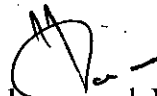


13.03.2018

None present on behalf of the appellant. Mr. Riaz Paindakheil learned Assistant Advocate General for the respondents present. Adjourn. To come up for arguments on 27.04.2018 before D.B.



(M.Amin Khan Kundi)
Member



(Muhammad Hamid Mughal)
Member

27.04.2018

None present on behalf of appellant. Mr. Kabir Ullah Khattak, Additional AG for the respondents present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 13.07.2018 before D.B.



Reader

13.07.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Sardar Shaukat Hayat learned Additional Advocate General present. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. File be consigned to the record room.



(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
13.07.2018

16. 05.07.2017 No one present on behalf of appellant. Mr. Kabir Ullah Khattak, Assistant AG for the respondents present. Notice be issued to the appellant and his counsel for attendance. To come up for arguments on 30.10.2017 before D.B.

(Gul Zeb Khan)
Member

(Muhammad Hamid Mughal)
Member

30.10.2017

Son of the appellant and Mr. Muhammad Jan, DDA for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. Adjourned. To come up for arguments on 15.01.2018 before the D.B.

Member

Chairman

15.01.2018

Clerk of the counsel for appellant present. Mr. Kabir Ullah Khattak, Addl: AG for the respondents present. Lawyer community on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourned. To come up for arguments on 13.03.2018 before D.B.

(Gul Zeb Khan)
Member

(M. Hamid Mughal)
Member

24.06.2016

Clerk to counsel for the appellant and Addl: AG respondents present. Clerk to Counsel for the appellant requested for adjournment as general strike of the Bar. To come up for rejoinder and arguments on 01.11.2016.



Member


Member

01.11.2016

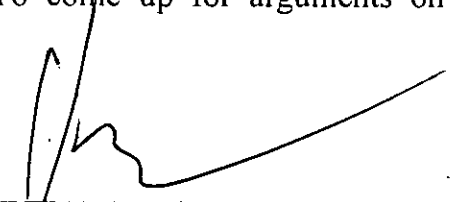
Mr. Noman, Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment due to illness of learned counsel for the appellant. To come up for arguments on 6.3.17 before D.B.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

06.03.2017

Clerk to counsel for the appellant, Asst: AG for respondents present. Arguments could not be heard due to General Strike of the Bar. To come up for arguments on 05.07.2017 before D.B.


(MUHAMMAD AAMIR NAZIR)
MEMBER


(ASHFAQUE TAJI)
MEMBER

03.09.2015

Agent of counsel for the appellant and Addl: A.G for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 500/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 25.11.2015 before S.B.


Chairman

25.11.2015

Counsel for the appellant and Mr. Hayat Muhammad, Reader alongwith Addl: A.G for respondents present. Written reply not submitted despite extension of last opportunity and cost of Rs. 500/-. Requested for further adjournment. Another last opportunity is extended subject to payment of further cost of Rs. 500/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost of Rs. 1000/- on 3.3.2016 before S.B.


Chairman

03.03.2016

Counsel for the appellant and Mr. Hayat Muhammad, Reader alongwith Assistant AG for respondents present. Written statement by respondents submitted. Cost of Rs. 1000/- paid and receipt thereof obtained. The appeal is assigned to D.B for rejoinder and final hearing for 24.6.2016.


Chairman

27.11.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Wisal H.C for the respondents present. The Tribunal is incomplete. To come up for the same on 12.2.2015.


READER

12.02.2015

Counsel for the appellant and Addl: A.G for respondents present. Counsel for the appellant submitted two applications, one for impleadment of legal heirs of deceased appellant as necessary parties in the appeal and the other for grant of pensionary benefits to the legal heirs of deceased appellant. Notice of applications be issued to the respondents for replies on applications and arguments thereon on

13.04.2015.


Chairman

13.04.2015

Counsel for the appellant and Addl: A.G for respondents present. Learned Addl: A.G requested for adjournment. To come up for written reply/comments on 3.7.2015 before S.B.


Chairman

03.07.2015

None present for appellant. Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 3.9.2015 before S.B.


Chairman

Appeal No. 472/2014.
Mr. Muhammad Ilyas

29.05.2014

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 impugned order dated 06.12.2013, he filed departmental appeal on 27.12.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 02.04.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 22.08.2014.

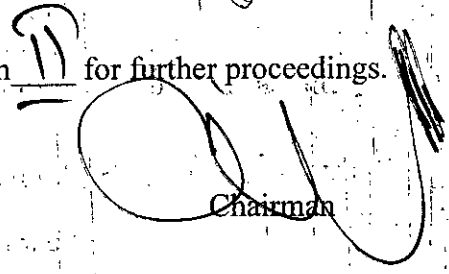
Appellant deposited
Process fee & Security
Rs. 2000/- Bank Receipt
attached with file



Member

29.05.2014

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



Chairman

22.08.2014

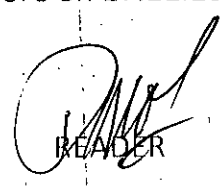
Counsel for the appellant and Mr. Kabeerullah, Asstt. A.G with Wisal Khan, H.C for the respondents present. The learned Member is on leave, therefore, case to come up for the same on 16.09.2014.



READER

16.09.2014

Counsel for the appellant, and Mr. Ziaullah, GP with Wisal Khan, H.C for the respondents present. The learned Member (Judicial) is not working due to a recent order affecting his status as District & Sessions Judge. To come up as before on 27.11.2014.




READER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 472/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/04/2014	<p>The appeal of Mr. Muhammad Ilyas presented today by Mr. Khan Akbar Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;">690 REGISTRAR</p>
2	7-4-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>29-5-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOON
KHWA, PESHAWAR.

Service Appeal No 472/2014

Muhammad Ilyas.....Appellant

VERSUS

IGP, KPK & others.....Respondents

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Service appeal		1-4
2.	Affidavit		5
3.	Copy of FIR No.451	"A"	6
4.	Copy of Judgment dated 23.05.2013	"B"	7-32
5.	Copy of Enquiry Report	"C"	33-34
6.	Copy of Impugned Order dated 06.12.2013	"D"	35
7.	Copy of Acquittal Order dated 17.12.2013	"E"	36-52
8.	Copy of Departmental appeal/representation	"F"	53-54
9.	Wakalat Nama		55


Appellant

Through


KHAN AKBAR KHAN
Advocate, Peshawar.

Dated:01-04-2014

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

Service Appeal No. 472/2014

Mr. W. F. P. P. P.
Case No. 489
Dated 2-4-2014

Muhammad Ilyas, Ex-Constable, No. 3186,
Police Lines, Peshawar(Appellant)

Versus

1. The Inspector, General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Mr. Masood Ahmad Khalil, Senior Superintendent of Police, Investigation, Peshawar.
4. Mr. Iffikharud Din, Deputy Superintendent of Police Headquarters, Peshawar.....(Respondents)

=====

**APPEAL UNDER SECTION 4 OF THE
SERVICE TRIBUNAL ACT, 1974, AGAINST
THE ORDER DATED 06.12.2013, WHEREBY
THE APPELLANT WAS AWARDED MAJOR
PUNISHMENT OF DISMISSAL FROM
SERVICE.**

=====

PRAYER IN APEAL:-

ON ACCEPTANCE OF THE INSTANT
APPEAL, THE ORDER DATED
06.12.2013, MAY KINDLY BE SET ASIDE
AND THE APPELLANT MAY
GRECIOSUSLY BE RE-INSTATED TO HIS
SERVICES WITH ALL BACK BENEFITS.

=====

Mr. W. F. P. P. P.
[Signature]
2/4/14

Respectfully Sheweth: -

- 1) That the appellant was working in the police department as Constable and his performance was up-to the entire satisfaction of his superiors. During the duties his performance remained good and there were no complaints against him regarding his performance of duty or otherwise.
- 2) That on dated 12.08.2011, when the appellant was taking some prisoners to the KCD, some unknown terrorists, attacked the police party and after killing three colleagues of the appellant, they took away their prisoners accomplices. Consequently the police involved the appellant in case FIR No. 451, on the ground of suspicion. (Copy FIR is attached herewith as **Annex "A"**).
- 3) That later on trial was conducted before the competent court of law and on conclusion of trial the appellant was convicted by the trial court for life on three counts under section 302PPC r/w 7 ATA and under section 222 PPC the appellant was further convicted for 7 years. (Copy of the Judgment and order dated 23.05.2013 are attached herewith as **Annex "B"**).
- 4) That on the basis of his conviction, respondent No.2, constituted an enquiry committee, consisting of Respondent No.3 and 4, who conducted the inquiry without issuing any charge Sheet or statement of allegation to the appellant and recommended for his major punishment of dismissal from services. (Copy of Enquiry Report is attached herewith as **Annex "C"**).
- 5) That on dated 06.12.2013, respondent No.2 issued the impugned order, whereby the appellant was awarded the major punishment of dismissal from services. (Copy of the impugned order No.2067-73/PA dated 06.12.2013 is attached herewith as **Annex "D"**).
- 6) That on dated 17.12.2013 the Honourable Peshawar High Court Peshawar set aside the order of conviction of the

appellant and acquitted him of the charges in a Criminal Appeal No. 251/2013. (Copy of acquittal Order dated 17.12.2013 is attached herewith as **Annex "E"**).

- 7) That consequently the appellant on his acquittal filed his department appeal/representation against the impugned order, before the respondent No. 1, which was not replied by him, within the statutory period. (Copy of Departmental appeal is attached herewith as **Annex "F"**)
- 8) That being aggrieved from the impugned order dated 06.12.2013, the appellant after the expiry of statutory period, approaches this Honourable tribunal on the following grounds inter-alia.

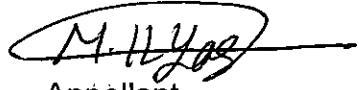
GROUND:-

- A. That the impugned order dated 06.12.2013 is illegal, unlawful and against the settle principles of natural justice, hence untenable and liable to be set aside.
- B. That the enquiry Committee, during the enquiry, provided no opportunity of personal hearing to the appellant and the enquiry was conducted in his absence as the appellant was in central jail Peshawar.
- C. That no full-fledged enquiry was conducted in the matter and the same is against the provisions of Police Rules, which is summary in nature as there is nothing to justify the findings of enquiry committee, while no witness was examined by the enquiry committee in support of allegations leveled against the appellant.
- D. That the appellant has rendered spotless and unblemished service in the police department and there are no adverse remarks against him in his ACR.
- E. That the allegation, on the basis of which the appellant was dismissed from services, was disbelieved by the Honourable Peshawar High Court by acquitting the appellant from the charges, hence the appellant is entitled to be re-instated to his services.
- G. That during Enquiry proceeding no chance of personal hearing was given to the appellant, hence he is condemned

unheard, which is glare violation of provisions of law as well as natural justice.

It is, therefore, most humbly requested that on acceptance of this **Appeal**, the impugned order dated 06.12.2013, may kindly be set aside and the appellant may graciously be re-instated to his services with all back benefits.


Any other relief no specifically prayed for herein may also be granted to the appellant.


Appellant

Through:


(KHAN AKBAR KHAN)

&


(SAIF ULLAH MOHMAND)
Advocate, Peshawar.

Dated: - 01.04.2014

5

BEFORE THE CHAIRMAN SEVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR.

Service Appeal No. _____ /2014


Muhammad Ilyas

Versus

Inspector General of Police & others


AFFIDAVIT

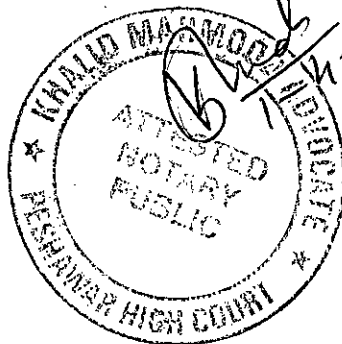
I, Muhammad Ilyas, Ex-Constable, do hereby solemnly affirm and declare on Oath that all the Contents of accompanied Appeal are true and correct to the best of my knowledge and nothing has been concealed or withheld from this Honourable Court.



DEPONENT

Identified by


SAIF ULLAH MOHMAND
Advocate, Peshawar.



(74)

فیروز آئرستان کے لئے میں اپنے امیر ارارہ قتل فائزنگ کرنے سے پہلے ہی کھانہ لنگران
ملا کر دینے کے قتل کے ارادے میں حاضر تھا۔ لیکن بارہی سے نذر تھیں۔
سرکار نے جسم لنگران مارا۔ لیکن اس میں ایک اور بارہی تو نہیں سمجھتے تھے
HC دلوڈ ان بارہی پر بکریاں سجایا گیا۔ درست سلیم کے زیر بیان خود دیکھا
شبت کیا جلی میں لنگریاں تھیں۔ مقتولین لنگران کو جو قبل ازیں زیر
مناظرے کیلئے لنگریاں 3336 KM لنگریاں تھیں۔ یہ ہیں لنگریاں حال
ایس ڈی ایچ کے کوئی کوئی لنگریاں تھیں۔ لیکن مقتولین کے ہاتھوں
ہیں۔ لنگریاں میں صحت نہیں تھی۔ لنگریاں لنگریاں کے پاس HC کے قعدے
میں لنگریاں گاڑی تھیں۔ لیکن لنگریاں کے لئے سراسر ابتدائی خطرناک رہت
کی۔ لنگریاں کو نذریم برائے گاڑی ہسپتال ڈاکٹر نے لنگریاں کا مظاہرہ
پر سرکاری برائی ہے۔ یہ جسم گاڑی دلوڈ لنگریاں کے پاس HC کے پاس
مناظرے میں لنگریاں لنگریاں کو نذریم لنگریاں کے پاس 06 حسب
لنگریاں میں لنگریاں لنگریاں کے پاس لنگریاں کے پاس لنگریاں کے پاس
یٹل لنگریاں لنگریاں کے پاس لنگریاں کے پاس لنگریاں کے پاس
سارے لنگریاں لنگریاں کے پاس لنگریاں کے پاس لنگریاں کے پاس
گاڑی لنگریاں لنگریاں کے پاس لنگریاں کے پاس لنگریاں کے پاس
چاک لنگریاں لنگریاں کے پاس لنگریاں کے پاس لنگریاں کے پاس
لنگریاں لنگریاں کے پاس لنگریاں کے پاس لنگریاں کے پاس
لنگریاں لنگریاں کے پاس لنگریاں کے پاس لنگریاں کے پاس

دوایا
12/3/11

Witnessed to be true. CPS

Advocate

یہ دستاویز
محکم دلائل سے مزین
اور متنوع ومنفرد موضوعات پر مشتمل مفت آن لائن مکتبہ ہے

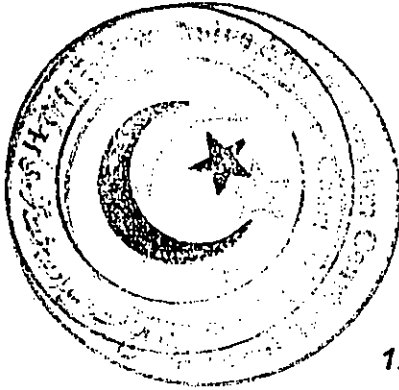
دستخط

عہدہ

(A) 7

Anwar B

**IN THE COURT OF MR. ANWAR HUSSAIN JUDGE
ANTI-TERRORISM COURT -II, PESHAWAR.**



Case No21/2012

Date of institution..... 15.03.2012

Date of decision23.05.2013

State **VERSUS**.....

1. Dr. Iftikhar S/o Mir Azam Khan R/O Dalazak,
Shabqadar presently Phase-I. Street No.30 D-4,
Hayat Abad, Peshawar.
2. Ahad Jan S/O Mehmod Jan R/O Kangra Tehsil
Shabqadar District Charsadda.
3. Ilyas S/O Abdul Hakeem R/O Jamal Ghari, presently
Sugar Mills road By Pass Itifaq Colony Mardan.

Case FIR No 451 dated 12.08.2011 U/S

302/353/324/148/149/223/224/ PPC/21 (i) RW 7 ATA

Police Station Tehkal, Peshawar

JUDGMENT:-

1. On 12.08.2011 there was a massacre of three innocent police constables who had lost their lives.
2. The report of blood both was made by Mohammad Ilyas now accused on even date at 10:45 am on the spot to Zahoor Khan SHO Police Station Tehkal, Peshawar.
3. While narrating the events ensuing in the gory incident, he had stated that on the fateful day he along with constables Tariq No.3186, Hussain Jafar No.5643 and Raees No.4647 duly armed with Kalashnikovs had taken two high profile terrorists namely Nadeem Abbas and Zaqeem Shah wanted and required in different criminal cases from Central Jail, Peshawar to Dental Hospital in private vehicle at the instance of aforesaid accused despite availability of official vehicle. After reaching Dental Hospital the vehicle was freed. After accused were

Certified To Be True Copy

Reader Court -II of Anti-Terrorism
Peshawar.

