کہ میں کالی کم کے معال کو تس کا میں کے معال ک میں کہ کس حیالہ کہ 2911 وہ مسلمی رکھال خوش ا میں کے لیے بشرطان حوم المعال للمردد المع ممال تصا ل حصفه حال بأممال تلت أيارلو اليدان محقوطان بأم ر حال مسرال معفومال ما ممال مليف ا ب Corn رزار عارب ب -عران ، عريد جنيب ميمان مسد حبيب مواد ومر بخط ومد المراحظ بما ترال علير مسلح مراسط ولا بي مريكيدم مدكورين شيب مسيندن ا ورمرم حرار ، ربخہ بے ز تون ... دستون سفرزا . 1) To and soulicity ت المرفال جاد م. يوس بالدر ملى مترية موير مار مثن مسرمان مالرس مرارز و دستن ما سردت مستريح من مسلوس مال مال ملك سرمان كالرمين تساجوا وسترتزيج الاسم برگار من مرام مر حرار سوت وحد عماد ما رسما خدم بن حد سن مها رسم مرار شرع د انبوا عل جما ر رائل دار به مسلط سینال از راب میں ایج اور مرز بالا رار در ایک سن سریال بالر او قرر و ب ، بار غار اے اور ساز ا

مع المسال المروجين عالى المرافع المرافع المرافع المرافع وجعل اطلاع کے بیچی د- ایکار تخط مد کال اس کی مرشتان ان مالے می اورا مشر می تولند است میں ان میں میں اللہ کیا ہے الما ال اللہ اللہ اللہ کی اللہ کال ہے الما اللہ کاللہ اللہ کاللہ ک ایک لڑم ای است میں کال مالا قد خوالہ کال کا کالہ کاللہ کا 

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In Re. S.A \_\_\_\_\_/2021

Jawad

Versus

Inspector General of Police Khyber Pakhtunkwha & Others

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XI () pellant

Through

JAVED LOBAL GULBELA Advocate Supreme Court of Pakistan

In Re. S.A \_\_\_\_\_/2021

#### Jawad

#### Versus

Inspector General of Police Khyber Pakhtunkwha & Others

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- 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.
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Through\_

JAVED TOBAL GULBELA Advocate, Supreme Court of Pakistan

In Re. S.A \_\_\_\_\_/2021

## Jawad

## Versus

Inspector General of Police Khyber Pakhtunkwha & Others

## <u>AFFIDAVIT</u>

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 Igbal Gulbela Advocate High Court Peshawar



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

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Annex

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

 PS Takht Bhai

Order---02 21.06.2021

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Announced 21.06.2021

(Muhammad Ishaq Marka) Judicial Magistrate, Takhi Bhai

24-601

IN THE COURT OF JUDICIAL MAGISTRATE, TAKHT BHAL

State .... Vs.... 1< how ghat to ..... & others.

Subject: -

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5.

APPLICATION FOR THE DISCHARGE OF THE ACCUSED U/S 4 Q (11), PROSECUTION ACT 2005, FROM THE CHARGES LEVELED AGAINST HIM, IN CASE FR NO. 767 DATED 31 /08 / 2021 U/S 3-3-324-337410 HLSMC.

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Rashid Khan, APP Takht Bhai

District Public Prosecution

Wen 6101

ابتدائي اطلاع فيبت قابل دست المدازي يؤليس وتورث شده زبيز ولعدتك المجموعة ضابط فوجداري

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تماند \_ ردانگان تان دونت مسر این مرار کان تان دونت مسر این مام مدر بسی می کان کار کار موجون می از مح می مدینا مسر مرار کرم

VISCOPUSY نها بر تیب میان مرمص کش جاند دند ورون می امی میں انوران از اس سبب ایر محدم ورور مرون کش جان خرم احدان کر درام میں کا مرد مراحد و رم احالہ جان حسن جان حصر جان میں ایران میں اور درمد مرور میں بن م المرجارية فالانتخاب مراجع والمحتج بالمحتج المراجع

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على بالم حرق حروصات مار م الح الحي !!