

30.1.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Mir Faraz Khan, Inspector (Legal) for the respondents present. Rejoinder received, copy whereof is handed over to the learned GP. To come up for arguments on 16.3.2015.


MEMBER

16.3.2015

Appellant with counsel (Mr. Sajid Amin, Advocate) and Mr. Ziaullah, GP with Mir Faraz, Inspector (Legal) for the respondents present. Arguments heard. To come up for order on 04.5.2015.


MEMBER


MEMBER

4.5.2015

Appellant in person and Mr. Ziaullah, GP with Mir Faraz, Inspector (Legal) for the respondents present. Arguments heard. Record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 498/2014, titled "Jamshed Ali Shah Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc.", this appeal is also disposed of as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
04.5.2015.


MEMBER


MEMBER

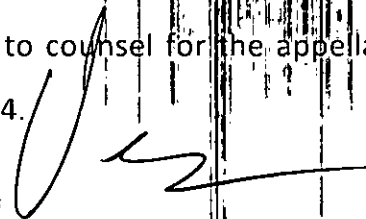
19.08.2014

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. The learned Member is on official tour to Abbottabad. To come up for the same on 09.09.2014.


READER

09.09.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Mir Faraz, Inspector (Legal) for the respondents present. Written reply received and copy handed over to counsel for the appellant. To come up for rejoinder on 24.10.2014.



MEMBER

24.10.2014

Junior to counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG for the respondents present. The learned Member is on leave, therefore, case to come up for proceedings as before on 19.11.2014.


READER

19.11.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Mir Faraz, Inspector for the respondents present. The Tribunal is incomplete. To come up for the same on 29.12.2014.


READER

30.12.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Mir Faraz, Inspector (Legal) for the respondents present. The Tribunal is incomplete. To come up for the same on 30.1.2015.


READER

Appeal No. 499/2014
Mr. Hammedullah Jani.

3. 23.05.2014

Appellant with counsel present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 31.12.2013, he filed departmental appeal on 10.01.2014, which has been rejected on 10.03.2014, hence the present appeal on 08.02.2014. He further contended that the impugned order dated 10.03.2014, has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. Counsel for the appellant also filed an application for suspension of operation of orders dated 31.12.2013 and 10.03.2014. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply/comments on main appeal on 20.08.2014 as well as reply/arguments on application on 12.06.2014.


Member

4. 23.05.2014

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


Chairman

11.6.2014

Siraj Khan, Attorney for the appellant alongwith Counsel for the appellant and AAG with Mir Faraz, Inspector (Legal) for the respondents present. Power of attorney placed on file. Respondents need further time. To come up for written reply on main appeal as well as reply/arguments on application for interim relief on 20.8.2014.

MEMBER 

MEMBER 

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. 499/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08/04/2014	<p>The appeal of Mr. Hamdullah Jan presented today by Mr. Ijaz Anwar Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	14-4-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>23-5-2014</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. 499/2014

Hamdullah Jan, Ex-Assistant Sub Inspector, District Police,
Bannu..

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar and others.

(Respondents)

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6	Penalty Order dated 31.12.2013	E	12
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Through

Appellant



IJAZ ANWAR

Advocate Peshawar

&

SAJID AMIN

Advocate, Peshawar

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

Appeal No. 499/2014

A.W.J. Peshawar
Service Tribunal
No. 522
Dated 08/21/2014

Hamdullah Jan, Ex-Assistant Sub Inspector, District Police, Bannu.

(Appellant)

VERSUS

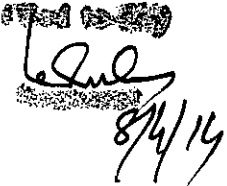
1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Bannu Region Bannu.
3. District Police Officer Bannu.

(Respondents)

Appeal under Section 4 of The Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 31.12.2013, whereby the appellant has been awarded the major penalty of Compulsory Retirement from Service, against which his departmental appeal has also been rejected vide order dated 10.03.2014 communicated to the appellant on 14.03.2014.

Prayer in Appeal: -

On acceptance of this appeal the impugned orders dated 31.12.2013 and 10.03.2014 may please be set-aside and the appellant may be re-instated in service with all back benefits of service.


