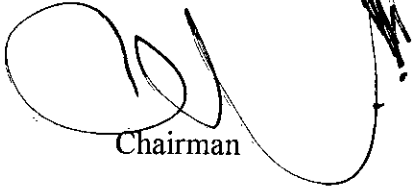


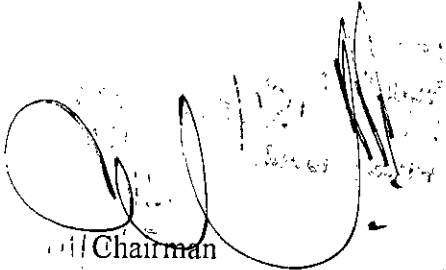
12.6.2014

Appellant in person and Mr. Mir Faraz, Inspector Legal on behalf of respondents with AAG present. Written reply received on behalf of the appellant, copy whereof is handed over to the appellant for rejoinder on 25.9.2014.

  
Chairman

25.09.2014

Appellant with counsel and Mr. Mir Faraz, Inspector (legal) on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments alongwith connected appeals on 01.04.2015.

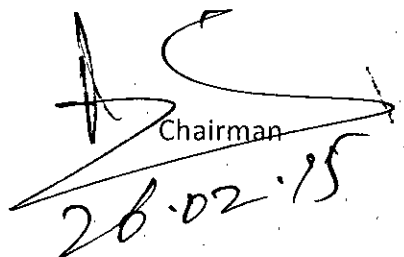
  
Chairman

26.02.2015

Appellant with counsel present. Application for withdrawal of the appeal submitted and on the basis of the said, appeal of the appellant fixed for 1.4.2015 requisitioned.

In the light of application and submission of the learned counsel for the appellant, the appeal is dismissed as withdrawn. File be consigned to the record.

ANNOUNCED  
26.02.2015.

  
Chairman  
26.02.15

Appeal No. 411/2014  
Per Hamidullah.

3.

01.04.2014

Counsel for the appellant present and submitted an application for early hearing. Application accepted. To come up for preliminary hearing on 03.04.2014 instead of 09.05.2014.

Member

6.  
03.04.2014

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 31.12.2013, he filed departmental appeal, which has been rejected on 10.03.2014, hence the present appeal on 24.03.2014. He further contended that the appellant treated under wrong law. No final show cause notice has been issued to the appellant. The impugned order dated 10.03.2014, 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 12.06.2014.

Appellant Deposited  
Security & Process Fee  
Rs. 180/- Bank  
Receipt is Attached with File.

JMS  
7/4/14

Member

5.  
03.04.2014



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

Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 411/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24/03/2014	<p>The appeal of Mr. Pir Hameedullah presented today by Mr. Muhammad Asif Yousafzai 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	25-3-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>9-5-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 411 /2014

Pir Hameed Ullah

V/S

Police Deptt:

INDEX.

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-4
2.	Charge sheet	A	5
3.	Statement of Allegation	B	6
4.	Reply to charge sheet	C	7-9
5.	Inquiry report	D	10-12
6.	Order dated 31.12.2013	E	13
7.	Departmental Appeal	F	14-17
8.	Rejection Order dated 10.3.2014	G	18
9.	Vakalat Nama	-----	19

APPELLANT 

Pir Hameed Ullah

THROUGH:

  
M.ASIF YOUSAFZAI

&   
TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 411 /2014

Pir Hameed Ullah Shah, Ex- HC NO.892

District Police Bannu.

**447**  
**24-3-14**

(Appellant)

**VERSUS**

1. The Provincial Police Officer, KPK Peshawar.
2. The Regional Police Officer, Bannu Region, Bannu.
3. The District Police Officer, Bannu.

(Respondents)

**APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 31.12.2013 WHEREBY, THE APPELLANT HAS BEEN COMPULSORILY RETIRED FROM THE SERVICE AND AGAINST THE ORDER DATED 10.3.2014 WHEREBY, THE DEPARMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.**

**PRAYER:**

*THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 31.12.2013 AND 10.3.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.*

*24/3/14*

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant joined the police force in 1996 and completed his due trainings etc and also has good service record throughout.

2. That all of sudden statement of allegation and charge sheet under police rules (amended vide NWFP gazette 27 januray 1976 ) in which though the charges of corruption, ill-reputation were leveled against the appellant but without specification of any incident or occurrence which led to formulate such statement of allegation. The appellant submitted his reply and denied all allegations. (copies of charge sheet and statement of allegation and reply are attached as Annexure A,B&C)
3. That the one sided inquiry was conducted against the appellant in which neither appellant was associated with enquiry proceedings nor any statement was recorded in the presence of appellant or to cross examine the same. (Copy of the inquiry report is attached as Annexure as D)
4. That on 31.12.2013, the penalty of compulsorily retirement was imposed on the appellant under police rules (amended vide NWFP gazette,27 January 1976). The appellant filed departmental appeal which was also rejected on dated 10.3.2014 for no good ground.( copies of order, departmental appeal and rejection order are attached as Annexure E,F&G).
5. That now the appellant come to this august Tribunal on the following grounds amongst others.

**GROUNDS:**



- A) That the impugned order dated 31.12.2013 and 10.3.2014 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses have been recorded in the presences of the appellant. Even a chance of cross examination also not provided to the appellant which is violation of norms of justice
- D) That even no final show cause notice was served on appellant before imposing major penalty of compulsorily retirement from service which is the violation of principle of personal hearing and fair play.

