

10.05.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 25.08.2021 for the same as before.


Reader

25.08.2021

Mr. Aqeel Yousafzai, junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

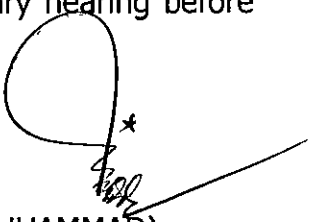
Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station. Rely/comments on behalf of respondents also not submitted. Adjourned. To come up for submission of reply/comments before the S.B on 21.10.2021.


(SALAH-UD-DIN)
MEMBER (J)

21.10.2021

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

Learned AAG seeks time to submit reply/comments. Adjourned but as a last chance. To come up for preliminary hearing before the S.B on 23.12.2021.



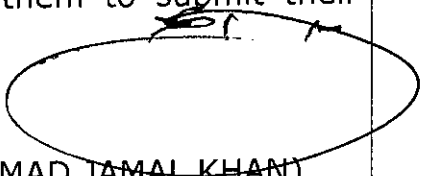

(MIAN MUHAMMAD)
MEMBER (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 15964 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/12/2020	<p>The appeal of Mr. Ishfaq Hussain resubmitted today by Mr. Shahid Ali Khan Yaftali Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>29/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	29.01.2021	<p>Mr. Shahid Ali Khan Yaftali, Advocate, for appellant is present.</p> <p>In view of the arguments addressed at the bar by the learned counsel representing appellant, it is deemed appropriate to issue pre-admission notice to respondents for 10.05.2021, simultaneously, directing them to submit their reply/comments before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

The appeal of Mr. Mr. Ishfaq Hussain Constable FRP No. 3957 District Swat received today i.e. on 09.12.2020 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- ① Address of respondent no.3 is incorrect which may be corrected according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of departmental appeal and its rejection order mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 4- Copy of revision petition mentioned in the memo of appeal is not attached with the appeal which may be placed on it
- 5- Copy of Impugned order dated 23.10.2020 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 6- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 7- Annexures of the appeal may be flagged.
- 8- Annexures of the appeal may be attested.
- 9- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 4018 /S.T,

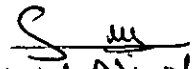
Dt. 09/12 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Sher Shah Khan Adv. Swat.

Respected Sir,

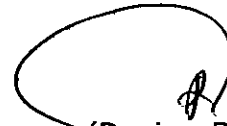
with due Respect, to re-submitting appeal after completion of all objection except objection No-3 at the time of filing departmental appeal, the copy of application we had mistan the appellatant, due to which the appellatant can not provide the departmental appeal copy.


Shahid Ali Jattali
Advocate High Court

08.06.2022

Junior to counsel for the appellant present.

Lawyers are on general strike, therefore case is adjourned. To come up for preliminary hearing on 26.07.2022 before S.B.



(Rozina Rehman)
Member (J)

62

22.12.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Ihsan Ullah S.I (Legal) for respondents present.

Reply on behalf of respondents is still awaited. Representative of respondents requested for time to submit reply/comments. Last opportunity is granted. To come up for reply and preliminary hearing on 10.01.2022 before S.B.



(Rozina Rehman)
Member (J)

10.01.2022

Appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Reply on behalf of respondents has already been submitted through office and placed on file. Appellant requested for adjournment on the ground that his counsel is busy in other court. Adjourned. To come up for preliminary arguments before the S.B on 08.03.2022.



(Salah-Ud-Din)
Member (J)

08.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 08.06.2022 for the same as before.



Reader.

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKWHA AT
PESHAWAR**

Service Appeal No. 15964 of 2020

FRP Constable Ishfaq Hussain (No. 3957) son of Nizar Hussain Resident of
Ratheni, Kughzi, Tehsil & District Chitral.

..... Appellant


VERSUS

Inspector General of Polcie, Khyber Pakhtunkhwa at Peshawar and others

..... Respondents

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S.No	Description of Documents	Annex	Pages
1.	Memo of Appeal		1 to 4
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4.	Copy of Charge Sheet, statement of allegation and Show Cause Notice	C,D&E	7 to 9
5.	Reply	F	10
6.	Copy of impugned order dated 05.07.2019	G	11
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Appellant

Through


(Shahid Ali Khan Yaftali)

Advocate, High Court, Peshawar

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKWHA AT
PESHAWAR**

Service Appeal No. _____ of 2020

FRP Constable Ishfaq Hussain (No. 3957) son of Nizar Hussain
Resident of Ratheni, Kughzi, Tehsil & District Chitral.

..... Appellant

VERSUS

1. Inspector General of Polcie, Khyber Pakhtunkhwa at Peshawar.
2. Additional Inspector General of Police at Peshawar.
3. Commandant FRP, Khyber Pakhtunkhwa Peshawar.
4. Superintendent of Police, FRP, Malakand Range, Swat.
5. District Police Officer at District Lower Chitral.