8/4/14

Respectfully Submitted:

1. That initially the appellant was enlisted as Constable in police department in the year 1986. During the course of his service the appellant also got promotions and was lastly promoted to the rank of Assistant Sub Inspector.
2. That ever since the appointment, appellant had performed his duties as assigned to him with zeal and devotion and there was no complaint whatsoever regarding his performance. It is pertinent to

mention here that during the entire service, the performance of the appellant remained commendable, he traced and arrested criminals who were required to the Police in some high profile cases. Beside this, during the roar of militancy, he always remained in the front line against the militants and demonstrated exceptional performance, gallantry and devotion beyond the call of duty. His performance was also appreciated by the High Ups.

3. That while serving in the said capacity the appellant was suspended from service allegedly on account of having tainted reputation and involvement in anti-social activities. *(Copy of suspension order dated 7.11.2013 is attached as annexure A).*
4. That the appellant was served with Charge Sheet and statement of allegations dated 06.12.2013, containing certain unfounded and baseless allegations. The allegations leveled in the Charge Sheet are reproduced bellow, for ready reference:

“You have been suspended by the regional Police Officer Bannu on the basis of your tainted reputation and your alleged involvement in anti social activities.”

(Copy of the Charge Sheet and Statement of Allegations is attached as Annexure B)
5. That the appellant duly replied the Charge Sheet and refuted the allegations leveled against him as false and baseless vide reply dated 12.12.2013. *(Copy of the Reply is attached as Annexure C)*
6. That a partial inquiry was conducted and the inquiry officer without properly associating the appellant with the inquiry proceedings conducted inquiry and submitted his findings wherein he recommended the appellant for major punishment vide the inquiry report dated 27.12.2013. *(Copy of the Inquiry Report is attached as Annexure D).*
7. That thereafter without issuing upon him any Final Show Cause Notice, the appellant was awarded the major punishment of ***“Compulsory Retirement from Service”*** vides order dated 31.12.2013 to the appellant. *(Copy of the Order dated 31.12.2013 is attached as Annexure E)*
8. That the appellant submitted his departmental appeal oon 10.01.2014, however it has also been rejected vide order dated 10.03.2014. Copy of the rejection order was however communicated to the appellant on 14.03.2014. *(Copies of the departmental appeal and rejection order are attached as Annexure H & I)*

9. That the impugned Orders are illegal unlawful against law and facts hence liable to be set aside inter alia on the following grounds :

GROUND OF APPEAL .

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the major penalty of *Compulsory Retirement from Service*, to the appellant. No proper inquiry has been conducted, the appellant has not been associated with the inquiry proceedings, statements of witnesses if any were never taken in his presence nor he has been allowed opportunity of cross examination, moreover he has not been served with any show cause notice, thus the whole proceedings are defective in the eyes of law.
- C. That the allegations leveled against the appellant are general in nature and no specific instance has been shown where he has been found involved in the charges leveled against him, thus the Charge Sheet in itself is ambiguous and not warranted under the law.
- D. That the appellant has not been allowed opportunity of personal hearing, thus he has been condemned unheard.
- E. That in the Charge Sheet/ Statement of allegations it was alleged that the appellant is having *tainted reputation and allegedly involved in anti social activities*, however not a single instance has been mentioned wherein he has been found involved in such like such like activities, thus he has not been allowed fair opportunity to defend himself against the charges.
- F. That the charges leveled against the appellant were never proved in the enquiry, the enquiry officer gave his findings on surmises and conjunctures, moreover the inquiry officer had stated in the inquiry report that he secretly collected information from the local people about the character, however neither the names of those person (if any) were brought on record nor the appellant has been allowed to cross examine those person on whom statements the inquiry officer relied and recommended him for major punishment. Thus the inquiry report is defective in nature.