1113

28-5-13

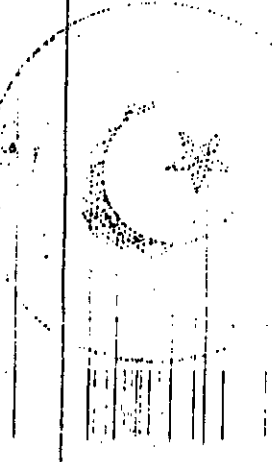
28/5/13

(Handwritten mark)

medically examined in the hospital, they were waiting for vehicle, meanwhile at about 10:30 am at the instance of aforesaid two accused five terrorist for recurring them from police custody opened firing at police party. As he was empty handed therefore he took shelter, while at the result of firing the above mentioned three constables were dispatched to the other world. The firing of terrorist created sense of fear and terror around. The terrorist also took away the two accused in custody.

4. The report made by Ilyas accused was taken during by Mr. Zahoor Khan SHO in shape of murasila Ex PA/1 which he transmitted to Police Station for registration of case. The murasila on receipt in Police Station was incorporated in FIR Ex PA by Dawe Khan SI. Zahoor Rehman SHO during spot inspection took into possession the official weapons of the deceased Ex-16, Ex-17 and Ex-18 and live recovered 35 in No. Ex-19 through memo Ex PW 5/1.
5. After registration of the case the job of investigation was shouldered by Mr. Shahid Khan Inspector. He on receipt of necessary documents proceeded to the spot. He sketched the site plan of the place of occurrence at the instance of complainant Ex PB with all foot notes and drawings. During spot inspection he collected blood from the place of deceased constable Tariq No.3716 sealed the same in parcel No.1 Similarly he procured blood with help of cotton from the place of Hussain Jafar No.5643 sealed it in to parcel No.2. Likewise he secured blood in the same manner from the place of constable Raees No.4647 and sealed it in parcel No.3 affixed the monogram of SH on all handle the three parcels and thereafter were seized through memos Ex 2/1 to Ex 2/3 while parcels Ex 18/1 to Ex 18/3. He also collected 36 empties of 7.62 bore freshly discharged lying scattered from point No.C and point No.D sealed the same is memo Ex PW 2/4. Ikramullah constable produced before him the attires of deceased Tariq consisting of shirt M-1 pant M-2 under wear M-3 stained with blood and sealed it in parcel No.5 Ex P-14. Similarly the said constable produce the blood appeared of deceased Raees Khan consisting of shirt M-5, pant M-6, Bunyan M-7 and under wear M-8 while he sealed in parcel No.6 M.9. Similarly vestments of

(Handwritten mark)



Certified To Be True Copy
(Signature)
 Reader Court-II of Anti-Terrorism
 Peshawar.

(Handwritten mark)

93

HS

deceased Hussain Jafaar consisting of shirt M-10, pant M-11 sealed it in parcel M-12 and seized through memo Ex 2/5. He recorded statements of PWs. Accused Ilyas was arrested by SHO of Police Station Tehkal and was handed over to him on the following day. He interrogated accused Ilyas and also produced him for getting recorded his confessional statement. He also recorded the statements of legal heirs of deceased.

After completion of usual investigation against accused facing trial he handed over case file to SHO who submitted interim challan.

Accused Zakeem Shah and Nadeem Abbas were avoiding their lawful arrest. Therefore, he vide his application Ex 18/6 applied for issuance of warrants U/S 204 Cr.P.C which he handed over to DFC for execution. However, the same were returned un-executed. Then he vide his application Ex 18/7 applied for issuance of proclamation notices U/S 87 Cr.P.C which were entrusted to DFC for doing the needful. The DFC vide his application Ex 18/8 transmitted the blood stained articles to FSL received report EX-2 and placed it on file. He vide his application Ex 18/9 applied for phone calls data of accused Zakeem Shah in respect of phone NO.0304-4349838 and of one Saqib phone No.0300-5739874 which he received, is consisting of seven sheets Ex 18/10 to Ex 18/16. He collected copy of FIR against Zakeem Shah accused and placed it on file. He collected duty card of accused Ahad Jan Ex 18/17 and placed it on file. This accused being present on duty had informed control room through Wireless. He took into possession two chits issued by doctor of central jail hospital which are EX 17/1 and Ex 17/2 vide which accused Dr. Iftikhar had referred the two accused to KCD, Peshawar for treatment. He also took into possession the medical report of Shah Hussain which is EX 18/18. He also recorded statement of Shah Hussain he took into possession the two receipts Ex 18/19 and Ex 18/20 through which accused Zakeem Shah and Nadeem Abbas had paid rupees 35 each as fee of medical examination. He also collected list of criminal cases against accused Zakeem Shah and Nadeem Abbas from central jail, Peshawar which is Ex 18/21. An enquiry was conducted, on inquiring at the result where of Dr. Iftikhar was also held responsible which is Ex 18/25. He also collected medical treatment

Handwritten initials

Certified True Copy
 [Signature]
 19/5/18

(10) 4 (104)

prescription of absconding accused from central jail, Peshawar which is Ex 18/26 to Ex 18/28.

After completion of usual investigation challan was submitted.

On receipt of case file as nominative accused were summoned in order to face their trial on the charges leveled against them. Out of whom only accused facing trial turned up turn by turn. After compliance of provisions of embodied in 265-C Cr.P.C in respect of each accused, they were formally charged sheeted on three different occasions to which they pleaded not guilty, professed innocence and claimed trial. However no proceedings were carried out about absconding accused.

In order to stream line the proceeding warrant of arrest are issued against absconding accused. Statement of DFC was recorded in view of his statement it was ordered that proceeding already carried out shall be considered against them U/S 512 Cr.P.C.

Prosecution was called up on to substitute its charges against accused facing trial by producing evidence as it wished.

Prosecution to convert apprehment of accused in guilt examined the following witness.

PW-1 is Akhtar Hussain A.S.I he has stated that he is marginal witness to the recovery memo Ex. P.W. 2/1 vide which the I.O. in his presence recovered and took into possession blood through cotton from the point of deceased F.C., Tariq and sealed the same into parcel No.1. Similarly, vide recovery memo Ex. P.W. 2/2 the I.O., recovered and took into possession blood through cotton from the place of F.C., Hussain Jaffar and sealed the same into parcel in his presence. The I.O., also recovered and took into his possession blood through cotton from the place of deceased Raees FC vide recovery memo Ex. P.W. 2/3 and sealed the same into parcel in his presence. During spot inspection, the I.O., recovered 36 spent empties of 7.62 bore Ex.P-16 freshly discharged from points C and D of place of occurrence and sealed the same in

Certified To Be True Copy

[Signature]
Peshawar: 1/1/12

Director General of Anti-Terrorism

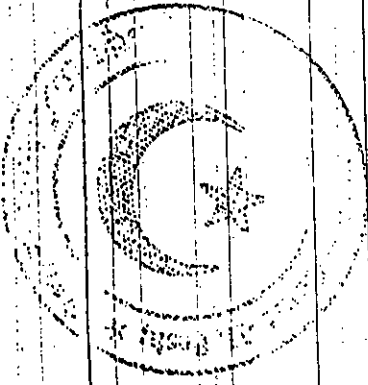
10 5 18

parcel No.4 in his presence, the memo in this regard is Ex. P.W. 2/4. Similarly he is also marginal witness to the recovery memo Ex. P.W 2/5 vide which the I.O. took into possession blood stained official uniform of deceased Tariq FC consisting of black shirt, trouser grey colour Ex.P-17 , blood stained clothes of deceased Raees Khan consisting on black shirt, grey trouser, white bunyan, green underwear Ex.P-18 and blood stained uniform of deceased Hussain Jaffar FC containing black shirt, and grey trouser Ex. P.19 and sealed the same into parcels No. 5 to 7 in his presence. The above mentioned blood stained articles were sent by Dr. K.M.C., through Ikram Ullah FC No.3836 of Police Line, Peshawar. All the memos are correct and correctly bear his signatures.

PW-2

is Nasrullah Shah S.I he has stated that on 12.8.11 he was present on duty at Khyber Teaching Hospital Casualty, Peshawar. In the meanwhile three deceased FCs were brought to the hospital. Vide recovery memo Ex. P.W.1/1, from the personal search of deceased constable Hussain Jaffar S/O Ghulam Jaffar R/O Ustarzai, Kohat he recovered and took into possession one bandolier alongwith two chargers containing live rounds Ex P-1, one knife alongwith keys Ex.P-2, and Rs. 710/- Ex. P-3 has been returned to the legal heirs of the deceased.(Subject to objection of the defence counsel that the court order in respect of the same amount is not available on the record). Similarly from the personal search of deceased Raees Khan FC S/O Mohammad Nisar R/O Kochian Gulbela, Peshawar he recovered and took into possession one bandolier with two charger having live rounds out of which one charger was damaged due to fire Ex. P-4, one pair of black shoes Ex. P-5, black socks Ex.P-6, Official Identity Card P-7, Cassio Watch Ex. P-8, Leather wallet Ex.P-9, Rs. 110/- Ex. P-10, China-G Mobile Phone Ex.P-11 have been returned to the legal heirs of the deceased(Subject to the objection of the defence counsel that the court order in respect of the same amount and mobile set are not available on the record) whereas from the possession of deceased

Handwritten signature



Certified To Be True Copy

Handwritten signature
Reader Court -II of Anti-Terrorism
Peshawar.

FC Tariq S/O Saleem R/o Phakha Ghulam Peshawar he recovered and took into possession one mobile set Sony Ericson Ex.P-12, Key of handcuffs Ex. P-13, Rs. 3,295/- Ex.P.14 have been returned to the legal heirs of the deceased (Subject to the objection of the defence counsel that the court orders in respect of the same amount and mobile set are not available on the record) and different documents Ex. P-15 in presence of Syed Amin SHO P.S. Town and handed over the same to Fazli Rabbi Khan ASI in presence of its marginal witnesses.

PW-3

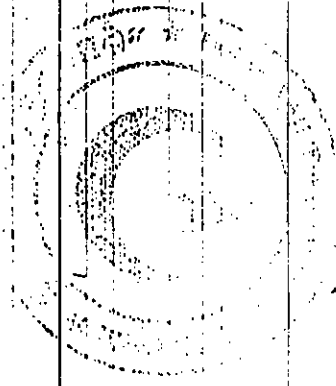
is Bacha Khan Chief Warden he stated that during the days of occurrence he was posted as Hawaldar in Hawalati branch in central jail, Peshawar. On 12.08.2011 police party came to central jail for taking prisoners to hospital, whereas Mohammad Ayaz received three prisoners for LRH, among those prisoners was seriously ill whose name was Ghulam Sarwar. Besides Head constable Mohammad Ilyas was present along with other police personnel for taking patients/prisoners K.C.D, Peshawar, and Nadeem Abbass for K.C.D hospital, Peshawar and also received said accused from Darban jail at Dawri(Main gate) at the time of receiving the said chits he warned Hawaldar Ilyas guard commander that the accused are highly dangerous and need strict surveillance and security. The same words he had written on police chits. To this effect Parcha Talbi police guard is produced in original, perused and returned which is Ex PW 3/1 (Subject to objection of defence that it does not bear the signature of the witness and it is also not available on the police record, therefore it can not be brought on record) (O.L.O). At the botton it is correctly written in his hand writing which is under:-

لغز نہ تمام ملزمان سمیت خطرناک ہے سیشن قمار ڈبہ عالمی ماہیو بہت سی جا
مدنی: K.C.D. ہسپتال ورر ملزمان کو 3-8 بجے ہسپتال کو بھیجا
ضروری ہے اور ملزمان سمیت خطرناک ہے کڑھ سیشن قمار ڈبہ
قماری ماہیو بہت سی جا

Certified To Be True Copy

Reader Court - II of Anti-Terrorism
Peshawar.

28/5/13



PW-4

13, (17)
is Khushal Khan Gate Keeper Central Jail, Peshawar who has stated that he was serving in central jail Peshawar for the last ten years. On 12.8.11 usually he was present on his duty. When police nafri came to the prison for taking the prisoners to different hospitals/courts. Accused Ilyas was entrusted the K.C.D., duty and he handed over two number of prisoners namely Nadeem Abbas and Zakeem Shah for taking them to K.C.D., and obtained his signature on Gate Keeper register (Court's Register). At the time of handing over the said accused he told accused Ilyas that they are hardened and desperate criminals and he should be careful.

PW-5

is Zahoor Ur Rahman S.I./SHO he has stated that during the days of occurrence he was posted as SHO P.S. Tehkal. On the day of occurrence during *gasht* he received information about the occurrence through wireless set. On the said information he alongwith police contingent rushed to the spot where Mohammad Ilyas accused No.3186 reported me about the occurrence which he reduced into *Murasila* Ex. P.A./1 who after admitting the same as correct signed the same as token of its correctness. Thereafter he prepared injury sheets and inquest reports of the deceased and sent the same through FC Ikram Ullah to K.M.C., Peshawar where the deceased then injured were already shifted. As the complainant Ilyas had not used official vehicle for the shifting of the accused to K.C.D., and had used private vehicle for such accused who were involved in terrorism, therefore, he arrested him in the case and sent the *Murasila* to the P.S., through F.C. Imran for registration of the case and on the basis of which dead P.W., Dawa Khan S.I., registered the case vide F.I.R. Ex.P.A., wherein he correctly incorporated the contents of the *murasila* which correctly bears his signature. Arrest Card of the accused facing trial is Ex. P.W. 5/1. On the spot he recovered and took into possession in presence of its marginal witnesses official

Certified To Be True Copy

Reader Court - II of Anti-Terrorism
Peshawar.

74 8
weapons of the deceased Hussain Jaffar No.5643 and Raees Khan No.4647 i.e. SMG China bearing No. 3900601 Ex.P.16 loaded with Charger having thirty live rounds of 7.62 bore Ex. P.17 and SMG China made bearing No. 3901702 Ex. P-18, loaded with charger having thirty live rounds of 7.62 bore Ex.P-19 respectively, vide recovery memo Ex. P.W. 5/1. All the documents correctly bear his signatures.

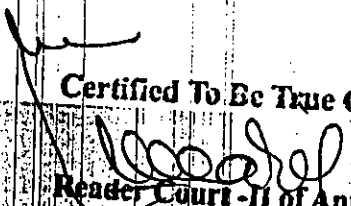
PW-6

is Shehanshah FC he has stated that he was driver of the official vehicle of Prison bearing Registration No.AA-1334. On 12.8.2011 at 8:00, he went to the central jail Peshawar for taking accused from the jail to different courts and hospitals. There he received challans of LRH, Banking Fraud, Narcotics and Khyber College of Dentistry. He picked the challan of LRH, Banking fraud and Narcotics whereas the challan of K.C.D picked by Mohammad Ilyas HC in a private vehicle.

PW-7

is Nawaz Khan HC he has stated that he was marginal witness to the recovery memo Ex PW 1/1, vide which the IO in his presence recovered and took into possession from the personal search of deceased constable Hussain Jaffar S/O Ghulam Jaffar R/O Ustarzai, Kohat. He also recovered and took into possession one bandolier along with two chargers containing live rounds Ex P-1, one knife alongwith keys Ex P-2, and Rs.710/-Ex P-3. Similarly the IO also recovered from the personal search of deceased Raees Khan FC S/O Mohammad Nisar R/O Kochian Gulbnela, Peshawar and took into possession one bandolier with two charger having live rounds out of which one charger was damaged due to fire Ex P-4, one pair of black shoes Ex P-5, socks Ex P-6, official identity Card P-7, Cassio Watch Ex P-8, Leather wallet Ex P-9, Rs.110/- Ex P-10, China-G Mobile Phone Ex P-11. The IO also recovered from the possession of deceased FC Tariq S/O Saleem R/O Pkha Ghulam Peshawar and took into possession one mobile set Sony Ericson Ex P-12, key of handcuffs Ex P-13, Rs.3,295/- Ex P-14 and different documents Ex P-15 in his presence which is correct and correctly bear his signature.

Certified To Be True Copy


Judge, Court-II of Anti-Terrorism
Peshawar. 1-1-11

(15) 9

[Handwritten signature]

PW-8

is Mohammad Arif ASI/Moharar he has stated that on 12.8.11 in his presence Sajjad Madad Moharar assigned the duty of the police for taking the prisoners of Central Jail, Peshawar to different places and provide them Jail Van alongwith receipt of challan of accused Nadeem Abbass and Zaqem to HC Ilyas.