- E) That one allegation mention in the inquiry report regarding the charge that the appellatant has been line suspension for three times, thus the appellatant could not be punished for past and close transactions.
- F) That the charge sheet and statement of allegation is vague and contains no specification about incident or nothing which could based to level in allegation.
- G) That the appellatant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- H) That the penalty of compulsorily retirement from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- I) That the appellatant has been discriminated because similar like allegation which were leveled against other official of District Bannu Police and most of those official are reinstated while the same benefits were not extended to the appellatant.
- J) That the appellatant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellatant may be accepted as prayed for.

APPELLANT   
Pir Hameed Ullah

THROUGH:

  
M. ASIF YOUSAFZAI  
&  
  
TAIMUR ALI KHAN

(ADVOCATES PESHAWAR)

(5)

Annexure - "A"

A

(5)

CHARGE SHEET

1. MUHAMMAD IQBAL District Police Officer, Bannu, as competent authority, hereby charge you HC Pir Hamidullah Shah No. 892 HC Guard KGH Hospital, Bannu as you have been suspended by the Regional Police Officer, Bannu on the basis of your tainted reputation and your alleged involvement in the transportation of non custom paid vehicles. Your activities are against the norms of a disciplined service, morality and impartialness which are badly required for the police force.

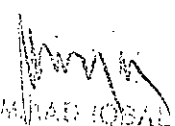
2. By reason of the above you appear to be guilty of misconduct under the police Rules (Amended vide NWFP gazette, 27 January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.

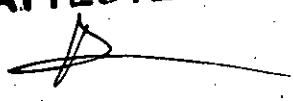
4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

  
(MUHAMMAD IQBAL)  
District Police Officer,  
Bannu.

**ATTESTED**





6

B B

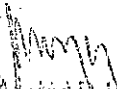
6

STATEMENT OF ALLEGATIONS:

1. Muhammad Iqbal, District Police Officer, Bannu, as competent authority, am of the opinion that HC Pir Hamidullah Shah No.892 1/C Guard KGN Hospital, Bannu has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette 27<sup>th</sup> January 1976).

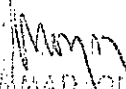
STATEMENT OF ALLEGATIONS:

1. He has been suspended by the Regional Police Officer, Bannu on the basis of his tainted reputation and his alleged involvement in the transportation of non-custom paid vehicles. His activities are against the norms of a disciplined service, morality and impartialness which are badly required for the police force.
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Liaqat Shah, DSP Naurang, District Lakki Marwat, is appointed as Enquiry Officer.
3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.
4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

  
(MUHAMMAD IQBAL)  
District Police Officer,  
Bannu.

No. 668-70/PC dt. 06-12-013

Copies to (1) HC Pir Hamidullah Shah No.892 1/C Guard KGN Hospital, Bannu (2) Mr. Liaqat Shah, DSP Naurang, District Lakki Marwat (3) SRC Bannu.

  
(MUHAMMAD IQBAL)  
District Police Officer,  
Bannu.

**ATTESTED**



(7)

Annexure-B

C-7

To,

The District Police Officer,  
Bannu.

Subject: REPLY TO THE CHARGE SHEET BASED UPON  
STATEMENT OF ALLEGATION.

Respected Sir,

With reference to your good self-number 668-70/SRC dated 06/12/13, the petitioner prayed as under:-

1. The petitioner recruited in police deptt: as constable on 26/12/1996 and after undergoing basic training in the training institution, reported back in the District for performance of duty. The petitioner has been assigned the duties in various police stations which was discharge efficiently.
2. That the petitioner was posted on various establishment in police deptt: and performed the duty with great zeal and zest and this is why that the officers under whom command, I have performed the duty has made no complaint what so ever against the petitioner and was happy for the performance of duty.
3. That throughout my service since 1996, the petitioner has not done any such thing/action which is against the spirit of police rules as well as disciplinary force. The service record of the petitioner is so much clean that during the entire period of service, no complaint has been received from the public to the officers and this is why that no departmental action has been initiated against the petitioner from any corner on the basis of Anti-Social activities.

ATTESTED

✓

**ATTESTED**

warned by the authority on any score of mis-conduct.

your good self by worthy RPO Bannu because till date I have not even not know that under what source, the same has been communicated to evidence which has got no footing in the service laws, furthermore I do allegations in the above charge sheet is quite based upon hearsay duty vide which I am receiving monthly salary from police Deptt. The beneficial to the person of petitioner except the performance of good 6. Sir, the petitioner has never been indulged in any such activities

substantiated by cogent evidence.

which suggest that the allegations mention in the above letter is not remarks has been communicated to me in shape of ACR or advice, shape of adverse remarks in the ACR but in my case no such adverse the short coming or the same is communicated to the officer/official in official/officer is directed by the authority for reformation or removing subject of corruption or any other anti-social activities then the laws whenever no proof is available against any officer/official on the right of the contents of the above allegations. According to service facts because the petitioner has not been counseled by the authority in 5. The allegation leveled in the subject Charge Sheet is not based upon

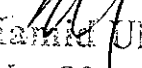
promoted to the rank of honorary ASI.

very wanted PO in the new vegetable market Bannu, the petitioner was performance in the police Deptt. Furthermore on the arrest of another promotion is given to the official when has got extra ordinary accordingly the C-II award was placed upon the petitioner. C-II the petitioner was recommended for the promotion of C-II and good name. During the arrest of very wanted PO by the petitioner, duty in such sensitive places has been recognized by the officers with sensitive places and the services of the petitioner in the performance of of police. The petitioner has also performed the duty on so many 4. That the petitioner has performed front line duty in the raid proceeding

