

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	02.03.2015	<p align="center"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center">Service Appeal No. 682/2014, Jehanzeb Khan. Versus Provincial Police Officer, KPK Peshawar etc.</p> <p align="center"><u>PIR BAKHSH SHAH.-MEMBER..-</u> Appellant with Counsel (Mr. Rizwanullah, Advocate) and Mr. Muhammad Jan, GP with Muhammad Pervez, H.C for the respondents present.</p> <p>2. The appellant joined on 26.5.1998 as Constable in the Police Department, rose to the post of Inspector in 2008. On allegations of delay in investigation of the cases, noted below, coupled with the allegation of his involvement in corrupt practices, charge sheet with statement of allegations was issued to the appellant on 28.10.2013 and Muhammad Hafeez, DSP was appointed as enquiry officer to inquire in the matter which was further followed by a final show cause notice dated 26.12.2013, the competent authority vide his impugned order dated 30.12.2013 imposed major penalty of compulsory retirement on the appellant and as his departmental appeal was not responded, therefore, he filed this appeal before the Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974:-</p> <ol style="list-style-type: none"> <li>1. FIR No. 366 dated 11.10.2013 U/S 365 PPC P.S Saddar Manehra.</li> <li>2. FIR No. 372 dated 19.10.2013 U/S 6/7 ATA ¾ Exp./13AO of P.S Saddar.</li> </ol>

3. Written reply of the respondents is also available on the file. Arguments of the learned counsel for the appellant and learned Government Pleader heard and record perused.

4. It was submitted by the learned counsel for the appellant that opportunity of cross ex-examination was not provided to the appellant during the enquiry proceedings nor there was charge of poor investigation of the cases in the charge sheet on which score the inquiry report has travelled beyond the charge sheet. The learned counsel for the appellant stressed that excessive penalty of compulsory retirement was imposed on the appellant who had rendered devoted service for long 30 years and that also when the charges were not proved. The learned counsel for the appellant submitted that the impugned order may be set aside and the appellant may be reinstated in service with all back benefits. Reliance was placed on 1993 PLC (C.S.)1097, 1997-SCMR-1073 and 2011-SCMR-1.

“1993-PLC (C.S)1097

R. 7-Inquiry-Scope- To be confined to allegations is charge sheet-Enquiry Officer not authorized to travel beyond ambit of such allegations to hold accused guilty of charge for quite distinct and different reasons not communicated in charge sheet-Allegation forming foundation of charge found by Enquiry Officer as factually incorrect-Enquiry Officer, in circumstances, held, could not arrive at a finding of charge proved on basis of altogether different grounds and reasons other than communicated to accused-Penalty order passed on basis of such findings-Not sustainable-Initiation of proceedings on such new grounds, held, incumbent upon competent authority?”

'1997 SCMR-1073

Art. 212(3)---Dismissal from service---Enquiry proceedings against civil servant---Person facing enquiry had right to be associated with its proceedings and entitled to impeach credit of witnesses produced against him through cross examination---Where neither civil servant was associated with enquiry proceedings nor he was allowed opportunity to cross-examine witnesses produced against him, enquiry proceedings and consequential order regarding his dismissal suffered from inherent legal defects---In view of the situation that inefficiency and total ignorance of person appointed as Enquiry Officer entailed unnecessary litigation between the parties Supreme Court directed that departments should make sure that person being appointed as Enquiry Officer is fully conversant with relevant rules so that unwarranted harassment could be averted---Petition for leave to appeal against order of Service Tribunal reinstating the civil servant was dismissed in circumstances."

'2011-SCMR-1

'Ss 4 & 5---Constitution of Pakistan, Art. 212(3)---Conversion of penalty---Service Tribunal, jurisdiction of---Charge-sheet---Object and scope--Major penalty of dismissal from service was converted by Service Tribunal into minor penalty of stoppage of annual increments for a period of two years without cumulative effect--- Authorities contended that as civil servant committed theft, therefore, criminal case should have been registered against her---Plea raised by civil servant was that no such allegation was made in charge sheet by the authorities---Validity---Charge sheet was precise formulation of specific accusation made against a person who was entitled to know its nature at, early stage---Object of charge-sheet was to tell accused as precisely or/and concisely as possible the matter in which civil servant was charged and must convey her with sufficient clearances and certainty what department intended to prove against her and of which she would have to clear herself during disciplinary proceedings---Service Tribunal did not advert to contents of charge-sheet, show-cause notice, inquiry report and dismissal order as Inquiry Officer recommended for registration of criminal case against civil servant with regard to recovery of stolen amount of complainant from her---Contents of charge-sheet and show-cause notice did not contain such allegations---Service Tribunal had ample power to convert major penalty into minor penalty subject to record reasons for the same---

Supreme Court declined to interfere in judgment passed by Service Tribunal as authorities failed to raise, any substantial question of public importance as contemplated under Art.212(3) of the Constitution.”

5. The learned Government Pleader submitted that allegations stood proved against the appellant as evident from the enquiry report and it is also evident from the record that all formalities of charge sheet etc. had been complied with, therefore, the impugned order was properly passed. It was requested that the appeal may be dismissed.

6. We have carefully perused the enquiry report of Mr. Muhammad Hafeez, DSP, Circle Balakot. It shows that enquiry in case vide FIR No. 366 was initially assigned to ASI Shaukat Hussain and was handed over to the appellant at later stage. This may further be noted that the enquiry officer had also summoned the complainant of the case who was fully satisfied about the process of investigation and had no complaint against the appellant. So far investigation in case FIR No. 372 is concerned, the enquiry officer has observed that the said case had to take some time due to difficulties being faced by appellant. The enquiry officer has not given his findings about delay in investigation of the above cases but stated that the appellant is answerable for poor investigation of both the cases.

7. Poor investigation of the cases was not the charge

against the appellant as evident from the charge sheet. The enquiry officer has categorically stated that allegation of corrupt practices could not be proved against the appellant. Moreover, the enquiry officer has not recommended any penalty in his report.

8. In view of the above factual position and lacuna, the Tribunal is of the considered opinion to observe that the impugned order is not sustainable and liable to be set aside. Hence impugned order dated 30.12.2013 of compulsory retirement of the appellant is set aside, he is reinstated in his original position and the case is remanded back to the respondent No. 2 with the direction to initiate fresh inquiry against the appellant under relevant law/rules. The process should be completed within a period of three months. Back benefits etc. will be subject to the outcome of fresh disciplinary proceedings. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED.

02.3.2015

  
(ABDUL LATIF)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

23.12.2014

Appellant in person and Mr. Ziaullah, GP with Banaris Khan, H.C for the respondents present. The Tribunal is incomplete. To come up for the same on 12.2.2015.



REASER

12.02.2015

Appellant with counsel and Mr. Muhammad Jan, GP for the respondents present. Arguments heard. To come up for order on 02.03.2015.



Member



Member

Appeal No-682/2014

Mr. Jehanzeb Khan

08.07.2014

Appellant with counsel present. Preliminary arguments

heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 30.12.2013, he filed departmental appeal on 22.01.2014, which has not been responded within the statutory period of 90 days, hence the present appeal on 13.05.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 01.10.2014.

Appellant deposited  
Process fee & Security  
Rs. 180/- Balance Receipt  
attached with file

Member

08.07.2014

This case be put before the Final Bench II for further proceedings.

Chairman

01.10.2014

Counsel for the appellant and Mr. Kabbeerullah, Asstt. AG present. None is available on behalf of the respondents. Fresh notices be issued to them. To come up for written reply on 07.11.2014.

MEMBER

07.11.2014


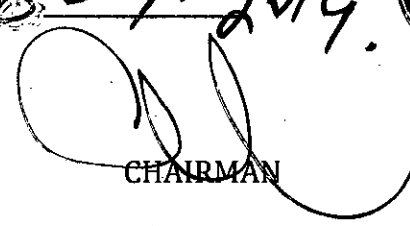
Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Akhlaq Hussain, Inspector (Legal) for the respondents present and reply filed. Copy handed over to counsel for the appellant to which he does not want to file rejoinder. To come up for arguments on 23.12.2014.