PW-9

is Alu Din HC he has stated that he was marginal witness to the recovery memo already Ex PW 5/2 which is correct and correctly bear his signature vide which the IO took into possession from the spot of deceased Hussain Jaffar No.5643/FC one SMG China No.3900601 loaded with 30 rounds of 7.62 bore and from the place of Raees Khan No.4647/FC one SMG No.3901702 loaded with 30 rounds of 7.62 bore. To this effect IO prepared recovery memo which he signed alongwith other marginal witnesses.

PW-10

is Dr.Faqir Ullah Lecturer, K.M.C he has stated that on 12.8.11 at 11.55 A.M., he conducted autopsy on the dead body of constable Hussain Jaffar S/O Ghulam Jaffar Khan. He was brought and by Ikram Ullah No.3836. He was identified by constables Ikram Ullah and Jamshid and found the following:-

No mark of ligature was seen on neck. A man of age 35/40 years with good built wearing police uniform i.e. black shirt, Khaki trouser and black underwear. Clothes were blood stained and were having fire arm defects corresponding to the injury. P.M. Lividity and rigor mortis had just started developing.

INJURIES

1. Fire arm entry wound situated on right side of chest .5 cm in diameter, 12 cm from mid line and 6 cm below nipple.
2. Fire arm entry wound situated on front of chest .5 cm in diameter lying on mid line 8cm below external notch.

Certified To Be True Copy

[Handwritten signature]
**Reader Court-II of Anti-Terrorism
Peshawar.**

3. 2 fire arm exit wounds situated on left back chest 3x2 cm in size each. 10 cm from mid line and 2 cm above costal margin.
4. Fire arm injury wound situated on right side of scalp 1x2 cm in size, 8 cm from mid line and 5 cm above ear.
5. Fire arm injury wound situated on left side of scalp 4x3 cm in size, 6 cm from mid line and 3cm above the ear.
6. Fire arm entry wound situated at outer aspect right thigh 1x2 cm in size, 15 cm below the iliac crest.
7. Fire arm exit wound situated on inner aspect of right thigh 2x1 cm in size, 6 cm below groin.
8. Fire arm entry wound situated on left side of back, 2x3 cm in size, 6 cm from mid line and 6 cm below costal margin.

Note: Bullet corresponding to injury No.8 was recovered from front of abdomen sealed, signed and handed over to police.

Internal Examination

Cranium and spinal cord.

Scalp and skull were injured, membrane and brain were also injured

Thorax

Walls, ribs, cartilages, pleura, right & left lungs, blood vessels were injured.

Abdomen

Walls, peritoneum, diaphragm, small intestines, and large intestines, left kidney were injured.

Muscles Bones

As mentioned on injury sheet skull was fractured.

In my opinion the deceased died due to injuries to the brain, lungs, intestines and left kidney caused by fire arm injuries.

Duration between injury and death.... Immediate.

Time between death and Postmortem.... 2 to 3 hours

Certified To Be True Copy
 Reader Court of Anti-Terrorism
 Peshawar.

17 11 21

The P.M. report alongwith pictorial (consisting of six pages) Ex. P.M. My endorsement on inquest report is Ex. P.M/1 which is correct and correctly bear his signatures.

PW-11 is Dr. Mohammad Aslam, K.M.C he has stated that on 12.8.11 at 11.44 A.M.. he conducted autopsy on the dead body of constable Mohammad Tariq S/O Mohammad Saleem Khan aged about 35/40 years. He was brought by Ikram Ullah No.3836. He was identified by constables Ikram Ullah and Jamshid and found the following:-

No mark of ligature was seen on neck. A man of age 35/40 years with good built wearing police uniform i.e. grey pant, black shirt, white underwear. Clothes were blood stained and were having fire arm defects corresponding to the injury. P.M. Lividity and rigor mortis had just started developing.

INJURIES

1. A group of three Fire arm entry wounds on the left side of abdomen 1 cm in diameter each , in area of 5x6 cm, 3cm above the iliac crest
2. Fire arm exit wound on the left side of chest 4x2 cm in size, 6 cm from mid line, 5 cm below clavicle
3. A fire arm exit wound on the right front chest 4x2 cm in size, 1 cm below clavicle and 1 cm from mid line.
4. Fire arm exist wound on the outer aspect of right thigh 3x1 cm in size, 3cm below iliac crest.
5. A fire arm entry wound on the outer aspect of the left arm 6cm above the elbow joint, 0.5x0.5 cm in size.
6. Fire arm exit wound on the inner aspect of left arm 1x2 cm in size, 8cm below axilli.
7. A fire arm entry wound on the back of right foot 1cm in diameter, 1 cm above the base of toe.

Certified To Be True Copy

Reader Court -II of Anti-Terrorism

- 8. Fire arm exit wound on the sole of right foot, 1x2 cm in size, incised, lying in the middle.
- 9. Fire arm entry wound on the inner aspect of left leg, 1x2 cm in size, 8 cm below knee joint.

Bullet corresponding to injury No.9 is recovered from the front of left leg that was sealed, signed and handed over to Police.

Internal Examination

Thorax

Walls, ribs, cartilages, pleura, right & left lungs, were injured.

Abdomen

Walls, peritoneum, diaphragm, small intestines, and large intestines were injured.

In his opinion the deceased died due to injuries to the brain, lungs, diaphragm and intestines caused by fire arm injuries.

Duration between injury and death.... Immediate.

Time between death and Postmortem.... Half to 2 hours

Dead body alongwith police uniform verified police documents, a sealed sign bullet and Post Mortem Report handed over to Police.

The P.M. report alongwith pictorial (consisting of six pages) Ex. P.M/2.

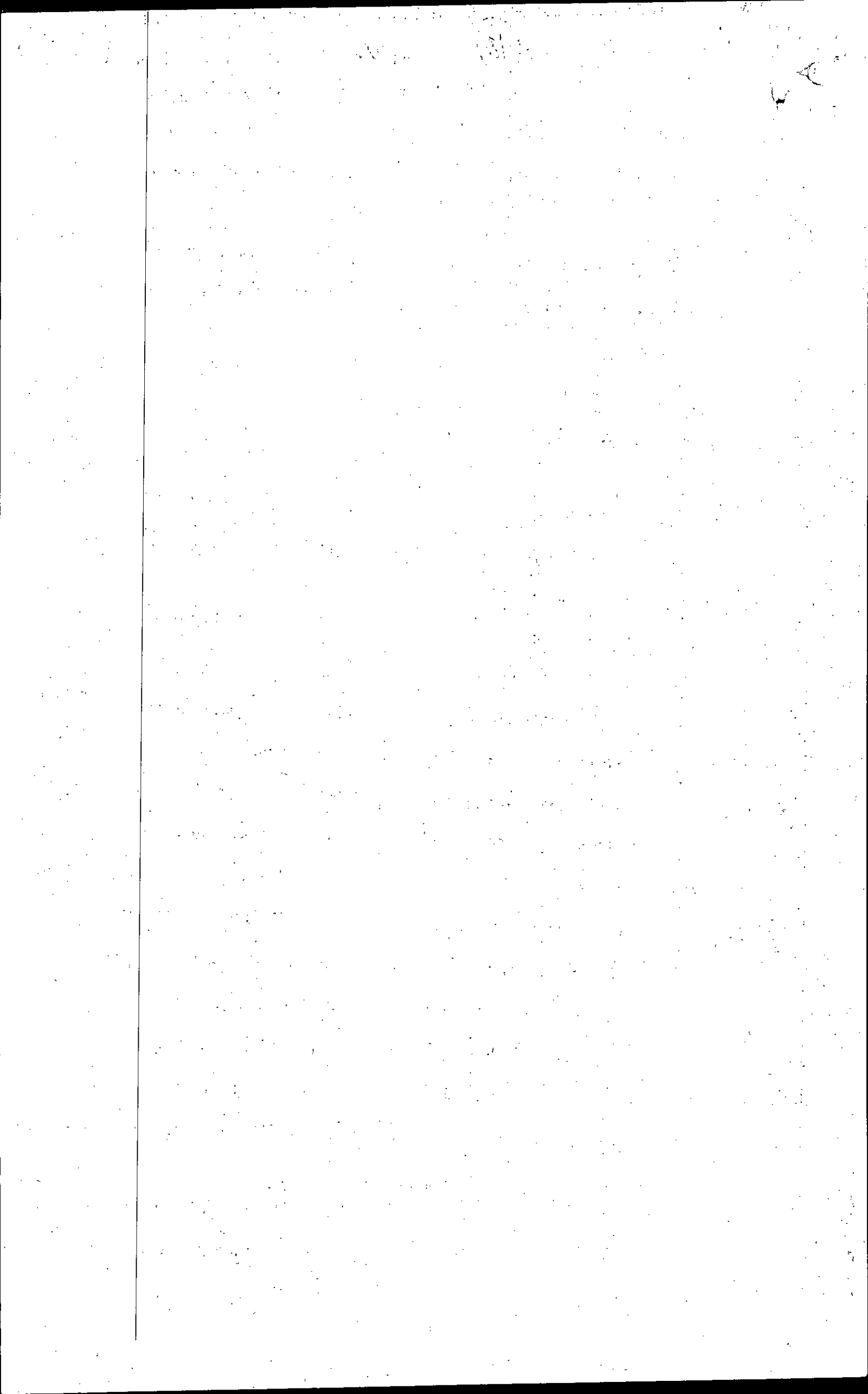
His endorsement on inquest report is Ex. P.M/3 which is correct and correctly bears his signatures.

PW-12

is Iran Shah he has stated that on 12.8.2011 it was Friday patient Zakeem O.P.D., No. 34627 was brought in custody and was complaining of toothache who was referred to Conservation department. The O.P.D. doctor advised him R.C.T, and we gave him dated 28.9.11 for R.C.T., accordingly. My report is Ex. P.W. 14/1 which correctly bears my signature duly verified by Khalid Rahman Associate Professor, Khyber College of Dentistry Peshawar.



[Signature]
 Certified To Be True Copy
 Reader Court-II of Anti-Terrorism
 Peshawar.
 28/5/13



PW-13

is Dr. Mohammad Saleem he has stated that on 12.08.2011 Head Constable came to me and asked me for conducting free X-Ray of prisoners, M. Ndeem Abbass and Mr: Zaqeem Shah but when he asked personally from them about the conducting of free X-Ray they told me that they are able to pay for the X-Rays therefore he had not signed the free chit and refused the request. His report to this effect is Ex PW 8/1 which correctly bears his seal and signature.

(9)
23

PW-14

is Dr. Salma (Rtd:) Dental Surgeon he has stated that on 12.8.2011 it was Friday patient Nadeem Abbass O.P.D., No. 34626 was brought in custody and was complaining of toothache who was referred for Minor Oral Surgery (M.O.S.). He advised him extraction of his tooth, but he told me that he was on fasting, therefore, he refused the extraction of the tooth and told me that he will again come for extraction on 28.9.2011 alongwith his friend, however, he medicated through prescription. My observation to this effect is Ex: P.W. 10/1 which correctly bears his seal and signature.

PW-15

is Dr. Imdad Ullah KCD he has stated that on 12.08.2012 the local police brought two prisoners namely Nadeem Abbas and Zakeem Shah to in OPD (Filter Clinic) for examination. he examined both the prisoners and did the following.

1. Periapical-X-ray
2. Referred them to Oral Surgery department and conservation department for treatment.

Opinion:-

In his opinion they were not suffering from any other systemic disease or a complicated dental problem. So could have been treated by a general dental surgeon, in any dental set up/clinic/hospital.

PW-16

is Dr. Nadia Mansoor he has stated that on 12.08.2012 the local police brought two prisoners namely Nadeem Abbas and Zakeem Shah in hand cuffed to the oral surgery department. One of the prisoner complained of

Certified To Be True Copy

Reader Court -II of Anti-Terrorism
Peshawar.

28/5/13




toothache in lower right last molar. He already had an X-ray of the tooth, and HBS/HCV blood test which was negative.

He asked him to open the mouth while he stood along our table, and checked intraorally (observation only). The tooth was covered by a soft tissue flap only it was fully erupted in mouth.


He asked him to extract it at the same time, but he refused saying he was fasting. He asked me to give some medication and that he would extract the tooth on the day his friend would come for RCT. He prescribed him an antibiotic for five days and analgesic for pain. He asked me to write the date for his extraction, but he refused as this was a simple extraction so could have been extracted without appointment. But he insisted that his friend would come for RCT and that the same date be mentioned on his OPD slip for extraction. So, he wrote the date (28.09.2011) on his slip but did not write it in the appointment diary of the department which we use for impactions and other planned surgical procedures. The prisoners went along with the police personnel.

He had given his written statement to the inquiry committee on 25.08.2011 the verified copy is Ex PW 15/1 and later on another written statement to Dr. Mirza Ali Member of another inquiry committee, verified copy of the same is Ex PW 15/2. Both the exhibits are correct and correctly bear his signature.

PW-17

is Muhammad Irshad DFC No.1857 he has stated that during the days of occurrence he was posted at the same police station Tehkal, Peshawar as DFC. He was entrusted with warrants of arrest U/S 204 Cr.P.C against accused Nadeem Abbas and Zakheem Shah. Since they belong to Khyber Territory therefore, he could not execute the warrants. To this effect warrants are Ex PW 17/1 and Ex PW 17/2 while his reports are Ex PW 17/3 and Ex PW 17/4 which are in his hand writing and correctly bear his signatures. Similarly he was entrusted with proclamation notices U/S 87 Cr.P.C against the said accused in triplicate which are Ex PW 17/5 and Ex PW 17/6. He had affixed

Certified To Be True Copy


Reader Court - II of Anti-Terrorism
Peshawar

(25) (21)

one copy on the notice board of the court concern, second copy at thoroughfare leading to Khyber Agency TT and returned the third copy of each notice with his report and statement of witness to IO. His reports are Ex PW 17/7 and Ex PW 17/8 which are correct and correctly bear his signatures.

PW-18 is Shahid Khan Inspector he has stated that during the days of occurrence he was posted as Circle Inspector Investigation Police Station Tehkal. After registration of the case the investigation entrusted to me. So he proceeded to the spot where he prepared site plan on the pointation of complainant which is Ex PB, the same is correct with all its foot notes and sketches and correctly bears his signature as its author. He also secured blood through cotton from the place of deceased constable Tariq No.3716 and sealed into parcel No.1 and affixed three seals of mono gram SH on it, similarly he also secured blood through cotton from the place of deceased constable Hussain Jafir No.5643 and sealed into separate parcel No.3 and also secured blood from the place of deceased constable Raies No.4647 through cotton and sealed into separate parcel No.3 and affixed three seals of mono gram SH on each parcels. To this effect he prepared recovery memos which are already Ex PW 2/1, Ex PW 2/2 and Ex PW 2/3 respectively which are correct and correctly bears his signature as well as signature of its marginal witnesses. Parcel No.1 is Ex PW 18/1, Parcel No.2 is Ex PW 18/2 and Parcel No.3 is Ex PW 18/3 respectively. During spot inspection he took into possession 36 empties of 7.62 bore freshly discharged lying scattered from point-C and point-D as per site plan and sealed into parcel No.4 and affixed three seals of mono gram SH on it and prepared recovery memo in presence of marginal witnesses which is already exhibit as Ex PW 2/4 while the parcel is also exhibit Ex P-16. In the meanwhile Constable Ikram Ullah No.3836 produced to me garments brought from hospital of deceased Tariq consisting of Qamees M-1, Pant M-2 and one underwear M-3 stain with blood which he sealed to parcel No.5 sealed Ex M-4 and also produced garments of deceased Constable Raies Khan consisting of Qamees M-5, Pant M-6, Bunyan M-7, underwear M-8, stain with blood which he sealed into parcel No.6 exhibit M-9. Similarly, produced to me garments of deceased Constable Hussain Jafar consisting of Qamees M-10, Pant P-10 which he sealed into parcel exhibit M-11 and affixed three seals of mono gram SH on

Certified To Be True Copy

Reader Court

26 (22)

each parcel and prepared recovery memo already exhibit PW 2/5 which is correct and correctly bears his signature. He also recorded statements of PWs on the spot. The accused Muhammad Ilyas was arrested by SHO Tahkal who was produced before the Court on the following day vide his application Ex PW 18/4 for obtaining physical custody which was granted for seven (07) days. He interrogated the accused in the meanwhile he recorded statements of PWs. He also received PM report which he placed on file. He also recorded statement of legal heir of deceased. He also recorded statement of accused Ilyas U/S 161 Cr.P.C. On expiry physical remand he produced accused Ilyas before the court for recording his confessional statement U/S 164 Cr.P.C the application is Ex PW 18/5 but he refused to confess his guilt and was sent to Judicial Lock Up. After completion of usual investigation against accused he handed over the case file to SHO for submission of interim challan against accused Ilyas. Accused Zakheem Shah and Nadeem Abbas were avoiding their lawful arrest therefore, he vide my application Ex PW 18/6 applied for issuance of warrants U/S 204 Cr.P.C the same entrusted to DFC for execution the same were returned un-executed therefore he vide his application Ex PW 18/7 applied for issuance of proclamation notices U/S 87 Cr.P.C which too were handed over to DFC for doing the needful, who returned the notices alongwith his reports which he placed on file. He also sent the garment of deceased and blood stained cottons to FSL on the basis of his application copy of which is Ex PW 18/8 for analysis the report where of is Ex PZ, vide his application is Ex PW 18/9. He applied for obtaining call record data of accused Zakheem Shah Cell No.0304-4349838 and one Sakib whose Sim No is 0300-5739874 which he have received consisting of seven sheets Ex PW 18/10 to Ex PW 18/16. He collected the FIR against the accused Zakheem Shah and Nadeem Abbas which he placed on file. He also collected attested copy of Duty Record of co accused Constable Ahad Jan No.213 which is Ex PW 18/17, the said accused was present on duty at Dental Gate wherefrom he informed Campus Wireless Control about the incidence. He also took into possession Central Prison Hospital, Peshawar two chits already Ex PW 17/1 and Ex PW 17/2 vide which the co accused Dr. Iftikhar who was then posted as Dental Surgeon at Central Jail, Peshawar and referred the absconding accused Zakheem Shah and Nadeem Abbas to KCD, Peshawar for treatment. He also took into possession medical report of

Certified To Be True Copy

Reader Court of Anti-Terrorism
Peshawar.