- (9)
- (9)
7. According to the dicta of Supreme court of Pakistan as well as service tribunal and the constitution of Islamic republic of Pakistan 1973, no official/officer should be condemned without solid reasons / proof of any allegation and in the case of any allegation against the spirit of police rules/service laws, the official/officer will be suspended when there is some clue leading towards the allegations but in the case of petitioner no complaint what so ever has been made against the petitioner nor any kind of tinted allegation has been refereed in the charge sheet. The general allegations without proof is nothing but amounts the harassment of the official.
  8. The petitioner is the only bread earner of the family and such like defamation will certainly discourage myself as well as other police officials in performance of duty specially in the situation facing by the police in now a days.
  9. That the allegations in the charge sheet are not governed by any cogent/solid proof and no official/officer can be entangle with such like allegations without substantive proof.
  10. That the allegations of transportation of non-custom paid vehicle is not governed by any solid proof and according to law no one can be condemned for any allegation not substantiated by any cogent reasons or proof. Ariel allegations against any officer/officials is against The Constitution of Islamic Republic of Pakistan 1973 as well as other laws of the land.

In light of the above facts and circumstances, it is requested that the allegations mentioned in the charge sheet is Ariel in nature and the charge sheet may kindly be filled without further action.

Yours Obediently

  
PIR Hamid Ullah  
HC No. 892  
Police Line Bannu.

فائینڈنگ حکمانہ انکوئٹری

برصغیر: ہیڈ کانسٹیبل شیر محمد اللہ شاہ نمبر 892 ضلع بون

صاحبانہ

معروضی جوں کہ H.C. شیر محمد اللہ شاہ نمبر 892 کے خلاف الزام حکم مذکورہ سماج دشمن عناصر کے ساتھ رابطہ رکھ کر پولیس فورس کو بدنام کرنے کا جائزہ سوت خودی کر رہا ہے۔ حکم دائرہ کردار پولیس فورس میں کیلئے باہت بدنامی اور خلاف رسپنڈنسیا گیا ہے۔ اسکی اسس دائرہ کردار کی رپ سے صاحبانہ DP.O. مہا بون نے جاری شدہ سمری آف اینڈیشن نمبری 668-70/RE/668-12/06 جاری کرتے، مذکورہ شیر محمد اللہ شاہ کے خلاف حکمانہ انکوئٹری کرنے میں DP.O. ٹونگا کو انکوئٹری آفسپر تقرر کرنے اور فائینڈنگ (25) دن کے اندر مرتب کرنے کے احکامات صادر کئے۔

دوران انکوئٹری الزام علیہ H.C. شیر محمد اللہ شاہ نمبر 892 نے اپنا جاری شدہ سمری آف اینڈیشن وصول کر کے اپنا تحریری تفصیلی بیان ہمراہ پیش کیا جس نے اسے بیان میں بدعاقبتی طاری شدہ اس پر گائے گئے الزامات کی تردید کر کے عائد شدہ الزامات کو غلط من گھڑت قرار دیکر خود کو بے گناہ اور بے قصور قرار دیا ہے۔

دوران انکوئٹری شیر احمد ایسٹن CRE اور گل محمد OASI گوربان طلبہ 557 آ کر جبکہ بیانات موجودگی الزام علیہ طلبہ کے الزام علیہ کو گوربان پر صبر کرنے کا پورا پورا موقع فراہم کیا گیا۔

ATTESTED

OASI کے دوران بیان شدہ ہا کہ مذکورہ 26/12/1996 کو پورا کانسٹیبل بھونگا ریگڈٹ فورس پاس کرنے کے بعد تقرر کیا گیا ہے 557 DAR پولیس اسٹیشن

(۲)

میں تصنیف رہا۔ جبکہ کئی مختلف ادوات میں مختلف سسٹمز یا کیفی  
تعمیرات کیسے بنی، گنر ایچ ایم، اردلی ایچ ایم، تھانہ ٹھکان  
تعمیرات کنٹریٹ، سرور ٹولیں آئن، تھانہ سیرین، تھانہ ٹیکہ، تھانہ غور لوگ  
اردلی ٹولیں آئن میں تصنیف رہے ہیں۔ اور مذکورہ میں بار  
مغفل آئن جو کچھ ہے۔

SR کے رپورٹ کے مطابق الزام علیہ بائچ دفعہ سزا بابت ہو چکا ہے۔  
سبکی سزا بابت ریکارڈ کے پر موجود ہیں۔ جبکہ ریکارڈ  
کوئی Good انٹری نہ پائی گئی۔

اسی طرح دوران انٹرویو میں تھانہ علی خان کا رپورٹ کے  
مطابق تقریباً ساڑھے بارہ دنے کا مآلک ہے۔ جبکہ موضع ستر قیل  
میں زخمی جا بھاد کا مآلک ہے۔

اس طرح ضیہ بیگم بیوں میں مذکورہ الزام علیہ بیوں کے بارے  
میں ایک ٹیپ بیوں میں اکاؤنٹ نمبر 3812006 0103000000 کا اکاؤنٹ  
ہولڈر ہے۔ جس کے نمبر 472.36 ہے جو 17/12/2013ء تک برقی ہے۔

مذکورہ سیر محمد شاہ کے بارے میں ایچ ایم ایچ سے رال کا  
ضیہ بیوں کے بارے میں معلوم ہوا کہ مذکورہ الزام علیہ بیوں کے بارے  
میں ایچ ایم ایچ اور ستر قیل کے کارڈوں کا لین دین اور کارڈ  
کوٹے میں کافی بدنام ہے۔ بلکہ ایک جہتہ کے کارڈ کا لین دین  
یا بیوں کے بارے میں۔ مذکورہ ایچ ایم ایچ سے گرفت سے خود کو بچا