MEMBER

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 682/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/05/2014	<p>The appeal of Mr. Jehanzeb Khan presented today by Mr. Rizwanullah Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	15-5-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>18-7-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>



**BEFORE THE CHAIRMAN, KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

In the matter  
Service Appeal No. 682/2014

Jehanzeb Khan,  
Ex-Inspector

**VERSUS**


The Provincial Police Officer,  
Government of Khyber  
Pakhtunkhwa, Peshawar etc.

**I N D E X**

S.No	Particulars	Annexure	Pages #
1	Service Appeal	—	1-7
2	Affidavit	—	8
3	Letter of appreciation	“A”	9
4	Copy of charge sheet and statement of allegations	“B & C”	10-11
5	Reply to the charge sheet	“D”	12-14
6	Final show cause notice	“E”	15
7	Reply to final show cause notice	“F”	16
8	Impugned order dated 30-12-2013	“G”	17
9	Copy of departmental appeal and comments	“H & I”	18-23
10	Copy of enquiry report	“J”	24-26
11	Copy of FIR No.366	“K”	27
12	Copy of order/judgment of ADJ	“L”	28-32
13	Copy of FIR No.372	“M”	33
14	Copies of order of Appellate Authority	“N & O”	34-35
10	Wakalatnama	—	—

  
Appellant

Through

  
Rizwanullah  
M.A. LL.B  
Advocate High Court,  
Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 682 /2014

Jehanzeb Khan, Ex-Inspector Police son of Rehmutullah,  
R/O Fojdara ,District & Tehsil Mansehra.

723  
13/5/14

**APPELLANT**

**VERSUS**

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police Hazara Region, Abbottabad.
3. The District Police Officer, Mansehra.

**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
IMPUGNED ORDER NO. 14526-27 DATED  
30-12-2013 PASSED BY THE REGIONAL  
POLICE OFFICER, HAZARA REGION  
ABBOTTABAD (RESPONDENT NO. 2)  
AGAINST WHICH A DEPARTMENTAL  
APPEAL WAS FILED BUT THE SAME WAS  
NOT RESPONDED WITHIN THE  
STATUTORY PERIOD OF LAW.**

13/5/14

**Prayer in Appeal**

By accepting this appeal, the impugned order No. 14526-27 dated 30-12-2013 passed by the Regional Police Officer, Hazara Region, Abbottabad (respondent No.2) may very graciously be set aside and the appellant may kindly be re-instated in service with full back wages and benefits.

**Any other relief deemed appropriate in the circumstances of the case, not specifically asked for, may also be granted to the appellant.**

**Respectfully Sheweth,**

**Short facts giving raise to the present appeal are as under:-**

1. That the appellant joined the service of Police Department as Constable on 26-5-1984 and then rose to the post of Inspector in the year 2008 on account of his dedication, devotion and commitment to his job. He had 30 years unblemished service record to his credit. The appellant was also given letter of appreciation due to his excellent performance in the process of investigation of cases at the relevant time **(Copy Annex-A)**.
2. That the appellant was performing his duty with great zeal and zeast, strangely, he was served with a charge sheet alongwith statement of allegations on 28-10-2013 for misconduct due to delaying the process of investigation in cases arising out of FIR No. 366 dated 11-10-2013 under section 365/PPC, Police Station, Saddar Mansehra and FIR No. 372 dated 19-10-2013 under section 6/7ATA, 3/4Exp/13AO Police Station Saddar respectively and that he was involved in corrupt practice **(Copy of charge sheet and statement of allegations are appended as Annex-B & C)**.
3. That the appellant submitted reply to the charge sheet and denied the allegations leveled against him and also termed the same as false and baseless **(Copy Annex-D)**.
4. That the aforesaid reply was not found satisfactory and as such Enquiry was ordered to be conducted into the allegations leveled against the appellant in the charge sheet.
5. That the enquiry officer has not conducted the inquiry in accordance with law as no witness was examined in the presence of appellant nor he was provided any opportunity of cross examination. The appellant was also not provided any chance to produce his defence.

6. That the appellant was served with a Final Show Cause Notice (Copy Annex-E). He furnished reply and denied the allegations and also termed the inquiry as farce and mockery in the eyes of law (Copy Annex-F).
7. That the appellant was awarded Major Penalty of compulsory retirement from service by an order dated 30-12-2013 passed by the Regional Police Officer, Hazara Region, Abbottabad, (respondent No.2) (Copy Annex-G).
8. That the appellant felt aggrieved by the said order No.14526-27 dated 30-12-2013, filed a Departmental Appeal with the Provincial Police Officer, Khyber Pakhtunkhwa (respondent No.1) on 22-1-2014 who requisitioned the comments of the Regional Police Officer, Hazara Region, Abbottabad, (respondent No.2) which was furnished vide letter No. 1938 dated 6-3-2014 (Copies of departmental appeal and comments are appended as Annex- H & I).
9. That the departmental appeal was neither decided within the statutory period of law with cogent reasons nor any information whatsoever was given to the appellant as required under **Article 19-A of the Constitution of Islamic Republic of Pakistan 1973**. Thus, the Appellate Authority has blatantly violated the provision of law as well as Constitution and the Principle laid down by **August Supreme Court of Pakistan** in case reported in **2011 SCMR 1 (Citation -B)**. The relevant citation is reproduced herein for facility of reference:-

**(b) General Clauses Act (X of 1897)---**

**----S. 24-A ---Speaking order- Public functionaries are bound to decide cases of their subordinates after application of mind with cogent reasons within reasonable time.**

It is well settled law that the decision of August Supreme Court of Pakistan is binding on each and every organ of the State by virtue of

Article 189 and 190 of the Constitution of Islamic Republic of Pakistan, 1973. Reliance can be placed on the judgment reported in 1996-SCMR-Page-284 (Citation-C). The relevant citation is as under:-

**(c) Constitution of Pakistan (1973)**

**Arts. 189 & 190--- Decision of Supreme Court—Binding, effect of--- Extent—Law declared by Supreme Court would bind all Courts, Tribunals and bureaucratic set-up in Pakistan**

9. That the appellant is jobless since his compulsory retirement from service.
10. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds:-

**GROUND OF APPEAL**

- A. That no fair and impartial enquiry was constituted against the appellant in order to substantiate his guilt in respect of the allegations leveled against him in the charge sheet. The enquiry officer neither examined any witness in the presence of appellant nor he was provided any chance to cross-examine the prosecution witnesses appeared against him in the so-called enquiry. Similarly, the appellant was also not provided any opportunity to produce his defence in support of his version. Thus, the appellant has been condemned/penalized without being heard, contrary to the basic principle of natural justice known as "**Audi Alteram Partem**". Therefore, the impugned order is not sustainable in the eyes of law.
- B. That the enquiry officer was under statutory obligation to highlight such evidence in the enquiry report on the basis of which he found the appellant guilty of the so-called allegation. But he failed to do so. Moreover, there was no iota of evidence to connect the accused with the commission of allegations of misconduct. Hence, the

impugned order passed by the respondent No.2 on the basis of such enquiry report is against the spirit of law.

- C. That the Competent Authority ( respondent No.2) was under statutory obligation to examine the record of enquiry in its true perspective and in accordance with law and then to apply his independent mind to the merit of the case but he failed to do so and awarded major penalty of compulsory retirement to the appellant despite the fact that none of the allegations as contained in the charge sheet had been proved against him in the so-called enquiry. Hence, the impugned order is not tenable under the law.
- D. That the appellant were leveled two allegations in the charge sheet and these were not proved in the so-called enquiry and as such enquiry officer was legally bound to absolve the appellant of the charge of misconduct but instead of holding him innocent, he found the appellant guilty of **"poor investigation"** which was not the allegation against the appellant in the said charge sheet. Thus, the enquiry officer deviated from the charges leveled against the appellant in the charge sheet in utter violation of law. Hence, the report of the enquiry officer was perverse and based on no cogent evidence. Therefore, the impugned order is liable to be set aside on this count alone (Copy of enquiry report is Annex-J).
- E. That the appellant has conducted the investigation in respect of disputed cases in accordance with law and no delay was caused on his part. No complaint whatsoever was received against the appellant to his superiors regarding the delay of process of investigation. Thus, the impugned order is not warranted under the law.
- F. That so far as the delay of process of investigation in case FIR No.366 is concerned, one Ghulam Jan reported the matter regarding the missing of his son and requested the SHO for lodging report in this respect. The SHO initiated the enquiry under section 157(1) Cr.PC through shaukat ASI and the said enquiry remained pending for about one year without any valid justification. Thereafter, the police arrested suspected person and after

interrogation, he was let off. During enquiry a "Sim" belonging in the name of father of missing person was recovered and a Jigra was convened with Ghulam Mustafa etc, accused. But the matter could not be settled and as such a case was registered under section 365/PPC (**Copy of FIR Annex-K**). After the registration of case, the appellant was entrusted the investigation who raided the house of the accused for purpose of their arrest in the said case. The accused applied for Pre-Arrest Bail before the competent court of jurisdiction. The record of the case was requisitioned and thereafter, the bail was granted and later on confirmed (**Copy of order/judgment is appended as Annex-L**).