(23)

one injured Shah Hussain which is Ex PW 18/18 and also recorded his statement U/S 161 Cr.P.C. He also took into possession two receipts No.84 & 85 of accused Zakheen Shah and Nadeem Abbas vide which both the accused paid rupees 35 each at Khyber College of Dentistry as fee for treatments, both are Ex PW 18/19 and Ex PW 18/20. He also obtained list of criminal cases from Central Prison, Peshawar registered against accused Zakheem Shah and Nadeem Abbas attested by Superintended Prison Jail, Peshawar which is Ex PW 18/21. On the notification of Provincial Government Khyber Pakhtunkhwa an Inquiry Committee was constituted which conducted the inquiry in the instant case and submitted its report and found Dr. Ifikhar Dentist Surgan posted at Central Jail Hospital, Peshawar, Ahad Jan Constable posted at Dental Gate near the place of occurrence and accused Ilyas Constable as accused in the instant case. (STO that the IO is neither member of the inquiry conducted by inquiry committed at the instance of the Provincial Government nor he is the author of the inquiry report therefore he cannot refer to the contents of that inquiry in his statement.)

He thereafter, received letter/direction from my highups to the initiate criminal proceeding against accused Dr. Ifikhar U/S 119 and 181 PPC in addition to the section of law already inserted in the FIR. The said letter is Ex PW 18/22. vide my application is Ex PW 18/23 obtained opinion from the prosecution keeping in view the direction of his highups as stated above. Accused Dr. Ifikhar applied for his pre arrest bail but the same was not confirmed and resultantly he arrested him in the instant case on 26.07.2012 and on the next day he vide his application Ex PW 18/24 produced him before the Judge, ATC-II, Peshawar for obtaining his police custody which was allowed and one day police custody in favour of the accused was granted. He thereafter, recorded his statement U/S 161 Cr.P.C and interrogated him and after expiry of the police custody on 28.07.2012 he produced accused Dr. Ifikhar before Judge, ATC-II, Peshawar from where he was sent to Judicial Lock Up. During the course of investigation he visited that premises and recorded statement of certain PWs U/S 161 Cr.P.C and the written statement of the said PWs is also available on the file. After completion of investigation

Certified To Be True Copy

Reader Court -II of Anti-Terrorism
Peshawan

15/12

he submitted case file before the SHO concern for onward submission of the same. All the documents pertaining to me are correct and correctly bear his signature.

PW-19 is Sajad Siraj Khan HC he has stated that he produced attested copy of PRI which is Ex PW 19/1.

PW-20 is Dr. Faqir Ullah KMC he has stated that he was well conversant with hand writing and signature of Dr. Waseem Anwar who worked with me for some time in the department of Forensic Medicine. He has seen PM report Ex PW 20/1 and pictorial Ex PW 20/2 of deceased Muhammad Raees Khan Constable which is in the hand writing of Dr. Waseem Anwar and correctly bear his signature. He has also seen inquest report of deceased Muhammad Raees Khan Constable which is also correctly bears his endorsement.

After prosecution exhausted its turn accused facing trial were examined with out oath within postulation of section 342 Cr.P.C in order to get their explanation and view point in respect of incriminating circumstances appearing against them in prosecution evidence.

The confuted all the charges and evidence asserted their false implication, they however, declined either to produce defence evidence or to give statement on oath in rebutted of prosecution charges and evidence.

Learned PP for the state and learned defence counsel were called upon to advance arguments, in support of their respective case.

Learned PP for the state while summing up prosecution case vehemently submitted that it is a case where two accused have comprised with terrorist in commission of offence at the result where of three valuable lives were lost and high profile terrorist were scot freed from the legal custody. He pleaded that though there is no direct evidence about the abetment and conspiracy but there is strong circumstantial evidence coming from un-impeachable sources linking the two accused with commission of offence. He argued that therein accused has failed to discharge his duty. He despite having seen the occurrence did not act or tried to prevent the commission of offence and to apprehend the culprits. He asserted that

Certified To Be True Copy

Reader Court-II of Anti-Terrorism

prosecution has succeeded in proving its case against accused, therefore, they deserve the exemplary sentence.

While repelling the aforesaid content learned counsel for Ilyas accused while canvassing for acquittal of his client vociferated that Ilyas has played no role in commission of offence. He was assigned the duty by concerned quarters not by himself. The record and evidence of prosecution is clear on this point he added. He proceeded to state that there is no evidence worth the non to connect accused with commission of offence or providing help to the accused save presumption and surmises which cannot take place of evidence. He maintained that from the very inception the case and involved of accused is doubtful and evidence proceeded by prosecution is vapid. Tenuous uncanny and uncouth which cannot be made basis for conviction. He went on to say that in the instant case enquiry was conducted pursuant to orders of Hon'ble Chief Justice Peshawar High Court, Peshawar, but only enquiry report was produced, neither enquiry officer nor any member of the committee was produced. Therefore, mere report cannot be believed. He opined that material witnesses were withheld and were not produced, had they been produced they would not have supported prosecution case. He augmented that enquiry was not conducted fairly, honestly and in imported manner. The responsible persons been saved while accused Ilyas has been made a patsy. He sprouted that actually Dr. Iftikhar has played vital role and the entire muck be thrown on his shoulders. He prayed that accused Ilyas may be acquitted.

Learned counsel for Dr. Iftikhar vigorously submitted that accused were suffering from tooth ache the treatment facilities were not available in jail therefore they were referred to KCD, Peshawar for treatment. It was the job and responsibility of police and jail authority to have made full proof arrangement for shifting of accused the hospital. He ranted that there is no iota of evidence against accused Dr. Iftikhar to warrant his conviction.

Certified To Be True Copy

**Reader Court-II of Anti-Terrorism
Peshawar.**

30 28

Learned counsel for Ahad Jan accused submitted that the only allegations against him are that of apathy and negligence otherwise, he has attributed no role in commission of offence.

I have heard arguments and have gone through file.

It appears that this mortal world is drawing close to its end and the day of resurrection is inching towards, its emergence because we have trodden ruined the value of religion and injunction of Islam. We have no care for the day of judgment or accountability just for mundane purpose, we have sacrificed all our honours and values. We have no care for lives of others. We garrote the other in order to satiate our whim and wishes.

On one hand the law enforcing agencies and those who investigate the case due to negligence lack of knowledge and other rear on fail to carry out the investigation in proper and apposite lives while on other hand accused are treaded favourite child and law each and every benefit is intended to them.

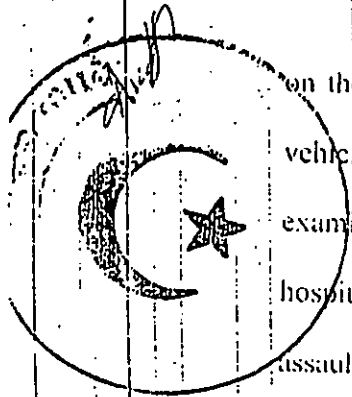
People never become tired to express their in elimination towards the injunction of Islam. But whose come to their lot to speak truth then they for get each and every thing and about love and faith of Islam.

There is no inflexible rule or principals that a criminal case cannot be prove through circumstantial evidence.

It is proved to the hilt that escaped accused were wanted in sensitive cases on the fateful day they were taken to KCD, Peshawar for treatment in private vehicle and on reaching the KCD the vehicle was let and after medical examination police had to catch other vehicle. For bringing back accused to hospital police along with accused, were waiting for vehicle. When they were assaulted at the result of firing by militants/terrorists three police officials had despaired with lives.

There is no ocular evidence about the identity of assailant. However from the ambience it is proved that the assailant/wrong doers were companion of two arrested accused. The object behind the crime of release of two arrested accused.

no evidence



Certified To Be True Copy
 [Signature]
 Member Court - II of Anti-Terrorism
 Peshawar.
 20/5/13.

The only direct evidence of Ilyas accused but he too had not mentioned the description or feature of accused.

Irrespective of factor of enquiry conducted on the order of Chief justice. The evidence produce during trial reveal that both dangerous accused had common problem of tooth impact and both were referred to KCD for treatment. The accused Dr. Iftikhar had not prepared drawn history of tooth deceased nor any details during investigation were furnished nor were produced during trial to demonstrate that both accused were suffering from particular disease. The treatment of which was not possible in the jail. The tooth has very few disease which can easily be treated even by a technician. As a matter of common observation teeth are entracted or failed by ordinary technician running their clinic in different area, but for menial disease. Both accused would not faced the problem of tooth all of sudden rather the development of this disease would have taken sufficient Dr. Iftikhar had not given the details that treatment was not available inside Jail, if Nadeem Abbas was with fasting then why he was referred to hospital. It is pertinent to mention that accordingly to concerned doctor the problem was not serious and disease would have been treated inside jail. If at all the treatment was not possible inside jail then why accused were not referred to LRH or the Nooor Hospital. It appeared that Dr. Iftikhar was in league with two militant and deliverable are referred to KCD which was a vulnerable place. It is not known that Hakeem Shah was not examined in KCD meaning thereby that he had no tooth problem. From attending circumstances it appears on intrigue between Dr. Iftikhar is too accused, they had mastermind a plan for escape of two accused. Therefore, intentionally with out any plausible explanation and earthy reasons, were referred to KCD. Therefore, Dr. Iftikhar connects escape liability of showing intent with accused.

Mohammad Ilyas was zealous in taking the two dangerous accused KCD despite it was intimated to him that accused were dangerous but in spite of that no precautionary measure were taken to avoid any untoward incident or at least to minimize the expect ed consequences though official vehicle was available



Certified To Be True Copy

Reader Court-II of Anti-Terrorism
Peshawar.

11/22/5/12

(21) (28)

The only direct evidence of Ilyas, accused, but he too had not mentioned the description or feature of accused.

Irrespective of factor of enquiry conducted on the order of Chief justice. The evidence produce during trial reveal that both dangerous accused had common problem of tooth impact and both were referred to KCD for treatment. The accused Dr. Iftikhar had not prepared drawn history of tooth deceased nor any details during investigation were furnished nor were produced during trial to demonstrate that both accused were suffering from particular disease. The treatment of which was not possible in the jail. The tooth has very few disease which can easily be treated even by a technician. As a matter of common observation teeth are entracted or failed by ordinary technician running their clinic in different area, but for menial disease. Both accused would not faced the problem of tooth all of sudden rather the development of this disease would have taken sufficient Dr. Iftikhar had not given the details that treatment was not available inside Jail, if Nadeem Abbas was with fasting then why he was referred to hospital. It is pertinent to mention that accordingly to concerned doctor the problem was not serious and disease would have been treated inside jail. If at all the treatment was not possible inside jail then why accused were not referred to LRH or the Noor Hospital. It appeared that Dr. Iftikhar was in league with two militant and deliverable are referred to KCD which was a vulnerable place. It is not known that Hakeem Shah was not examined in KCD meaning thereby that he had no tooth problem. From attending circumstances it was on intrigue between Dr. Iftikhar is too accused, they had mastermind a plan escape of two accused. Therefore, intentionally with out any plausible explanation and earthy reasons were referred to KCD. Therefore, Dr. Iftikhar connects escape liability of showing intent with accused.

Mohammad Ilyas was zealous in taking the two dangerous accused KCD to the

despite it was intimated to him that accused were dangerous but in spite of that

no precautionary measure were taken to avoid any untoward incident or at least

to minimize the expect ed consequences though official vehicle was available



It was intimated to Supervisors

Certified To Be True Copy
Federal Anti-Terrorism Court-II of Peshawar
11/05/12

RJL

29

but he was for the reasons bestly known to him at the directive of accused hired private vehicle and took the accused to KCD. There that vehicle was allowed to go. As a matter of he should not allowed that vehicle rather should have directed the driver to stay there. He not only allowed the vehicle to go but also brought the dangerous criminal to GT Road. It is not known for how period they remained on the spot otherwise he would have hired vehicle in few seconds. He might have kept the accused in near police post or Police Station while hiring the vehicle. At appears that his designs were not pure. He left the two refractor/rebellious in custody of three constables while he himself slipped away. From the very inception till end of episode it can easily be inferred that Ilyas was very instrumental in the whole process. It is manifest that accused either from inside jail or on their way to hospital had contacted their co accused in order to make their escape good. Mohammad Ilyas being head of the convoy should have kept watch on the accused and should have remained vigilant and not oblivion. There is another aspect of the case, the insurgents did not act when accused on their way to hospital but when accused were examined in the hospital. The attack was made when accused Ilyas had already kept the place where two accused and three constables were present. It appears that accused Ilyas had given free hand to accused in custody to contact their cohorts. It is evident that Ilyas on the feign of hiring the vehicle left accused and three constables at the mercy of assailants. The assailants and accused in custody may not have accomplished their job in wink of eye, the question does arise as to why he remained as a sight seer. He should have used the weapons of his companion if he had not his own. But the totally remained like a statue, the circumstances about conspiracy hatched by Ilyas lends support from evidence. PW-3 Bacha Khan had stated that accused Ilyas was informed that accused were dangerous therefore, special guard and official vehicle be arranged but he did not heed to the warning of PW-3. It was not put to him that he had not intimated or warned Ilyas about the conduct and nature of accused. In the same line is the statement of PW-4 Khushal Khan he too was not question about the aforesaid

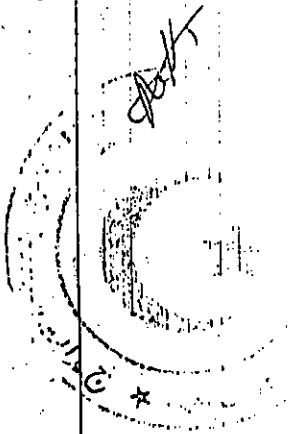
pre-emptive

Direction of his mind not proper fact by himself.