مذکورہ الزام علیہ بیوں کے بارے میں کردار داغدار اور بدنام ہے۔  
سبکی انٹرویو میں گنر ایچ ایم، حضور وار تھانہ بابت ہے۔

خانہ انکوائری

حصہ ۱۰

۱۰/۱۲/۲۰۱۳

12

3

کے نام سے دعا ہے کہ جس سے مستقبل میں بہتر ہو سکے  
ہمیں ہی تو تم نہیں

کینبرا کانٹریٹ انکوائری ایجنسی کے نام سے  
مذکورہ سیریس کے بارے میں ۱۴ مئی ۱۹۹۲ کو  
دیکھ کر اس کا سراغ لگانا ہے

Handwritten signature

سرکار کے نام سے دعا ہے کہ  
انکوائری کا کام آئے

20/12/2013

ATTESTED

Handwritten signature



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
BANNU.

E (13)

Phone No: 0928-9270 038

Fax No: 0928-9270045

No. 1448 /EC

Dated 31.12.2013

To: Constable Hameedullah Shah No.892 of District Bannu Police.

ORDER

1. You, Constable Hameedullah Shah No.892 were charged for the misconduct communicated to you during departmental proceedings, the gist of which is that you had a tainted reputation and remained involved in the transportation of non custom paid vehicles. Accordingly proper departmental enquiry was conducted to find out facts.
2. Mr. Iiaqat Shah DSP Naurang District Lakki was appointed as Enquiry Officer who has submitted his findings wherein the charges leveled against you have been proved.
3. You were called in the orderly room on 30.12.2013 and were heard in person. You had nothing substantial in your defense. I, Mohammad Iqbal, DPO Bannu, as competent authority under Police Rules (amended vide NWFP gazette, 27 January 1976) have come to the conclusion that charges leveled against you are proved beyond any doubt and that your retention in police service would be harmful for the force. I have, therefore, decided to impose major penalty upon you by retiring you compulsorily from service. This order will take effect immediately.

  
District Police Officer,  
Bannu.

ATTESTED





To,

The Regional Police Officer / D.I.G

Bannu Division, Bannu.

**SUBJECT:** DEPARTMENTAL APPEAL / REPRESENTATION AGAINST OFFICE ORDER BEARING NO. 1448/EC DATED 13/12/2013 ISSUED BY DISTRICT POLICE OFFICER BANNU VIDE WHICH MAJOR PENALTY OF COMPULSORILY RETIREMENT WAS IMPOSED UPON THE APPELLANT (UNDER POLICE RULES AMENDED VIDE N.W.F.P GAZETTE, 27 JANUARY 1976).

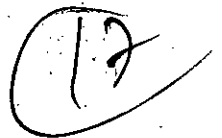
**PRAYER:** ON ACCEPTANCE OF INSTANT APPEAL / REPRESENTATION THE IMPUGNED ORDER DATED 31/12/2013 MAY VERY KINDLY BE SET-ASIDE BY RE-INSTATING THE APPELLANT IN SERVICE WITH ALL BACK BENEFITS AND TO ALLOW THE APPELLANT TO JOIN / CONTINUE HIS DUTY AS CONSTABLE.

Respected Sir,

The Appellant most submits as under:-

- 1) That the appellant was recruited in police department as constable on 26/12/1996, who after getting basic training, started his duty at district Bannu.
- 2) That during the course of duty, the Appellant was assigned different tasks who performed the same with great zeal and zeast, in reward of which the Appellant was promoted as C-II and then to the rank of honorary ASI.

**ATTESTED**



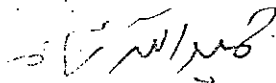
- H) That the learned enquiry officer has based his findings on the Atrial information of spy resources and intelligence agencies which have no evidentiary value in the eyes of law.
- I) That the Appellant is the only and solely source of income for his younger kids having no property or business resources, therefore, the Appellant is also entitled for re-instatement on this score alone.

It is, therefore, most humbly prayed that on acceptance of instant departmental Representation/Appeal, the impugned order dated 13/12/2013 may very kindly be set-aside by re-instating the Appellant in service as constable with all back benefits and to allow the Appellant to join/continue his duty as constable.

**Note:** The Appellant may kindly be heard in person or through pleader.

**Appellant**

**Dated:** /01/2014



**Hameed Ullah Shah**

**Constable No. 892**

**District Police Bannu.**

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3) That while posted as I/C Guard KGN Hospital Bannu, the Appellant was suspended, charge sheet was issued to the Appellant for the so-called allegations and enquiry officer was deputed for conducting enquiry.

(Copy of charge sheet & suspension order is attached herewith as Annexure-"A")

4) That the Appellant submitted written reply to the concerned enquiry officer, verbally given complete details in respect of service career and completely denied from the so-called allegations.

(Copy of written reply is attached herewith as Annexure-"B")

5) That the learned enquiry officer submitted his final report / enquiry report to the Honourable D.P.O Bannu on 20/12/2013, wherein spy Information's were based ground for imposing major penalty upon the Appellant.

