

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	07.12.2015	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.255/2014</p> <p style="text-align: center;">(Saqib Raza-vs-Inspector General Police(IGP/PPO), Khyber Pakhtunkhwa, Police Line, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Counsel for the appellant (Mr. Main Mohibullah Kakakhel, Saifullah Mohib and Muhammad Farooq Afridi, Advocates) and Mr. Arif Saleem, Head Constable alongwith Mr. Ziaullah, GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order of DPO, Kohat wherein the appellant was removed from service vide order dated 30.08.2013 and order dated 23.10.2013 whereby the appeal of the appellant was dismissed by the respondents. He prayed that on acceptance of this appeal, the impugned orders dated 30.08.2013 of the competent authority and order dated 23.10.2013 of the appellate authority and order dated 23.01.2014 over mercy petition may be declared as illegal, without jurisdiction and without lawful authority and the appellant may be reinstated with all back benefits.</p>

	A.F.I.	<p>3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Constable on 01.08.2009. That the appellant was performing his alert duty when a truck coming from Hungu was given indication to stop but the driver instead of making stop, speeded his vehicle. That the appellant alongwith another Constable Namely Suleman, followed the truck and at a distance stopped the vehicle. That the appellant informed the Police Post where the appellant received order to take the driver of the truck to the Police Station and accordingly he was taken to the Police Station where the matter was patched up by an agreement between the driver and the appellant. That on next day the driver of the truck contacted respondent No., 2 and filed complained the appellant. Appellant alongwith Suleman, ASI and Noor Muhammad, Constable³ were put in the Quarter Guard. That on .6.5.2013, the driver also lodged FIR against the appellant under Section 506, 337 A (i), 337 F (i), 161, 337 A III, 34 342, 427 PPC and 155 Police Order and in consequence the appellant was arrested and put behind the Bar where he remained for 16 days. That the Department issued to show cause notice to the appellant, conducted enquiry and finally removed him from service on 30.08.2013 without waiting for decision of the Trial Court in the aforesaid mentioned FIR. That the appellant preferred departmental appeal on 18.09.2013 which was dismissed the Competent Authority on 23.10.2013. That the appellant again filed departmental appeal/mercy petition where the Competent Authority assured the appellant by giving him false consulation that he will be re-instated on filling second appeal/ mercy petition</p>
--	--------	--

but once again appeal/mercy petition of the appellant was dismissed by respondent No. 1 on 23.01.2014, hence the instant appeal.

4. The learned counsel for the appellant argued that the impugned orders were illegal, without jurisdiction and without lawful authority. That the impugned order had been passed against the principle of natural justice as the appellant has been removed from service without giving him an opportunity of personal hearing. He further argued that the appellant's case was under trial in the court of law and he was removed from service without waiting for the outcome of the said trial. He further contended that it was a settled law that the accused was presumed to be innocent until proved guilty hence the impugned order passed on 30.08.2013 was illegal, without jurisdiction and without lawful authority. He prayed that on acceptance of this appeal the impugned order 30.08.2013 and appellate order dated 23.10.2013 and order dated 23.01.2014 upon the mercy petition may be declared as illegal, without jurisdiction and without lawful authority and the appellant may be re-instated into the service with all back benefits.

5. The learned Government Pleader resisted the appeal and argued that all codal formalities were fulfilled, regular enquiry was conducted and the appellant was associated with the proceedings hence the orders passed by the Competent Authority were according to the law and rules. He further argued that the appellant was given opportunity of personal hearing before passing of final

orders. He contended that under the law criminal and departmental proceedings can run parallel and may end differently and in the case in hand Enquiry Officer held the appellant responsible for the charges of misconduct and he was given full opportunity of defense. He prayed that appeal being devoid of any merits may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From perusal of the record, it transpired that proper departmental enquiry was conducted against the appellant under the Police Rules-1975. The Enquiry Officer conducted formal enquiry where the appellant was associated with the proceedings and full opportunity of defense was provided to him before passing of the impugned orders dated 30.08.2013 and 23.10.2013 by the Competent Authority. The appellant failed to convince the Appellate Authority who upheld the orders passed by the Competent Authority. The contention of the appellant on the basis of his acquittal in the criminal case does not carry weight as under the law both the criminal and departmental proceedings can run simultaneously and independently of each other and acquittal of the appellant in the criminal proceedings could not be made a base for similar relief in the departmental proceedings. In the circumstance, the Tribunal does not find any legal infirmity in the orders passed by the Departmental Authority as a sequel to the proceedings under the Police Rules, 1975. The appeal being devoid of any merits is dismissed. Parties are left to bear their own

costs. File be consigned to the record.

8. Our this single judgment will also dispose of in the same manner appeal No. 1042/2014 titled Muhammad Suleman, where common question of law and facts have been raised.



(PIR BAKHSH SHAH)
MEMBER



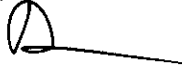
(ABDUL LATIF)
MEMBER

ANNOUNCED
07.12.2015

10.11.2015

Counsel for the appellant and Mr. Ziaullah GP with Arif
Saleem H.C for the respondents present. Arguments heard. To come

up for order on 7-12-2015.



Member



Member

255/14

24.12.2014

Appellant in person, and Mr. Muhammad Jan, GP with Khan Afsar, LHC for the respondents present. The Tribunal is incomplete. To come up for the same on 30.1.2015.


MEMBER

30.1.2015

Appellant in person and Muhammad Jan, GP with Muhammad Tariq, Inspector for the respondents present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned GP. To come up for arguments on 17.4.2015.


MEMBER

16.04.2015

Appellant in person His counsel is not available to-day. Mr. Muhammad Jan, GP for the respondents present. Appellant requested for adjournment. To come up for arguments on 08.6.2015.


MEMBER


MEMBER

8.06.2015

Counsel for the appellant and Mr. Ziaullah, GP with Intiaz Ali, DSP (Legal) for the respondents present. Since appeal No. 1042/2014 of similar nature ripped and fixed for arguments on 10.11.2015, therefore, the instant appeal is also adjourned to 10.11.2015 for arguments.


MEMBER


MEMBER

16.7.2014

Junior to counsel for the appellant and AAG with Arif Saleem, H.C for the respondents present and reply filed. Copy handed over to counsel for the appellant. To come up for rejoinder on 03.09.2014.

MEMBER

MEMBER

03.09.2014

Counsel for the appellant, Mr. Muhammad Jan, GP with Wisal, H.C for the respondents present. Counsel for the appellant needs time for submission of rejoinder. To come up for rejoinder on 10.10.2014.

MEMBER

10.10.2014

Appellant in person and Mr. Kabeerullah Khattak, Asstt. AG with Akbar Khan, H.C for the respondents present. Appellant needs time to file rejoinder. To come up for rejoinder on 21.11.2014.

MEMBER

21.11.2014

Appellant in person and Mr. Muhammad Jan, GP with Amin, ASI for the respondents present. The Tribunal is incomplete. To come up for the same on 24.12.2014.

READER

Appeal No. 255/2014.
Mr. Sajid Raza.


20.03.2014

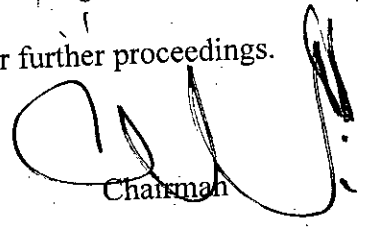
Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 30.08.2013, he filed departmental appeal on 18.09.2013, which has been rejected on 23.10.2013, hence the present appeal on 24.02.2014. He further contended that the impugned order dated 23.10.2013, has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. 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 for submission of written reply/comments on 05.06.2014.

Appellant deposited
Process fee & Security
Rs. 1800/- Bank Receipt
attached with file.

20.03.2014

This case be put before the Final Bench 11 for further proceedings.

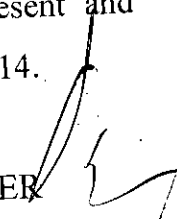

Member


Chairman

5.6.2014

Junior to counsel for the appellant and AAG with Intiaz Gul, DSP. (Legal) for the respondents present and needs time. To come up for written reply on 16.7.2014.

MEMBER




MEMBER


Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 255/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24/02/2014	<p>The appeal of Mr. Saqib Raza presented today by Mr. Mian Muhibullah Kakakhel 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	24-2-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>20-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 255 /2014

Saqib Raza.....Appellant

V E R S U S

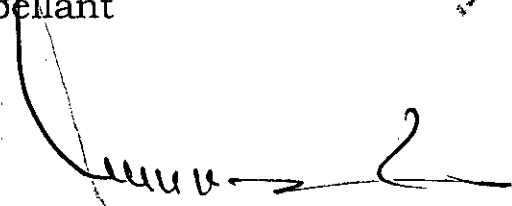
Inspector General of Police and othersRespondents.

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Grounds of Service Appeal with affidavit		1-6
2.	Application for interim relief with affidavit		7-8
3.	Application for condonation of delay with affidavit		9-10
4.	Copy of compromise report	A	11
5.	Copy of FIR	B	12-13
6.	Copy of show cause notice and impugned order dated 30.08.2013	C	14-17
7.	Copy of Departmental appeal and order dated 23.10.2013	D&E	18-20
8.	Copy of mercy petition and order dated 23.01.2014	F&G	21-23
9.	Wakalat Nama		24


Appellant

Through


Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 255 /2014

Saqib Raza S/O Nazr Din

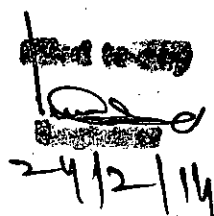
R/O Garhi Risalder Doda Road, Kohat... ..