**G.** That the appellant had submitted the Interim Challan before the Hon'ble court within the statutory period of law for trial of accused and no delay whatsoever was caused on his part.

**H.** That no person was charged in case FIR No.372 dated 19-10-2013 under section 6/7ATA,3/4Exp/13A.O Police Station Saddar, Mansehra (**Copy of FIR is Annex-M**). The appellant made efforts in order to unearth the culprits in the said untraceable case. However, the instant case was made as untraced after three months. Therefore, question of poor investigation does not arise.

**I.** That Raja Rafi-uz-Zaman No.166/H, and Muhammad Afzal Khan, Ex-Sub Inspectors were also awarded major penalty of compulsory retirement from service on account of their misconduct. They filed separate departmental appeals which were accepted on the grounds that the accused officials were not provided proper opportunity of defence and that no complaint whatsoever was received against the said officials to their superiors. Similar was the case of the appellant but he was not treated qua his above similarly placed colleagues and as such he was discriminated against in utter violation of law. This is a disparity and anomaly and is also violation of **Article 25 of the Constitution of Islamic republic of Pakistan, 1973** which has unequivocally laid down that all citizens placed in similar circumstances are entitled to equal treatment and protection of law. The Hon'ble Supreme Court of Pakistan through various judgments

has maintained that equal treatment is fundamental right of every citizen (Copies of order of Appellate Authority are appended as Annex-N & O).

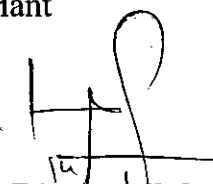
- J.** That the impugned order of respondent No. 2 is suffering from legal infirmities and as such causing grave miscarriage of justice to the appellant.
- K.** That the impugned order of respondent No. 2 is the result of misreading and non-reading of relevant record. Hence, the impugned order is against the legal norms of justice.
- L.** That the impugned order of respondent No. 2 is against law, facts of the case and norms of natural justice. Therefore, the same is untenable under the law.
- M.** That the impugned order is based on surmises and conjectures. Hence, the same is bad in law.
- N.** That the respondent No. 2 was biased and prejudiced against the appellant and therefore, he has awarded him Major penalty of compulsory retirement from Service for no fault on his part.

In view of the above narrated facts and grounds, It is, therefore, humbly prayed that the impugned order No. 14526-27 dated 30-12-2013 passed by the Regional Police Officer, Hazara Region, Abbottabad (respondent No.2) may very graciously be set aside and the appellant may kindly be re-instated in service with full back wages and benefits.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.

  
Appellant

Through

  
Rizwanullah  
M.A. LL.B

Dated: 13-5-2014

Advocate High Court, Peshawar



**BEFORE THE CHAIRMAN, KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

In the matter

Service Appeal No. \_\_\_\_\_/2014

Jehanzeb Khan, Ex-Inspector Police son of Rehmutullah, R/O Fojdara,  
 District & Tehsil Mansehra.

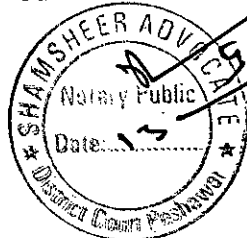
**VERSUS**

The Provincial Police Officer, Government of Khyber Pakhtunkhwa,  
 Peshawar etc.

**AFFIDAVIT**

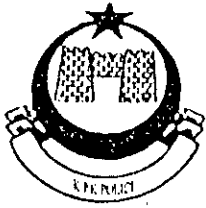
I, Jehanzeb Khan, Ex-Inspector Police S/O Rehmutullah,  
 R/O Fojdara , District & Tehsil Mansehra, do hereby solemnly affirm  
 and declare that the contents of the accompanied Service Appeal are true  
 and correct to the best of my knowledge and belief and that nothing has been  
 concealed from this Hon'ble Tribunal.

ATTESTED



*[Signature]*  
 Deponent

Annexure A



Office of the District Police Officer,  
Mansehra

NO. 11564-68PA  
Dated Mansehra the 11/12/2013

Subject: APPRECIATION

**Memorandum:**

A case vide FIR No. 1139 dated 09.11.2013 u/s 319 PPC was registered at PS City Mansehra against unknown accused.

You Inspector Jehanzeb Khan C.O. Investigation Hqrs: Mansehra conducted investigation of the aforementioned case. It was due to your hectic and professional efforts that you succeeded to trace out the accused. In the instant case, the efforts and performance shown by you were found commendable. Therefore, the undersigned convey his heartfelt appreciations to you with the hope that you will continue this practice in future.

(Dr. Muhammad Khurram Rashid)  
District Police Officer,  
Mansehra

Inspector Jehanzeb Khan,  
C.O. Investigation,  
Hqrs: Mansehra

Copy to

1. The Superintendent of Police Investigation, Mansehra
2. The Dy. Superintendent of Police Investigation, Mansehra

ATTESTED

District Police Officer,  
Mansehra

CHARGE SHEET

I, *Mr. Akhtar Hayat Khan*, Regional Police Officer, Hazara Region, Abbottabad as Competent Authority, hereby charge you *Inspector Jehanzaib Khan Investigation Wing Manshra* as follows.

Following cases are pending with you for investigation but you failed to complete the investigation of these cases due to unknown reason and the cases was lying pending for long time. It means that you knowingly delay/pending such cases. Which shows that you have no interest in your official job and this counted on your debit/misconduct on your part. It has also come to notice through reliable sources that you are involved in corrupt practices.

1. FIR No. 366 dated 11-10-2013 u/s 365 PPC PS Saddar Manshra.
2. FIR 372 dated 19-10-2013 w/s 6/7 ATA ¼ Exp./13AO of PS Saddar.

Due to reasons stated above you appear to be guilty of misconduct under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

You are therefore, required to submit your written defense within 7 days on the receipt of this charge sheet to the Enquiry Officer.

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

Intimate whether you desire to be heard in person or otherwise.

A statement of allegation is enclosed.

*Affixed*  
*the*  
*one*

*Akhtar Hayat Khan*  
(AKHTAR HAYAT KHAN)  
Regional Police Officer  
Hazara Region (Abbottabad)

Annexure-C  
11

2426 /sp

31.10.13

DISCIPLINARY ACTION

I, Mr. Akhtar Hayat Khan, Regional Police Officer, Hazara Region Abbottabad, as Competent Authority of the opinion that *Inspector Jehanzaib Khan Investigation Wing Mansehra* has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of Khyber Pakhtunkhwa Police Disciplinary Rules 1975.

STATEMENT OF ALLEGATIONS

Following cases are pending with you for investigation but you failed to complete the investigation of these cases due to unknown reason and the cases was lying pending for long time. It means that you knowingly delay/pending such cases. Which shows that you have no interest in your official job and this counted on your debit/misconduct on your part. It has also come to notice through reliable sources that you are involved in corrupt practices.

3. FIR No. 366 dated 11-10-2013 u/s 365 PPC PS Saddar Mansehra.
4. FIR 372 dated 19-10-2013 u/s 6/7 ATA ¾ Exp/ 13AO of PS Saddar.

For the purpose of scrutinizing the conduct of the said accused officer with reference to the above allegations Mr. Muhammad Hafeez DSP is deputed to conduct formal departmental enquiry *Inspector Jehanzaib Khan Investigation Wing Mansehra*.

The Enquiry Officer shall in accordance with the provision of the Khyber Pakhtunkhwa Police Disciplinary Rules 1975, provide reasonable opportunity of hearing the accused, record findings and make recommendations as to punishment or other appropriate action against the accused.

The accused and a well conversant representative of the department shall in the proceedings on the date, time and place fixed by the Enquiry Officer.