(Copy of final (enquiry) report is attached as Annexuer-C)

6) That the Honourable D.P.O Bannu issued the impugned order dated 13/12/2013, wherein major penalty of compulsory retirement was imposed upon the Appellant. (copy is attached as Annex: D)

7) That having no other efficacious remedy, the Appellant now knocks at the doors of this Honourable forum/chair, inter-alia, on the following grounds;

**GROUND:-**

A) That the Appellant was assigned different tasks during service career wherein, he performed his duty with great zeal and zeast and -no complaint whatsoever has been made by the general public against the Appellant in the whole career.

B) That during the whole career, the Appellant has never been involved in any such activity which is against the spirit of police

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rules as well as disciplinary force, which is evident from the record of the Appellant.

- C) That the Appellant was initially recruited as constable in the police department, and due to his best performance promotions were sanctioned in his favour to C-II and then to honorary ASI respectively.
- D) That according to the available record only Rs. 472.36 as cash amount was found present in the Appellant's Bank account i.e. A/C No. 0103000003812006 Khyber Bank Bannu and except 12 ½ marlas ancestral property no agricultural or builded property is registered in the name of Appellant nor any proof of Benami property was found in the name of Appellant, then how the learned enquiry officer as well as the Honourable D.P.O Bannu based the so called Arial allegations for imposing major penalty upon the Appellant.
- E) That the alleged corrupt practices of NCP vehicles are based on surmises and conjectures because no FIR in respect of alleged allegations has been registered in any police station, of district Bannu.
- F) That the Appellant is law abiding citizen as well as police official and cannot even think to commit such like activities; furthermore, the Appellant has brilliant service record and always participate in front line duty in the raid proceedings of police as well as on so many sensitive places and so many PO's have been arrested by the Appellant.
- G) That general allegations are leveled against the Appellant and no specific charge has been made by any specific complainant, furthermore, no solid and cogent evidence is available against the Appellant, and no chance of cross examination has been given to the Appellant.

ORDER

My this order will dispose of departmental appeal preferred by Ex: FC Hamid Ullah No. 892 of Operation Staff, Bannu against the order of Major Punishment of Compulsory retirement from service by DPO/Bannu vide Order No. 1448 dated 31-12-2012 for committing of the following omissions:-

- That his reputation was reported to be tainted as well as involved in non custom paid vehicle transportation in Distt: Bannu.

The said EX: FC was proceeded against departmentally for the above misconduct. Mr. Liaqat Shah, DSP/Naurang, District Lakki Marwat was appointed as Enquiry Officer, who conducted proper departmental enquiry into the allegations and submitted his findings. The delinquent Police FC was reported to be guilty of the charges. Hence, he was awarded major punishment of Compulsory retirement from service by the competent authority under police rule-1975 vide Order Book No and dated quoted above.

The appellant preferred departmental appeal before the undersigned for set asiding the awarded punishment. The undersigned, besides perusing the departmental enquiry file and contents of the appeal, also verified the allegations through various sources which were found accurate. Opportunity of personal hearing was also afforded to the appellant but failed to satisfy the undersigned regarding the allegations leveled against him.

Keeping in view the above, therefore, I SAJID ALI KHAN, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me under Police Rules 1975. hereby file the instant appeal with immediate effect.  
Order announced.

(Sajid Ali Khan)PSP  
Regional Police Officer,  
Bannu Region, Bannu.

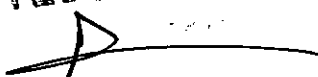
No. 635-36 /EC, dated Bannu the 10 / 02 / 2014.

Copy to:-

1. The District Police Officer, Bannu along with service record containing departmental proceeding file for information and necessary action w/r to his office memo: No. 810 dated 28-01-2014.
2. ✓ Ex: FC Hamid Ullah No. 892.

(Sajid Ali Khan)PSP  
Regional Police Officer,  
Bannu Region, Bannu

ATTESTED



# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Pir Hammed ullah (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Deptl. (Respondent)  
(Defendant)

I/We Pir Hammed ullah  
& Taimur Ali Khan

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

[Signature]  
( CLIENT )

ACCEPTED

[Signature]  
**M. ASIF YOUSAFZAI**  
Advocate

[Signature]  
**TAIMUR ALI KHAN**

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 411 /2014.

Pir Hameedullah

VS

Police Deptt:

APPLICATION FOR FIXING AN EARLY  
DATE OF HEARTING INSTEAD OF  
09.5.2014.


R.SHEWETH.

- 1- That the above noted appeal is pending in preliminary hearing and fixed for 09.5.2014.
- 2- That the main issue in appeal is regarding the termination in violation of Law and rules due to which the appellant suffers a lot both mentally and financially.
- 3- That the urgent hearing of the case is requested because the appellant is facing great financial hardships due to illegal actions of the respondents.
- 4- That since the above mentioned issue is involved in the appeal and the date fixed for preliminary hearing is too far.

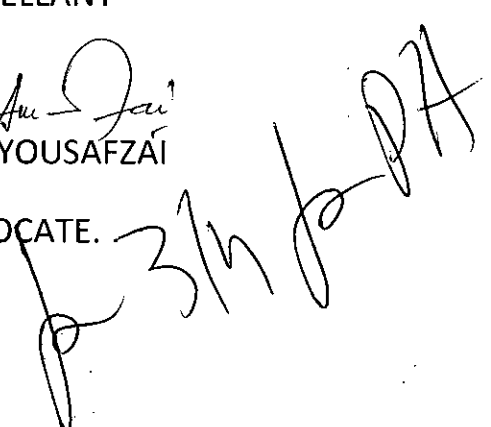
Therefore to meet the ends of justice, it is prayed that the appeal may be fixed on an early date instead of 09.5 .2014.