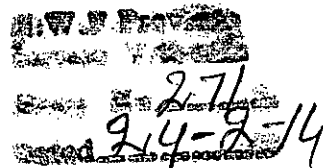
.....Appellant

VERSUS

1. Inspector General Police (IGP/PPO), Khyber Pakhtunkhwa.
Police Line, Peshawar
2. Deputy Inspector General, Kohat
Kohat Region, Kohat
3. District Police Office (D.P.O)
Kohat Region, Kohat.....Respondents

**APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE ORDER OF D.P.O,
KOHAT WHEREIN THE APPELLANT WAS
REMOVED FROM SERVICE VIDE ORDER
DATED 30-08-2013 AND ORDER DATED
23.10.2013 WHEREBY THE APPEAL OF**


24/2/14


27/2/14
24-8-14

2

THE APPELLANT WAS DISMISSED BY
RESPONDENTS.

Respectfully Sheweth:

1. That the appellant was appointed as Constable on 01-08-2009 and was performing his duty to the best satisfaction of his superiors in Kohat after completion of his training.
2. That on 05-05-2013 at about 1:35 Hours, the appellant was performing his alert duty when a truck coming from Hangu was given indication to stop but the driver instead of making stop, speeded his vehicle.
3. That the appellant along with another constable namely Suleman followed the truck and at a distance stopped the vehicle.
4. That thereafter, the driver of the truck started arguments with the appellant and his accompanying Ex- Constable.
5. That the appellant informed the Police Post where the appellant received order to take the driver of the truck to the Police Station and accordingly he was taken to the Police Station where the matter was patched up by an agreement between the driver and the appellant.
(Copy of compromise report is attached as Annexure A).
6. That on the next day the driver of the truck contacted Respondent No.2 (Deputy Inspector General of Police) and filed complaint against

the appellant. Appellant along with Suleman ASI and Noor Muhammad Constable were put in the Quarter Guard.

7. That on 06-05-2013, the driver also lodged FIR against the appellant under section 506, 337 A(i), 337 F (i), 161, 337 A III, 34, 342, 427, PPC and 155 Police Order and in consequence the appellant was arrested and put behind the bar where he remained for 16 days.

(Copy of FIR is attached as Annexure B)

8. That the department then issued show cause notice to the appellant, conducted enquiry and finally removed him from service on 30-08-2013 without waiting for decision of the trial court in the aforesaid mentioned FIR. (Copy of show cause notice and impugned order dated 30.08.2013 is Annexure C).

9. That the appellant filed departmental appeal against above mentioned order on 18-09-2013 which was dismissed by the competent authority on 23.10.2013. (Copy of Departmental appeal and order dated 23.10.2013 are attached as Annexure D&E).

10. That the appellant again filed departmental appeal/ mercy petition where the competent authority assured the appellant by giving him false consolation that he will be re-instated on filing second appeal/ mercy petition but once again the appeal/mercy petition of the appellant was dismissed by respondent No.1 on 23.01.2014. (Copy of mercy petition and order dated 23.01.2014 are attached as Annexure F&G).

11. That feeling aggrieved from the above mentioned illegal orders the appeal is filed inter-alia on the following grounds:-

GROUND:

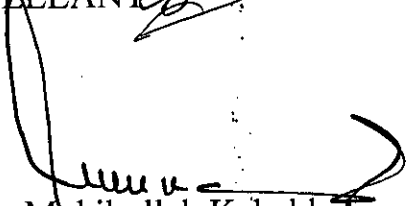
1. That the impugned orders are illegal, without jurisdiction and without lawful authority.
2. That the impugned orders have been passed against the principle of natural justice as he has been removed from service without giving him an opportunity of hearing.
3. That the occurrence took place in the very sensitive days of election when the appellant alongwith his accompanying constable were intimated to remain alert as a truck full of explosive may be used for the purpose of terrorism, hence the appellant was performing his punctual and honest duty but he has been penalized for his honest and punctual job.
4. That the appellant has been penalized by Respondent No.2 for ulterior motives with the malafide as respondent No.2 has given undue favour to the truck driver being the same villagers.
5. That the appellant's trial is under process and he was removed from service without waiting for the decision of the trial court, it is a settled law by now that the accused is presumed to be innocent until proved guilty, hence, the impugned order passed on 30-08-2013 is illegal, without jurisdiction and without lawful authority.


6. That the appellant has not been treated in accordance with law.

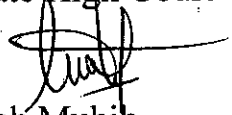
It is, therefore, respectfully prayed, that on acceptance of this Service Appeal, the impugned orders dated 30.08.2013, 23.10.2013 of the appellate authority and order dated 23.01.2014 over mercy petition may be declared as illegal, without jurisdiction and without lawful authority and the appellant may be re-instated with all back benefits.

APPELLANT 

THROUGH


Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan


Muhammad Farooq Afridi
Advocate High Court


Saifullah Muhib
Advocate, Peshawar

(6)

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2014

Saqib Raza

..... Appellant

VERSUS

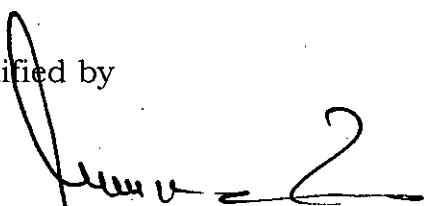
Inspector General Police, Khyber Pakhtunkhwa etc

..... Respondents

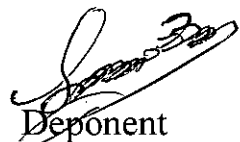
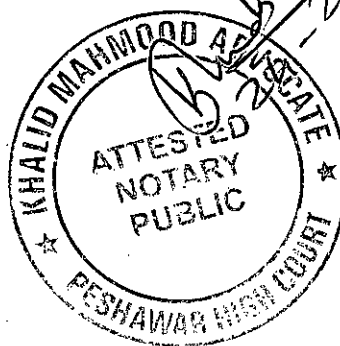
AFFIDAVIT

I, Saqib Raza S/O Nazr din R/O Garhi Risalder Doda Road, Kohat, do hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by



Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan



Deponent

(7)

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2014

Saqib Raza

..... Appellant

VERSUS

Inspector General Police, Khyber Pakhtunkhwa etc

..... Respondents

APPLICATION FOR INTERIM RELIEF

1. That the instant application for inter relief is being filed alongwith the main appeal in which no date of hearing has yet been fixed.
2. That the integral part of the appeal may kindly be read as part of this application.
3. That the appelland has got a good prima facie case and is hopeful of its success.
4. That the balance of convenience lies in favour of the appelland and if he is not granted the interim relief he will suffer an irreparable loss.

It is, therefore, respectfully prayed that on acceptance of this application the impugned orders dated 30-08-2013 and 23.10.2013 may be suspended till the final decision of this service appeal.

Through

Applicant

Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2014

Saqib Raza

..... Appellanti

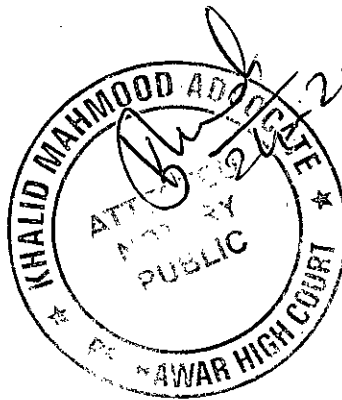
VERSUS

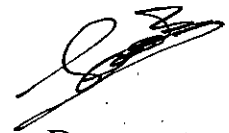
Inspector General Police, Khyber Pakhtunkhwa etc

..... Respondents

AFFIDAVIT

I, Saqib Raza S/O Nazr din R/O Garhi Risalder Doda Road, Kohat, do hereby solemnly affirm and declare on oath that the contents of the accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court




Deponent

(9)

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2014

Saqib Raza

..... Appellant

VERSUS

Inspector General Police, Khyber Pakhtunkhwa etc

..... Respondents

APPLICATION FOR CONDONATION OF DELAY


Respectfully Sheweth

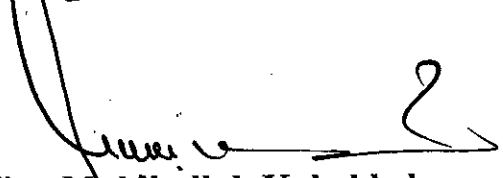
1. That the instant application is being filed alongwith the main appeal in which no date of hearing has yet been fixed.
2. That the appellant has got a very good prima facie case as he was appointed a constable after fulfilling all the legal and codal formalities.
3. That the appellant was removed from service on very flimsy grounds as well as his appeal was also dismissed by the appellate authority without application of mind.
4. That the appellant was given false consolation of reinstatement by the respondents on filing second

appeal/ mercy petition but step back from their wordings and left the appellant helpless.

- 5. That the law favours adjudication of cases on merits and technicality should not be a hindrance in the way of substantial justice.
- 6. That it shall be in the interest of justice to condone the delay and decide the matter on merits.
- 7. It is, therefore, most humbly prayed that on acceptance of this application the delay if any, may kindly be condoned in the interest of justice.

Through

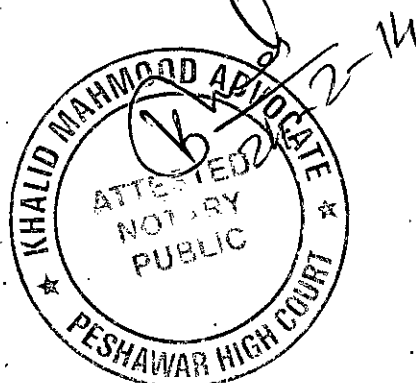
Applicant 




Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan

AFFIDAVIT

I, Saqib Raza S/O Nazr Din R/O Garhi Risalder Doda Road, Kohat, do hereby solemnly affirm and declare on oath that the contents of the accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.