(AKHTAR HAYAT KHAN)  
Regional Police Officer  
Hazara Region (Abbottabad)

No.

/PA, Dated Abbottabad the 28/10 /2013.

Copy of above is forwarded to:-

1. Mr. Muhammad Hafeez DSP (Enquiry Officer) for initiating proceedings against the defaulter officer under provisions of the Khyber Pakhtunkhwa Police Disciplinary Rules 1975.
2. *Inspector Jehanzaib Khan Investigation Wing Mansehra* with the direction to submit his written statement to the Enquiry Officer within 7 days of the receipt of this charge sheet/statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purposes of departmental proceedings.
3. The DPO Mansehra with the direction to return duplicate copy of charge sheet & statement of allegations bearing signature of the recipient to this office please.

(AKHTAR HAYAT KHAN)  
Regional Police Officer  
Hazara Region (Abbottabad)

BEFORE THE WORTHY D.I.G. HAZARA RANGE  
ABBOTTABAD

SUB:- REPLY TO CHARGE SHEET

Respected Sir,

1. That, the petitioner has been served with a charge sheet, showing therein that the petitioner could not complete investigation in case FIR Nos.366 dated:11.10.2013 U/S 365 PPC PS Saddar Mansehra & FIR NO.372 dated:19.10.2013 U/S 6/7 ATA ¼ Exp/13.A.O. P.S. Saddar and besides the petitioner is also stated to be involved in corrupt practices.
2. That, so far as case FIR NO.365 is concerned the accused therein has submitted an application for bail before arrest and the case file has been requisitioned by the court of ASJ-II and that respect which is still lying with the said Honourable Court. The petitioner has submitted an interim challan in the court of Magistrate and on receipt of case file from the court, complete challan will be submitted in due course.
3. That, so far as case FIR No.372 is concerned, no body was charged in the FIR, yet every effort was made in order to unearth the culprits in untraceable cases, there is a period of three months and thereafter, the case can be sent as untraced.

A7782nd  
Muo. Jno.

*Handwritten mark*

4. That, so far as the allegations of corrupt practice is concerned there is absolutely no worth nor any substance in the allegations which are made on the basis of surmises and conjectures. The petitioner has never been issued any show cause notice nor any inquiry has been conducted on the basis of corrupt practices, the entire record of the service of the appellant is without any stigma and there is not an iota of evidence which could fortify the allegations against the applicant.

In the light of above, it is requested that the charge sheet issued against the petitioner may kindly be withdrawn.

Dated: 26-11-2013

*Signature of Jehanzeb Khan*

Jehanzeb Khan, Inspector, Investigation Wing,  
Mansehra.....Petitioner

*Attest*  
*[Signature]*

*Handwritten notes in Urdu:*

سوال نمبر 4 پر شہادت کی ناپختگی اور رازداری کے بارے میں سوال  
جواب: ...

ATTA  
BAA

BBA

سے ایک ہی نام ہے۔

جو اب، صرف تاریخ میں آ رہے ہیں اس بار

سے لوگ وارنٹ explanation کے بارے میں

کوئی شکایت نہیں ہے۔ صرف ان کے بارے میں

کوئی شکایت نہیں ہے۔ صرف ان کے بارے میں

سوال ہے۔ مزید جاننے کے لیے درخواستیں

جو اب، سب سے پہلے ATA کے بارے میں

بابت 365 کے بارے میں درخواستیں

As usual  
[Signature]

سوال ہے: سب سے پہلے 365 کے بارے میں

جو اب، سب سے پہلے ATA کے بارے میں  
[Signature] M.S. led.  
sub-Divisional  
Police Officer  
Balakot  
13/13  
0301-8122930

Annex-E

15

**FINAL SHOW CAUSE NOTICE**

I **Mr. Akhtar Hayat Khan**, Regional Police Officer, Hazara Region, Abbottabad as Competent Authority under Police Disciplinary Rules 1975, do hereby serve Final Show Cause Notice to you **Inspector Jehanzaib Khan** on the following grounds:-

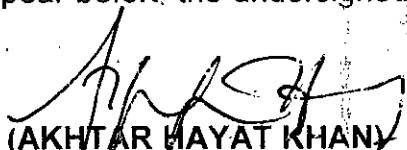
Following cases are pending with you for investigation but you failed to complete the investigation of these cases due to unknown reason and the cases was lying pending for long time. It means you knowingly delay/pending such cases which show that you have no interest in your official job and this counted on your debit/misconduct on your part. It has also come to notice through reliable sources that you are involved in corrupt practices.

- ❖ FIR No. 366 dated 11-10-2013 U/S 365 PPC PS Saddar Mansehra
- ❖ FIR No. 372 dated 19-10-2013 U/S 6/7 ATA 3/4 Exp/13AO PS Saddar

For the purpose of scrutinizing the conduct on your part with reference to the above allegations, you **Inspector Jehanzaib Khan** was served with Charge Sheet/Statement of Allegation and **Mr. Muhammad Hafeez DSP** was appointed as Enquiry Officer to conduct formal Departmental Enquiry against you, vide this office Endst: No. 11262-64/PA dated 28-10-2013.

The Enquiry Officer after conducting proper Departmental Enquiry submitted his findings in which he has held you guilty of misconduct.

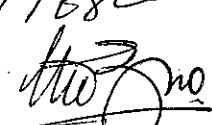
Keeping in view the above allegation on your part, you are hereby called upon to show cause within 14 days of the receipt of this Final Show Cause Notice as to why you should not be awarded punishment under the Police Disciplinary Rules 1975, if your written reply is not received within the stipulated period, it shall be presumed that you have no defence to offer. You are also allowed to appear before the undersigned if you so desire.

  
(AKHTAR HAYAT KHAN)  
Regional Police Officer  
Hazara Region (Abbottabad)

No. 14397 /PA, Dated Abbottabad the 26/12 /2013

Copy of above (in duplicate) is forwarded to the SSP Investigation Mansehra with the direction to serve the original copy upon Inspector Jehanzaib Khan & the duplicate copy of the same, after obtaining proper signature of the said Inspector, may be returned to this office as a token of receipt.

  
(AKHTAR HAYAT KHAN)  
Regional Police Officer  
Hazara Region (Abbottabad)

ATTESTED  




17

Annexure B

17

ORDER

This is an order in departmental enquiry against Inspector Jehanzaib Khan No.43/H of Investigation *Mansehra* who was Charge Sheeted vide this office Endst: No.11262-64/PA dated 28-10-2013 for the charges that following cases are pending with him for investigation but he failed to complete the investigation of these cases due to unknown reason and the cases was lying pending for long time. It means he knowingly delay/pending such cases which show that he has no interest in his official job and this counted on his debit/misconduct on his part. It has also come to notice through reliable sources that he is involved in corrupt practices.

- ❖ FIR No. 366 dated 11-10-2013 U/S 305/2PC PS Saddar Mansehra
- ❖ FIR No.372 dated 19-10-2013 U/S 6/7 ATA 3/4 Exp/13AO PS Saddar

A proper departmental enquiry was conducted by Mr. Muhammad Hafeez DSP who in his findings held him guilty of misconduct.

After receipt of findings of E.O he was issued final show cause notice vide this office Endst: No. 14397/PA dated 26-12-2013. He was also heard in person in OR and he offered no cogent reasons.

Keeping in view the recommendation of the Enquiry Officer he is awarded major punishment of compulsory retired from service with immediate effect as per Police Rule 1975.

*[Signature]*  
REGIONAL POLICE OFFICER  
Hazara Region (Abbottabad)

14526-27

/PA Dated Abbottabad the

30/12/2013.

Copy of above is forwarded for information to the District Police Officer, SSP Investigation Mansehra.

*A77150001*  
*[Signature]*

*[Signature]*  
REGIONAL POLICE OFFICER  
Hazara Region (Abbottabad)

Office of the Regional Police Officer  
Hazara Region (Abbottabad)  
No. 82/11/14  
Date 16/12/2014

BEFORE THE PROVINCIAL POLICE  
OFFICER, KPK PESHAWAR

(18)  
Annexure-  
H

APPEAL AGAINST THE ORDER OF REGIONAL  
POLICE OFFICER, HAZARA REGION,  
ABBOTTABAD DATED: 30.12.2013 VIDE WHICH THE  
APPELLANT HAS BEEN AWARDED MAJOR  
PUNISHMENT BY WAY OF COMPULSORY  
RETIREMENT FROM SERVICE.