- G. That the appellant has never been served with Show Cause Notice, nor has he been provided the copy of the inquiry report, before the imposition of penalty upon him, which is mandatory in case of awarding major penalty.
- H. That the appellant has never indulged in any such activities beneficial to his person except the performance of good duty. The allegations leveled against the appellant are quite baseless, based on hearsay evidence which has got no footings in the service laws. The Superior Courts have always held that no one should be condemned without solid reasons.
- I. That appellant has never committed any act or omission which could be termed as misconduct, albeit been awarded the penalty of "*Compulsory Retirement from Service.*"
- J. That the appellant has not been associated with the inquiry proceedings, his statement has not been recorded by the inquiry officer, nor any witness have been examined or if so examined the appellant has not been allowed to cross examine those who may have deposed against me.
- K. That the appellant has at about 28 years bright and spotless service career at his credit, the service record of the appellant bear testimony of his spotless service career, the appellant has never communicated any adverse entries nor has any bad entries in his ACRs, the penalty imposed upon him is too harsh and liable to be set aside.
- L. That the appellant never committed any act and omission that could be termed as misconduct albeit he has been awarded the penalty of dismissal from service. The charges leveled against the appellant were based on mere presumptions, moreover the same also remained unproved during the inquiry. All the proceedings conducted against the appellant and the penalty awarded to him was predetermined.
- M. That the facts and grounds mentioned in the reply to the Charge Sheet and the departmental appeal of the appellant may also be read as integral part of the instant departmental appeal.
- N. That the appellant is jobless since his illegal *Dismissal from Service.*

O. That the appellant also seeks permission of this Honorable Tribunal to rely on additional grounds at the time of hearing of the instant appeal.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned orders dated 31.12.2013 and 10.03.2014 may please be set-aside and the appellant may be re-instated in service with all back benefits of service

[Handwritten Signature]
Appellant

Through

[Handwritten Signature]

IJAZ ANWAR
Advocate Peshawar

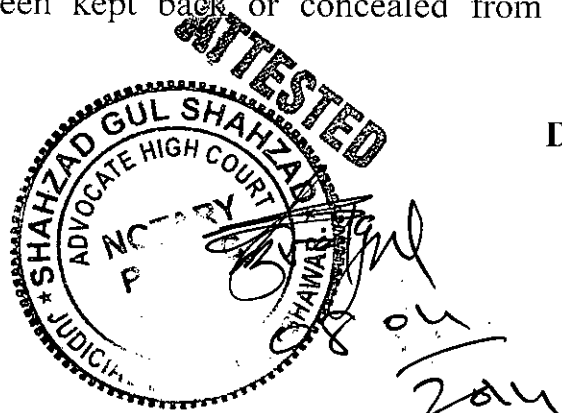
&
[Handwritten Signature]
SAJID AMIN

Advocate, Peshawar

AFFIDAVIT

I, Hamdullah Jan, Ex-Assistant Sub Inspector, District Police, Bannu, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.

[Handwritten Signature]
Deponent



ORDER

The following Police Officers/officials are suspended with immediate effect for their failure to fulfill legal obligations coupled with the fact that majority of them have got tainted reputation and allegedly involved in anti-social activities:-

1. Inspector Gul Nawaz SHO PS Haved, District Bannu.
2. ASI Rasool Khan No. 460 PS Jani Khel, District Bannu.
3. ASI Hamdullah Jan No. 407 ASI PS Mandan, District Bannu.
4. ASI Gul Ayub No. 1249 PP Baran Bridge, District Bannu.
5. HC Jamshid No. 782 PS Cantt., District Bannu.
6. HC Pir Hamid Ullah Shah No. 892 I/C Guard KGN Hospital, District Bannu.
7. HC Noor Subhani Shah No. 214 TO Traffic (Now Police Lines), Bannu.
8. HC Shafid Ullah No. 376 PS Ghoriwala, District Bannu.
9. LHC Mushtaq No. 649 PS Jani Khel, District Bannu.
10. Constable Tariq Ijaz No. 1335 PS Kakki, District Bannu.
11. Constable Jamshid No. 1896 PS Jani Khel, District Bannu.
12. Constable Arif Ullah No. 955 Police Lines, District Bannu.
13. Constable Aman Ullah No. 1977 QRF, Police Lines, District Bannu.
14. Constable Shahid Aslam No. 2067 (Gunner with ASI Saadullah PS City)
15. Constable Saboor No. 293 Police Lines, District Bannu.
16. Constable Shah Qiaz No. 1572 Police Lines, District Bannu.
17. Constable Azmat Ullah No. 1667 Police Lines, District Bannu.
18. Constable Hatim Ullah Shah No. 1767 QRF, Police Lines, District Bannu.
19. Driver/Constable Attique No. 1609 PS Township, District Bannu.
20. Driver/Constable Tawab No. 1269 PS Mandan, District Bannu.
21. Driver/Constable Khushdil No. 261 PS Haved, District Bannu.