It was the duty of his high up to file

Certified To Be True Copy

[Signature]
Reader Court -II of Anti-Terrorism
Peshawar.



fact. PW-6 Shanshah is police driver. He has stated that he had patched up prisoner to different court and hospital while Ilyas had taken the two accused in private vehicle it was not put him that there was no accommodation in the official vehicle or he had refused to take two accused to KCD. It suggests that accused Ilyas had deliberately did not opt to take the two accused in official vehicle. Above all it was put to PW-18 Shahid Khan Inspector that prior to occurrence accused were in contact with Aqib on phone. But no action was taken by police, if for the sake of arguments, it is presumed that earlier accused Ilyas had no knowledge about the conduct and character of two accused then at least on the eventful day he was put on caution by jail official. Though there is no direct evidence of conspiracy and abetment but there are strong circumstances from which it can be inferred that accused Mohammad Ilyas had joined hands with accused. It was in his inkling that for achieving their goal accused could go to any extent which accused have displayed. The matter does not end here if accused Ilyas and Dr. Iftikhar were innocent. Then why they have failed to enter into witness box as defence witness. Ilyas should have stated that what were compelling circumstances due to which two accused were taken in to private vehicle. He should have stated that either official vehicle was not available or it had no accommodation. Similarly Dr. Iftikhar should have stated that accused such serious problem in tooth which could not have managed in jail hospital. He should have explained as to why the two accused were referred to KCD instead of LRH, Peshawar or other hospital. All these facts and circumstances speaks volumes of there involvement in the crime. Therefore they are liable to be convicted murder of three innocent police officials and also for aid of escape two accused. On conviction U/S 302 PPC R/W 7 ATA and 21 (1) ATA they are sentence to under go life imprisonment on each count. Likewise both the accused have intentionally helped in escaping of two dangerous criminal. Therefore, they are liable to be convicted U/S 222 PPC on conviction they are sentence to undergo RI for seven years. Both the sentences shall run concurrently. Benefit of section 382-B Cr.P.C is extended to them. So for as the

Certified To Be True Copy

Reader Court-II of

offence U/S 324/353 PPC is concerned there is no evidence that after killing of three accused Muhammad Ilyas accused was also fired or he was prevents from his public duties rather he himself had failed to discharge his duties therefore, accused are acquitted from charges U/S 324/353 PPC. Similarly the evidence regarding the number of accused is not certain and also any three accused have facing trial thereafter, the two accused are also acquitted from charges U/S 148/149 PPC Ilyas being hospitalized not produced however, counsel is present while accused Ifikhar is on bail. His bail is recalled. He is taken into custody and remanded to jail to serve his remaining period of sentence. The case of Ahad Jan accused stands on different footing. He was not member of the convoy which had taken the culprits from the jail to the hospital, rather he was performing his duties at the got dental hospital. His presence has been depicted at point No.12 this distance between point No.1 and point no.12 is 148 feet while distance between point No.12 and other points may be more there than date. There is no evidence that point no.12 and the place where occurrence had taken place were visible from point No.12. There is no evidence that a person present on point No.12 could observe that what was being happened at the place of occurrence. If for sake of arguments accused Ahad Jan had learnt that occurrence had taken place then whether he had time to reach to the spot. There is no such evidence similarly it is proved that place of occurrence is remains rampant with vehicle or traffic and pedestrian. If Ahad Jan was going to fire then on whom. He was supposed to fire how he would have know the vehicle of accused or accused. There is yet another aspect of the case. He was deployed on a specified place he was vanguard of that place during firing. He was not supposed to leave that spot rather to guard that place, there were other police post where more police officials are remained present. The same allegations shall have been leveled against other, there is no evidence that any duty was assigned to accused Ahad Jan. It is not discernable from the record that what negligence. He had demonstrated of if he had committed any negligence he

Judge Anti-Terrorism

Certified To Be True Copy

Judge Court-II of Anti-Terrorism
Peshawar

35 32

would have been proceeded departmentally. In absence of any tangible evidence against accused Ahad Jan he cannot be convicted.

Accused Nadeem Abbas and Zakheem Shah are already proclaimed offenders. Perpetual nonailable warrants of arrest be issued against them. Their name be entered in the relevant register of proclaimed offenders. Copy of this order be sent to SHO Police Station Tehkal, Peshawar for doing the needful.

Case property if any be kept intact till the finalization of Appeal in the case.

File be transmitted U/S 25 of the ATA 1997 after completion and compilation of the file.

ANNOUNCED
Dated:-23.05.2013



Anwar Hussain
(ANWAR HUSSAIN)
Judge Anti-terrorism Court-II
Peshawar.

CERTIFICATE

Certified that, this Judgment consists of twenty five (25) pages. Each page is checked and signed by me.

Dated:-23-05-2013

Anwar Hussain
(ANWAR HUSSAIN)
Judge Anti-terrorism Court-II
Peshawar.

Certified To Be True Copy

[Signature]
Reader Court - II of Anti-Terrorism
Peshawar.

28/5/13

(33)

Annex (C)

ENQUIRY REPORT/DISCIPLINARY ACTION AGAINST LHC ILYAS
NO.3186.

انقوائی
پشاور
11
22/13

Please refer to your office No.55/E/PA/, dated 19-12-2011, 1064-66/PA, dated 19.9.2013 and last No. 1342-43/PA, dated 11.9.2013. , against the above named constable vide posted at Police Line Peshawar. This enquiry has been initiated on the basis of following allegations.

Summary of Allegations.

1. It has been established during the facts finding enquiry conducted by the enquiry committee constituted by the Provincial Govt: vide No.KC:1/30-SO(Prisons)HD/11-Escape Peshawar Jail dated 10-11-2011, that on 12-08-2011 you Ilyas No.3186, while posted at the strength of Police Line Peshawar is guilty of misconduct and showed cowardice on following counts: -
- ✓ 2. He without any authorization pinned the Head Constable badges and duped the Police Lines officials to assign him duties as an Incharge Police escort.
- ✓ 3. He failed to collect arms from Armory/Kot before leaving for escort duty of prisoners to KCD and back to Jail, thus creating an escape opportunity for the prisoners entrusted to him and endangering the lives of the constables placed under his command.
- ✓ 4. He showed extreme cowardice by failing to prevent the prisoners and the attackers from fleeing the scene of occurrence.
5. He is also liable for exposing the general public at the scene of occurrence to the risk of serious injury/death.
6. All the above acts amount to extreme cowardice and gross misconduct on his part.

On the basis of above mentioned allegations, an enquiry has been ordered by W/CCPO Peshawar and DSP/HQrs: and the undersigned were deputed as an enquiry officer.

On the receipt of enquiry papers charge sheet and summary of allegations were delivered to accused constable who responded well in time and stated that on 12-08-2012 cowardice has been committed by him during an encounter. He stated that all of a sudden, the accused fired upon him and his party and luckily he remained safe, while his companion were hit and martyred on the spot. He also denied all the allegations levelled against him.

After perusal of the available record and statements, the committee is of the opinion that the accused officer showed his unprofessionalism in the following steps.

He put the rank of Head Constable with out any authorization and disclosed himself as In charge of Police escort.

Attested

[Signature]

SAIF ULLAH
Advocate
High Court Peshawar

دستور و قانون
پولیس

2. He did not collect arms/ammunitions from KOT before leaving for escort duty with accused, involved in terrorism case.
3. He took the prisoners in a private vehicle to KCD instead of Official security vehicle which provided escape opportunity for the prisoners and endangered the lives of constables on duty.
4. He did not react when the culprits/rescuers attacked for escape of the prisoners and fired on the constables under his escort, showing his extreme cowardice.
5. He is also liable for exposing general public at the scene of occurrence to the risk of serious injury/death.

He did not show any cogent reason to defend the above violations. Therefore he is recommended for dismissals as he failed to comply as he did not react/ behave like a Police Officer and caused too damage to Police department.

Submitted please.

(Signature)
(IFTIKHARUD DIN)
 Dy: Superintendent of Police
 Headquarters Peshawar.

(Signature)
(MASOOD AHMAD KHALIL)
 Senior Superintendent of Police
 Investigation, Peshawar.

NO. 1974/S
 Dated. 12.09.2013.
 Encl. (19) Papers.
 + 28
 47

(Signature)
(Signature)
SAIF ULLAH
 Advocate
 High Court Peshawar

ORDER

Annulment (D)

Having been found guilty by the Inquiry Committee accused Constable Ilyas No. 3186, was served upon Final Show Cause Notice through Superintendent Jail vide this office no. 1637/PA, dated 31.10.2013 followed by remainder no. 1963/PA, dated 20.11.2013 and 2004/PA, dated 02.12.2013 on the basis of the following allegations:-

- i. That without any authorization pinned the badges and duped the Police Lines officials to assign him duties of incharge Police escort.
- ii. That he failed to collect arms from Armory/Kot before leaving for escort duty.
- iii. That he intentionally did not utilize the official transport/vehicle provided for transporting the prisoners to KCD and back, thus provided an escape opportunity to the prisoners entrusted him for the purpose and also put the lives of the constables to severe threat who were under his command & control.
- iv. He showed extreme cowardice and willfully avoid to provide fullproof security to the prisoners as a result of which the attackers were succeeded in fleeing from the scene of occurrence.
- v. Exposed the general public at the scene of occurrence to the risk of serious injury/death.
- vi. He deliberately avoided to avail official transport for transportation of prisoners. All the above acts on his part amounts to extreme cowardice and gross misconduct.
- vii. That on the basis of above, he was also charged in criminal case vide FIR No. 491 dated 12.08.2011 u/s 302/324/353/109/223/224 PPC PS Tehkal, in which the learned Anti Terrorism Court-II i.e (Trial Court) vide judgment dated 23.05.2013 convicted and sentenced him to undergo life imprisonment.

His reply in response to the final show cause notice was received in this office on 03.12.2013. The same was perused and found unsatisfactory. The allegations leveled against him stand proved. Besides, he has been convicted and sentenced to undergo life imprisonment vide judgment of Learned Judge Anti Terrorism Court-II, Peshawar dated 25.05.2013.

In view of the above, he is awarded the major punishment of dismissal from service.

Capital City Police Officer,
Peshawar

No. 2067-73/PA, dated Peshawar the 06/12/2013

Copies to the:-

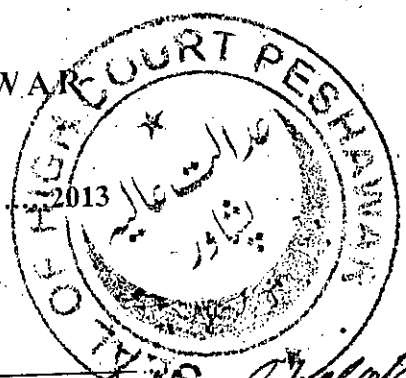
1. SSP/Investigations, Peshawar.
2. SP/HQrs., Peshawar.
3. Superintendent Central Jail, to inform the accused Constable.
4. PO/CRC/FMC.
5. I/C Computer Cell.

SAIF ULLAH
Advocate
High Court Peshawar

36

Annul (E)

JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT.



C. A. No. 249-P of.....

JUDGMENT

Date of hearing: 17/12/2013
Petitioner: Dr. Iftikhar, By Mr. M. Zahoor, Adv. Chhokla
Respondent: (State) By Mian Asghar Tariq, A.A.G.

MIAN FASIH-UL-MULK, J.- On 12.08.2011

Muhammad Ilyas, Head Constable alongwith three other Constables - namely, Tariq, Hussain Jaffer and Raees had taken under-trial prisoners Nadeem Abbas and Zaqeem from Central Jail, Peshawar to Khyber College of Dentistry (KCD) for their toothache treatment under the advice of Dr. Iftikhar, Dental Surgeon Central Jail Hospital. After examination of accused in the Khyber Dental College, the police party alongwith accused were standing on the road side for arranging conveyance when five militants came there duly armed and started firing at the police party for the release of accused in their custody, as a result whereof the three constables were hit and died while accused Nadeem Abbas

ATTESTED
EXAMINER
Peshawar High Court

and Zaqeem made good their escape in the company of said culprits.

2. Zahoor Khan, SHO Police Station Tehkal Bala on receipt of information of the occurrence visited the spot where Head Constable Muhammad Ilyas reported the matter to him, which was reduced into writing in the shape of murasila, on the basis of which FIR No.451 dated 12.08.2011 was lodged against accused Nadeem Abbas, Zaqeem Shah and their unknown colleagues under Sections 302/324/353/148/149 PPC read with Section 7 Anti-Terrorism Act.

3. The Provincial Government constituted an inquiry Committee under the orders of Chief Justice of this Court to probe into the matter, which submitted its report and on the directives of high-ups of the Police Department, Head Constable Muhammad Ilyas (complainant) alongwith Dr. Iftikhar, Dental Surgeon and one Ahad Jan, Constable were made accused in the case. Accordingly Sections 109/223/224 and 225 PPC were added to the FIR and the three accused were sent to Anti-Terrorism Court No.2, Peshawar to stand their trial on the charges leveled in the FIR. As a result of trial,

ATTESTED
EXAMINER
Peshawar High Court

(38)

Dr. Iftikhar and Muhammad Ilyas were found guilty of the charges vide impugned judgment dated 23.05.2013, who were convicted and sentenced under Section 302 PPC read with Sections 7 and 21(1) of Anti-Terrorism Act to undergo life imprisonment on each count. They were further convicted and sentenced to seven years R.I. under Section 222 PPC. Both the sentences were ordered to run concurrently and benefit of Section 382-B Cr.P.C was extended to them. The third accused Ahad Jan was, however, acquitted of the charge.

4. Dr. Iftikhar and Muhammad Ilyas, being aggrieved of the above decision of learned trial Court, have preferred these two appeals (Criminal Appeal No.249-P/2013 and Criminal Appeal No.251-P/2013 respectively), with the prayer to set aside their convictions and sentences and to acquit them of the charges. As both the appeals arise out of one and the same judgment of trial Court, therefore, we propose to decide the same through this single judgment in Cr. Appeal No.249-P of 2013.

5. The case of prosecution is to the effect that accused Nadeem Abbas and Zaqem Shah were high profile

ATTESTED
JUDGE
Peshawar High Court

terrorists and detained in the Prison awaiting/facing their trials in different criminal cases. On 12.08.2011, Sajjad, Madad Muharrir assigned duties to the police personnel for taking the prisoners of Central Jail, Peshawar to different places and provided them Jail Van. Muhammad Ilyas Head Constable was given challan of accused Nadeem Abbas and Zaqeem Shah for taking them from Prison to Khyber College of Dentistry. On reaching Jail premises, both the accused were entrusted to appellant Muhammad Ilyas by Khushal Khan Gate Keeper of Central Jail, Peshawar. At the time of handing over the said accused, appellant Muhammad Ilyas was told that both the accused being hardened and desperate criminals; he should be careful. Appellant inspite of that did not avail the facility of official vehicle of Prison and took the accused to Hospital in a private vehicle, where driver of the vehicle was asked to go back. Accused Zaqeem Shah was produced before the O.P.D doctor, who advised him R.C.T and gave him the date of 28.09.2011. Accused Nadeem Abbas was referred for minor oral surgery but he told the doctor that he was on fasting, therefore, he will again come for extraction of his

ATTESTED
 EXAMINER
 Peshawar High Court

tooth on 28.09.2011 alongwith his friend Zaqeem Shah. The accused were then brought out of the Hospital and it was at this juncture when the Head Constable was arranging for a conveyance after making the accused alongwith police party to stand on the road side, when five unknown assailants came and escaped the accused from the custody of police officials after committing their murders through firing at them.

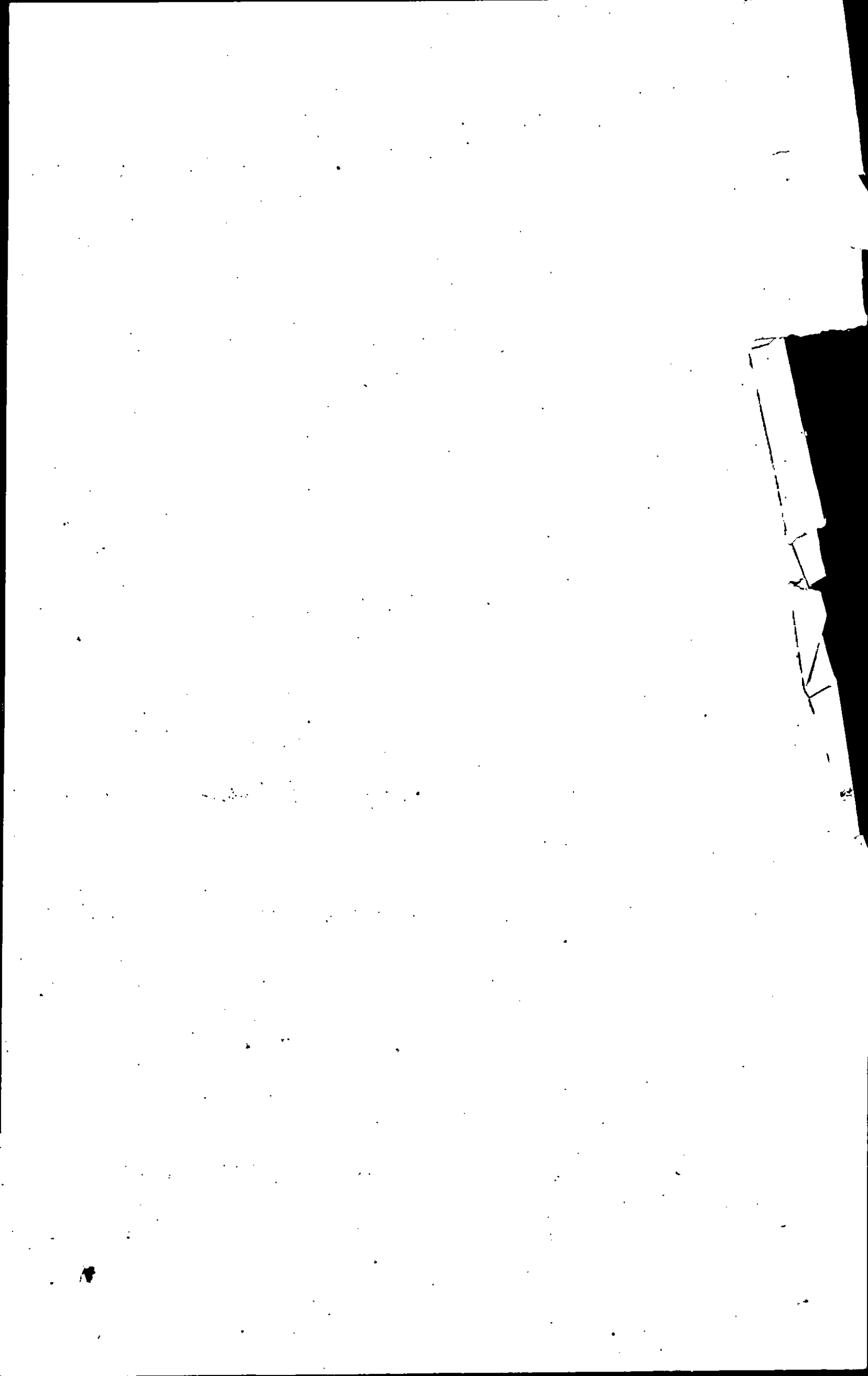
6. On the other hand defence of appellant Muhammad Ilyas was that although he was assigned the duty by Police Lines Staff, Peshawar for taking the two accused to Khyber Collège of Dentistry but neither their names nor their offences were mentioned in the Police Requisition Indent (PRI); hence he was not aware that said accused were dangerous militants; that he took the accused in a private vehicle as he wanted to perform his duty at the earliest, so that he may be able to offer Juma Prayers. He thus denied having shared his common intention with the absconding accused because he was absolutely unaware from their arranged plan of their escape.