Respected Sir,

The appellant begs to submit the following

1. That, the appellant was appointed in police department who was serving as inspector and had served the department for about 30 years. There is no any stigma or slur and thus the entire service record of the appellant is unblemished.
2. That, the appellant was issued a charge sheet stating therein that while conducting investigation in case FIR NO.366 the investigation was found poor and besides the appellant was alleged to have been involved in corrupt practices.
3. That, so far as the poor investigation in case FIR No:366 is concerned, one Ghulam Jan reported that his son had left his house without intimating the inmates; the report was made to the SHO who initiated an inquiry U/S 157 (1) Cr.P.C. through Shaukat ASI and the said inquiry remained in progress for about 1 year; the police brought suspected person and after interrogation he was let

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SR/11/1

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Hawano

R. 2/2/2014

of. During inquiry a sim belonging to deceased in the name of the father of deceased was recovered; a Jirga was convened with Ghulam Mustafa etc. accused, but the matter could not be settled and so a case was registered U/S 365 PPC. After the registration of the case the appellant raided the house of the accused for the purpose of his arrest and sensing apprehension of arrest, the accused submitted an application for bail before arrest, wherein the record of the case was requisitioned and after hearing the arguments of both sides, the bail before arrest application was accepted and the bail of accused was confirmed. The appellant had also submitted an interim challan against the accused in the court of competent jurisdiction, so that the trial could be commenced against the accused.

4. That, the case relating to the explosive U/S <sup>EXP:</sup> 3/4 is concerned, SHO P.S. City Mansehra handed over the material to the SHO P.S. Saddar Mansehra and the case was accordingly registered on 19.10.2013 against unknown person. After the registration of the case every effort was made to trace out the culprits and in this respect no stone was unturned in order to reach the logical conclusion. Challan was also submitted in this very case.

*Arif ul  
Hussain*

5. That, the appellant was posted as C.O. in Investigating Branch and so D.S.P./SSP Investigation were the most appropriate persons to know about the facts and progress of the case, but unfortunately, the matter was threshed/ investigated by operational DSP who was/is not in know of the

real facts leading to the above two noted cases. It was incumbent on the incumbent on the competent authority to have appointed DSP/SSP Investigation to inquire into the matter, who had done otherwise.

- 6. That in the charge sheet allegation of delaying investigation in criminal cases were leveled against appellant while enquiry officer has categorically held appellant responsible for poor investigation. Hence charge and finding are distinct from each other and makes no ground for awarding punishment as the under the rules the enquiry officer will not travel beyond the charge. The rules do not allow enquiry officer/competent officer to deviate from the charge.
- 7. That appellant has wrongly been held responsible for delaying Investigation/poor Investigation in the criminal cases. The occurrence in first case FIR No. 366/2013 under section 365 PPC Police Station, Saddar Mansehra as per report of complainant took place on 16.09.2012 and the operation staff avoided registration of case till 11.10.2013. The case was registered by operation staff after delay of about one year which impeded conduct of smooth investigations, therefore appellant was erroneously held responsible for poor investigation.
- 8. That complainant in case FIR 366/2013 stated in unequivocal terms before the enquiry officer that he was satisfied with investigation conducted by appellant rather leveled certain allegations against the operation staff but appellant was made scapegoat.
- 9. That though statements of Showkat Hussain, Mohammad Youaf ASIs and Syed Israr Shah MHC were recorded by the enquiry Officer yet no chance of cross-examination was provided to the appellant.
- 10. That appellant had regularly submitted case diaries in both the criminal case but no strictures were passed on the case diaries by senior officer meaning thereby that they were satisfied with the investigation conducted by appellant.
- 11. That the enquiry officer has based his opinion on conjecturers and surmises without bringing any evidence on record, which carries no legal value and force.

*Hussain*  
*[Signature]*

- 21
- (21)
12. That during course of enquiry no malafide on the part of appellant in conducting investigation of the cases was neither detected nor brought on record.
  13. That the charges of corruption also could not be established against appellant. The enquiry officer has nrasifestly mentioned that the charge of corruption could not be proved therefore the competent authority has wrongly referred to such charge in the impugned order.
  14. That the statement of head of investigation of the district made in favour of appellant was not taken in account wherein he has expressly stated that appellant was a professional Police Officers and there was no complaint against appellant.
  15. That in view of the above submissions the charges leveled against appellant are neither justified nor proved.
  16. That , to the misfortune of the appellant he was treated altogether differently. The Police officials with almost similar allegations/charges have been awarded the punishment of censure/warning or stoppage of increments, but the said treatment was not meted to the appellant and thus appellant was treated discriminately.

It is therefore requested that the impugned order may be set aside with all back benefits.

*Actual*

*[Signature]*

Dated: 22.01.2014

Jehanzb Khan, Ex-Inspector No. H-43,  
Investigation Wing, District Mansehra  
.....Appellant.

*[Signature]*

①

2 is  
366 FIR  
1 of 11

Annex-1

②

From: The Regional Police Officer,  
Hazara Region, Abbottabad.

To: The Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

No. 1938 /PA Abbottabad dated 6/3/2014

Subject: APPEAL AGAINST THE ORDER OF REGIONAL POLICE OFFICER HAZARA REGION, ABBOTTABAD DATED 31-12-2013 VIDE WHICH THE APPELLANT (Ex-JHANZEB KHAN INSPECTOR DISTRICT MANSEHRA) HAS BEEN AWARDED MAJOR PUNISHMENT BY WAY OF COMPULSORY RETIREMENT FROM SERVICE.

Memorandum:

Kindly refer to your office letter No. 3795/E-II dated 07-02-2014.

The para-wise comments are as under:-

1. Para No. 1 pertains to record.
2. Para No. 2 is correct subject to FIR No. 366, while another case FIR No. 372 dated 19/10/2013 U/s 3/4 Exp. Act 13 AO of PS Saddar Mansehra has already been mentioned in the charge sheet.
3. Para No. 3 pertains to record. However, on the report of Ghulam Jan an enquiry u/s 157(1) Cr.PC was conducted by Shoukat ASI, which remained in progress with him for about 01 year. After registration on 11/10/2013 it was handed over to Ex. Inspector Jhanzeb Khan. The nominated accused managed pre-arrest bail which was later on confirmed by the court. After the completion of investigation, Ex. Inspector Jehanzeb Khan submitted the case file for interim Challan on 25/10/2013.
4. Para No. 4 is admitted to the extent that a case u/s 3/4 Exp. Act was registered on 19/10/2013 in PS Saddar Mansehra against unknown persons. However, the final report on the case was submitted as untraced on 24/12/2013 by the SHO PS Saddar.
5. Para No. 5 needs no reply as it was an administrative issue.
6. Incorrect as delay in conducting investigation normally leads to poor investigation resulting acquittal of accused thereupon.

Attested  
[Signature]

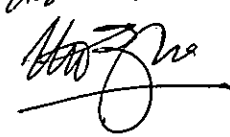
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7. Para No. 7 is correct to the extent that the instant case was registered after laps of about 01 year and initially an enquiry was conducted by the operational staff u/s 157(1)-Cr.PC. The delay in registration of case has definitely hampered the investigation.
8. Para No. 8 is correct. The complainant Ghulam Jan as per his statement was satisfied from the investigation conducted by the Ex. Inspector Jehanzéb Khan.
9. Incorrect.
10. Para No. 10 relates to record.
11. Para No. 11 is incorrect as the enquiry officer has held the appellant has responsible.
12. Incorrect.
13. Correct.
14. Correct.
15. Incorrect.
16. Incorrect.

Encl: 01 Enquiry File 2 (107) Papers  
(2) Service record.

  
Regional Police Officer,  
Hazara Region, Abbottabad

Attest  


(24)

Annex - J

ENQUIRY AGAINST INSPECTOR JAHANZAIB KHAN  
INVESTIGATION WING MANSEHRA.