..... Respondents

Appeal under Section 4 of the Service Tribunal Act, 1974, against the impugned notification bearing No. 1016-21/EC, dated 05.07.2019, whereby major punishment/ penalty of "time scale" has been imposed upon the appellant.

Respectfully Sheweth:

The appellant submits as under:

1. That the appellant was selected and appointed as Police Constable on 01.09.2014 at FRP, Malakand Range. The appellant always performed his duty honestly and sincerely, and never gave any cause of complaint to his senior, during

the service, his conduct and performance has been above board.

2. That while working as a Sepoy Posted at Paitham, Swat, during duty hour on 12.05.2019, the security personnel posted over there, complained without any prudent cause which unluckily led to proceeding against the appellant and later on disciplinary action was initiated against, which is based on surmises, conjunctures and ill-will of the respondents.
3. That the appellant submitted formal application and requested for setting aside the void inquiry orders against him, however the appellant was awarded major punishment of stoppage of time scale and annual increments which is totally illegal and unlawful to be maintained against the appellant.
4. That the inquiry proceedings against the appellant is based on ill-will and malafidely of the respondents, wherein only altercation has been based for the initiation of proceeding of inquiry against the appellant, however the appellant was not a party to the altercation happened as DD reported dated 12.05.2019 (**Ann: A**) itself reveals.
5. That the appellant assails vires of the orders dated 05.07.2019 (**Ann: B**), 9-10.2020 (**Ann: C**) and 23.10.2020 (**Ann: D**) to the extent that the imposition of penalty of five annual increments and time scale as arbitrary activated against the appellant, are unlawfully, arbitrary and liable to be set aside inter alia on the following grounds: -

GROUND: -

- a. That the entire disciplinary proceedings culminating imposition of penalty of five annual increments and time scale are illegal and blatant violation of Khyber Pakhtunkhwa Government Servants Discipline Efficiency and Discipline Rules 1973, and laws laid down by the Superior Courts of the Country.

- b.** That the respondents have acted unlawfully and principles of fair play and justice, and have totally been violated by the respondents during the inquiry proceedings.
- c.** That the entire proceedings of the respondents are devoid of show cause, hence the respondents having material prejudices with the appellant have imposed the penalties against the appellant, which are void ab-initio upon the rights of the appellant.
- d.** That it is a settled law that no major punishment can be imposed on a Civil Servant/Employee without lodging proper inquiry and by affording reasonable opportunity to the accused employees to produce his side of defence. Respondents No. 3 & 4 to follow this Statutory Law laid by the Hon'ble Superior Courts of the Pakistan who on his own whims, thus committed a gross illegality.
- e.** That the imposition of penalty against the appellant whereby the appellant is not guilty of charges and the plea taken by the appellant is plausible, respondents have acted unlawfully by imposing punishment, which is harsh, arbitrary and capricious on the face of the it, which are in no way maintainable by law and equitable treatment as envisaged by the judgments of Superior Courts.
- f.** That the appellant was not treated in accordance with law and rules on subject and impugned orders


have passed flagrant violation of law and rules tainted with malafide intention and is therefore not sustainable and liable to be set aside.

- g.** That other important points will be raised during the course of arguments with prior permission of this Hon'ble Tribunal.

PRAYER: -

It is, therefore, humbly prayed that by acceptance of this service appeal, the orders of respondents may kindly be set aside and the annual increments may be restored and the back benefits/salaries may kindly be released. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked/prayed for, may also be granted to the appellant.


Appellant
Through Counsel


SHER SHAH KHAN
Advocate High Court.
Dated: 25.11.2020

Certificate: -

It is certified that no such like appeal is either pending or decided by this Hon'ble Court.


SHER SHAH KHAN
Advocate High Court.

BEFORE THE SERVICE TRIBUNAL,
KHYBER PUKHTUNKHWA AT PESHAWAR

Service Appeal No. _____ of 2020

FRP Constable Ishfaq Hussain (No. 3957) son of Nizar Hussain resident
of Ratheni, Kughzi, Tehsil & District Chitral. **...Appellant**

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar
and others. **....Respondents**

AFFIDAVIT

It is stated on oath that all the contents of the attached
appeal are true and correct to the best of my knowledge and
belief. Moreover, no such like appeal is pending or decided by
this Hon'ble Court.

Deponent: ASMA

Ishfaq Hussain (appellant) in person



7

CHARGE SHEET.