Deponent

11 عنوان اولیٰ بر گھڑی پڑھانا اور معاف پائی

Ammt A

گل زمان ولد البرهان سکند شریف قلع لکی مروت

بی بی لولہ ولد علی خان سکند شریف قلع لکی مروت

آڈو لوز آدی اس بات پر گواہ ہے کہ ہم سے موجودہ حالت کے

دیس سے لڑائی سے بہت بڑی غلطی ہوئی ہے آئندہ

کندے محتاط رہنے میں اس دفعہ صفائی دی جاوے

آئندہ کندے ایسی غلطی نہیں کریں گے اور نہ لڑیں گے

گھڑی پڑھانا اور معاف پائی اس قسم کا دفعہ صاف کرنا

Ammt A

گل زمان ولد البرهان سکند شریف قلع لکی مروت

1-8583596-11201-1

0345-9854751

Ammt A

0344-5174350

بی بی لولہ ولد علی خان سکند شریف قلع لکی مروت

گواہ

الوزیر امین سکند شریف قلع لکی مروت

Ammt A

Ammt A

(14)
Amir C

FINAL SHOW CAUSE NOTICE

1. I, **Muhammad Saleem, District Police Officer, Kohat** as competent authority under the Police Rule 1975 serve you **Constable Saqib Raza No. 1031**, as follow:-

The consequent upon the completion of enquiries conducted against you by the Enquiry Officer, **Mr. Ihsan Ullah Khan DSP Lachi, Kohat**.

2. On going through the findings and recommendations of the Enquiry Officer, the materials on the record and other connected papers, I am satisfied that the charge against you is proved and you have committed the following acts/omission specified in Police Rule 1975.

"Involved/arrested in case FIR No. 177 dated 06.05.2013 u/s 506/337A(I)/337-F(I)/342/427PPC/155 Police Order, PS Lachi".

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule 1975.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within seven (7) days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. Copy of finding of the enquiry officer is enclosed.

No. 10045 /PA
Dated 23-8-2013


**DISTRICT POLICE OFFICER,
KOHAT**



(18)

Amir SD

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE, KOHAT
REGION KOHAT

Subject: APPEAL AGAINST THE ORDER OF DPO KOHAT VIDE OB NO. 752 DATED 30-08-2013 WHEREBY THE APPELLANT EX-CONSTABLE SAQIB RAZA NO 1031 OF DISTRICT POLICE KOHAT WAS REMOVED FROM SERVICE WITH IMMEDIATE EFFECT.

Respectfully Sheweth:

The appellatant with great veneration submits the following for your kind and sympathetic consideration.

FACT:

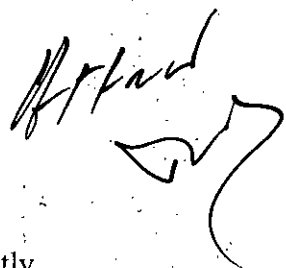
Briefly stated the facts are that on 06-05-2013 I along-with constable Suleman under the command of H.C Muhammad Shoaib were on duty at Police Post of P.P Sumari Bala. At about 01:35 hours a truck coming from Hangu side came there. The same was signaled to stop but the driver accelerated the speed completely ignoring the signal to stop. Since there were orders from the senior officers to all concerned that suspected vehicles be thoroughly checked to prevent any untoward incident, therefore as order by our commander namely Hav. Muhammad Shoaib, I and ex-constable Suleman chased the truck and stopped it after covering distance of 2/3 KM. We asked the driver to take back the truck to the Police Post for proper search. The driver and his two companions made an assault us to snatch the Govt. Rifles. They grappled with us and during grappling had fallen on the ground and sustained minor injuries. A case vide FIR No. 177 dated 06-05-2013 U/S 506/337 (A) (i)/337-F(1) 342/427 PPC /155 Police order P.S Lachi was registered against me, ex-constable Suleman and ASI Noor Muhammad.

GROUND:


- a. That the actual facts have been completely twisted by the complainant Gul Zaman while lodging the report against me and my colleague.

- b. That the occurrence allegedly had taken place on 06-05-2013 at 13:35 horse as per contents of FIR but the report was lodged on 07-05-2013 at 10:45 AM whereas the distance between the spot and the P.S Lachi is few Kilometers. The delay in lodging the FIR would suggest that the same was lodged after due consultation and deliberation which makes its authenticity highly doubtful.
- c. That a false case was registered against the appellant and his colleagues by suppressing the actual facts.
- d. That the case in question is yet to be decided by the court and till now the appellant is presumed to be innocent.
- e. That it was mandatory for the competent authority to have provided copy of the report of the enquiry officer to the appellant along-with the final show cause notice to the appellant. However no copy of the report of enquiry officer was provided by DPO Kohat to the appellant. Thus it could be said that the punishment awarded by DPO Kohat was not in accordance with law, which requires to be set aside so as to meet the ends of justice.

In light of the above submissions, it is requested that by accepting the instant appeal, the impugned order of DPO Kohat may kindly be set-aside and the appellant re-instated in service w.e.f. 30-08-2013 with all back benefits. It is also requested that I may be heard in person please.



Yours Obediently


Ex-Constable Saqib Raza
No. 1030
S/o Nazar Din
R/o Garhi Risaldar Dhoda Road,
P.S Cantt, Kohat

Dated: 18-09-2013

16

CHARGE SHEET.

1. I DILAWAR KHAN BANGASH, DISTRICT POLICE OFFICER, KOHAT as competent authority, hereby charge you Constable Saqib Raza No. 1031 committed the following irregularities:-

Involved/arrested in case FIR No. 177 dated 06.05.2013 u/s 506/337A (I)/337-F(I)/342/427PPC/155 Police Order, PS Lachi.

2. By reasons of the above, you appear to guilty of misconduct under Police Rule-1975 and have rendered yourself liable to all or any of the penalties.

3. You are therefore, required to submit your written defence within 07days of 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 be taken against you.

4. A statement of allegation is enclosed.

DISTRICT POLICE OFFICER,
KOHAT

(17) *[Handwritten signature]*

ORDER

This order is passed on the departmental enquiry against stable *Saqib Raza* No. 1031 of this district Police under Police disciplinary 1975.

Brief facts of the departmental enquiry are that ~~the~~ above named *official* while posted at PP Sumari Payan PS *Lachi*. He has involved/~~arrested~~ in a criminal case vide FIR No.177 dated 06.05.2013 u/s 306/337A (1)/337F(1)/342/427PPC/155 Police Order, PS Lachi.

He was served with charge sheet/summary of allegations and Mr. Hisan Ullah Khan DSP Lachi, Kohat was appointed as Enquiry Officer to proceed against him departmentally. The enquiry officer has submitted his findings and found him guilty of the charges leveled against him.

He was served with Final Show Cause Notice, called in OR on 29.08.2013 and heard in person. His reply was perused and found unsatisfactory. He is therefore removed from service with immediate effect.

OB No. 752
Date 30-08-2013

DISTRICT POLICE OFFICER,
KOHAT

[Handwritten signature]
Approved
[Handwritten initials]

[Faint handwritten notes]

DISCIPLINARY ACTION

I, **DILAWAR KHAN BANGASH, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that **Constable Saqib Raza No. 1031** has rendered himself liable to be proceeded against as he committed the following acts/omissions under Police Rule 1975:-

STATEMENT OF ALLEGATIONS

Involved/arrested in case FIR No. 177 dated 06.05.2013 u/s 506/337A (I)/337-F(I)/342/427PPC/155 Police Order, PS Lachi.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations, **Mr. Ihsan Ullah Khan, DSP Lachi, Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

**DISTRICT POLICE OFFICER,
KOHAT**

No. 6244-45/PA, dated 15-5-/2013.

Copy of above is forwarded to:-

1. **Mr. Ihsan Ullah Khan, DSP Lachi, Kohat**:- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. **Constable Saqib Raza No. 1031**:- The concerned official/ officer's with the directions to appear before the Enquiry officer, on the date, time and place fixed by the enquiry officer, for the purpose of enquiry proceedings.

20
Annexure

ORDER.

This order is passed on appeal preferred by Ex-Constable Saqib Raza No. 1031 of Kohat district Police against the impugned punishment order passed by the DPO Kohat vide O.B No. 752, dated 30.08.2013, wherein the appellant was removed from service.

Facts of the case are that the appellant while posted at Police Post Sumari Payan PS Lachi alongwith his colleagues (Ex-Constable Suleman) unduly harassed a truck driver and his companion, tortured and illegally confined. Consequently, on the complaint of victims, proper case vide FIR No. 177, dated 06.05.2013 u/s 506,337-A(1),337-F(1);342,427 PPC, 155 Police Order PS Lachi was registered against the appellant and two others, in addition departmental proceeding initiated against him and his colleague.

On completion of all codal formalities, the appellant was removed from service by the competent authority (DPO Kohat) vide his order mentioned above.

Feeling aggrieved from the order, the appellant preferred the instant appeal, requesting therein for reinstatement in service.

The appellant was heard in person in Orderly Room held on 23.10.2013. He was questioned in detail, could not satisfy the undersigned.

Perusal of record transpired that the appellant is involved in such a highhandedness, abuse of uniform that it would be highly unjust to meddle with punishment given by DPO (competent authority), hence the appeal is hereby rejected.

**Announced
23.10.2013**

(DR. ISHTIAQ AHMAD MARWAT)
Dy: Inspector General of Police
Kohat Region, Kohat.

No 8428-19 /EC, dated Kohat the 23/10/2013.

Copy to the District Police Officer, Kohat for information w/r to his office Memo: No. 8867/LB, dated 07.10.2013.