ATTESTED
EXAMINER
Peshawar High Court

7. According to Dr. Iftikhar, appellant, the required treatment was not available in Jail Hospital as the requisite machinery was not in a functioning position. He, therefore, as per direction of the Court, referred the accused to Khyber College of Dentistry, which provides specialized treatment for such like problems; hence he had merely performed his professional duty because whenever any patient requires any treatment which is not available in the jail hospital, he is bound to refer him for that.

8. The report of Inquiry Committee has been exhibited on record through Shahid Khan, Inspector (PW.18). In the said inquiry, Muhammad Ilyas appellant was found guilty of gross misconduct and cowardice, as he failed to collect arms from the armory before leaving for escort duty; he intentionally did not utilize the official transport provided for transporting the prisoners to KCD and back, thus creating an escape opportunity for the prisoners entrusted to him and endangering the lives of the constables placed under his command and that he showed extreme cowardice by failing to prevent the prisoners and the attackers from fleeing the scene

ATTESTED
 EXAMINER
 Peshawar High Court



7
(42)

of occurrence. About Dr. Ifikhar Ahmad, it was stated that as dental surgeon he failed to provide treatment to Nadeem Abbas for impacted tooth within the prison and perform a simple surgical procedure; that he concealed the facts that treatment for ailments indicated by Nadeem Abbas and Zaqem Shah was available in Lady Reading Hospital but he referred the two accused to KCD, thus providing the prisoners with an opportunity to get out of the jail and execute the escape plan; that he failed to record treatment on history tickets of prisoners thus contravening Section 38 of the Prisons Act and that he did not report to jail authorities that accused Nadeem Abbas was not getting treatment for impacted tooth on his visits to KCD and using his ailment as an excuse to move out of the prison.

9. Perusal of the inquiry report further reveals that it also held responsible the following officers/officials for gross misconduct and omissions in the discharge of their obligations:-

- (i) Dr. Musharaf Khan Senior Medical Officer
- (ii) Shamroz Khan, Assistant Superintendent
- (iii) Sahibzada Shah Jehan Superintendent

ATTESTED
EXAMINER
Peshawar High Court

Jail (iv) Ajmal Khan Deputy Superintendent
Jail (v) Badshah Said Head Constable Central
Jail (vi) Khushal Khan Gatekeeper Central Jail
(vii) Said Amin Jan, SHO University Town
(viii) Zahur-ur-Rehman SHO Police Station
Tehkal (ix) Usman Ghani Reserve Inspector
Police Lines Peshawar (x) Shahinshah
Constable driver Prison Van and (xi) Ahad Jan
FC.

10. It appears that out of the above 13 officers/officials held entitled for negligence and lapses on their part, only the two appellants alongwith Ahad Jan, acquitted accused, were picked-up to face their trial in the case while others were made as prosecution witnesses.

11. Perusal of the impugned judgment would reveal that there was no direct evidence of abetment against appellants but the circumstantial evidence available in the case, according to the opinion of the learned trial Judge, was holding them guilty of the charge because both the accused would not have faced the problem of tooth all of a sudden rather development of this disease would have taken sufficient time; that Dr. Iftikhar had not given details that treatment was not available inside Jail; that if Nadeem Abbas was with

ATTESTED
EXAMINED
Peshawar High Court

fasting then why he was referred to hospital; if at all treatment was not possible inside jail then why accused were not referred to LRH; it appeared that Dr. Iftikhar was in league with the two militants and deliberately referred them to KCD which was a vulnerable place; it is not known that Zaqem Shah was not examined in KCD meaning thereby that he had no tooth problem, therefore, Dr. Iftikhar is connected with the plan of escape of the two accused. About Muhammad Ilyas, appellant, it was held that he was zealous in taking the two dangerous accused to KCD despite it was intimated to him that they were dangerous but he took no precautionary measures to avoid any untoward incident or at least to minimize the expected consequences though official vehicle was available but he hired a private vehicle and took the accused to KCD; the vehicle was allowed to go, which should not have been allowed rather stayed there; when he came out to the road, he left the two militants in custody of three constables while he himself slipped away; it is manifest that accused militants either from inside jail or on their way to hospital had contacted their co-accused in order to make their

Dr
ATTESTED
EXAMINER

(48)

escape good; appellant being head of the convoy should have kept watch on the accused and should have remained vigilant and not oblivion; he at the pretext of hiring vehicle left the accused and three constables at the mercy of assailants; why he remained as a sight-seer and statue, when he could have used the weapons of his companions if he had not his own; according to PW-3 Bacha Khan, appellant was informed that accused were dangerous but he did not pay any heed to the same; though there is no direct evidence of conspiracy and abetment but there are strong circumstances from which it can be inferred that accused Muhammad Ilyas had joined hands with accused.

12. We have heard arguments of learned counsel for the parties and also perused the record.

13. Learned counsel for appellants contended that there is no direct evidence of any conspiracy or abetment against the appellants and even the circumstantial evidence on which reliance has been placed by trial court is unreliable and flimsy; hence no conviction can be based on the same.

Learned counsel submitted that the learned trial Court has

ATTESTED

EXAMINED
Peshawar High Court

DEFINITION

46

made a wrong judicial approach to the facts and circumstances of the case as case of prosecution depends entirely on circumstantial evidence and chain of circumstances is not at all complete. The learned trial Court has relied on the testimony of those witnesses, who were also held responsible some how or the other for the incident alongwith appellants and that there is no corroboration of the prosecution case by independent witnesses, therefore, the appeals are worth acceptance and appellants are liable to be acquitted.

14. Learned AAG for the State opposed the appeals by contending that the appellants have rightly been convicted and sentenced thus the appeals are liable to be dismissed.

15. According to prosecution version, treatment facility of the ailments of escaped prisoners was available inside the Jail Hospital but inspite of that they were referred for treatment to KCD and that if their treatment was necessary outside the jail premises, then why they were not referred to Lady Reading Hospital or some other nearest hospital. On the other hand, plea of appellant Dr. Iftikhar is that treatment facility of the disease was not available inside the Jail Hospital

ATTESTED
EXAMINED
February 1968

because the requisite machine was not in working condition. The prosecution has brought on record no cogent evidence to show that either the alleged machine was in working condition or that the disease could have been treated by the appellant inside the Jail Hospital. If one can say that why the prisoners were not sent to Lady Reading Hospital in the given circumstances, it can equally be said that if the occurrence would have taken place near the Lady Reading Hospital, then the presumption against appellant too would be the same as to why he referred the prisoners to Lady Reading Hospital where only a dental unit was working and did not send them to KCD, which was a specialized hospital only for treatment of tooth diseases. It cannot be inferred from the available record that the two prisoners were intentionally referred to KCD as there is no solid evidence to the effect that neither the machine was out of order nor the ailment was such for which the prisoners were required to be referred to an outside hospital. The conclusion of trial Court that accused Zaqeem Shah was not having any disease then why he was referred to hospital is belied by the evidence on record as he was duly examined by

ATTORNEY

the doctor who advised him R.C.T and gave him a particular date for another visit to the hospital. Similarly, the conclusion as to why accused Nadeem Abbas was referred to KCD when he was on fasting is not correct again when there is no evidence to the effect that this fact was told by Nadeem Abbas to the appellant at the relevant time. The evidence in this regard is only to the effect that when this accused was produced before the doctor at KCD, he advised him minor oral surgery but the accused refused to undertake the process on the pretext that he was on fasting. There is nothing against appellant Dr. Iftikhar that he while performing his duty had misused his powers in favour of the two accused behind the motto of their escape from the clutches of law enforcing personnel. The alleged violation of Prison Rules that he did not keep history of accused is a mere negligence on his part, which cannot connect him with the commission of offence, particularly when there is also no evidence to the effect that accused Nadeem Abbas was earlier too referred by him to KCD.

me

[Signature]

(49)

16. So far as the prosecution case against Muhammad Ilyas, appellant, is concerned, the same also does not stand on solid footings. No doubt, he was guard commander of the convoy but the manner in which the occurrence has committed by the militants would not suggest that such a plan was made in so hurry that the accused prisoners on their way contacted their colleagues for their escape and in a short span of time such a plan was prepared and successfully executed. PW-18 Shahid Khan, Inspector in his statement has categorically admitted it correct that no telephonically connection/talks were found on the mobile data of Zaqem Shah, accused and one Aqib, with whom he was in contact as well as the mobile data of appellant. The mobile call data placed on file would reveal that accused prisoner was in contact with other persons from inside the jail much prior to the occurrence. Question arises, as to how a high-profile terrorist was allowed mobile facility inside the jail. Admittedly, it was required by the Police Lines Officer to have mentioned the names and offences of escaped prisoners in the Police Requisition Indent but the same were not mentioned and only the words "two"

ATTESTED

EXAMINER

(50)

“naffer male to KCD” were written therein. PW.4 Khushal

Khan Gate Keeper, who too has been held responsible in the

inquiry report, has stated that he orally informed Muhammad

Ilyas that the accused are hardened and desperate criminals.

Only oral information of a person who too was held

responsible for lapses on his part in the incident would not

provide a proper base for holding that such a warning was in

fact administered to the appellant. Admittedly, appellant was

not armed at the relevant time and as per site-plan he was

standing at some distance from the police-party and the two

accused for hiring conveyance when the occurrence took

place. The militants who committed the offence in a broad day

light on a busy road in a brutal manner had left no chance to

the appellant to quickly react having no arm in his hand.

Similarly, when three colleagues of appellant were murdered

in front of his eyes, his remaining a statue for a moment was

but natural when there is nothing on record that appellant was

a Commando and he should have quickly picked-up the rifles

of his colleagues for preventing the escape of

accused/assailants. His only negligence is that instead of

ATTESTED

EXAMINER
Peshawar High Court

(51)

preferring to take the prisoners in an official vehicle, he hired a private Suzuki for the purpose, for which he has offered the explanation that he wanted to offer Juma Prayers and, therefore, opted to complete the task in private conveyance. We are, therefore, of the view that appellant Muhammad Ilyas was also having no conspiracy or abetment in the incident in question.

17. Strange enough that mobile record of accused Zaqeem showed his contacts with one Aqib but no efforts were made by the I.O to locate the whereabouts of said Aqib through latest technology, who in the circumstances seemed to the master mind of the occurrence.

18. The main evidence in this case has been described by the trial court as "circumstantial". Even though conviction can be founded on circumstantial evidence in appropriate cases, we are of the view that circumstantial evidence should be reliable, cogent, not imaginary and consistent only with the guilt of the accused. Another surprising feature in this case is that the police have not thought it fit to examine any member of the Inquiry

G

ATTESTED
 EXAMINER
 Peshawar High Court

Committee as witness in support of the report exhibited on record. Such failure also points out to weakness of prosecution case against the appellants. There are serious gaps in the chain of events alleged to constitute circumstantial evidence. It is well settled that in such like cases there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

19. For the reasons stated above, we find it difficult to sustain the conviction of appellants on the basis of circumstantial evidence and would hold that appellants were wrongly convicted for the offences charged with. We, therefore, set-aside their conviction and the sentences and acquit them of the charges by allowing both the appeals.

Appellants shall be released from jail forthwith if not required in any other case.

Sd/ Miran Fasihul Malk - J

Yalija Afridi - J



CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Peshawar
Authorized Officer of
the Qanun-e-Shahadaat Act 1984

28-12-13

12/13

(53)

Ahmed (F)

To,

The Inspector General
Of Police,
Khyber Pakhtunkhwa,
Peshawar.

Through proper channel

Representation/appeal against the Order No.2067-73/PA dated
06/12/2013 passed by Capital City Police Officer, Peshawar.

Respected sir,

- 1). That the impugned order is illegal, unlawful and is against the principles of natural justice; hence the same is liable to be set aside.
- 2). That the appellant/respondent has rendered spotless/unblemished services in the police department, and there are no adverse remarks against him, in his ACR.
- 4). That the no full-fledge inquiry was conducted in the matter and the same is against the provisions of Police rules, which is summary in nature as there is nothing to justify the finding of the inquiry Officer.
- 5). That the allegations leveled against the appellant/applicant are absolutely false and based on assumption and presumption, without any sort of evidence, the appellant/applicant has performed his duties as a honest and good police officer, which has always been appreciated by the superior officers. Hence all the allegations are categorically denied.
- 6). That no full-fledged inquiry was conducted regarding the allegations and during the inquiry no witness was examined by the

Attested by
SAIF ULLAH

SAIF ULLAH
Advocate
High Court Peshawar

Handwritten text, possibly a date or reference number, located in the upper right corner.

Handwritten text, possibly a signature or initials, located in the bottom left corner.


54


inquiry officer, in support of the allegations leveled against the appellant/applicant in his presence.

- 8). That it is pertinent to mention here that appellant/applicant was suspended and dismissed from services on the basis of case FIR No.491 dated 12.08.2011, in which the appellant was wrongly convicted by the trial court, the same judgment has been set aside by the Hon'ble High Court vide judgment dated 17.12.2013 rendered in Criminal Appeal No. 251 /2013, hence the appellant/applicant is entitled to be re-instated into services. (As the judgment has not been drafted yet by the Honourable judge, hence its copy could not be attached herewith, however same could be provided later on, if demanded).
- 7). That during the entire inquiry no chance of personnel hearing was given to the appeal/applicant, hence he was condemned unheard, which is the glare violation of provisions of law as well as natural justice

It is, therefore, most humbly requested that on acceptance of this representation/appeal, the impugned order may kindly be set aside and the appellant/applicant may graciously be re-instated into service with all back benefits of service.

Dated:-27.12.2013


Munammad Ilyas
(Ex-Constable No.3186)

Attested by

SAIF ULLAH
Advocate
High Court Peshawar

WAKALATNAMA

BEFORE THE CHAIRMAN SERVICE TRIBUNAL KPK PESHAWAR.

No _____ of 2014

Muhammad Ilyas, Ex-Constable

(Appellant)

(Petitioner)

VERSUS

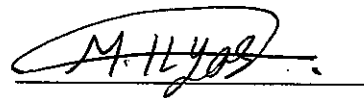
Inspector General of Police, KPK, Peshawar

(Respondent)

I/ We Muhammad Ilyas, appellant

In the above noted _____ do hereby appoint and constitute **Mr. Khan Akbar Khan and Mr. Saif Ullah Mohmand** Advocates as my/ our Counselors in the subject proceedings and authorize them to appear, plead etc compromise, withdraw or refer the matter for arbitration for me/ us without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel at my/our expense and receive all sums and amounts payable to me/ us and to all such acts which he may deem necessary for protecting my/ our interest in the matter. They are also authorized to file Appeal, Revision, Application for restoration or application for setting aside ex parte decree proceedings on my/ our behalf.

Dated: - 01 / 04 / 2014



(Client)


(**KHAN AKBAR KHAN**)

And

Cell No:-0344-9111911

(**Saif Ullah Mohmand**)

Advocates High Courts
Peshawar.