I, **Imtiaz Ali**, Supdt: of Police FRP, Malakand Range, Swat as competent authority is hereby charge you Constable Ishfaq Hussain No. 3957 of this Range while presently posted in Platoon No. 73 of District Swat which has been deployed at Paithom Jail District Swat involved in abasement and abjectness of your Immediate officer, A preliminary enquiry in this regard has been conducted but your reply is opposite of the real fact. In view of the occurred circumstances, you are seeming to be guilty of misconduct you have already been suspended from service with effect from 12/05/2019 and closed to FRP, Police Line Kabal Swat vide this office order No. 698-702/EC, dated 13/05/2019. Your this activity is a gross misconduct on your part and an ex-parte legal action is being taken against you. In this connection Charge Sheet and statement of allegation are issued.

- 1.) By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rule 1975.
- 3.) You are, therefore required to submit your written reply within 07 days of the receipt of this charge sheet to the Enquiry officer, as the case may be.
- 4.) Your written reply, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall follow against you.
- 5.) Intimate whether you desire to be heard in person or not.
- 6.) A statement of allegation is enclosed.

No. _____ /EC

Dated: _____

**Superintendent of Police, FRP,
Malakand Range, Swat.**
20/05/2019

Sau
ATTESTED

(8)

DISCIPLINARY ACTION.

I, **Imtiaz Ali**, Superintendent of Police, FRP, Malakand Range, Swat as competent authority, is of the opinion that he Constable Ishfaq Hussain No. 3957 of this Range, while Presently posted in Platoon No. 73 Swat, has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omissions as defined in Rule 2(iii) of Police Rules 1975, as per Provincial Assembly of Khyber Pukhtoon Khwa Notification No. PA/Khyber Pukhtoon Khwa/Bills/2011/44905 dated 16/09/2011 and C.P.O, K.P.K, Peshawar Memo; No. 3037-62/Legal, dated 19/11/2011.

STATEMENT OF ALLEGATIONS.

It has been reported that he, while posted to Platoon No. 73 Swat committed the following act, which is gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

That he Constable Ishfaq Hussain No. 3957 of this Range while presently posted in Platoon No. 73 of District Swat which has been deployed at Paithom Jail District Swat involved in abasement and abjectness of your immediate officer. A preliminary enquiry in this regard has been conducted but your reply is opposite of the real fact. In view of the occurred circumstances, you are seeming to be guilty of misconduct you have already been suspended from service with effect from 12/05/2019 and closed to FRP, Police Line Kabal Swat vide this office order No. 698-702/EC, dated 13/05/2019.

2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, DSP, Zahir-Ur-Rahman FRP, Timergara is appointed as Enquiry officer.
3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and makes within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.
4. The accused officer shall join the proceeding on the date, time and place fixed by the enquiry officer.


ATTESTED

Superintendent of Police, FRP,
Malakand Range, Swat.
20/05/2019

No. _____/EB, dated Saidu Sharif the _____/2019.

Copy of above is forwarded to the:

1. DSP, Zahir-Ur-Rahman FRP, Timergara, for initiating proceeding against the accused officer/official namely Constable Ishfaq Hussain No. 3957 under Police Rules 1975.
2. Constable Ishfaq Hussain No. 3957 Platoon No. _____:-

With the direction to appear before the enquiry officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceeding.

9

FINAL SHOW CAUSE NOTICE.

I **Imtiaz Ali**, Superintendent of Police FRP Malakand Range, Swat as competent authority, hereby serve you Constable **Ishfaq Hussain No. 3957** as follow:

- 1). That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.
- 2). Ongoing through the findings and recommendation of the enquiry officer, the material available on record and other connected papers including your defense before the enquiry officers, I am satisfied that you have committed the following Acts/ misconducts as per Police Rules 1975.

Whereas, you Constable Ishfaq Hussain No. 3957 of FRP, Malakand Range, while presently suspended from service and closed to FRP, Police Line Kabal Swat vide this office order No. 698-702/EC, dated 13/05/2019 due to involved in misbehaved and scuffled with your Platoon Commander Mr. SI/PC Zahid Khan. In this regard, a preliminary enquiry against you was ordered and charge sheet with statement of allegation was also issued you vide this office No. 25/EC, dated 21/05/2019. From perusal of enquiry report, it is evident that you have actually misbehaved with your officer and blatantly violated discipline. The allegation leveled against you stand proved. Your this act is a sheer violation of discipline which warrants strict departmental action. Thus issued Final Show Cause Notice.

- 3). You are therefore served with this Final Show Cause Notice as to why the aforesaid penalty should not be imposed upon you, and also intimate whether you desire to be heard in person.
- 4). If no reply to this notice is received within seven days of its delivery in the normal course of circumstance, it shall be presumed that you have nothing to offer and in that case, ex-parte action shall follow against you.

Copy of the finding of the enquiry officer is enclosed.

**Superintendent of Police, FRP,
Malakand Range, Swat.**

13/06/2019.