①

Respected Sir,

An enquiry under hand was entrusted to the undersigned by the competent authority vide letter number No 11262-64/PA, dated 28-10-2013 against Inspector Jahanzaib Khan Investigation wing Mansehra for the charges leveled against him in the charge sheet directly issued to him for the allegations that the following cases are pending with him for investigation but he failed to complete the investigation of these cases due to unknown reason and cases were lying pending for long time. It means that he knowingly delayed/pending such cases which show that he has no interest in his official job and this counted on his debit/misconduct on his part. It has also come to the notice through reliable resources that he is involved in corrupt practices.

1. FIR No. 366 dated 11/10/2013 U/S 365 PPC PS Saddar Mansehra. - 16 days
2. FIR No. 372 dated 19/10/2013 U/S 6/7 ATA, M Exp/13 AO PS Saddar Mansehra. 10 days

In response of charge sheet the alleged accused Inspector Jahanzaib Khan has submitted his written reply/statement which is enclosed here with for ready reference. In his statement the alleged accused official advanced the reasons about allegations and stated that case FIR No 366 dated 11/10/2013 U/S 365 PPC PS sadder Mansehra was registered on 11/10/2013 in which the accused involved therein got bail before arrest and the case file was requisitioned by the court of ASJ-II which is still in the court, however he submitted interim challan in the court of Illaqa Magistrate, on the receipt of case file back from the concerned court he will submit complete challan in due course of time.

As for as case FIR No. 372 dated 19/10/2013 U/S 6/7 ATA, M Exp/13 AO PS Saddar Mansehra is concerned, no one neither charged in FIR nor nominated. Beside his hectic efforts no one could have been traced and ultimately the case will be sent as untraced.

He totally denied about the allegation of corrupt practices and stated that he has never been involved in such like allegations and neither any show cause notice was served nor any enquiry was conducted against him on the basis of corrupt practices, he further stated that entire record of his service is without any stigma and there is not an iota of evidence which could fortify the allegations against him. He was given sufficient chance of cross examination and during the cross examination he also denied about the allegation of corrupt practices. He was asked through a cross question that why the both cases are lying pending under investigation without any fruitful result with him? He replied the above stated story repeatedly.

I called the following PWs for further process of enquiry.

1. Shoukat Hussain ASI PS Saddar Mansehra. X
2. Muhammad Yousaf Khan ASI PS Saddar Mansehra. X
3. Syed Israr Shah MHC PS Saddar Mansehra. X
4. Ghulam Jan. S/O Abdullah Caste Gujjar R/O Sanday-Sar Mansehra Complainant vide FIR No. 366 dated 11/10/2013 U/S 365 PPC PS Saddar Mansehra.

I examined all the above mentioned PWs and recorded their statements which are placed on file. PW Shoukat Hussain ASI stated that Ghulam Jan complainant of case FIR No. 366 dated 11/10/2013 U/S 365 PPC PS Saddar Mansehra reported on 18/09/2012 at PS Saddar through an application to the MHC that on 16/09/2012 his son Muhammad Iqbal had gone out from his house and did not turned up. The MHC incorporated the same application into the Daily Dairy and he put up the copy of DD report to the, then SHO. The SHO ordered for initiating an enquiry.



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U/S 157 (1) Cr.Pc which was entrusted to him. He started the same enquiry and during enquiry, on 29/10/2012 the complainant submitted another application to him stating therein that the persons namely Bani S/O Booja and Habib-ur-Rehman S/O Bani are suspicious to be involved for abduction of his son. He (E.O Shoukat Hussain ASI) called both the alleged persons and interrogated but nothing could have been achieved. Broken Mobile phone of the missing person along with SIM No. 0343-9699115 in the name of complainant was recovered from Karnol on the right bank of river Kunhar through Mustafa S/O Gul Zareen and handed over to MHC and on 8/03/2013 complainant submitted another application for taking action against accused, which was placed on file but in the meanwhile both the parties called a local Jirga and after some days he (E.O Shoukat Hussain ASI) was transferred to PS city Manshehra and the enquiry file was handed over to MHC to be marked to any other Officer for further action.

During the statement of Syed Israr Shah MHC PS Saddar, he stated that the same enquiry U/S 157 (1) Cr.Pc was handed over to Jan Alam MHC on the transfer of Shoukat Hussain ASI and on 18/04/13, the same was handed over to him with finding report for registration of case. He after bringing into the notice of Higher Officers sent the same for registration of the case and after proper approval, the case was registered on 11/10/13, which was handed over to investigation staff for further investigation.

Complainant of the case FIR No. 366 dated 11/10/2013 U/S 365 PPC PS Saddar Manshehra, Ghulam Jan S/O Abdullah R/O Sanday-Sar stated in his statement that he reported about missing of his son on 18/09/12, in the shape of an application on which Shoukat Hussain ASI was nominated for digging out the facts through an enquiry started by police and during this enquiry, ASI Shoukat Hussain has recovered the Mobile phone along with SIM No. 03439699115, from one Ghulam Mustafa S/O Gul Zareen who stated that he got the same from Batsing near Kunhar river. Shoukat Hussain ASI was supposed to register the FIR forthwith after probing about the cell phone of the missing person but he failed to do so, he further stated that the same ASI has recorded the statement of Mst. Gulshan Bibi W/O missing person Muhammad Iqbal at his town without her well/wish and consent. On 11/10/13 after registration of the case the (the applicant) submitted an application to SSP Manshehra stating therein that the record of the SIM registration be included by the I.O in the case file but the same was already included by the I.O. Inspector Jehanzaib Khan. He further stated that he is requesting to I.O for recording the statement of Gulshan Bibi (wife of missing person Muhammad Iqbal) in the court of law and at the end he stated that he has full trust on the I.O Inspector Jehanzaib Khan.

In the cross examination, he was asked for demanding any kind of bribe by the I.O but he denied at every stage and stated that he is fully satisfied about the on going process of investigation and has no complaint against the I.O Inspector Jehanzaib Khan.

As far as case FIR No. 372 dated 19/10/2013 U/S 6/7 ATA, ¼ Exp/13 AO PS Saddar Manshehra is concerned, according to the statements of Muhammad Yousaf ASI PS Saddar the then Acting SHO PS Saddar and Syed Israr Shah MHC PS Saddar, the case was registered on 19/10/13 on the recovery of huge quantity of illicit arms and ammunitions and the investigation was entrusted to Circle Officer Inspector Jehanzaib Khan. Muhammad Yousaf ASI stated that during mobile patrolling he was informed about the illicit arms and ammunitions buried in Katha near Sanday Sar by unknown persons, he rushed to the spot and recovered the same, he registered the case against unknown persons and on his pointation the I.O inspected the spot and conducted the spot investigation. MHC Israr Shah stated in his statement that on receipt of written marasla prepared by Muhammad Yousaf ASI/SHO through constable Naveed No. 1118, he chalked FIR No. 372 dated 19/10/2013 U/S 6/7 ATA, ¼ Exp/13 AO PS Saddar in the same date and copy of FIR was handed over to Inspector Jehanzaib Khan. He kept all the arms and ammunitions in Malkhana, after making entry at serial No. 347 of register No. 19 in due course after completing the cordial formalities.

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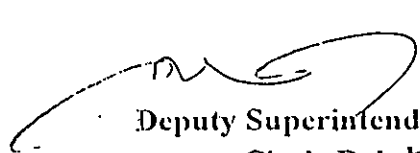
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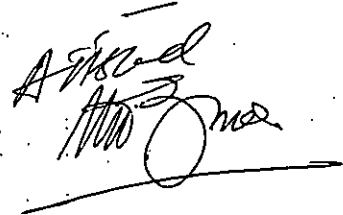
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The alleged accused Official Inspector Jehanzaib Khan has produced a written report of DSP Investigation Mansehra Habibullah Khan in his own writing duly signed stating therein that the same alleged accused Inspector Jehanzaib Khan is working with him in investigation staff since 20/09/13 and there is no such complaint either verbal or written received about him from public sector.

It is therefore concluded after the above detailed discussions/recorded evidence that due to poor investigation in case FIR No. 366 dated 11/10/2013 U/S 365 PPC PS Saddar Mansehra the accused have got succeeded for seeking confirmation of their bail before arrest, hence keeping in view of above circumstances allegations about poor investigation in the above mentioned case is proved against the alleged accused Inspector Jehanzaib Khan I.O of the case, but the other case FIR No. 372 dated 19/10/2013 U/S 6/7 ATA, Exp/13 AO PS Saddar will take some time due to difficulties faced by the I.O stated verbally, but there is nothing on the file. The alleged accused Officer Inspector Jehanzaib Khan is answerable for poor investigation in both the cases, however allegations of corrupt practices could not be proved as per recorded statements already placed on file.