Cell No:-0321-9117280

Office Address: - B-107, 2nd floor, Town Tower
Jahangir Abad, University Road,
Peshawar.

BEFORE THE CHAIRMAN SERVICE TRIBUNAL KPK
PESHAWAR.

CM No. _____/2015
In
Service Appeal No. 472 of 2014

Muhammad Ilyas.....Petitioner

VERSUS


Inspector General of Police & others.....Respondents

I N D E X

S.No	Description of documents	Annexure	Pages
1	Grounds of application		1-2
2	Affidavit		3
3	Copy of the Criminal appeal No. 251/2013	"A/1"	4-6
4	Copy of order and judgment dated 17/12/2013	"B/1"	7
5	Copy of death Certificate of appellant	"C/1"	8
6	Copy of Form B/list of legal heirs	"D/1"	9
	A		
	p		

Applicants

Through


(KHAN AKBAR KHAN)
Advocate,
High Court, Peshawar.

Dated: - 19.02.2015

①

BEFORE THE CHAIRMAN SERVICE TRIBUNAL K.P.K.
PESHAWAR.

CM No. _____/2015
In
Service Appeal No. 472/2014

Muhammad Ilyas.....Petitioner

VERSUS

Inspector General of Police & others.....Respondents

Application for impleadment of legal
heirs of deceased appellant as
necessary party in the penal of
appellants in the above mentioned
Service appeal.

Respectfully Sheweth: -

- 1) That the above captioned Service appeal is pending adjudication before this Honourable Court, which is fixed for today i.e. 12.02.2015
- 2) That the appellant was charged in the FIR No. 451 dated 12.08.2011 U/Ss 302/353/324/148/149/223/224 PPC Police Station Tehkal.
- 3) That later on trial was conducted before the competent court of law and on conclusion of trial the appellant was convicted by the trial court, who later on filed an appeal No. 251/2013 against his conviction, wherein he was acquitted by the Honourably Peshawar High Court vide Order and Judgment dated 17/12/2013 (Copy of criminal appeal No. 251/2013

(2)

order and Judgment dated 17/12/2013 are attached herewith as Annexure "A/1" & "B/1" respectively).


- 4) That ^{on the} basis of his conviction the respondent department conducted a partial enquiry against the appellant and was dismissed from services. Consequently the appellant filed the instant appeal against his dismissal
- 5) That during the pendency of the instant appeal the appellant died due to cancer, leaving behind the following legal heirs/applicant. (Copy of death certificate and from B are attached herewith as Annexure "C/1" & "D/1").
- 6) That the applicants/legal heirs of the deceased appellant are necessary party, is interested party in the present appeal, therefore, there is no legal bar in their ^{impleas}ment as necessary party to the proceedings in above noted appeal case, and rather it is in the interest of justice.

It is, therefore, respectfully prayed that on acceptance of this Application, the applicants may kindly be impleaded as appellant in the above noted service appeal.

Applicants

1. Shagufta Ilyas Widow of Muhammad Ilyas (appellant)
 2. Aziz Khan S/o Muhammad Ilyas
 3. Farhan S/o Muhammad Ilyas.
 4. Karishm Gul D/O Muhammad Ilyas
 5. Saad S/O Muhammad Ilyas
- All residents of R/o Jamal Garhi, Tehsil and District Mardan.

Through


Khan Akbar Khan
Advocate Peshawar

BEFORE THE CHAIRMAN SERVICE TRIBUNAL KPK
PESHAWAR.

CM No. _____/2015
In
Service Appeal No. 472 of 2014

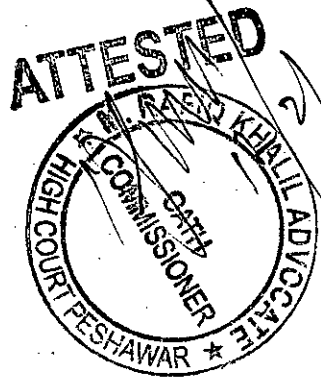
Muhammad Ilyas.....Petitioner

VERSUS

Inspector General of Police & others.....Respondents

AFFIDAVIT

I, Khan Akbar Khan Advocate High Court Peshawar, as per instructions of my client, do hereby solemnly affirm and declare that all the contents of this *Application* are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.



K. Akbar Khan
DEPONENT

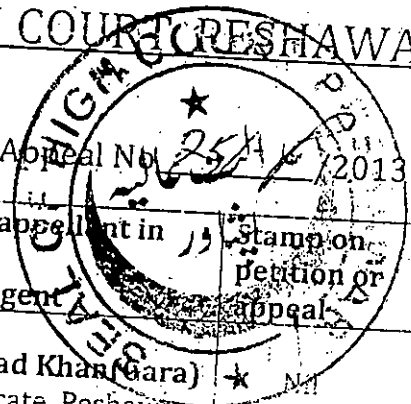
(4)

Annet A/1

Opening sheet for criminal Appeals
BEFORE THE PESHAWAR HIGH COURT PESHAWAR
(JUDICIAL DEPARTMENT)

Appellate side _____ Criminal Appeal No. 254 / 2013

District	Date of Filing petition	Whether filed by appellant in person or by pleader or agent	Stamp on petition or appeal
Peshawar	29-05-2013	Khwaja Muhammad Khan (Gara) Advocate, Peshawar	



Muhammad Ilyas S/O Abdul Hakeem
R/O Jamal Ghari, Mardan ----- **Appellant**

Versus

The State ----- **Respondent**

Appeal U/S 410 Cr.P.C
r/w S.25 ATA from the
order of:

The learned Judge
Anti-Terrorism Court-II, Peshawar

Dated:

23-05-2013

Charged U/S:

302/353/324/148/149/223/224 PPC
r/w 21(i)/7 ATA

Sentence:

(FIR No. 451, dated 12-08-2011, PS Tehkal)

U/S. 302 PPC r/w 21(i)/7 ATA:

Life imprisonment on 3 counts

U/S. 222 PPC: 07 years R.I.

Both the sentences were ordered to run
concurrently with benefit of S. 382-B Cr.P.C.

Prayer-in-Appeal:

On acceptance of this Appeal, the order &
judgment of the learned trial Court dated
23-05-2013 may graciously be set-aside and the
appellant be acquitted.

GROUND:

1. That the order and judgment of the learned trial Court convicting the appellant is against law and facts on the file; hence untenable.

ATTESTED
EXAMINER
Peshawar High Court

- (2) (8)
- II. That the learned trial court has not vetted the prosecution evidence in its correct, legal and factual spectrum which has caused grave miscarriage of justice.
 - III. That the learned trial court has made a complete departure from the well-settled principles relating to the safe administration of criminal justice and has taken into consideration irrelevant and inadmissible pieces of evidence, which is bad in law.
 - IV. That the appellant has neither abet the alleged crime nor remained privy to the same.
 - V. That there is no evidence, ocular or circumstantial, regarding any sort of connectivity of the appellant with the alleged transaction or with the principal accused.
 - VI. That the appellant, being a low rank official and was posted at Police Line, was not in knowledge about the history of any prisoner. It was the prime duty of the jail authorities and Police High-ups to ensure all the precautionary measurements. The appellant has been made an escape-goat.
 - VII. That no official vehicle, whatsoever, or sufficient escort was provided to the appellant for transportation of the under-trial prisoners to Khyber Dental College (KDC). The prosecution neither brought any such evidence during the investigation, nor during the trial.
 - VIII. That both the prosecution case and judgment of the learned trial Court is based on flimsy, probabilities and presumptions, hence, conviction on the same is against the well established principles of law laid down by the Superior Courts of the land.

LED TODAY

puty Registrar

31 MAY 2013

ATTESTED

EXAMINER
Peshawar High Court

- 36
- IX. That, admittedly, the appellant had not at all participated in the alleged transaction. There is no evidence regarding his involvement, connectivity and complicity, of any sort, in the whole transaction. Furthermore the prosecution has lost the most crucial eye-witness of the occurrence by arraigned the appellant as an accused in the instant case.
- X. That, at most, the appellant can be burdened with negligence in discharge of his duty, though not proved by the prosecution. The appellant has already been prosecuted by his department for negligence in discharge of official duty.
- XI. That, anyhow, the prosecution has miserably failed to bring home charge against the appellants beyond shadow of a reasonable doubt.

It is, therefore, humbly prayed that on acceptance of this appeal, the order and judgment of the learned trial Court dated 23-05-2013, convicting the appellant and sentencing him U/Ss. 302 PPC r/w 21(i)/7 ATA for Life imprisonment on 3 counts and U/S. 222 PPC 07 years R.I., may graciously be set aside and he be acquitted.

Muhammad Ilyas (Appellant)

Through

ATTORNEY
EXAMINER
Peshawar High Court

Khawaja Meesal

1. Khwaja Muhammad Khan (Gara)

Jalal Khan

2. Jalal-ud-Din Akbar Azam Khan (Gara)

Shabbir Hussain Gigyani
3. Shabbir Hussain Gigyani
Advocates, Peshawar

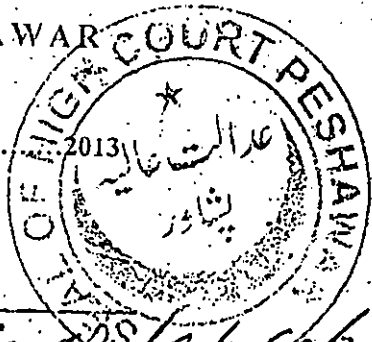
Dated: 29-05-2013

Note: Certified that appeal in hand is the first one on the subject issue before this august Court.

Annet B/1

JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT.

4. A- No. 251 of



JUDGMENT

Date of hearing: 17/12/2013

Petitioner: *(Mian Fasih-ul-Mulk)*

Respondent: *(State)*

MIAN FASIH-UL-MULK Vide our detailed

judgment of even date in the connected Cr. Appeal No. 249-P
of 2013, this appeal is also accepted. The conviction and
sentences of appellant are set aside and he is acquitted of the
charge. Appellant shall be released from jail forthwith, if not
required in any other case.

Ey Mian Fasih-ul-Mulk - J

Announced
17.12.2013

Ey Yahya Ayyubi - J

CERTIFIED TO BE TRUE COPY

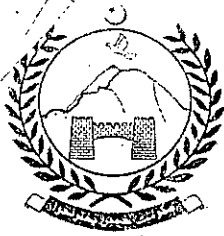
Authorised Under Article 87 of
the Constitution Order 1984

03-01-14

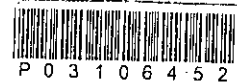
ATTESTED

EXAMINER
Peshawar High Court

17/12/13



حکومت خیبر پختونخوا پاکستان



Annet C/I

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D161047-14-0030
NATURE OF DEATH: NORMAL

FORM No: P03106452

مستوفی کا نام: شگفتہ الیاس

مستوفی کا رشتہ: خاوند

درخواست دہندہ کا شناختی کارڈ نمبر: 1610190649914

پتہ: گل بہار جمال گرہی، شہر کاتلانگ، تحصیل مردان، ضلع مردان

مستوفی کا نام	والد کا نام	تاریخ پیدائش	جنس	مذہب	جائے وفات	تاریخ وفات	وجہ موت	مذمت عیال
شگفتہ الیاس	شگفتہ الیاس	12-9-1965	مرد	اسلام	جمال گرہی	23-8-2014	طبعی	

1610123461655

APPLICANT NAME: SHAGUFTA ILYAS

APPLICANT CNIC: 1610190649914 RELATION WITH DECEASED: Husband

ADDRESS: GUL BAHAR JAMAL GARHI,

CITY: KATLANG, TEHSIL: MARDAN, DISTRICT: MARDAN

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD ILYAS 1610123461655	ABDUL HAKEEM	12-9-1965	MALE	ISLAM	JAMAL GARHI 23-8-2014	24-8-2014	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: SHAGUFTA ILYAS

CNIC: 1610190649914

GRAVEYARD NAME: JAMAL GARHI

ENTRY DATE: 28-8-2014

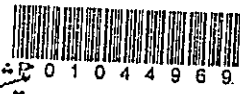
ISSUE DATE: --

ADDITIONAL INFORMATION:

Muhammad Ayaz دستخط:
29/8/2014
سیکرٹری یونین کونسل

جمال گرہی (47) ضلع مردان
MUHAMMAD AYAZ
Secretary
UIC Jamal Garhi

سرکاری رشتہ دار تدفین کنندہ
نام: شگفتہ الیاس
شناختی کارڈ نمبر: 1610190649914
تاریخ اندراج: 29-8-2014
تاریخ اجراء: --
ادنیٰ مسیحا: --



Anne D/1

16101-9064991-4

درخواست دہندہ کا شناختی کارڈ نمبر:

شکفتہ الیاس

درخواست دہندہ کا نام:

نمبر شمار	بچے کا نام اور رجسٹریشن نمبر	والد کا نام اور شناختی کارڈ نمبر	والدہ کا نام اور شناختی کارڈ نمبر	جنس / رشتہ	پیدائش کا شہر / تعلقہ	معدومیت
1	عمر خان 16101-9846565-7	عمر الیاس 16101-2346165-5	شکفتہ الیاس 16101-9064991-4	لڑکا	مردان، مردان	کوئی نہیں 1995-01-20
2	فرمان 16101-4940187-3	عمر الیاس 16101-2346165-5	شکفتہ الیاس 16101-9064991-4	لڑکا	کاملت، مردان	کوئی نہیں 1997-01-20
3	کرشمہ علی 16101-2837447-8	عمر الیاس 16101-2346165-5	شکفتہ الیاس 16101-9064991-4	لڑکی	کاملت، مردان	کوئی نہیں 1989-03-07
4	سیدہ 16101-4941137-3	عمر الیاس 16101-2346165-5	شکفتہ الیاس 16101-9064991-4	لڑکا	کاملت، مردان	کوئی نہیں 2005-01-24

- 1- اس فیملی کے مندرجہ بالا اٹھارہ سال سے کم عمر 4 بچوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔
- 2- درج شدہ بچے کی عمر اٹھارہ سال ہوئے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
- 3- اس سرٹیفکیٹ کو مستحصال کر رکھیں کیونکہ بچوں کے اٹھارہ سال کی عمر کو پہنچنے پر انہی نمبروں کے خواہے سے شناختی کارڈ جاری کئے جائیں گے۔
- 4- نوڈ ایڈمٹ بچے کا فوری طور پر اندراج کروائیں اور نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔
- 5- کوائف کی تبدیلی کی صورت میں نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔

عمر خان
فرمان
کرشمہ علی
سیدہ
Free - Assign

16101-4645839-9
16101-6209761-9
16101-6305711-9

محمد طارق ملک

وزارت داخلہ، رجسٹریشن اتھارٹی
 تاریخ اجراء: 2012-08-27

گل بہار کالونی، ڈاک خانہ جہاں مرحوم، جہاں مرحوم، تحصیل و ضلع مردان



1610190649914

of

BEFORE THE CHAIRMAN SERVICE TRIBUNAL KPK
PESHAWAR.

CM No. _____/2014
In
Service Appeal No. 472 of 2014

Muhammad Ilyas.....Petitioner

VERSUS

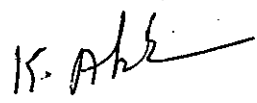
Inspector General of Police & others.....Respondents

I N D E X

S.No	Description of documents	Annexure	Pages
1	Grounds of application		1-2
2	Affidavit		3
3	Copy of the Criminal appeal No. 251/2013	"A/1"	4-6
4	Copy of order and judgment dated 17/12/2013	"B/1"	7
5	Copy of death Certificate of appellant	"C/1"	8
6	Copy of Form B/list of legal heirs	"D/1"	9
	A p		

Applicants

Through


(KHAN AKBAR KHAN)
Advocate,
High Court, Peshawar.

12.02.2015
Dated: - 16.02.2015

①

BEFORE THE CHAIRMAN SERVICE TRIBUNAL K.P.K.
PESHAWAR.

CM No. _____/2015
In
Service Appeal No. 472/2014

Muhammad Ilyas.....Petitioner

VERSUS

Inspector General of Police & others.....Respondents

Application for grant of pensionary
benefits to the legal heirs of
deceased appellant.