[Signature]
Appellant

(DR. ISHTIAQ AHMAD MARWAT)
Dy: Inspector General of Police
Kohat Region, Kohat.

[Handwritten signature]

[Handwritten mark]

To

The Provincial Police Officer,
Khyber Pukhtunkhwa Peshawar.

(21)

Annex B

Subject:- Petition

With high profound, it is submitted that :-

1. I have been removed from service by the D.P.O Kohat vide OB No: 752 Dated: 30-08-2013.
2. Being aggrieved, I made an appeal to R.P.O Kohat, Where it has been rejected vide No: 8418-19/EC Dated: 23-10-2013.
3. Copy of appeal already submitted to the D.I.G Kohat Region is submitted herewith as ready ref: to the case.
4. No proper cross questions were made in the process of Enquiry.
5. It was not heard day to day as the rules.
6. I had performed duty and a speedy Truck had been produced to Incharge ASI for registration of case where he didn't register case and thus I suffered.
7. The driver was approachable belongs to high handness, he also saved himself from the registration of case and besides this gave us illegal dose.
8. Injustice has been made with petitioner throughout from the beginning of the illegal process, Which can be examined by legal officer.

(continue on page2.....)

Appar
[Signature]

(2)

22

Feeling great aggrieved, I am knowcking the office of the Chief of Police to may kindly Examine my case and may kindly order my re-instatment in service from the date of my removal please



Yours Obediently

Dated: 06-12-2013

Ex-Constable
Saqib Raza No: 1031
Garhi Risaldar, Dhoda
Rd, Kohat.
Cell No:0332-9592193



23
9/10
29/1/14

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

To: The Deputy Inspector General of Police,
Kohat Region.

No. 2297 /E-II, dated Peshawar the 23 /10/ /2014

Subject :- PETITION

Memo:

Please refer to your letter No. 578/EC, dated: 10.01.2014.

The mercy petition of Ex-Constable Saqib Raza No. 1031 of District Police Kohat for re-instatement in service has examined & filed by this office as there is no provision in the rules for 2nd appeal /mercy petition.

The petitioner may be informed accordingly.

EC
No: 1250 EC
DT: 28/01/14

(JAVED IQBAL)

Registrar

For provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar

D/O Kohat
for information &
in action pl

Dist: Police Officer
731
29/1/14
Kohat

DAS / SRC
To inform the above
named Ex-Constable
accordingly.

Dist: POLICE
Kohat
28/1/014

DPO KOHAT

Handwritten signature and arrow pointing to the right.

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

Service appeal No. 255/2014

Saqib Raza s/o Nazar Din

r/o Garhi Risaldar Doda Road Kohat Appellant.

VERSUS

Provincial Police Officer,

Khyber Pakhtunkhwa, Peshawar & others Respondents.

Respectively Sheweth:-

Parawise comments by respondent No. 1, 2 & 3 are submitted as under:-

Preliminary Objections:-

1. That the instant appeal is not maintainable in the present form.
2. That the appellant has concealed material facts from this Hon Court.
3. That the appeal is bad due to misjoinder/non joinder of necessary parties.
4. That the appellant has not come to this Hon Court with clean hands.
5. That the appeal is badly time barred.

Facts.

1. Correct to the extent that the appellant was appointed as constable on 01.08.2009. The remaining para is not correct. Had the appellant performed his duty to the satisfaction of his senior, he would not have been removed from service.
2. Correct to the extent that on 06.05.2013 at the relevant time the appellant alongwith other officials was performing duty at "Sumari Bala" check post.
3. Incorrect. The actual facts/story is that appellant alongwith his co-accused /ex constable Suleman while posted at Police Post Sumari Bala PS Lachi, made firing upon a truck by chasing it on his own motor cycle which was coming from Hangu side vide Sumari after taking straw (Busa) to Hangu from Punjab. After covering a little distance, he (Appellant and his co accused) compelled the driver to stop the truck. When driver stopped his truck, they both started beating the driver/complainant Gul Zaman and his companion Hamayum and thereby caused injuries to them which resulted into registration of case FIR No. 177 dt: 06.05.2013 u/s 506/337 A (1)/337 F (1)/342/427 PPC/155 Police Order PS Lachi against the present appellant and his co accused/ex-constable Suliman, copy of FIR is annexed as annexure A.
4. Incorrect. In the light of inquiry proceedings, the same is denied being false and concocted.
5. Incorrect. Appellant was not given any such direction by his senior. Appellant alongwith his colleague namely Suliman, who has also been removed from service, forcibly took the driver of truck Gul zaman alongwith Hamayun and

caused them injuries. The alleged agreement was taken by force from truck,s driver Gulzar and Hamayun.


6. Incorrect. There is nothing on record that driver of truck contacted respondent No. 2. Truck,s driver Gul Zaman being injured himself lodged report against the appellant and his colleague Suliman ex constable vide FIR No. 177 dt: 06.05.2013 u/s 506/337 A (1)/337 F (1)/342/427 PPC/155 Police Order PS Lachi.
7. Correct to the extent that on the report of driver Gul Zaman, on receipt of medical report, a proper case was registered against appellant and ex constable Suliman.
8. That the appellant was correctly issued charge sheet with summary of allegation and proper enquiry was conducted against him through an officer of the rank of DSP. In the departmental inquiry charges were established against him and thus he was removed from service by respondent No. 3. There is difference between criminal proceeding and departmental proceedings. Each is to be decided on its own merits, copies of charge sheet with summary of allegation, reply to charge sheet, finding of enquiry officer, final show cause notice and reply to show cause notice are annexed herewith as annexure B, C, D, E and F respectively.
9. Departmental appeal of appellant was correctly dismissed by respondent No. 2 in view of his acts.
10. Incorrect. There is no provision of 2nd appeal in the Rules. Hence his appeal was correctly rejected by respondent No 1. Mercy petition can be filed only to respondent No. 1 within one month after issuance of order of departmental appeal under rule 16-32 of Police Rules 1934 if any fresh evidence is available. The remaining para is not correct as there is nothing on record to show that any assurance was given by respondent No. 1 to appellant to file 2nd petition which will be accepted.
11. That all the orders were passed by Respondents, in accordance with law and Rules.

Grounds:-

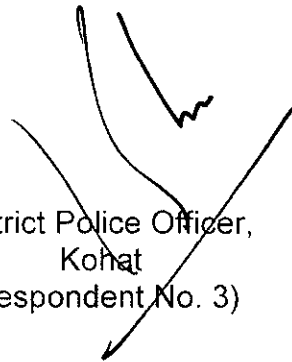
- a. Incorrect. All the orders passed by respondent No. 1, 2 and 3 are lawful being passed in accordance with Rules and having jurisdiction to pass the same.
- b. Incorrect. Order of removal in respect of appellant was passed after fulfillment of all codel formalities.
- c. Incorrect. The actual facts have been explained in para No.3 above.
- d. Incorrect. Appellant has not been penalized by respondent No. 2 rather his departmental appeal was rejected by respondent No. 2 in view of his illegal / unjustified acts which were proved against him during departmental inquiry.

- e. Incorrect. Appellant has been awarded punishment of Removal From Service on the charges of departmental misconduct which was established against him while criminal charges are different from it which are to be decided by trial court on its own merits.
- f. Incorrect. Appellant has been treated in accordance with law. Full opportunity of defence was provided to the appellant during course of inquiry.

In view of the above explanation, it is humbly prayed that appeal of appellant may be dismissed.


Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar
(Respondent No. 1)


Deputy Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


District Police Officer,
Kohat
(Respondent No. 3)

Handwritten text in Urdu script, likely a list or record of items, possibly related to a library or collection. The text is dense and occupies the upper two-thirds of the page.

Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text

Handwritten Urdu text, possibly a signature or a title, located at the bottom center of the page.

Handwritten Urdu text on the bottom left side of the page.

Handwritten Urdu text on the bottom right side of the page.

Handwritten text at the top of the page, possibly a header or title, written in Urdu script.

Handwritten text in the middle of the page, possibly a signature or a specific note.

Main body of handwritten text in Urdu script, consisting of multiple lines of dense writing. Includes some numbers like '244' and '5000'.

CHARGE SHEET.

1. I **DILAWAR KHAN BANGASH, DISTRICT POLICE OFFICER, KOHAT** as competent authority, hereby charge you **Constable Saqib Raza No. 1031** committed the following irregularities:-

Involved/arrested in case FIR No. 177 dated 06.05.2013 u/s 506/337A (I)/337-F(I)/342/427PPC/155 Police Order, PS Lachi.

2. By reasons of the above, you appear to guilty of misconduct under Police Rule-1975 and have rendered yourself liable to all or any of the penalties.

3. You are therefore, required to submit your written defence within 07days of 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 be taken against you.

4. A statement of allegation is enclosed.


**DISTRICT POLICE OFFICER,
KOHAT**

DISCIPLINARY ACTION

I, **DILAWAR KHAN BANGASH, DISTRICT POLICE**

OFFICER, KOHAT, as competent authority, am of the opinion that **Constable Saqib Raza No. 1031** has rendered himself liable to be proceeded against as he committed the following acts/omissions under Police Rule 1975:-

STATEMENT OF ALLEGATIONS

Involved/arrested in case FIR No. 177 dated 06.05.2013 u/s 506/337A (I)/337-F(I)/342/427PPC/155 Police Order, PS Lachi.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations, **Mr. Ihsan Ullah Khan, DSP Lachi, Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.


**DISTRICT POLICE OFFICER,
KOHAT**

No. 6244-45/PA, dated 15-5-2013.

Copy of above is forwarded to:-

1. **Mr. Ihsan Ullah Khan, DSP Lachi, Kohat**:- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. **Constable Saqib Raza No. 1031**:- The concerned official/ officer's with the directions to appear before the Enquiry officer, on the date, time and place fixed by the enquiry officer, for the purpose of enquiry proceedings.