Submitted Please.

  
Deputy Superintendent of Police,  
Circle Balakot.



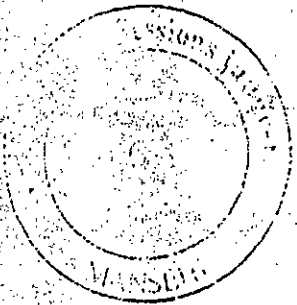


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ORDER.  
11.11.2013.



11/11/13  
Ghulam Mustafa

Accused/petitioners Sajid Hussain, Ghulam Mustafa, Mst: Ghazala Gul & Gul Zareen on ad-interim bail present. Complainant also present. Arguments heard, record gone through.

The accused/petitioners, seek confirmation of their ad-interim pre-arrest bail granting order in case vide FIR No.366 dated 11.10.2013 under section 365/34 PPC in Police Station, Sadder, Mansehra.

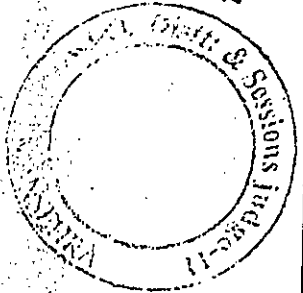
According to the story of FIR, the complainant Ghulam Jan, on 18.12.2012 submitted a written application/report in the Police Station Sadder Mansehra at 10.00 AM to the effect that he is resident of Chita Batta Mansehra. That on 16.9.2012 at 9.00P.M, his son Muhammad Iqbal left his house. After an hour,

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when he did not come back to home, he started search of his son but was not found. Despite passage of 2/3 days where-about of his son was not known. That the complainant/applicant wants to inform the local police about his absence. He requested for entry of the report. Report of the complainant was entered in a daily diary Rupit No.7 dated 18.09.2012. Inquiry under section 157 Cr.P.C was ordered through Shoukat Hussain ASI (Beat Officer). On 29.10.2012, the complainant moved another application wherein, he charged Bani son of Booja and his son Habib-ur-Rehman and their companions for the abduction of his son. Said application was also marked to Shoukat Hussain ASI. Both the persons were brought to the police station and due to the decision of a jirga, they were released on personal bonds.

11/11/13  
 Munsif



During the inquiry, statements of two relatives of the complainant namely Mohammad Bashir and Wali-ur-Rehman were recorded. According to the statement of Mohammad Bashir, Mohammad Iqbal was not mentally sound. Statement of wife of Mohammad Iqbal namely Mst: Gulshan Bibi was also recorded. She also told that Mohammad Iqbal during his stay in Saudi Arabia became mentally unsound. On 10.10.2013, the complainant recorded statement u/s 161 Cr.P.C wherein he charged the present petitioners: Ghulam Mustafa, Gul Zareen, Mohammad Sajid Hussain and Mst: Ghazala Gul daughter of Gul Zareen wife of Ajmal for the abduction of Mohammad Iqbal. Thereafter, the instant case/FIR was registered against the accused.

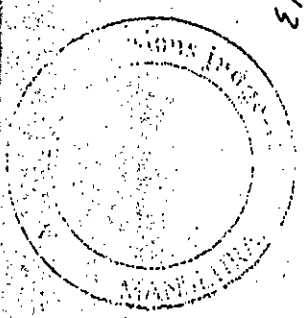
Ajmal  
 [Signature]

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Learned counsel for the accused/petitioners argued that accused/petitioners have been charged on suspicion. That prior to this, the complainant had charged two other persons for the abduction of his son. That these accused/petitioners have been charged on the ground that they were in possession of a mobile sim. That neither in his first nor in the second application, the complainant had told that the said mobile sim was ever in the use of his missing son. That except the mobile sim, no other evidence is available on file, which could connect the present petitioners with the commission of offence. That the petitioners have been charged on malafide just to extract money from them. That son of the complainant was missing from house on 16.09.2012 while the complainant charged the present petitioners on 10.10.2013 i.e. after about more than one year of the occurrence. That according to the relative and wife of the missing person, his mental condition was not sound, therefore, possibility of leaving his house of his own and going some where can also not be ruled out. That a female has also been charged without any plausible explanation and without any evidence. That until and unless the missing person is recovered, no one can be blamed for his abduction.

Prima facie

11/11/13



Learned counsel for the complainant on the other hand, argued that the mobile sim recovered from the accused was in the use of the missing person and the recovery of the said sim from the possession of the accused/petitioners prima facie connect them with the commission of offence. That the complainant had no malice against the accused/petitioners, hence they were charged after full satisfaction. That pre-

A. N. S. el  
 [Signature]

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arrest bail is an extra ordinary concession, which cannot be claimed in each and every case. He requested to recall the ad-interim pre-arrest bail granting order of the accused/petitioners.

Perusal of record would reveal that son of the complainant left his house on 16.09.2012 of his own. On 29.10.2012, the complainant charged one Rabani son of Booja and his son Habib-ur-Rehman but the local police did not make them accused nor FIR was registered against them rather they were released on personal bond. Present accused/petitioners were charged after recovery of a mobile sim No.0343-9699115 from one of the accused namely Ghulam Mustafa. But there is nothing on record to show that the said mobile sim was ever in the use of the missing person namely Mohammad Iqbal. Even in the first and second applications dated 18.09.2012 and 29.10.2012, the complainant did not utter a single word that the above mentioned mobile sim was in the use of his son Mohammad Iqbal. The said mobile sim was also not issued in the name of the missing person, the complainant or anyone of his family member. Thus on the basis of recovery of the mobile sim, charge these accused/petitioners is nothing but the result of suspicions. These accused/petitioners have been charged after about more than one year of the missing of Mohammad Iqbal and that too, on suspicion. Moreover, the mobile sim was recovered rather himself produced by one of the accused/ petitioner Ghulam Mustafa but three other persons including a woman were charged. This shows malafide on the part of the complainant and local police. The accused/petitioners have joined investigation and they have

11/11/12  
Secretary



Approved  
[Signature]

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given a plausible explanation, reason of the mobile sim. They are no more required for the purpose of investigation. Until and unless the missing person is recovered, case against the present accused/petitioners is one of further probe. At this stage, no iota of evidence is available on file to connect these accused/petitioners with the commission of offence. Arrest of the accused/petitioners in this case would amount to their humiliation and harassment. In such case, it becomes duty of court to shield such accused persons from unnecessary humiliation and harassment.

Keeping in view the above mentioned facts and circumstances of the case in hand, this court is convinced that it is a fit case for the confirmation of pre-arrest bail. Ad-interim pre-arrest bail granting order of the accused/petitioners is thus confirmed on the existing bail bonds. File be consigned to Record Room after compilation and completion.

Announced:  
11.11.2013.

*Munawar Khan*  
(Munawar Khan)  
Additional Sessions Judge-II  
Mansehra.

*A. J. J. J.*  
*[Signature]*



۱۱۱۸

گورنمنٹ پبلک ہسپتال لاہور نمبر 2286/13 م سٹور نمبر ۱۱۱۸ اور ڈی آئی اے ڈی (فونم سٹور ہاؤس) حتمی فارم نمبر (۱)

فارم نمبر ۲۲-۱۵

ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجموعہ ضابطہ فوجداری

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ضلع	ضلع
ضلع	ضلع
تاریخ وقت وقوع ۱۳/۱۰/۱۹۱۰	تاریخ وقت وقوع ۱۳/۱۰/۱۹۱۰
تاریخ وقت رپورٹ ۱۴:۱۵	تاریخ وقت رپورٹ ۱۹:۱۰
نام و سکونت اطلاع دہندہ مستغیث	نام و سکونت اطلاع دہندہ مستغیث
محقق کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو	محقق کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو
دیر دفعہ	دیر دفعہ
جائے وقوعہ قاضی خانہ سے اور سمت	جائے وقوعہ قاضی خانہ سے اور سمت
تفصیلاً بیان کرو	تفصیلاً بیان کرو
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو
تھانہ سے روانگی کی تاریخ و وقت	تھانہ سے روانگی کی تاریخ و وقت