No. _____/EC,

Dated _____/2019.


ATTESTED

ATTESTED

Handwritten text in Urdu script, appearing to be a legal or official document. The text is dense and covers most of the page, starting with a date '15/5/2015' and ending with '18/5/2015'.

Handwritten signature and name at the bottom of the page.



11

**OFFICE OF THE
SUPERINTENDENT OF POLICE, FRP,
MALAKAND RANGE, SWAT.
Telephone & Fax. 0946-9240258.**

No. 106-21 /EC, dated Saidu Sharif the 05 / 07 /2019.

ORDER.

This order will dispose off departmental enquiry against Constables (01) Zubair Shah No. 4303 (02) Ishfaq Hussian No. 3957 (03) Bakht Muhammad No. 3698 (04) Ihsan ullah No. 4135 of Platoon No. 73 ATS Swat. They while posted to Sub Jail Paihtom (the most sensitive place) under the control of Pak Army, wherein most wanted militants are imprisoned. According to D.D. report No. 04 dated 12/05/2019 of FRP, Malakand Range, Swat they while performing duty on the most important points, left their duty points on the instigation of Constable Zubair Shah No. 4303 making agitation not to perform their duty bringing Aftari from the Army Mess in Plan Cloths. In this regard a D.D report No. 04 dated 12/05/2019 was entered in the D.D report on the same D.D report they were suspended vide Order No. 498-702/EC, dated 13/05/2019 and enquiry was started against them and DSP, FRP, Timergara Mr. Zahir-Ur-Rahman was appointed as Enquiry officer. They were issued charge sheet and statement of allegations vide Endst: No. 22/EC, 23/EC, 24/EC and 25/EC dated 21/05/2019. After conducting preliminary enquiry, they were issued Final Show Cause Notices vide Endst: 22-A/EC, 23-A/EC, 24-A/EC and 25-A/EC dated 23/06/2019.

The enquiry officer conducted the enquiry and submitted his finding report and recommended them for awarding major punishment. The Enquiry Officer recorded statements of the delinquents Constables and other concerned. In the enquiry the Incharge leveled against them has been provide. I perused the enquiry papers and finding report of the Enquiry Officer I am agree with the recommendation of the Enquiry Officer. Hence in exercise of the powers vested in the undersigned under Rules-2(iii) of Police Disciplinary Rules -1975, I Haji Imtiaz Ali, Superintendent of Police, FRP, Malakand Range, Swat being the competent authority, am constrained to award each of them major punishment of time scale Constables with immediate effect.

Beside the above keeping in view lack of supervision of SI/PC Muhammad Zahid, their Incharge is awarded the punishment of stoppage of one annual increment for a period of one year-2019 without cumulative effect.

"ORDER ANNOUNCED"

[Signature]
Superintendent of Police, FRP,
Malakand Range, Swat.

04/07/2019
[Signature]

No & Date Even.

Copy of above is forwarded for favour of information to the:-

1. Worthy Commandant FRP, Khyber Pukhtoon Khwa Peshawar please.
2. Regional Police Officer, Malakand Region-III, Saidu Sharif, Swat please.
3. Superintendent of Sub Jail Paithom, Guli Bagh District Swat
4. DSP, Zahir-Ur-Rahman Enquiry officer, FRP, Timergara at Dir Lower.
5. Pay Officer, FRP, Swat.
6. OASI, FRP, Swat. For information and necessary action.

OB No: 54

DE 07/19

[Signature]
ATTESTED

[Signature]
Superintendent of Police, FRP,

ORDER

This order will dispose of the departmental appeal preferred by constable Ishfaq Hussain No. 3957 of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat issued vide OB No. 54, dated 05.07.2019, wherein he was awarded major punishment of time scale constable. The applicant was proceeded against on the allegations that he while posted to Sub Jail Paihtom (the most Sensitive place) under the control of Pak Army, wherein most wanted militant are imprisoned. According to DD report No. 04, dated 12.05.2019 of FRP Malakand Range, Swat, he while performing duty on the most important points, left his duty point on the instigation of constable Zubair Shah No. 4303 making agitation not to perform their duty bringing Aftari from the Army Mess in plan cloths. He had been suspended vide office order No. 498-702/EC, dated 13.05.2019 due to instigation to other personnel, creation of agitation and refusal from performing of duty during bringing Aftari from the Army mess in plan clothes.

In this regard, he was issued Charge Sheet and Statement of Allegation vide office Endst; No. 23/EC, dated 21.05.2019 and DSP FRP Timergara, Mr. Zahir Ur Rehman was nominated as Enquiry Officer. After completion of enquiry the allegations leveled against him had been proved. The enquiry officer found him guilty of the charges leveled against him and recommended for major punishment.