نمبر ۱: مذید یہ کہ مثل مقدمہ پر پرائیویٹ گواہان کے بیانات بھی ہے جس میں نور محمد ASI کو بالکل بے گناہ قرار دیا گیا ہے۔
نمبر ۱۱: ٹرک ڈرائیور دیگر دو اشخاص جو اپنی غلطی کو تسلیم کرتے ہوئے تحریراً بھی دیا ہے۔ (جولف مثل مقدمہ ہے)
نمبر ۱۲: یہ کہ میری تقریباً 4 / 5 سال سروس ہوئی ہے کسی بھی قسم کی جارج شیٹ پہلی نہیں ملی اور نہ ہی کسی قسم کی خلاف ورزی کی۔
میں نے ہمیشہ افسران بالا کی احکام کی تعمیل کی ہے اور کرتا رہوں گا میں بے گناہ ہوں مجھے اس مقدمہ میں جھوٹا اور حقائق کے برعکس
بدینتی پر ملوث کیا گیا ہے۔

لہذا استدعا ہے کہ چارج شیٹ کو داخل دفتر کیا جاوے۔

آپ کا تابعدار

کانشیکل ثاقب رضا 1031 پولیس لائن کوہاٹ

FINAL SHOW CAUSE NOTICE

1. I, Muhammad Saleem, District Police Officer, Kohat as competent authority under the Police Rule 1975 serve you Constable Saqib Raza No. 1031, as follow:-

The consequent upon the completion of enquiries conducted against you by the Enquiry Officer, Mr. Ihsan Ullah Khan DSP Lachi, Kohat.

2. On going through the findings and recommendations of the Enquiry Officer, the materials on the record and other connected papers, I am satisfied that the charge against you is proved and you have committed the following acts/omission specified in Police Rule 1975.

"Involved/arrested in case FIR No. 177 dated 06.05.2013 u/s 506/337A(I)/337-F(I)/342/427PPC/155 Police Order, PS Lachi".

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule 1975.


4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within seven (7) days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. Copy of finding of the enquiry officer is enclosed.

No. 10045/PA
Dated 23-8-2013


DISTRICT POLICE OFFICER,
KOHAT


23/8/13

ڈیپارٹمنٹل انووٹری بر خلاف تائب رضا 1031
۴۴

مخبر جو گل زمان کے رپورٹ پر مقدمہ نمبر 177 اور 178

جس کے نمبر (1) 337FC (N) 337A-506 تائب رضی

کے نمبر 155 اور 427FC 342

بر خلاف نور محمد خان Pasi کا ٹیسٹ تائب رضا

اور سلیمان درج رجسٹرڈ کروڑوں کے ایڈیٹران پولیس

مقدمہ میں گرفتار ہو چکے ہیں

پراسی ایڈیٹران پولیس کے حکیمانہ کاروائی بھی شروع ہو کر

خواب ہو گیا ہے۔ جو اب بھی انووٹری نمبر 45 اور 6244

من لکھ کر انووٹری انیسر تحریر کیا۔ 15.5.13

انووٹری کیلئے۔ خبر جو ذوق کے بیانات اور دیگر

گورنمن کے بیانات کیلئے۔ کما ٹیسٹ تائب رضا کا

بیان بھی لیا گیا۔ حکم درج شدہ مقدمہ نمبر 45 اور

کے تفتیشی انسپر کا بیان بھی لیا گیا۔ درج شدہ مقدمہ

کے تفتیشی انسپر کا بیان بھی مدعی ذوق کے ٹیسٹ میں ہے۔

تفتیشی انسپر نے بدور حال تفتیشی مقدمہ نمبر سے سم گولی

بھی برآمد کی ہے۔ اور واضح کیا ہے کہ پروڈکٹ ٹیسٹ

جو نمبر مدعی کے پیچھے نمبر سائیکل پر لگے تھے۔ وہ تھر سائیکل

تائب رضا کا ٹیسٹ مانا۔ جس نے نئے حد سے جاؤں

کے نمبر پر فائر بھی کیا ہے۔ کما ٹیسٹ تائب رضا نے

اپنے بیان میں واضح کیا ہے کہ جب وہ نمبر کے کووالی

جوئی لارے تھے۔ تو نمبر نمبر وقت کھینچے سے نمبر

نمائندہ نمبر و نقصان بینا اور مدعی گل زمان اور ہمراہی اش

نمائندہ زخمی ہوئے۔ حکم مدعی ذوق کو زخمی کرنے سے انکار کیا ہے

لا تعلق گواہ سید الزور ان من سکنہ سہاری بیابان نے جرم بجانب

گل زمان ڈرا ٹیور میں تسلیم کیا ہے کہ پروڈکٹ ٹیسٹ

تائب رضا اور سلیمان نے ڈرا ٹیوروں پر گزارا کیا ہے۔

گورنمن اور تفتیشی انسپر کے بیانات لف انووٹری پر اور

قابل ملاحظہ ہیں۔

انووٹری پر کر پائی گئی۔ کما ٹیسٹ تائب رضا نے سلیمان

کا ٹیسٹ کے نمبر کے پیچھے سائیکل پر نمبر کے عقب جاؤں اس

پر فائر لگا گیا ہے۔ اور مدعی گل زمان اور ہمراہی اش

کو دونوں ٹیسٹوں نے زد و کوب کی۔ دیکھا گیا کہ مدعی نے

اور نور محمد خان Pasi کے بیجا جہات اور دیکھوں سے مدعی ذوق

کو زبردستی نام پر مجبور کیا۔ اگر آئے ساتھ زبردستی آئی جاتی

اور مدعی ذوق صدق دل سے راضی نام کچھ کرتا۔ تو قطعاً وہ

پولیس ایڈیٹران کے دفتر پر لکھ کرتے۔

انووٹری کے ٹیسٹ تائب رضا مقصور اور پابجیت ہے۔ انووٹری پر لکھ کر لکھ کر

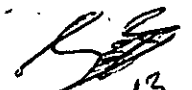
نوشہ خبر جوئی کے نمبر انیسر ملاحظہ

صاحب عالی

کھوارہ ماہی مشورہ کاروں کی غیرت/ 10045

صفحہ 23 $\frac{8}{13}$ معروض صورت یوں کہ
منہ سطر کے جوہر میں لہجہ جاری ہے
میں دیکھو وہی صورت میں ہے

مستقل و تاج رضا غیر 1081 سال دوسری کونیا


22-8-13

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Saqib Raza.....(Appellant)

VERSUS

Inspector General of Police K.P.K, etc.....(Respondents)

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

1) Incorrect . The appellant has always obeyed the lawful orders of his seniors and performed his duties according to law.

2. Correct, to the extent that FIR no.177 dated : 06.05.2013 was lodged against the petitioner and his other colleagues and were charged v/s 506,337-F(1),342/427 PPC/155 police order at PS Lachi but the petitioner has been declared innocent and honourably acquitted of all the charges against him. (Copy of order dated 02/07/2014 is attached).

3 & 4. Needs no reply.

5 ~~7~~ Detailed reply has come in preceding para. The appellant was charged in the FIR due to ulterior motives and by the grace of Allah, he has got acquitted from all the charges.

8th and 9th . The law has not been followed in the case of the appellant and he was removed from service without giving him an opportunity. The only reason for his dismissal from service is tht an FIR was lodged against him. He

was dismissed before trial of the court had finally decided the matter and proved him guilty.

10th and 11th, The appellant had already informed the competent authority regarding the biasness involved in his removal and for that very reason he was asked to file 2nd appeal/mercy petition. However, the same got dismissed on baseless grounds.

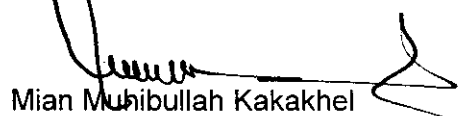
(a) to (f) The appellant was removed due to ulterior motives and personal biasness of respondents. Respondents had nothing other than an FIR against the appellant. Even in that case he got honourably acquitted and was proved innocent.

It is therefore, respectfully prayed that the appellant may be reinstated with all back benefits.

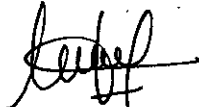


Appellant

Through



Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan

9

Saifullah Muhib
Advocate, Peshawar

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Saqib Raza.....(Appellant)

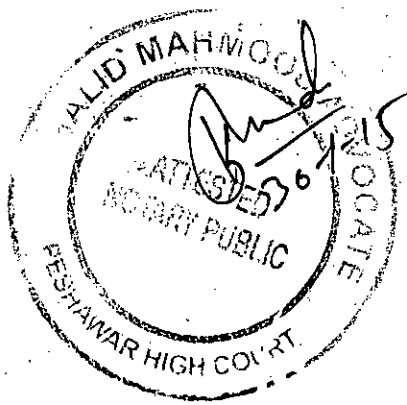
VERSUS

Inspector General of Police K.P.K, etc.....(Respondents)

AFFIDAVIT

I, **Saqib Raza S/o Nazar Din R/o Garhi Risaldar, Doda Road, Kohat**, do hereby solemnly affirm and declare, that the contents of the **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT



Non Report is
cleaner

کتاب II جوڈیشل مگسٹریٹ کوہاٹ
2/7/14
3/7/13
165
4

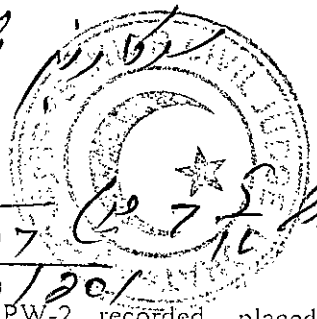
Order
01.07.2014

3/11/14

Present.