ابتدائی اطلاع نیچے درج کرو۔ بطور سینیٹل رپورٹ

پولیس کو اطلاع دہندہ کی طرف سے ارسال شدہ ہے۔  
 یوسف خان 5110/ASD بدست کمانڈر سینیٹل کوڈ 1118 کو وصول ہو کر درج ذیل ہے محمد علی احمد  
 محمد علی احمد فرمین محمد لغڑی پولیس کے ایجنٹ کے ساتھ مقام لسانہ کے سر پنہا اطلاع ملی کہ  
 کھنڈ لسانہ کے سر نرند دھند بلاک طفیل سے قدرے اوپر کھنڈ میں بخاری فقیدار میں اسکی باجی  
 دیکھا کہ ضلع فواد کھنڈانی کے چھپایا ہوا ہے اس اطلاع پر حال عالم 1118، حقنوناز 1118، سرفروغ  
 طلب کرے ہوا رکھ کر جانے و قوی مارا پہنچ کر کھنڈ میں ایک سائیکل پر تانہ کھنڈانی مشدہ جگہ کو چمک  
 کرے قدرے دیت کھری سٹانے پر ایجنٹ رانا بول RP67، برسی 711506، رات RP67، 7M-62، 62-87  
 5 عدد رانا بول 7mm برسی 5210، رانا بول 7mm برسی 6767، 1ED، لیڈنگ ڈک در بیانہ سٹار جسمیں بارہ دھوا  
 ہوا پائی ملی ہوئی، ایک توڑا لیور یا بھاد وزن 2 کلو اور آٹمی میخ (آئیل) ایک کلو بھرا دھوئے جو کسی شخص  
 ہا شیواں نے قدرے مارا کھنڈانی اسکی، ایجنٹین اور دھنڈانہ ضلع فواد ضلع کھنڈانہ دھنڈانہ (آٹمی) پر  
 استعمال کرنے اور ضلع کے ڈرامن کا حصول بنا کر نے کی غرض سے چھپا کر کھنڈانہ کے ڈرامن ایک ایجنٹین  
 دھنڈانہ ضلع فواد پر ونے علیحدہ فرد قبضہ پولیس میں دھنڈانہ ضلع فواد کے مکمل طور پر تانہ بنا کے  
 کے لئے ہم ڈی سٹور ڈک کو سوسائٹ انجین بالائی اطلاع دی جا رہی ہے سٹور سے ہوائے مٹی کھنڈانہ  
 مانیٹل کوڈ 1118 ارسال تھا ہے فقہ فرج کے نقل پر جنہ فقہ ضلع کھنڈانہ، برسی 711506، رات RP67، 7M-62، 62-87  
 سٹارے مال کیا جا رہے ہیں بطور سینیٹل رپورٹ عدتہ سے پوز اطلاع ہے یہ تھانہ ڈی آئی اے ڈی کو سینیٹل  
 19/10/13 مارو اتنی تھا ہے آدہ سٹور سے ہوائے مٹی بالائی اطلاع دی جا رہی ہے فقہ و سٹور  
 1118/ASD، سٹارے صرا 13/10/13 مارو اتنی تھا ہے آدہ سٹور سے ہوائے مٹی بالائی اطلاع دی جا رہی ہے فقہ و سٹور

گورنمنٹ پبلک ہسپتال لاہور نمبر 2286/13 م سٹور نمبر ۱۱۱۸ اور ڈی آئی اے ڈی (فونم سٹور ہاؤس) حتمی فارم نمبر (۱)

Annex - N

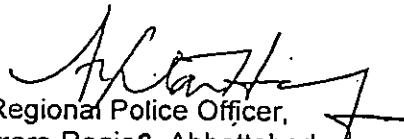
ORDER IN REPRESENTATION FILED BY RAFI-UZ-ZAMAN  
SUB-INSPECTOR

Mr. Raja Rafi-uz-Zaman No. 166/H, Ex. Sub-Inspector preferred an appeal before the undersigned against his compulsory retirement from the department vide Order No. 474-76/SRC dated 08/01/2014 by the District Police Officer, Mansehra. On 24/02/2014, the undersigned called the official in his office, heard him in person giving him full opportunity to explain his position and perused all the relevant record on file. The undersigned observed the following procedural/factual flaws in the enquiry proceedings:-

1. The appellant was charge sheeted for his allegedly patronizing the narcotics in the jurisdiction of Police Station City, Mansehra vide order bearing No. 474-76/SRC dated 08/01/2014 issued by District Police Officer Mansehra shows different nature of allegations.
2. Ex. SI Raja Rafi-uz-Zaman was not given full opportunity to defend the allegations so levelled in the OB No. 5 during the course of enquiry so conducted against him.
3. Neither any written complaint is on the file nor statement of any person from the general public was obtained to support the nature of allegations (patronizing the narcotics) against him.
4. The enquiry committee so constituted on 11/12/2013 was headed by the District Police Officer Mansehra himself and the two other members were his immediate subordinates.
5. No final show cause notice was served under the rules.

In view of above cited shortcomings and flaws in the enquiry proceedings, the order passed by the District Police Officer Mansehra vide No. 474-76/SRC dated 08/01/2014 is held in abeyance and a denovo enquiry is hereby ordered. Mr. Shah Nazar Khan, Superintendent of Police (Investigation) Abbottabad is directed to conduct formal enquiry under the allegations already levelled by the District Police Officer, Mansehra vide his charge sheet bearing No. 11587-90/PA dated 11/12/2013 and to submit his report at the earliest.

1573-74

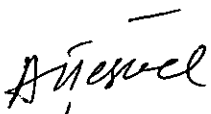

  
Regional Police Officer,  
Hazara Region, Abbottabad


No. \_\_\_\_\_/PA Abbottabad the dated 25/02/2014.

Copy for information to:-

1. The District police Officer, Mansehra.
2. Mr. Shah Nazar Khan Superintendent of Police (Investigation) Abbottabad.

*Along with service record and per enquiry file of CI Rafi U. Zaman.*

  
Regional Police Officer,  
Hazara Region, Abbottabad

ORDER IN REPRESENTATION FILED BY MUHAMMAD AFZAL  
KHAN SUB-INSPECTOR


Amnes-0

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Mr. Muhammad Afzal Khan Ex. Sub-Inspector preferred an appeal before the undersigned against his compulsory retirement from the department vide Order No. 477-78 dated 07/01/2014 by the District Police Officer, Mansehra. On 24/02/2014, the undersigned called the official in his office, heard him in person giving him full opportunity to explain his position and perused all the relevant record on file. The undersigned observed the following procedural/factual flaws in the enquiry proceedings:-

1. The appellant was charge sheeted for his allegedly association with timber smugglers while vide order bearing No. 477-78/SRC dated 08/01/2014 issued by District Police Officer Mansehra shows different nature of allegations.
2. Ex. SI Muhammad Afzal was not given full opportunity to defend the allegations so levelled in the OB No. 5 during the course of enquiry so conducted against him.
3. Neither any written complaint is on the file nor statement of any person from the general public was obtained to support the nature of allegations against him.
4. The enquiry committee so constituted on 11/12/2013 was headed by the District Police Officer Mansehra himself and the two other members were his immediate subordinates.
5. No final show cause notice was served under the rules.

In view of above cited shortcomings and flaws in the enquiry proceedings, the order passed by the District Police Officer Mansehra vide No. 477-78 dated 08/01/2014 is held in abeyance and a denovo enquiry is hereby ordered. Mr. Shah Nazar Khan, Superintendent of Police (Investigation) Abbottabad is directed to conduct formal enquiry under the allegations already levelled by the District Police Officer, Mansehra vide his charge sheet bearing No. 11587-90/PA dated 11/12/2013 and to submit his report at the earliest.

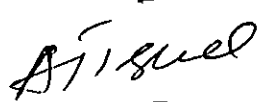

  
Regional Police Officer  
Hazara Region, Abbottabad


1575-76  
No. \_\_\_\_\_/PA Abbottabad the dated 24/02/2014

Copy for information to:-

1. The District police Officer, Mansehra.
2. Mr. Shah Nazar Khan Superintendent of Police (Investigation) Abbottabad.

*along with service record and Enquiry file of M. Afzal Khan*

  
Regional Police Officer  
Hazara Region, Abbottabad