APPELLANT

THROUGH:

  
M.ASIF YOUSAFZAI

ADVOCATE.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 411 /2014.

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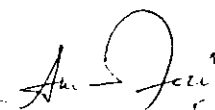
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THROUGH:

  
M.ASIF YOUSAFZAI

ADVOCATE.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

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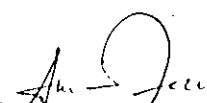
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- 3- That the urgent hearing of the case is requested because the appellant is facing great financial hardships due to illegal actions of the respondents.
- 4- That since the above mentioned issue is involved in the appeal and the date fixed for preliminary hearing is too far.

Therefore to meet the ends of justice, it is prayed that the appeal may be fixed on an early date instead of 09.5 .2014.

APPELLANT

THROUGH:

  
M.ASIF YOUSAFZAI

ADVOCATE.

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

Service Appeal No. 411/2014

Pir Hameed Ullah Shah

VS

Police Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Denied due to want of knowledge, however the appellant could not be punished for the past and close decided issues.
- 2 Incorrect. The appellant was never involved bad practices and charge sheet and statement of allegations which was served to the appellant contain no specific incident or evidence which led the authorities to formulate charge sheet and statement of allegations. Moreover no proper inquiry was conducted which is against the law and rules.
- 3 Incorrect. One sided inquiry was conducted by the inquiry office with out providing chance of self defense and cross examination to the appellant.
- 4 Admitted correct by the respondents as the service record of the appellant is in the custody of the appellant.

- 5 Incorrect. The departmental appeal of the appellant was rejected for no good grounds.
- 6 Incorrect the appellant has genuine cause of action and come this Hon'able Tribunal on the following grounds.

**GROUND:**

- A) Incorrect. While para A of the appeal is correct.
- B) Incorrect. No opportunities of defense, cross examination etc were provided to the appellant during the course of inquiry.
- C) Incorrect. While para C of the appeal is correct.
- D) Incorrect. Final showcase notice is necessary before imposing major penalty of dismissal from the service which was not served to appellant, hence it is the violation of principles of personal hearing and fair play and the impugned order is liable to be set aside.
- E) Incorrect. While para E of the appeal is correct.
- F) Incorrect. While para F of the appeal is correct.
- G) Incorrect. The appellant has not been treated under proper law despite he was a civil servant of the province; therefore the impugned order is liable to be set aside.
- H) Incorrect. The penalty imposed upon the appellant is very harsh; therefore, the same is not sustainable in the eyes of law. Moreover the appellant could not be punished for past and close decided issues.
- I) Incorrect. The facts and circumstances of the appellant's case are same to the others official of District Bannu Police and most of these officials are reinstated. Hence the appellant has been

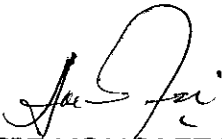
discriminated by not extending the benefits of those officials who were reinstated.

J) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

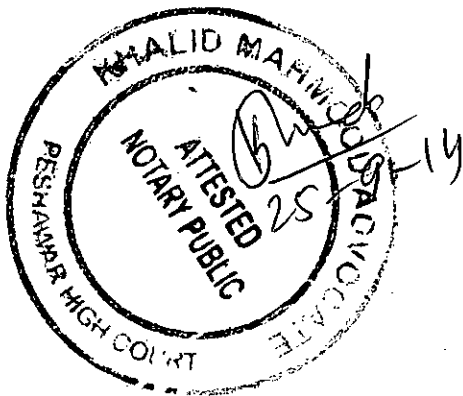
APPELLANT  
Pir Hammed Ullah Shah

Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.  
&  
(TAIMUR ALI KHAN)  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.



  
DEPONENT

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR**

**Appeal No. 411/2014**

Pir Hameed Ullah Shah, Ex-HC, NO.892 District Police, Bannu. (Appellant)

**VERSUS**

- 1) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Regional Police Officer, Bannu Region, Bannu.
- 3) The District Police Officer, Bannu. (Respondents)

**REPLY BY RESPONDENT NO.1,2 & 3**

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS:**

- 1) That the appeal is not maintainable in its present form.
- 2) That the appellant has concealed the material facts from the Honorable Tribunal.
- 3) That the appeal of appellant is time barred.
- 4) That the appeal is not maintainable as the appellant has no cause of action.
- 5) That the appellant has no locus standi to file the appeal.
- 6) That the appellant has been estopped by his own conduct to file the appeal.

**OBJECTIONS ON FACTS:**

- 1) Incorrect. The appellant has been awarded punishment on five occasions and no good entry was available in his service record.
- 2) In wake of initiatives of Khyber Pakhtunkhwa government regarding checking and verification of record of tainted reputation and corrupt officer/official through intelligence sources, the appellant, and others were found involved in such bad practice. A proper inquiry followed by charge-sheet/statement of allegation was initiated in accordance with law/rules. Copies of Charge sheet/statement of allegation and reply are as annexure "A" & "B"
- 3) Incorrect. The inquiry was conducted by inquiry officer in the presence of appellant and all the opportunities of self defense and cross examination etc were provided to him. Enquiry report enclosed as annexure "C"
- 4) Pertains to record.
- 5) The appellant has come to the Honorable Tribunal with unsound grounds.