Upon the findings of enquiry officer, he was issued Final Show Cause Notice vide office Endst; No. 23-A/EC, dated 23.06.2019.

Keeping in view the recommendation of Enquiry Officer and other material available on record, therefore, he was awarded major punishment of time scale constable vide OB No. 54, dated 05.07.2019.

Feeling aggrieved against the impugned order of SP FRP Malakand Range, Swat, the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 23.09.2020.

During the course of personal hearing, the applicant failed to present any justification regarding his innocence. From perusal of enquiry file it has been found that the allegations were fully established against him during the course of enquiry. Thus the applicant has been found to be an irresponsible person in utter disregard the discipline of the force. It is settled proposition of law that law helps the diligent and not indolent. Thus there doesn't seem any infirmity in the order passed by the competent authority, therefore no grounds exist to interfere, in same.

Based on the findings narrated above, I, **Malik Muhammad Tariq**, PSP, Deputy Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected/dismissed being meritless & badly time barred.

Order Announced.


Deputy Commandant
For Commandant FRP

Khyber Pakhtunkhwa, Peshawar.

No. 8962 /SI Legal, dated Peshawar the 01/10/2020.

Copy of above is forwarded for information and necessary action to the SP FRP Malakand Range, Swat. His service record sent herewith.

OB/EC for info

ATTESTED

SP FRP Swat

*ORNO 67
8-10-2020*

FRP Peshawar

Malik

OFFICE OF S.P. No. 1133 08/10/2020 SWAT

12

بخدمت جناب انسپکٹر جنرل اف پولیس خیبر پختونخواہ پشاور۔

عنوان:- درخواست برآمد بحالی محکمانہ سزائٹم سکیل

جناب عالی!۔

مودبانہ گزارش ہیکہ سائل کو بحوالہ لف شدہ آرڈر کاپی منجانب SP صاحب FRP ملاکٹر شیخ نے ٹائم سکیل سزا دی ہے۔ بعدہ سائل نے ہمدردانہ اپیل جناب کمانڈنٹ صاحب FRP خیبر پختونخواہ پشاور کی خدمت میں پیش کی تھی۔ جو کہ بحوالہ حکم نمبری 8962/SI Legal مورخہ 01-10-2020 کو کمانڈنٹ صاحب نے (Reject) کیا ہے۔ (Reject) آؤر فوٹوکاپی ہمراہ لف درخواست ہذا ہے۔ سائل ضلع چترال کا سکونتی باشندہ ہے، نہایت غریب گھرانے سے تعلق یافتہ ہے اور سال رواں میں B1 کا امتحان بھی پاس کر چکا ہے۔ سائل متذکرہ بالا ٹائم سکیل سزایٹم معافی / بحالی کا طلب گار ہے۔

بذریعہ درخواست ہمدردانہ استدعا ہیکہ سائل کی حال پر رحم فرما کر ٹائم سکیل سزا دوبارہ بحال کرانے کا حکم صادر فرمائیں۔ تو سائل تاحیات دعا گو رہیگا۔ جملہ آرڈرز فوٹوکاپی بابت سزا، (Reject) اپیل وغیرہ ہمراہ لف درخواست ہذا ہے۔

العارض

اپکا تعبدار کنسٹیبل اشفاق حسین نمبر 3957

متعنے حال پولیس لائن FRP کبل ضلع سوات

موبائل نمبر 0342-3727152

مورخہ 09-10-2020

LO. F.R.P
Mkd: Swat 10/2020

Sir
forwarded.
S

Reserve Inspector,
FRP, Mkd. Range Swat.
09-10-2020

5179

Forwarded.

mmil

SP/FRP
9/10/20

E.C

For necessary action.

ATTESTED

Superintendent of Police,
FRP, Mkd. Swat.
12/10/2020



14

**OFFICE OF THE
SUPERINTENDENT OF POLICE, FRP,
MALAKAND RANGE, SWAT.
Telephone & Fax. 0946-9240258.**

**To: The Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa Peshawar.**


No. 2194 /EC, dated Saidu Sharif the 12/10 /2020.

Subject:- APPEAL.

Memorandum.

Kindly enclosed find herewith a self-explanatory application submitted by Constable Ishfaq Hussain No. 3957 of this Range, for further consideration please.

Encls: (03)


**Superintendent of Police, FRP,
Malakand Range, Swat.
09/10/2020**


ATTESTED

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

No. SI-11133/20 dated 14.10.2020

To: The Commandant
Frontier Regional Police
Khyber Pakhtunkhwa, Peshawar

Subject: REVISION PETITION


MD/09

Please refer to your office Memo No. 9472/SI/Legal dated 14.10.2020.