(SAJID ALI KHAN) PSP
Regional Police Officer,
Bannu Region, Bannu

No. 2606--07/EC, dated Bannu the

07 / 11 / 2013

Copies to:-

1. The Provincial Police Officer, Khyber Pakhtunkhwa for favour of information please.
2. The Additional Inspector General of Police, Operation Khyber Pakhtunkhwa, Peshawar for favour of information please.
3. The Additional Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar for favour of information please.
4. The District Police Officer, Bannu for necessary action with the direction to initiate proper departmental proceedings against the above mentioned Police Officers (except S/No.1), under Police Rules 1975 and submit the result of action taken within 25 days.

(SAJID ALI KHAN) PSP
Regional Police Officer,
Bannu Region, Bannu

[Handwritten signature and stamp]

[Handwritten signature]

137

Muhammad B

CHARGE SHEET

1. MUHAMMAD IQBAL District Police Office, Bannu, as competent authority, hereby charge you ASI Hamdullah Jani of PS.Mandan, Bannu, as you have been suspended by the Regional Police Officer, Bannu on the basis of your tainted reputation and your alleged involvement in anti-social activities. Your activities are against the norms of a disciplined service, morality and impartialness which are badly required for the police force.

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

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

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

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

6. A statement of allegations is enclosed.

12
07/13

Handwritten notes in Urdu:
پدر
اسی
0336 9740825

(MUHAMMAD IQBAL)
District Police Officer,
Bannu.

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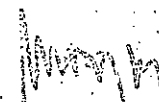
(8)

STATEMENT OF ALLEGATIONS:

I, Muhammad Iqbal, District Police Officer, Bannu as competent authority, am of the opinion that ASI Hamdullah Jan of PS Mandan, Bannu has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette 27th January 1976).


STATEMENT OF ALLEGATIONS:

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


(MUHAMMAD IQBAL)
District Police Officer,
Bannu.

No. 668-70, SRC dt 6-12-013.

Copies to (1) ASI Hamdullah Jan of PS Mandan, Bannu (2) DSP Naurang,
District Lakki Marwat (3) SRC Bannu.


(MUHAMMAD IQBAL)
District Police Officer,
Bannu.