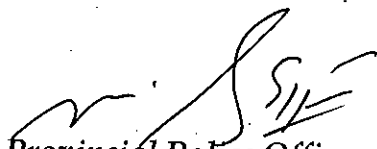
**OBJECTIONS ON GROUNDS.**


- (A) Incorrect. The orders are based on facts, merits, justice and in accordance with existing law/rules.
- (B) Incorrect. All the opportunities<sup>of</sup> defense, cross examination etc were provided to the appellant.
- (C) Incorrect. The appellant has associated with the inquiry proceeding as evident from the inquiry finding report.(photo copy enclosed as annexure "D")
- (D) Incorrect. All the codal formalities were observed during the course of inquiry in accordance with Khyber Pakhtunkhwa Police Rule 1975 wherein issuance of final show-cause notice is not mandatory.
- (E) Incorrect. After thorough probe, the charges were established against the appellant and thus awarded appropriate punishment.


- (F) Incorrect. Allegation of tainted reputation and alleged involvement in anti social activities have been specifically mentioned. ~~During the preliminary inquiry conducted by Deputy Inspector General of D.I. Khan Range and District Police Officer~~ ~~What such allegation was found correct. (photo copy enclosed as annexure 2)~~ *u*
- (G) Incorrect. Special law Khyber Pakhtunkhwa Police Rule 1975 is applicable to the Police officers/officials. The appellant has been treated under the said law.
- (H) Incorrect. The competent authority has already taken lenient view against the appellant taking into consideration his long service.
- (I) Incorrect. The facts and circumstances of appellant is different from other officials and he has not been discriminated in any way.
- (J) That the respondent may be allowed to advance other grounds and proofs at the time of hearing.

Prayer:

In view of the above facts and circumstances, it is humbly prayed that appeal of appellant, being not maintainable, may kindly be dismissed with costs.

  
Provincial Police Officer,,  
Khyber Pakhtunkhwa, Peshawar  
21/4/12 (Respondent No.1)

  
Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)

  
District Police Officer,  
Bannu.  
(Respondent No.3)

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR**

**Appeal No. 411/2014**


Pir Hameed Ullah Shah, Ex-HC, NO.892 District Police, Bannu. (Appellant)

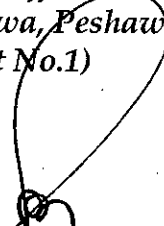
**VERSUS**


- 1) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Regional Police Officer, Bannu Region, Bannu.
- 3) The District Police Officer, Bannu. (Respondents)

**COUNTER AFFIDAVIT**

We the following respondents, do hereby solemnly affirm and declare that the contents of the attached para wise comments are true and correct to the best of our knowledge and belief and nothing has been withheld or concealed from this Honorable Tribunal.

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

  
Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)

  
District Police Officer,  
Bannu.  
(Respondent No.3)

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR**

**Appeal No. 411/2014**

Pir Hameed Ullah Shah, Ex-HC, NO.892 District Police, Bannu. (Appellant)

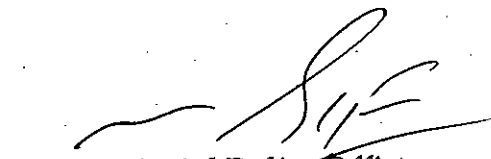
**VERSUS**


- 1) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Regional Police Officer, Bannu Region, Bannu.
- 3) The District Police Officer, Bannu. (Respondents)


**AUTHORITY LETTER.**

Mr. Mir Faraz Khan Inspector Incharge legal cell Office of DPO Bannu, is hereby authorized to appear before the Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited appeal.

He is authorized to submit and sign all documents pertaining to the present appeal.

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

  
Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)

  
District Police Officer,  
Bannu.  
(Respondent No.3)



Annex A 21

Annexure - A

(5)

CHARGE SHEET

1. MUHAMMAD IQBAL, D. Sgt Police Officer, being a competent authority hereby charge you HC Pir Hamidullah Shah No. 892, MC Quara Road Hospital, Banora as you have been arrested by the Regional Police Officer, Banora on the basis of your tainted reputation and an alleged involvement in the transportation of one custom paid vehicle. You are expected to exhibit the tenor of a disciplined service, morality and impartialness which are badly required for the welfare of the

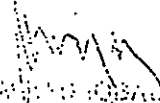
2. By reason of the above you appear to be guilty of an offence under the police rules (Amended vide RWP para 10, 27 January 1954) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are therefore, directed to submit your defence within 67 days of the receipt of this Charge Sheet to the commanding officer.

4. Your written defence, if any, should reach the Commanding Officer within the specified period, failing which, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

  
District Police Officer  
Banora

Annexure B,

(7)

The District Police Officer,  
Bannu.

Subject: REPLY TO THE CHARGE SHEET BASED UPON  
STATEMENT OF ALLEGATION.

Respected Sir,

With reference to your good self-number 663-70/SRC dated 06/12/13, the petitioner prayed as under:-

1. The petitioner recruited in police deptt: as constable on 26/12/1996 and after undergoing basic training in the training institution, reported back in the District for performance of duty. The petitioner has been assigned the duties in various police stations which was discharge efficiently.
2. That the petitioner was posted on various establishment in police deptt: and performed the duty with great zeal and zest and this is why that the officers under whom command, I have performed the duty has made no complaint what so ever against the petitioner and was happy for the performance of duty.
3. That throughout my service since 1996, the petitioner has not done any such thing/action which is against the spirit of police rules as well as disciplinary force. The service record of the petitioner is so much clear that during the entire period of service, no complaint has been received from the public to the officers and this is why that no departmental action has been initiated against the petitioner from any corner on the basis of Anti-Social activities.

that the petitioner has performed front line duty in the raid proceeding of police. The petitioner has also performed the duty on so many sensitive places and the services of the petitioner in the performance of duty in such sensitive places has been recognized by the officers with good name. During the arrest of very wanted PO by the petitioner, the petitioner was recommended for the promotion of C-II and accordingly the C-II award was placed upon the petitioner. C-II promotion is given to the official when has got extra ordinary performance in the police Deptt. Furthermore on the arrest of another very wanted PO in the new vegetable market Bannu, the petitioner was promoted to the rank of honorary ASI.