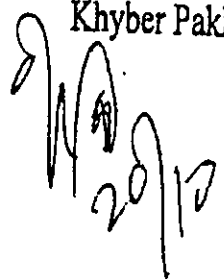
The Competent Authority has examined and filed the revision petition submitted by Constable Ishfaq Hussain No. 3957 of RRP Malakand against the punishment of time scale Constable awarded by SP/RRP Malakand, Swat vide order No. 1016-21/EC, dated 05.07.2019, being badly time barred.

The applicant may please be informed accordingly.

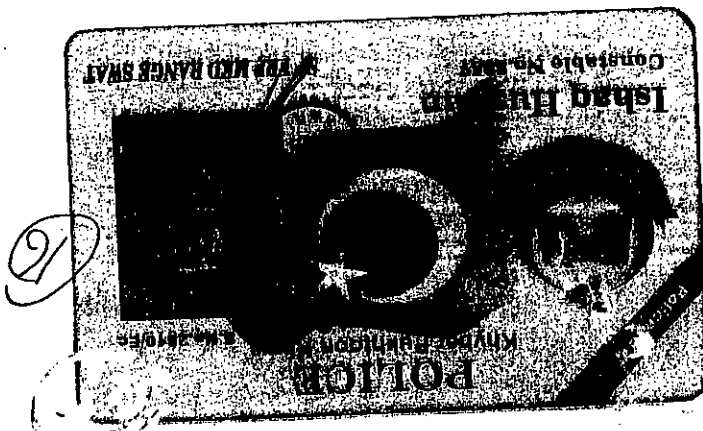

ATTESTED


(SYED ANIS-UL-HASSAN)

Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

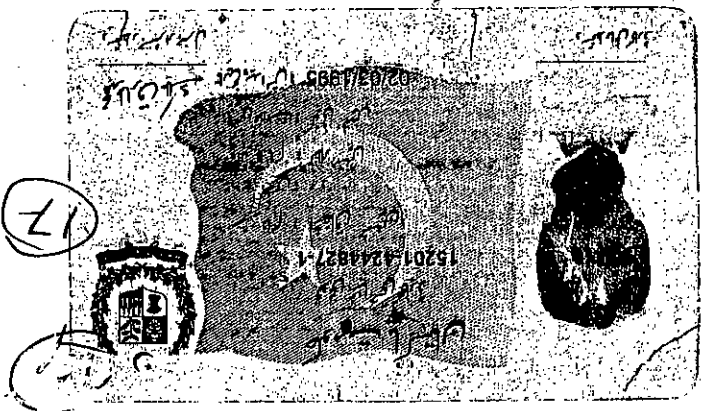

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ATTESTED

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Accepted

ATTESTED

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. 15964 of 20 20

Recd

Shfaq Hussain Appellant/Petitioner

Versus
G. P. KPK Peshawar Respondent

Respondent No. 5

Notice to:

Distr. Police Officer at Distr.
Lower Chitral.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 12/5/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Pre-Admission Notice for Reply

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 4th

Day of Feb 20 21

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. *15964* of 20 *20*

Shfaq Hussain Appellant/Petitioner

Versus

Govt. P. P. Peshawar Respondent

Respondent No. *5*

Regd

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office Notice No.....dated.....