Respectfully Sheweth: -

- 1) That the above captioned Service appeal is pending adjudication before this Honourable Court, which is fixed for today i.e. 16.09.2014
- 2) That the appellant was charged in the FIR No. 451 dated 12.08.2011 U/Ss 302/353/324/148/149/223/224 PPC Police Station Tehkal.
- 3) That later on trial was conducted before the competent court of law and on conclusion of trial the appellant was convicted by the trial court, who later on filed an appeal No. 251/2013 against his conviction, wherein he was acquitted by the Honourably Peshawar High Court vide Order and Judgment dated 17/12/2013 (Copy of criminal appeal No. 251/2013 order and Judgment dated 17/12/2013 are attached herewith as Annexure "A/1" & "B/1" respectively).
- 4) That basis of his conviction the respondent department conducted a partial enquiry against the appellant and was

②

dismissed from services. Consequently the appellant filed the instant appeal against his dismissal

- 5) That during the pendency of the instant appeal the appellant died due to cancer, leaving behind the following legal heirs/applicant. (Copy of death certificate and from B are attached herewith as Annexure "C/1" & "D/1").
- 6) That the applicants/legal heirs of the deceased appellant are entitled to the pensionary benefits of the appellant as the charges on which the appellant was removed from services by the respondent department were not believed by the Honourable Peshawar High Court.
- 7) That the appellant has served the police department for more than 20 year, hence his legal heir can not be deprived from the pensionary benefits of the appellant.

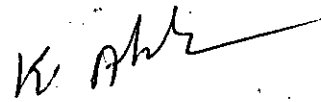
It is, therefore, respectfully prayed that on acceptance of this Application, the pensionary benefits of the appellant may graciously be allowed in favour of the applicants/legal heirs of deceased appellant.

Applicants

1. Shagufta Ilyas Widow of Muhammad Ilyas (appellant)
2. Aziz Khan S/o Muhammad Ilyas
3. Farhan S/o Muhammad Ilyas.
4. Karishm Gul D/O Muhammad Ilyas
5. Saad S/O Muhammad Ilyas

All residents of R/o Jamal Garhi, Tehsil and District Mardan.

Through


Khan Akbar Khan
Advocate Peshawar

3

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL KPK
PESHAWAR.**

CM No. _____/2014
In
Service Appeal No. 472 of 2014

Muhammad Ilyas.....Petitioner

VERSUS

Inspector General of Police & others.....Respondents

AFFIDAVIT

I, Khan Akbar Khan Advocate High Court Peshawar, as per instructions of my client, do hereby solemnly affirm and declare that all the contents of this *Application* are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

K.A.K.
DEPONENT

ATTESTED
[Signature]
OATH
COMMISSIONER
HIGH COURT PESHAWAR
2/15

Opening sheet for criminal Appeals

BEFORE THE PESHAWAR HIGH COURT PESHAWAR
(JUDICIAL DEPARTMENT)

Appellate side _____ Criminal Appeal No. 254/2013

District	Date of Filing petition	Whether filed by appellant in person or by pleader or agent	Stamp on petition or appeal
Peshawar	29-05-2013	Khawaja Muhammad Khan (Gara) Advocate, Peshawar	*

Muhammad Ilyas S/O Abdul Hakeem

R/O Jamal Ghari, Mardan ----- **Appellant**

Versus

The State ----- **Respondent**

Appeal U/S 410 Cr.P.C
r/w S.25 ATA from the
order of:

Dated:

Charged U/S:

Sentence:

Prayer-in-Appeal:

The learned Judge
Anti-Terrorism Court-II, Peshawar

23-05-2013

302/353/324/148/149/223/224 PPC
r/w 21(i)/7 ATA

(FIR No. 451, dated 12-08-2011, PS Tehkal)

U/S. 302 PPC r/w 21(i)/7 ATA:

Life imprisonment on 3 counts

U/S. 222 PPC: 07 years R.I.

Both the sentences were ordered to run
concurrently with benefit of S. 382-B Cr.P.C.

On acceptance of this Appeal, the order &
judgment of the learned trial Court dated
23-05-2013 may graciously be set-aside and the
appellant be acquitted.

GROUND:

- I. That the order and judgment of the learned trial Court convicting the appellant is against law and facts on the file; hence untenable.



25

- II. That the learned trial court has not vetted the prosecution evidence in its correct, legal and factual spectrum which has caused grave miscarriage of justice.

- III. That the learned trial court has made a complete departure from the well-settled principles relating to the safe administration of criminal justice and has taken into consideration irrelevant and inadmissible pieces of evidence, which is bad in law.

- IV. That the appellant has neither abet the alleged crime nor remained privy to the same.

- V. That there is no evidence, ocular or circumstantial, regarding any sort of connectivity of the appellant with the alleged transaction or with the principal accused.

- VI. That the appellant, being a low rank official and was posted at Police Line, was not in knowledge about the history of any prisoner. It was the prime duty of the jail authorities and Police High-ups to ensure all the precautionary measurements. The appellant has been made an escape-goat.

- VII. That no official vehicle, whatsoever, or sufficient escort was provided to the appellant for transportation of the under-trial prisoners to Khyber Dental College (KDC). The prosecution neither brought any such evidence during the investigation, nor during the trial.

- VIII. That both the prosecution case and judgment of the learned trial Court is based on flimsy, probabilities and presumptions, hence, conviction on the same is against the well established principles of law laid down by the Superior Courts of the land.

FILED TODAY
Deputy Registrar
31 MAY 2013

ATTESTED
EXAMINER
Peshawar High Court

IX. That, admittedly, the appellant had not at all participated in the alleged transaction. There is no evidence regarding his involvement, connectivity and complicity, of any sort, in the whole transaction. Furthermore the prosecution has lost the most crucial eye-witness of the occurrence by arraigned the appellant as an accused in the instant case.

X. That, at most, the appellant can be burdened with negligence in discharge of his duty, though not proved by the prosecution. The appellant has already been prosecuted by his department for negligence in discharge of official duty.

XI. That, anyhow, the prosecution has miserably failed to bring home charge against the appellants beyond shadow of a reasonable doubt.

It is, therefore, humbly prayed that on acceptance of this appeal, the order and judgment of the learned trial Court dated 23-05-2013, convicting the appellant and sentencing him U/Ss. 302 PPC r/w 21(i)/7 ATA for Life imprisonment on 3 counts and U/S. 222 PPC 07 years R.I., may graciously be set aside and he be acquitted.

Muhammad Ilyas (Appellant)

Through

ATTESTED
EXAMINER
Peshawar High Court

Khawaja Muhammad Khan

1. Khwaja Muhammad Khan (Gara)

Jalal Khan

2. Jalal-ud-Din Akbar Azam Khan (Gara)

Shabbir Hussain Gigyani
3. Shabbir Hussain Gigyani
Advocates, Peshawar

Dated: 29-05-2013

Note: Certified that appeal in hand is the first one on the subject issue before this august Court.

Annex D/1

2

JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT.



by A- 251 of 2013

JUDGMENT

Date of hearing: 17/12/2013

Petitioner: (M.A. No. 251 of 2013) Mian Fasih-ul-Mulk

Respondent: (State) Myrian, Feroz Khan, A.A.G.

MIAN FASIH-UL-MULK, J. Vide our detailed

judgment of even date in the connected Cr. Appeal No. 249-P of 2013, this appeal is also accepted. The conviction and sentences of appellant are set aside and he is acquitted of the charge. Appellant shall be released from jail forthwith, if not required in any other case.

pronounced
17.12.2013

Ed. Mian Fasih-ul-Mulk - J
Ed. Yousaf Arif - J

CERTIFIED TO BE TRUE COPY

Authorized under Article 87 of
the Constitution Order 1984

03-01-14

ATTESTED
EXAMINER
Peshawar High Court



P 0 3 1 0 6 4 5 2

Annet Clr

حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D161047-14-0030

NATURE OF DEATH: NORMAL

FORM No: P03106452

وہمراست دہندہ کا نام: شگفتہ الیاس

متوفی کا رشتہ: خاوند

1610190649914

درخواست دہندہ کا شناختی کارڈ نمبر:

پتہ: گل بہار جمال گرھی، شہر کاتلانگ، تحصیل مردان، ضلع مردان

متوفی کا نام شناختی کارڈ نمبر	والد کا نام شناختی کارڈ نمبر	تاریخ پیدائش	جنس	مذہب	جائے وفات تاریخ	تاریخ دفن	وجہ موت	مدت عیال
محمد الیاس 1610123461655	عبدالحکیم	12-9-1965	مرد	اسلام	جمال گرھی 23-8-2014	24-8-2014	طبعی	

APPLICANT NAME: SHAGUFTA ILYAS

APPLICANT CNIC: 1610190649914 RELATION WITH DECEASED: Husband

ADDRESS: GUL BAHAR JAMAL GARHI,

CITY: KATLANG, TEHSIL: MARDAN, DISTRICT: MARDAN

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD ILYAS 1610123461655	ABDUL HAKEEM	12-9-1965	MALE	ISLAM	JAMAL GARHI 23-8-2014	24-8-2014	NATURAL	

 BLOOD RELATION PERSON CAUSING DISPOSAL OF BODYتدفین کنندہ قریبی رشتہ دار

NAME: SHAGUFTA ILYAS

CNIC: 1610190649914

1610190649914

GRAVEYARD NAME: JAMAL GARHI

ENTRY DATE: 29-8-2014

29-8-2014

ISSUE DATE: --

ADDITIONAL INFORMATION:

دستخط: Muhammed Ayaz
29/8/2014
سیکرٹری یونین کونسل

جمال گرھی (47) ضلع مردان
MUHAMMAD AYAZ
Secretary
UIC Jamal Garhi



16101-9064991-4

درخواست دہندہ کا شناختی کارڈ نمبر:

شکفتہ الیاس

درخواست دہندہ کا نام:

معدوری	پیدائش کا ضلع یا ضلع تاریخ پیدائش	جنس / رشتہ	والدہ کا نام اور شناختی کارڈ نمبر	والد کا نام اور شناختی کارڈ نمبر	بچے کا نام اور رجسٹریشن نمبر	نمبر شمار
کوئی نہیں	مردان، مردان 1995-01-20	لڑکا	شکفتہ الیاس 16101-9064991-4	محمد الیاس 16101-2346165-5	عزیز خان 16101-9846565-7	1
کوئی نہیں	کابلٹ، مردان 1997-01-20	لڑکا	شکفتہ الیاس 16101-9064991-4	محمد الیاس 16101-2346165-5	فرحان 16101-4940187-3	2
کوئی نہیں	کابلٹ، مردان 1889-03-07	لڑکی	شکفتہ الیاس 16101-9064991-4	محمد الیاس 16101-2346165-5	کرشمہ گل 16101-2837447-8	3
کوئی نہیں	کابلٹ، مردان 2005-01-24	لڑکا	شکفتہ الیاس 16101-9064991-4	محمد الیاس 16101-2346165-5	سید 16101-4941137-3	4

- 1- اس فیلٹی کے مندرجہ بالا اٹھارہ سال سے کم عمر 4 بچے / بچوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔
- 2- درج شدہ بچے کی عمر اٹھارہ سال ہوتے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
- 3- اس سرٹیفکیٹ کو سنبھال کر رکھیں کیونکہ بچوں کے اٹھارہ سال کی عمر کو پہنچنے پر انہی نمبروں کے حوالے سے شناختی کارڈ جاری کئے جائیں گے۔
- 4- نوزائیدہ بچے کا فوری طور پر اندراج کروائیں اور تیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔
- 5- کوائف کی تبدیلی کی صورت میں نیا رجسٹریشن سرٹیفکیٹ حاصل کریں۔

16101-4645039-9
 16101-6209761-9
 16101-6305711-9
 Free - Assign
 محمد طارق
 خان

تاریخ اجراء: 27-08-2012

گل ہزار کالونی، ڈاک خانہ جمال گڑھی، جمال گڑھی، تحصیل و ضلع مردان



1610190649914

BEFORE THE CHAIRMAN SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

C M No. 2014

In Re:

Service Appeal No. 472 /2014

Muhammad Ilyas Ex-Constable Police Lines Peshawar

Versus

Inspector General of Police & others

APPLICATION FOR EARLY DATE

Respectfully Sheweth: -

The Petitioner humbly submits as under: -

That the above titled Service Appeal is pending adjudication before this Honourable Court in which next date of hearing is fixed as 22.08.2014.

- 2) That the appellant is suffering from chronic disease of cancer and is lying on death bed.
- 3) That in the instant appeal, valuable rights of the appellant and his family are involved and if the same is decided during the life time of appellant, it can give some relief to his legal heirs.

It is, therefore, most humbly requested that on acceptance of this **Application**, the instant appeal may kindly be fixed as early as possible and the same may graciously be decided during the life time of the appellant.

Petitioner

Through:

K. Akbar Khan
(KHAN AKBAR KHAN)

&

Saif Ullah Mohmand
(SAIF ULLAH MOHMAND)
Advocate, Peshawar.

Dated: - 20.01.2014

Due to huge pendency and shortage of members, the application can't be entertained. A reasonable date has already been fixed.

518
16-6/14

BEFORE THE CHAIRMAN SEVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR.

C.M No _____ 2014

In Re:

Service Appeal No. 472 /2014

Muhammad Ilyas Ex-Constable Police Lines Peshawar


Versus

Inspector General of Police & others

AFFIDAVIT

I, Saif Ullah Mohmand Advocate Peshawar, as per instructions of my client do hereby solemnly affirm and declare on Oath that all the Contents of accompanied Application are true and correct to the best of my knowledge and nothing has been concealed or withheld from this Honourable Court.




DEPONENT

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.472/2014.

Muhammad Ilyas Ex- Constable No.3186 Police Line Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police, Investigation, Peshawar.
4. Deputy Superintendent of Police, Hqrs, Peshawar.....Respondents.

Reply on behalf of Respondents No. 1, 2, 3 &4.

Respectfully shewth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That this Hon'able Tribunal has no jurisdiction to entertain the appeal.

FACTS:-

- (1) Para No.1 pertains to record, hence needs no comments.
- (2) Para No.2 is correct to the extent that the appellant while posted at the strength of police line Peshawar duped the police line officials to assign him duties of incharge police escort duty. He intentionally did not utilize the official transport/vehicle provided for transporting the prisoners to KCD and back, thus he provided an escape opportunity to the prisoners and put the lives of the colleague constables to severe threat. He was charged in criminal case vide FIR No 491 dated 12.08.2011 U/S 302/324/353/109/233/224/PPC, PS Tehkal.
- (3) Para No. 3 is correct to the extent that the appellant was convicted in the instant case by learned Anti-Terrorism court-II vide judgment order dated 23.05.2013 and sentenced him to undergo life imprisonment.
- (4) Para No. 4 is correct to the extent that proper departmental enquiry was conducted against appellant by the enquiry committee. He was given full opportunity to defend himself. The enquiry committee after fulfilling all codal formalities recommended him for major punishment. He was issued final show cause notice and was served upon him through superintendant jail vide letter No. 1637/PA dated 31.10.2013. He also submitted his reply to final show cause notice but the same was proved unsatisfactory. Hence he was awarded major punishment to dismissal from service vide order No 2067-73/PA dated 06.02.2013.
- (5) Para No. 5 is already explained above in detail.
- (6) Para No. 6 pertains to court, hence needs no comments.


- (7) Para No. 7 is correct to the extent that he preferred a departmental appeal but without waiting for disposal of appeal, submitted the instant service appeal.
- (8) That appeal of appellant being devoid of merits may kindly be dismissed on the following grounds.


GROUND:-

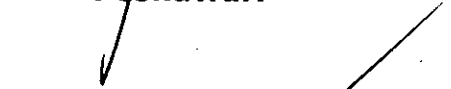
- (A) Incorrect. The punishment orders are in accordance with law/rules, hence liable to be upheld.
- (B) Incorrect. The appellant was provided full opportunity to defend himself but he failed to satisfy the enquiry committee.
- (C) Incorrect. Proper departmental enquiry was conducted against him.
- (D) Incorrect the appellant was found guilty of misconduct and he showed extreme cowardice in performing his duties.
- (E) Incorrect. In fact mere acquittal from court does not debar any official from departmental proceedings.
- (F) Incorrect. He was given full opportunity to defend himself.

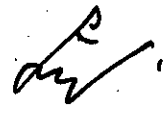
PRAYER.

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with cost.


**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**


**Capital City Police Officer
Peshawar.**


**Senior Superintendent of Police,
Investigation, Peshawar.**


**Deputy Superintendent of
Police, HQrs, Peshawar.**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.472/2014.


Muhammad Ilyas Ex- Constable No.3186 Police Line Peshawar.....Appellant.


VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police, Investigation, Peshawar.
4. Deputy Superintendent of Police, Hqrs, Peshawar.....Respondents.

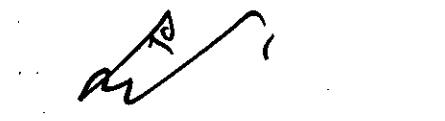
AFFIDAVIT

We respondents No. 1 ,2 , 3& 4 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**


**Capital City Police Officer
Peshawar.**


**Senior Superintendent of Police,
Investigation, Peshawar.**


**Deputy Superintendent of
Police, HQrs, Peshawar.**