APP for the state.

337-506



Accused on bail.

337-A-427

177

Statement of PW-1 and PW-2 recorded, placed on file.

Arguments heard. Put up for order on 02.7.14.

Asim Riaz
Judicial Magistrate-II, Kohat

ORDER
02.07.2014

Present.

Complainant with learned counsel and learned APP.

Accused on bail with learned counsel

1. Statement of PW-1 (complainant) and Pw-2 (injured) recorded.
2. Arguments over the petitions submitted for acquittal of the accused under section 249-A of code of Criminal Procedure, 1898 were heard on the petition and record perused with valuable legal assistance of learned counsel representing the parties.
3. After taking cognizance of the case, the accused were put to notice who appeared and the regular trial was initiated, the charge was framed and the case was fixed for prosecution evidence.
4. The accused were charged for criminal intimidation, hurt (for *Shaja-e-Khafifa, Shaja-e-Hashimia, Ghayr-Jaifah*) mischief, wrongful restrained, illegal gratification, for causing disappearance of evidence of offence or giving false information (under Pakistan Penal Code) and for misconduct (under the Police Order).

2.7.2014

ATTESTED TO BE TRUE COPY

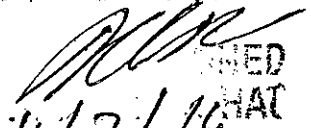
COPYING... KUHAT

4/7/14

- 5. The story of prosecution as narrated in the First Information Report is that the complainant along with injured, the driver and the cleaner were signaled by two police personals and they demanded Rs.50 bribe and on refusal they started firing and they were beaten by the accused with the butts of Kalashnikov and also damaged the transformer, hit by the truck.
- 6. No doubt, the accused, constable Suleman and constable Saqib Raza were assigned with the specific role of abuse of authority and subjected the complainant and injured to criminal assault, hurt, illegal gratification as per the first information report but it is worth highlighting that the complainant (Driver) and injured (cleaner) recorded their statement before the court and stated that they are not interested to prosecute against the said accused being innocent. The same is reiterated by the injured Pw- Humayun that he doesn't want to prosecute them, being innocent.
- 7. There was no clog of time on exercising the inherent powers of the Court provided under section 249-A Cr.P.C nor it is necessary to record the evidence of the prosecution and it can be invoked when the charge is groundless and there is no probability of accused being convicted of any offence.
- 8. Indeed, the main section of law of causing hurt and criminal intimidation are compoundable in nature in accordance with section 337 and there is no legal impediment upon their will excluding the act of misconduct and abuse of authority, which is too the domain of departmental proceedings and it is stated by the counsel representing the parties that the main accused constable Suleman and constable Saqib were dismissed in departmental proceedings.

on
2.7.2014

ATTESTED TO BE TRUE COPY

COPING 4/2/14

 ATTESTED

6

9. The inherited powers of the Court provided in section 249-A of Cr.Pc can be invoked at any stage when the charge is groundless and there is no probability of conviction of accused and in the circumstances when the complainant and injured, the star witnesses stated that innocence of the accused and not interested in further prosecution of the case then it would serve no purpose to proceed with the case. It is held by their lordship in case title.

2009 Y L R 169

[Karachi]

Before Mrs. Qaiser Iqbal and Mehmood Alam Rizvi, JJ

GHULAM MUJTABA---Petitioner

Versus

THE STATE---Respondent

"Ss. 249-A, 265-K & 561-A---Acquitted of accused at any stage--principle---Where the charge is groundless and there is no possibility of conviction of accused, then the evil should be nipped in the bud even prior to the framing of the charge and proceedings against him should be dropped".

10. It is further held by their lordship in case title.

THE STATE through Advocate-General, Sindh High Court of Karachi---Appellant

Versus

Raja ABDUL REHMAN---Respondent
2005 S C M R 1544

[Supreme Court of Pakistan]

"Application under S.249-A, Cr.P.C. can be filed, taken up for hearing and decided at any time or stage of the proceedings--- Words "at any stage" denote that such application can be filed even before recording of prosecution evidence, during recording of

ATTESTED TO BE TRUE COPY

COPING

SIGNED

4/7/14

4/7/14

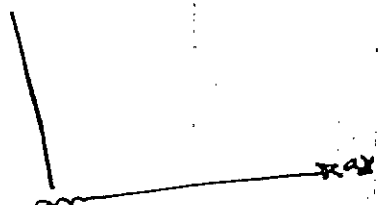
2.7.2014

is no bar

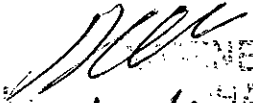
evidence or when such exercise is over---Although there is no bar for an accused person to file application under S.249-A, Cr.P.C. at any stage of the proceedings of the case, yet the facts and circumstances of the prosecution case will have to be kept in mind, and considered in deciding the viability or feasibility of filing an application at any particular stage---Special or peculiar facts and circumstances of a prosecution case may not warrant filing of an application at a stage when the entire prosecution evidence had been recorded and the case fixed for recording of statement of the accused under S.342, Cr.P.C."

11. In the facts and circumstances of the case, keeping in view the statement of the complainant and injured regarding the innocence of the accused and disinterestedness in further prosecution of the case as there is no probability of the conviction of the accused, eventually, by exercising jurisdiction under section 249-A, the accused are hereby acquitted. The sureties stand discharged from the liability of the bail bounds. File be consigned to record room after completion and compilation.

ANNOUNCED:
2nd July, 2014


ASIM RIAZ,
Judicial Magistrate-II, Kohat

ATTESTED TO BE TRUE COPY


COPING MAGISTRATE-II, KOHAT
4/7/14

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

Service Appeal No. _____/2014

Saqib Raza.....(Appellant)

VERSUS

Inspector General of Police K.P.K, etc.....(Respondents)

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

1) Incorrect . The appellant has always obeyed the lawful orders of his seniors and performed his duties according to law.

2. Correct, to the extent that FIR no.177 dated : 06.05.2013 was lodged against the petitioner and his other colleagues and were charged v/s 506,337-F(1),342/427 PPC/155 police order at PS Lachi but the petitioner has been declared innocent and honourably acquitted of all the charges against him. (Copy of order dated 02/07/2014 is attached).

3 & 4. Needs no reply.

5. Detailed reply has come in preceding para. The appellant was charged in the FIR due to ulterior motives and by the grace of Allah, he has got acquitted from all the charges.

8th and 9th . The law has not been followed in the case of the appellant and he was removed from service without giving him an opportunity. The only reason for his dismissal from service is tht an FIR was lodged against him. He

was dismissed before trial of the court had finally decided the matter and proved him guilty.

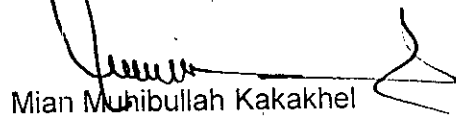
10th and 11th, The appellant had already informed the competent authority regarding the biasness involved in his removal and for that very reason he was asked to file 2nd appeal/mercy petition. However, the same got dismissed on baseless grounds.

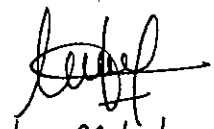
(a) to (f) The appellant was removed due to ulterior motives and personal biasness of respondents. Respondents had nothing other than an FIR against the appellant. Even in that case he got honourably acquitted and was proved innocent.

It is therefore, respectfully prayed that the appellant may be reinstated with all back benefits.


Appellant

Through


Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan

9

Saifullah Muhib
Advocate, Peshawar

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Saqib Raza.....(Appellant)

VERSUS

Inspector General of Police K.P.K, etc.....(Respondents)

AFFIDAVIT

I, **Saqib Raza** S/o Nazar Din R/o Garhi Risaldar, Doda Road, Kohat, do hereby solemnly affirm and declare, that the contents of the **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT



Report is
number

306 II قریب جوبہ دیوڑ
2/7/14 case 3 7/13 165 (4)

Order
01.07.2014

Q. N. 100

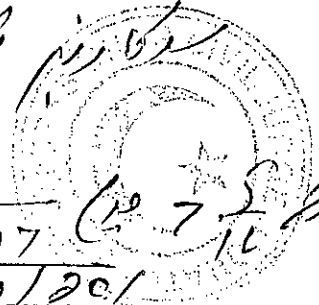
Present.

APP for the state.

337-506

Accused on bail.

337-A-427



Statement of PW-1 and PW-2 recorded, placed on file.

Arguments heard. Put up for order on

02.7.14.

Asim Riaz

Judicial Magistrate-II, Kohat

ORDER
02.07.2014

Present.

Complainant with learned counsel and learned APP.

Accused on bail with learned counsel

1. Statement of PW-1 (complainant) and Pw-2 (injured) recorded.
2. Arguments over the petitions submitted for acquittal of the accused under section 249-A, of code of Criminal Procedure, 1898 were heard on the petition and record perused with valuable legal assistance of learned counsel representing the parties.
3. After taking cognizance of the case, the accused were put to notice who appeared and the regular trial was initiated, the charge was framed and the case was fixed for prosecution evidence.
4. The accused were charged for criminal intimidation, hurt (for *Shaja-e-Khafifa, Shaja-e-Hashimia, Ghayr-Jaifah*) mischief, wrongful restrained, illegal gratification, for causing disappearance of evidence of offence or giving false information (under Pakistan Penal Code) and for misconduct (under the Police Order).