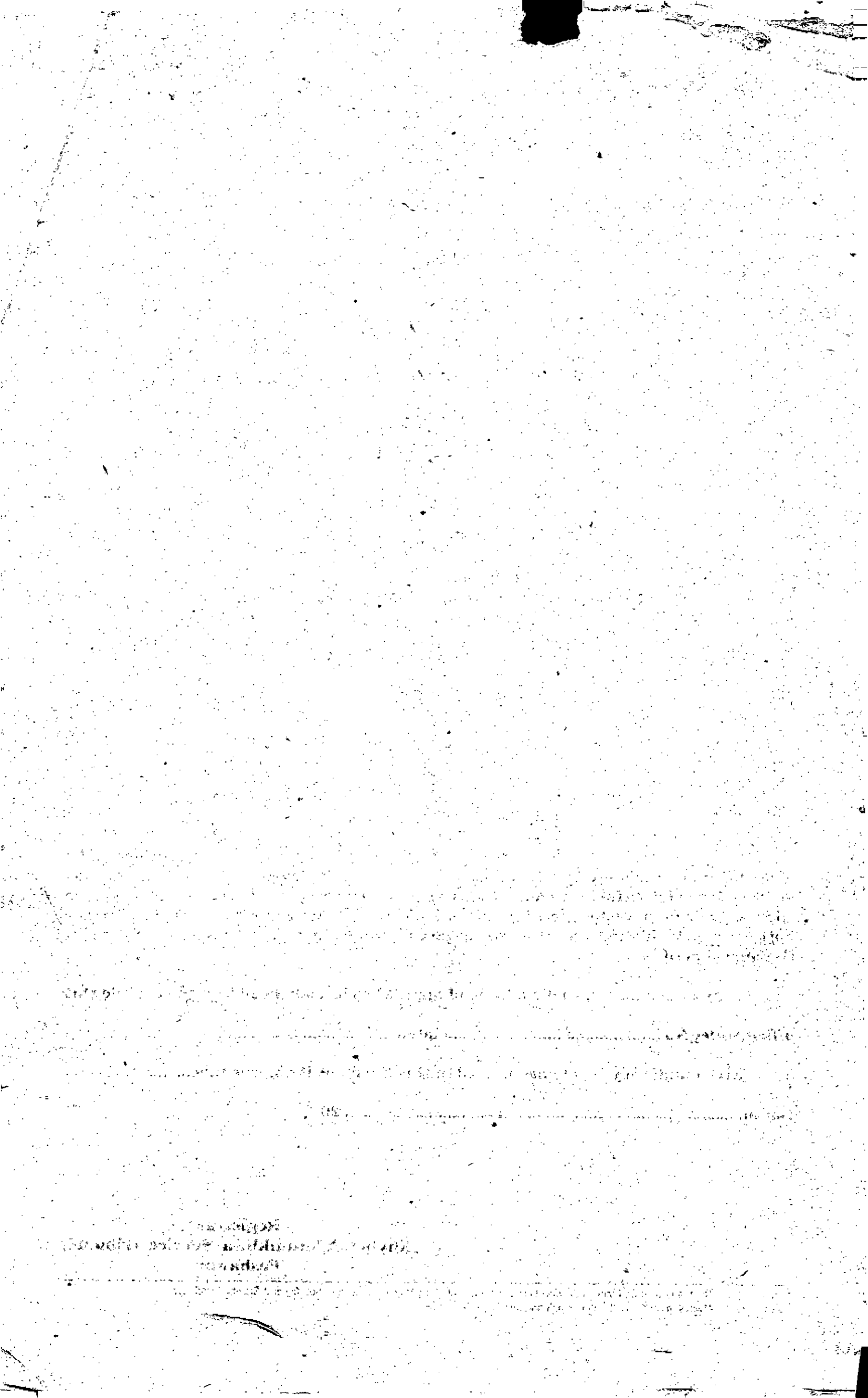
Given under my hand and the seal of this Court, at Peshawar this *4/5*

Day of *Feb* 20 *21*

Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15964/2020.

Ishfaq Hussain (FRP Constable No. 3957) Son of Nizar Hussain Resident of Ratheni, Kughzi, Tehsil & District Chitral.....Appellant.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.....Respondents

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1.	Para-wise Comments		03
2.	Affidavit		01
3.	Index		01
Total			05


RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15963/2020.

Ihsan Ullah (FRP Constable No. 873) Son of Sultanat Khan Resident of Village Achar, P.O Kotkay, Tehsil Alpurim, District Shangla.....Appellant.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.....Respondents

PARAWISE REPLY BY RESPONDENTS.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has no cause of action to file the instant appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

FACTS:-

1. Incorrect. The appellant was enlisted as constable in Police Department as admitted. However, he was involved in an indiscipline / misbehavior attitude with his seniors as he scuffled with the incharge of platoon (SI / Platoon Commander) on account of performance of official duty.
2. Incorrect. The appellant while posted in Platoon No. 73 at Paithom Jail, District Swat was found indiscipline person by uses abusive language and extreme misbehavior attitude by insulting his senior on account of official duties. Besides, he being a member of discipline force stimulated the other officials of his platoon for agitation in the force for refusal of performing of official duty. On the allegations of above misconduct the appellant was proceeded proper departmentally under the rules.
3. Incorrect. The allegations of indiscipline and misbehavior attitude of the appellant was fully established against him during the course of enquiry and after fulfillment of all codal formalities he was awarded major punishment of time scale constable by bringing him into the lowest stage of constable as per law / rules vide Order Endst; No. 1016-21/EC, dated 05.07.2019 .
4. Incorrect. The appellant was dealt with proper departmentally as he was placed under suspension and closed to Line vide order Endst; No. 498-702/EC, dated 13.05.2019. He was issued Charge Sheet with Statement of Allegations vide Endst; No. 22/EC, dated 21.05.2019 and Mr. Zahir Ur Rehman DSP FRP Dir Lower, was nominated as Enquiry Officer to conduct enquiry against him. The enquiry officer submitted his finding report, wherein



he was found guilty of the charges leveled against him and recommended for major punishment. Upon the finding report of Enquiry Officer, Final Show Cause Notice vide office Endst; No. 22-A/EC, dated 23.06.2019 was issued to the appellant by competent authority, but reply of appellant was found unsatisfactory. Moreover, the insubordinations, and non compliance of lawful order of seniors, are some of the serious grounds of misconduct under the disciplinary rules. The appellant being a member of disciplined force was found to be guilty of indiscipline and insubordination, which is a gross misconduct on his part.