5. The allegation leveled in the subject Charge Sheet is not based upon facts because the petitioner has not been counseled by the authority in light of the contents of the above allegations. According to service laws whenever no proof is available against any officer/official on the subject of corruption or any other anti-social activities then the official/officer is directed by the authority for reformation or removing the short coming or the same is communicated to the officer/official in shape of adverse remarks in the ACR but in my case no such adverse remarks has been communicated to me in shape of ACR or advice, which suggest that the allegations mention in the above letter is not substantiated by cogent evidence.

6. Sir, the petitioner has never been indulged in any such activities beneficial to the person of petitioner except the performance of good duty vide which I am receiving monthly salary from police Deptt. The allegations in the above charge sheet is quite based upon hearsay evidence which has got no footing in the service laws; furthermore I do not know that under what source, the same has been communicated to your good self by worthy R/O Bannu because till date I have not even warned by the authority on any score of mis-conduct.

According to the dicta of Supreme court of Pakistan as well as service tribunal and the constitution of Islamic Republic of Pakistan 1973 an official/officer should be condemned without solid reasons / proof of any allegation and in the case of any allegation against the spirit of police rules/service laws, the official/officer will be suspended when there is some clue leading towards the allegations but in the case of petitioner no complaint what so ever has been made against the petitioner nor any kind of tinted allegation has been refereed in the charge sheet. The general allegations without proof is nothing but amounts the harassment of the official.

8. The petitioner is the only bread earner of the family and such kind of defamation will certainly discourage myself as well as other police officials in performance of duty specially in the situation facing by the police in now a days.
9. That the allegations in the charge sheet are not governed by any cogent/solid proof and no official/officer can be entangle with such like allegations without substantive proof.
10. That the allegations of transportation of non-custom paid vehicle is not governed by any solid proof and according to law no one can be condemned for any allegation not substantiated by any cogent reasons or proof. Aerial allegations against any officer/officials is against The Constitution of Islamic Republic of Pakistan 1973 as well as other laws of the land.

In light of the above facts and circumstances, it is requested that the allegations mentioned in the charge sheet is Aerial in nature and the charge sheet may kindly be filed without further action.

Yours Obediently

PIR Hamid Ullah  
HC No. 892  
Police Line Bannu.

(1)

فائینڈنگ اسکیم انڈوسٹری

برخلاف: ہیڈ کانسٹیبل شیر محمد اللہ سمان نمبر 892 صلحہ ہوں

صاف علی گارڈ

معروضی جوں کہ H.C. پیر محمد اللہ سمان نمبر 892 کے خلاف التزام حکم مذکورہ سماج دشمن عناصر کے ساتھ لڑا لڑا کنگ پولیس فورس کو بدنام کر کے ناجائز دستوت خودی کر کے ہے۔ حکم داغدار کردار پولیس فورس کے لیے باہت بدنامی اور خلاف رُسلین پایا گیا ہے۔

اسکی ایسی داغدار کردار کے خلاف - جواب - 2/10/12 - یوں ہے چار بار سٹیٹ سٹری آف ایگیشن انڈیا کے آرڈر 668-7/RE کے تحت 06 مارچ 12 کو مذکورہ پیر محمد اللہ سمان کے خلاف اسکیم انڈوسٹری کرنے میں 15 DP جو نوٹنگ کو انڈوسٹری آف ایگیشن فورس کرنے اور فائینڈنگ (25) دن کے اندر ختم کرنے کے احکامات صادر کئے۔

دوران انڈوسٹری التزام علیہ H.C. پیر محمد اللہ سمان نمبر 892 نے اپنا چار بار سٹیٹ سٹری آف ایگیشن وصول کر کے اپنا خودی انجیل بیان ہوا دیا گیا جس نے اسے بیان میں باطنی طور پر سٹیٹ اس پروگرام کے لئے التزامات کی تردید کر کے عائد شدہ التزامات کو غلط من گھڑت قرار دیکر خود کو بے گناہ اور بے قصور قرار دیا ہے۔

دوران انڈوسٹری شیر محمد اللہ سمان کے آرڈر اور گیس قسم OASI گورنر بیان طلبہ 25 مارچ کو حکمے بیانات موجودگی التزام علیہ قلمبند کر کے التزام علیہ کو گورنر پر حصر کرنے مایورا پورا موقع فراہم کیا گیا۔

OASI کے دوران بیان سٹیٹ ہاؤس کے ذریعہ 26/12/1996 کو پورا کانسٹیبل محمد علی پورا ریگولرٹ کورس پاس کرنے کے بعد لائسنس یافتہ ہاؤس DAR پولیس کانسٹیبل

(3)

کے ماضی دلائل سے جس سے متعلق میں بہتر کو لیں

نئے ہی کو ہم نہیں

گینزا کا شہرت انکوئی جامع سائنات فلسفہ سائنہ دالیا سوال حضرت  
میں مذکورہ پیرا سائنہ ۱۴۵ نمبر ۸۹۲ کو پیکر سزا  
دینے کے سائنس کیمانی

سائنس کیمانی

سائنس کیمانی - ۱۴۵ نمبر ۸۹۲ کو پیکر سزا

20/12/2013