2.7.2014

ATTESTED TO BE TRUE COPY

COPING

417/16 Khat

5. The story of prosecution as narrated in the First Information Report is that the complainant along with injured, the driver and the cleaner were signaled by two police personals and they demanded Rs.50 bribe and on refusal they started firing and they were beaten by the accused with the butts of Kalashnikov and also damaged the transformer, hit by the truck.
6. No doubt, the accused, constable Suleman and constable Saqib Raza were assigned with the specific role of abuse of authority and subjected the complainant and injured to criminal assault, hurt, illegal gratification as per the first information report but it is worth highlighting that the complainant (Driver) and injured (cleaner) recorded their statement before the court and stated that they are not interested to prosecute against the said accused being innocent. The same is reiterated by the injured Pw- Humayun that he doesn't want to prosecute them, being innocent.
7. There was no clog of time on exercising the inherent powers of the Court provided under section 249-A Cr.P.C nor it is necessary to record the evidence of the prosecution and it can be invoked when the charge is groundless and there is no probability of accused being convicted of any offence.
8. Indeed, the main section of law of causing hurt and criminal intimidation are compoundable in nature in accordance with section 337 and there is no legal impediment upon their will excluding the act of misconduct and abuse of authority, which is too the domain of departmental proceedings and it is stated by the counsel representing the parties that the main accused constable Suleman and constable Saqib were dismissed in departmental proceedings.

2.7.2014

ATTESTED TO BE TRUE COPY

COPING 4/2/14

6

9. The inherited powers of the Court provided in section 249-A of Cr.Pc can be invoked at any stage when the charge is groundless and there is no probability of conviction of accused and in the circumstances when the complainant and injured, the star witnesses stated that innocence of the accused and not interested in further prosecution of the case then it would serve no purpose to proceed with the case. It is held by their lordship in case title.

2009 Y L R 169

[Karachi]

Before Mrs. Qaiser Iqbal and Mehmood Alam Rizvi, JJ

GHULAM MUJTABA---Petitioner

Versus

THE STATE---Respondent

"Ss. 249-A, 265-K & 561-A---Acquitted of accused at any stage-- principle---Where the charge is groundless and there is no possibility of conviction of accused, then the evil should be nipped in the bud even prior to the framing of the charge and proceedings against him should be dropped".

10. It is further held by their lordship in case title.

THE STATE through Advocate-General, Sindh High Court of Karachi---Appellant

Versus

Raja ABDUL REHMAN---Respondent
2005 S C M R 1544

[Supreme Court of Pakistan]

"Application under S.249-A, Cr.P.C. can be filed, taken up for hearing and decided at any time or stage of the proceedings--- Words "at any stage" denote that such application can be filed even before recording of prosecution evidence, during recording of

ATTESTED TO BE TRUE COPY

CORING

[Signature]
4/9/14

WITNESSED


BY

2.7.2014

evidence or when such exercise is over---Although there is no bar for an accused person to file application under S.249-A, Cr.P.C. at any stage of the proceedings of the case, yet the facts and circumstances of the prosecution case will have to be kept in mind and considered in deciding the viability or feasibility of filing an application at any particular stage---Special or peculiar facts and circumstances of a prosecution case may not warrant filing of an application at a stage when the entire prosecution evidence had been recorded and the case fixed for recording of statement of the accused under S.342, Cr.P.C."

11. In the facts and circumstances of the case, keeping in view the statement of the complainant and injured regarding the innocence of the accused and disinterestedness in further prosecution of the case as there is no probability of the conviction of the accused, eventually, by exercising jurisdiction under section 249-A, the accused are hereby acquitted. The sureties stand discharged from the liability of the bail bounds. File be consigned to record room after completion and compilation.

ANNOUNCED:
2nd July, 2014


ASIM RIAZ,
Judicial Magistrate-II, Kohat

ATTESTED TO BE TRUE COPY


COPING OFFICER, KUHAT

4/7/14

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Saqib Raza.....(Appellant)

VERSUS

Inspector General of Police K.P.K, etc.....(Respondents)

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

1) Incorrect . The appellant has always obeyed the lawful orders of his seniors and performed his duties according to law.

2. Correct, to the extent that FIR no.177 dated : 06.05.2013 was lodged against the petitioner and his other colleagues and were charged v/s 506,337-F(1),342/427 PPC/155 police order at PS Lachi but the petitioner has been declared innocent and honourably acquitted of all the charges against him. (Copy of order dated 02/07/2014 is attached).

3 & 4. Needs no reply.

5-7-Detailed reply has come in preceding para. The appellant was charged in the FIR due to ulterior motives and by the grace of Allah, he has got acquitted from all the charges.

8th and 9th . The law has not been followed in the case of the appellant and he was removed from service without giving him an opportunity. The only reason for his dismissal from service is tht an FIR was lodged against him. He

was dismissed before trial of the court had finally decided the matter and proved him guilty.

10th and 11th, The appellant had already informed the competent authority regarding the biasness involved in his removal and for that very reason he was asked to file 2nd appeal/mercy petition. However, the same got dismissed on baseless grounds.

(a) to (f) The appellant was removed due to ulterior motives and personal biasness of respondents. Respondents had nothing other than an FIR against the appellant. Even in that case he got honourably acquitted and was proved innocent.

It is therefore, respectfully prayed that the appellant may be reinstated with all back benefits.

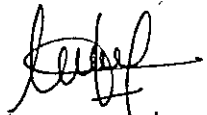


Appellant

Through

Mian Muhibullah Kakakhei
Senior Advocate
Supreme Court of Pakistan

9



Saifullah Muhib
Advocate, Peshawar

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Saqib Raza.....(Appellant)

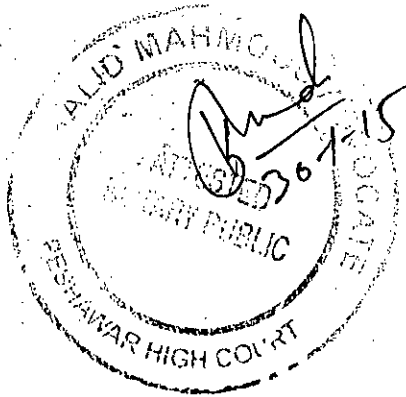
VERSUS

Inspector General of Police K.P.K, etc.....(Respondents)

AFFIDAVIT

I, **Saqib Raza** S/o Nazar Din R/o Garhi Risaldar, Doda Road, Kohat, do hereby solemnly affirm and declare, that the contents of the **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT



Handwritten notes at the top of the page, including the number '165' and a circled '4'.

Order

01.07.2014

Handwritten note: "3 N rec"

Present.

APP for the state.

337-506

Accused on bail.

337-A-427

Statement of PW-1 and PW-2 recorded, placed on file.

Arguments heard. Put up for order on

02.7.14.

Asim Riaz
Judicial Magistrate-II, Kohat

ORDER

02.07.2014

Present.

Complainant with learned counsel and learned APP.

Accused on bail with learned counsel

1. Statement of PW 1 (complainant) and Pw-2 (injured) recorded.
2. Arguments over the petitions submitted for acquittal of the accused under section 249-A of code of Criminal Procedure, 1898 were heard on the petition and record perused with valuable legal assistance of learned counsel representing the parties.
3. After taking cognizance of the case, the accused were put to notice who appeared and the regular trial was initiated, the charge was framed and the case was fixed for prosecution evidence.
4. The accused were charged for criminal intimidation, hurt (for *Shaja-Khafifa, Shaja-e-Hashimia, Ghayr-Jaifah*) mischief, wrongful restrained, illegal gratification, for causing disappearance of evidence of offence or giving false information (under Pakistan Penal Code) and for misconduct (under the Police Order).

Handwritten note: "2.7.2014"

ATTESTED TO BE TRUE COPY

COPYING...
4.17/14 NAT

5. The story of prosecution as narrated in the First Information Report is that the complainant along with injured, the driver and the cleaner were signaled by two police personals and they demanded Rs.50 bribe and on refusal they started firing and they were beaten by the accused with the butts of Kalashnikov and also damaged the transformer, hit by the truck.
6. No doubt, the accused, constable Suleman and constable Saqib Raza were assigned with the specific role of abuse of authority and subjected the complainant and injured to criminal assault, hurt, illegal gratification as per the first information report but it is worth highlighting that the complainant (Driver) and injured (cleaner) recorded their statement before the court and stated that they are not interested to prosecute against the said accused being innocent. The same is reiterated by the injured Pw- Humayun that he doesn't want to prosecute them, being innocent.
7. There was no clog of time on exercising the inherent powers of the Court provided under section 219-A Cr.P.C nor it is necessary to record the evidence of the prosecution and it can be invoked when the charge is groundless and there is no probability of accused being convicted of any offence.
8. Indeed, the main section of law of causing hurt and criminal intimidation are compoundable in nature in accordance with section 337 and there is no legal impediment upon their will excluding the act of misconduct and abuse of authority, which is too the domain of departmental proceedings and it is stated by the counsel representing the parties that the main accused constable Suleman and constable Saqib were dismissed in departmental proceedings.

2.7.2014

ATTESTED TO BE TRUE COPY

COPING [Signature] 4/7/14

6

9. The inherited powers of the Court provided in section 249-A of Cr.Pc can be invoked at any stage when the charge is groundless and there is no probability of conviction of accused and in the circumstances when the complainant and injured, the star witnesses stated that innocence of the accused and not interested in further prosecution of the case then it would serve no purpose to proceed with the case. It is held by their lordship in case title.

2009 Y L R 169

[Karachi]

Before Mrs. Qaiser Iqbal and Mehmood Alam Rizvi, JJ

GHULAM MUJTABA---Petitioner

Versus

THE STATE---Respondent

"Ss. 249-A, 265-K & 561-A---Acquitted of accused at any stage--principle---Where the charge is groundless and there is no possibility of conviction of accused, then the evil should be nipped in the bud even prior to the framing of the charge and proceedings against him should be dropped".