5. Incorrect. As explained in the preceding paras the appellant was proceeded against proper departmentally, but he failed to present any justification before the Enquiry Officer or before the competent authority regarding to his innocence. Thus the impugned orders mentioned by the appellant in the para are legally justified and in accordance with law/rules. The appellant has no cause of action to file the instant service appeal. However, the same may kindly be dismissed on the following grounds.

GROUND:-


- a. Incorrect. The appellant was absolutely treated in accordance with law/rules within the meaning of Article 4 of the constitution by giving him sufficient and proper opportunities at every level of defense and that the entire proceedings were carried out in accordance with existing / special law i.e Police Rules 1975 amended in the year 2014. Thus the orders passed by the respondents are legally justified and in accordance with law and rules.
- b. Incorrect. The para has already explained in the preceding para "a" quoted above. However, the respondents did not violate any rules or principal of justice in the case of appellant.
- c. Incorrect. The allegations are false and baseless. As the misconduct of indiscipline /insubordination, and non compliance of lawful order of seniors, are some of the serious grounds of misconduct under the disciplinary rules necessitating departmental action. Thus the allegations leveled against the appellant were fully established by the enquiry officer during the course of enquiry, otherwise the respondents have no grudges with the appellant. After fulfillment of all codal formalities, the appellant was awarded major punishment under the law/rules.
- d. Incorrect. Proper departmental enquiry was initiated against him as he was issued Charge Sheet with Statement of Allegation vide office Endst; No. 22/EC, dated 21.05.2019 and Enquiry Officer was nominated to conduct enquiry against him and to dig out the actual facts. After completion of enquiry the Enquiry Officer submitted his finding report, wherein he was found guilty of the charges leveled against him and recommended for major punishment. Upon the findings of enquiry officer, he was issued Final Show Cause Notice

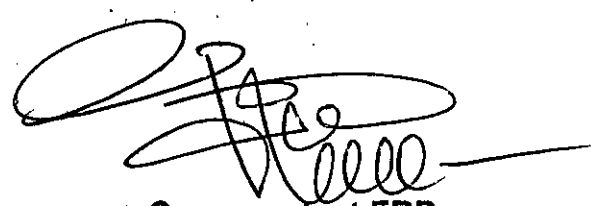
by the competent authority, but reply of appellant was found unsatisfactory. A sufficient opportunity being heard in person in light of natural justice was also provided to the appellant, but he failed to present any justification regarding to his innocence. After fulfillment of all codal formalities he was awarded major punishment by the competent authority as per law/rules.


- e. Incorrect the appellant was dealt with proper enquiry and the allegations leveled against him were thoroughly proved during the course of enquiry. After fulfillment of the due codal formalities a correct and speaking order by imposing major penalty upon the appellant was passed by the competent authority under the relevant law/rules, which is commensurate with the gravity of his misconduct. Thus the appellant was treated by the respondents in accordance to law rules in vogue.
- f. Incorrect and denied. All the legal formalities have already been fulfilled by the respondents in the case of the appellant as he was proceeded against proper departmentally and to which he was found guilty of the charges leveled against him, therefore, the orders issued by the respondents are legally justified and in accordance to law/rules.
- g. The respondents may also be permitted to raise additional grounds at the time of arguments.

PRAYERS:-

Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being not maintainable may kindly be dismissed with costs please.


Superintendent of Police FRP,
Malakand Range Swat
(Respondent No. 04&05)


Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 03)


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
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Service Appeal No. 15964/2020.

Ishfaq Hussain (FRP Constable No. 3957) Son of Nizar Hussain Resident of Ratheni, Kughzi, Tehsil & District Chitral.....Appellant.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.....Respondents

AFFIDAVIT

I, Ghasan Ullah ASI FRP HQ do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments on behalf of Respondents No. 1, 2 3, 4 & 5 is correct to the best of my knowledge and belief that nothing has been concealed from this Honorable Court.

Ghasan Ullah
Deponent
Ghasan Ullah
17101-9891560-3

Azmat Ali Advoca
Notary Public
06-01-22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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VERSUS

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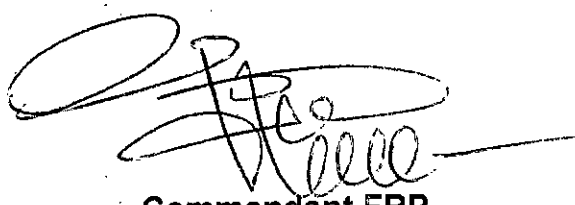
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Ghasan Ullah
17101-9891560-3