10. It is further held by their lordship in case title,

THE STATE through Advocate-General, Sindh High Court of Karachi---Appellant

Versus

Raja ABDUL REHMAN---Respondent
2005 S C M R 1544

[Supreme Court of Pakistan]

"Application under S.249-A, Cr.P.C. can be filed, taken up for hearing and decided at any time or stage of the proceedings--- Words "at any stage" denote that such application can be filed even before recording of prosecution evidence, during recording of

ATTESTED TO BE TRUE COPY

COPYING

[Signature]
4/9/14

FILED

2.7.2014

evidence or when such exercise is over---Although there is no bar for an accused person to file application under S.249-A, Cr.P.C. at any stage of the proceedings of the case, yet the facts and circumstances of the prosecution case will have to be kept in mind and considered in deciding the viability or feasibility of filing an application at any particular stage---Special or peculiar facts and circumstances of a prosecution case may not warrant filing of an application at a stage when the entire prosecution evidence had been recorded and the case fixed for recording of statement of the accused under S.342, Cr.P.C."

11. In the facts and circumstances of the case, keeping in view the statement of the complainant and injured regarding the innocence of the accused and disinterestedness in further prosecution of the case as there is no probability of the conviction of the accused, eventually, by exercising jurisdiction under section 249-A, the accused are hereby acquitted. The sureties stand discharged from the liability of the bail bonds. File be consigned to record room after completion and compilation.

ANNOUNCED:
2nd July, 2014

ASIM
ASIM RIAZ,
Judicial Magistrate-II, Kohat

ATTESTED TO BE TRUE COPY

[Signature]
COPING
4/7/14

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Saqib Raza.....(Appellant)

VERSUS

Inspector General of Police K.P.K, etc.....(Respondents)

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

1) Incorrect . The appellant has always obeyed the lawful orders of his seniors and performed his duties according to law.

2. Correct, to the extent that FIR no.177 dated : 06.05.2013 was lodged against the petitioner and his other colleagues and were charged v/s 506,337-F(1),342/427 PPC/155 police order at PS Lachi but the petitioner has been declared innocent and honourably acquitted of all the charges against him. (Copy of order dated 02/07/2014 is attached).

3 & 4. Needs no reply.

5-7-Detailed reply has come in preceding para. The appellant was charged in the FIR due to ulterior motives and by the grace of Allah, he has got acquitted from all the charges.

8th and 9th . The law has not been followed in the case of the appellant and he was removed from service without giving him an opportunity. The only reason for his dismissal from service is tht an FIR was lodged against him. He

was dismissed before trial of the court had finally decided the matter and proved him guilty.

10th and 11th, The appellant had already informed the competent authority regarding the biasness involved in his removal and for that very reason he was asked to file 2nd appeal/mercy petition. However, the same got dismissed on baseless grounds.

(a) to (f) The appellant was removed due to ulterior motives and personal biasness of respondents. Respondents had nothing other than an FIR against the appellant. Even in that case he got honourably acquitted and was proved innocent.

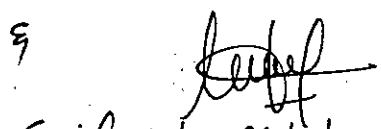
It is therefore, respectfully prayed that the appellant may be reinstated with all back benefits.


Appellant

Through



Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan

9 

Saifullah Muhib
Advocate, Peshawar

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Saqib Raza.....(Appellant)

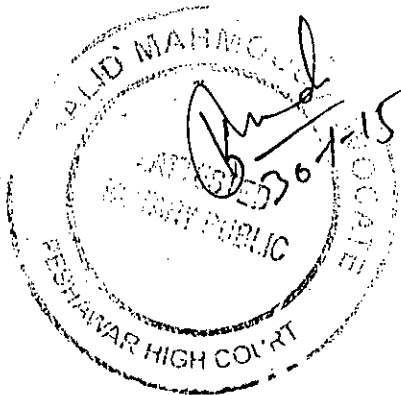
VERSUS

Inspector General of Police K.P.K, etc.....(Respondents)

AFFIDAVIT

I, **Saqib Raza** S/o Nazar Din R/o Garhi Risaldar, Doda Road, Kohat, do hereby solemnly affirm and declare, that the contents of the **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT



Report is
number

کے لئے جو اس کی طرف سے
2/7/14 سے 3/7/14 تک 165 (4)

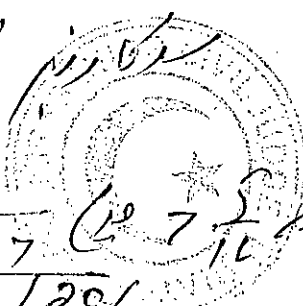
Order
01.07.2014

3/7/14

Present.

APP for the state.

337-506



2/7/14

177

Accused on bail.

337-A-427

Statement of PW-1 and PW-2 recorded, placed on file.

Arguments heard. Put up for order on

02.7.14

Asim Riaz
Judicial Magistrate-II, Kohat

ORDER
02.07.2014

Present.

Complainant, with learned counsel and learned APP.

Accused on bail with learned counsel

1. Statement of PW-1 (complainant) and PW-2 (injured) recorded.
2. Arguments over the petitions submitted for acquittal of the accused under section 249-A of code of Criminal Procedure, 1898 were heard on the petition and record perused with valuable legal assistance of learned counsel representing the parties.
3. After taking cognizance of the case, the accused were put to notice who appeared and the regular trial was initiated, the charge was framed and the case was fixed for prosecution evidence.
4. The accused were charged for criminal intimidation, hurt (for *Shaja-e-Khafifa, Shaja-e-Hashimia, Ghayr-Jaifah*) mischief, wrongful restrained, illegal gratification, for causing disappearance of evidence of offence or giving false information (under Pakistan Penal Code) and for misconduct (under the Police Order).

2.7.2014

ATTESTED TO BE TRUE COPY

COPYING...
4/7/14

- 5. The story of prosecution as narrated in the First Information Report is that the complainant along with injured, the driver and the cleaner were signaled by two police personals and they demanded Rs.50 bribe and on refusal they started firing and they were beaten by the accused. with the butts of Kalashnikov and also damaged the transformer, hit by the truck.
- 6. No doubt, the accused, constable Suleman and constable Saqib Raza were assigned with the specific role of abuse of authority and subjected the complainant and injured to criminal assault, hurt, illegal gratification as per the first information report but it is worth highlighting that the complainant (Driver) and injured (cleaner) recorded their statement before the court and stated that they are not interested to prosecute against the said accused being innocent. The same is reiterated by the injured Pw- Humayun that he doesn't want to prosecute them, being innocent.
- 7. There was no clog of time on exercising the inherent powers of the Court provided under section 219-A Cr.P.C nor it is necessary to record the evidence of the prosecution and it can be invoked when the charge is groundless and there is no probability of accused being convicted of any offence.
- 8. Indeed, the main section of law of causing hurt and criminal intimidation are compoundable in nature in accordance with section 337 and there is no legal impediment upon their will excluding the act of misconduct and abuse of authority, which is too the domain of departmental proceedings and it is stated by the counsel representing the parties that the main accused constable Suleman and constable Saqib were dismissed in departmental proceedings.

2.7.2014

ATTESTED TO BE TRUE COPY
 COPING 4/2/14

(6)

9. The inherited powers of the Court provided in section 249-A of Cr.Pc can be invoked at any stage when the charge is groundless and there is no probability of conviction of accused and in the circumstances when the complainant and injured, the star witnesses stated that innocence of the accused and not interested in further prosecution of the case then it would serve no purpose to proceed with the case. It is held by their lordship in case title.

2009 Y L R 169

[Karachi]

Before Mrs. Qaiser Iqbal and Mehmood Alam Rizvi, JJ

GHULAM MUJTABA---Petitioner

Versus

THE STATE---Respondent

"Ss. 249-A, 265-K & 561-A---Acquitted of accused at any stage-- principle---Where the charge is groundless and there is no possibility of conviction of accused, then the evil should be nipped in the bud even prior to the framing of the charge and proceedings against him should be dropped".

10. It is further held by their lordship in case title.

THE STATE through Advocate-General, Sindh High Court of Karachi---Appellant

Versus

Raja ABDUL REHMAN---Respondent
2005 S C M R 1544

[Supreme Court of Pakistan]

"Application under S.249-A, Cr.P.C. can be filed, taken up for hearing and decided at any time or stage of the proceedings--- Words "at any stage" denote that such application can be filed even before recording of prosecution evidence, during recording of

ATTESTED TO BE TRUE COPY

COPING

WED

4/7/13

13

2.7.2014

evidence or when such exercise is over---Although there is no bar for an accused person to file application under S.249-A, Cr.P.C. at any stage of the proceedings of the case, yet the facts and circumstances of the prosecution case will have to be kept in mind and considered in deciding the viability or feasibility of filing an application at any particular stage---Special or peculiar facts and circumstances of a prosecution case may not warrant filing of an application at a stage when the entire prosecution evidence had been recorded and the case fixed for recording of statement of the accused under S.342, Cr.P.C."

11. In the facts and circumstances of the case, keeping in view the statement of the complainant and injured regarding the innocence of the accused and disinterestedness in further prosecution of the case as there is no probability of the conviction of the accused, eventually, by exercising jurisdiction under section 249-A, the accused are hereby acquitted. The sureties stand discharged from the liability of the bail bounds. File be consigned to record room after completion and compilation.

ANNOUNCED:
2nd July, 2014

ASIM RIAZ
ASIM RIAZ,
Judicial Magistrate-II, Kohat

ATTESTED TO BE TRUE COPY

ASIM RIAZ
COPING
9/7/14

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1918 ST

Dated 10 / 12 / 2015


To

The DPO,
Kohat Range Kohat.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 07.12.2015 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.