گھوڑ خانہ دستاویزوں کی آفیسر صاحبہوں

مضمون: جواب چارج شیٹ

1. والد چارج شیٹ نمبر 668-70 فورم 6 ¹²/₁₃ حوض ہوشی سائل علی ٹولس SRC

میں بطور سینیئر فورم 18 ⁰³/₈₆ تقریبی ہوا تھا اور درجہ طور پر PT

ہنگو میں رٹنگ کیا ہے۔ خاندان لسٹ پر آتا ہوں۔ دبا بندی سے

رٹنگ نکل گیا ہے۔ کسی قسم حکم عدالتی افزان بالا مامان کی تین ہی ہے

بروقت افزان بلارے احکام کی ناسمداری کا مظاہرہ کیا ہے۔

2. یہ صلوٰۃ روزی وغیرہ باخ ارکان اسلام کا پابندی۔ بروقت خوش

املو، پھر دی، دبا بندی سے کام لیا ہے۔

3. کوئٹہ، ایئر میڈیکل کورس اچھے طریقے سے پاس کیا ہے۔ کورس

سے فارغ ہو کر کچھ عرصہ کے بعد افسران بلارے آئیے کے پابندی

انترجی دیا ہے۔ بروقت ٹولس میں اچھے کارکردگی اور اچھے اختلاف

کا مظاہرہ کیا ہے۔

4. ہر ایک مقام میں تین آئیے۔ معذوران کی گرفتاری برآمد ہونے پر اطلاع ابوش

دہی کیا اور اہم ثبوت دیکھا اور موجود ہے۔ اور مشکل سے مشکل

محلے حل کرائے ہیں۔

5. جن آئیے کسی قسم کا جائیداد، بلڈگ، ازادیت وغیرہ ہیں۔

البتہ والد صاحب کا کچھ جائیداد گاؤں خود میں موجود ہے اور

ایک گھر جن میں ہم پورا خاندان رہتا ہے۔ میں نہیں۔

6. جن آئیے جب توڑی سے چھٹی مل جائے، اور جب گاؤں ورحا

ہوں تو سواری دینے کے لئے چاہتا ہوں، اور انہوں (PT) (

غیر فوراً سہیل کے اور خوراک کے سہارا اور الٹا ہونے
 بازار میں سہیل کے ہوتے ہوں کسی قسم کا دھمیل / کاری وغیرہ نہیں ہے
 دوران فوری نہ کسی سے رشتہ لیا ہے اور نہ رشتہ کا وصال ہوں
 بروقت اللہ کی رضا سے دلوں پر انجام دیا ہے اجلاس سے دلوں
 پر انجام دیا ہے دلیری کا مظاہرہ کیا ہے

8: من آسی کے چھوٹے چھوٹے بچے ہیں۔ خداوند تعالیٰ نے من آسی
 کا ذریعہ معاش حکم کوئٹہ سے بنایا ہے، جس میں حدیث کی تعلیم ہے
 اپنے بچوں اور گھروالوں کا بہت نالائقیوں

9: یہ سائل دوران ذریعہ معاش میں ہے، اس لیے اہل و عیال کے
 بہت بوجھ اور تعلیم و تربیت کا بوجھ برداشت کر رہے ہیں

10: سائل رقم رشتہ کرشن میں کفایت اور رقم لہرائی سے
 پائی ہے۔ استدعا ہے سائل کا جاری بہت بلاغیہ کارروائی
 کے دراصل دفتر فرمائی جاوے، اور چھ حکم کوئٹہ میں دیباہتاری
 ایماناری سے کام کرنے کا عوقود دیا جائے معافی دعا کے

سائل محمد اللہ جان آسی معطل کوئٹہ میں ہوں

12
 12
 13

آسی / P.L.B
 12/12/13

از دفتر DSP سرکل لورڈز انوائٹری انسپکشن

ANFEX-08

تاریخ - 26-12-2013

(10)

فائل رپورٹ انوائٹری آفس

صاف عالی! عرض خدمت ہوں کہ سیکشن خارج سہٹ پھی آف اینڈ اینڈیشنز کے تحت 26/12/2013 کا تاریخ DSP صاحب نوبل ASI عبداللہ خان پولیس اسٹیشن ضلع نوبل کے خلاف الزام عائد کیا ہے کہ وہ سماج دشمن عناصر سے قصبہ طور پر مل رہا ہے۔ جو حکم پولیس کسٹڈی بنامی کابریٹ ہے۔ خارج سہٹ پھی آف اینڈیشن جاری کردہ ہیں جن DSP کو انوائٹری آفس مقرر کرنا اور پچیس یوم میں فارمزنگ رپورٹ و تیار کر کے اطمینان حاصل کرنا الزام علیہ آفس کے مقصد سے جاری ہے خارج سہٹ پھی آف اینڈیشن موصول کردہ پیر آفٹا فٹری جواب دیا اور اپنے خلاف لگائے گئے الزامات کو رد کرتے ہوئے خود کو ٹھیکہ اور باقصور بتلایا۔

دوران انوائٹری ذیل گواہان بشمول الزام علیہ آفس طلب کئے جا کر حاضر آئے جن کے بیانات موجودگی الزام علیہ آفس طلبہ کر کے الزام علیہ کو گواہان میں جرح کرنے اور آٹیا دفاع کرنے کا پورا پورا موقع، اختیار دیا گیا۔

- ① نکل محمد OASI دفتر پولیس نوبل
- ② شہزادہ ASRC دفتر پولیس نوبل
- ③ ASI عبداللہ خان سٹیٹ پولیس اسٹیشن نوبل

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جسٹیشن چارج شیٹ کے لئے الزامات کے بابت الزام علیہ آف

کے نام نیشنل بینک آف پاکستان میں ایکاؤنٹ نمبر 002768.5

جو آپریٹس سیکریٹری کے طور پر ہے۔ اسی طرح پٹواری صلح مظفر خان

سے قریبی رپورٹ حاصل کی گئی جو الزام علیہ محمد امجد علی خان کے نام پر 09.09.86

بسطاق دلپارڈ جا RRB، OAGI، مذکورہ AGI محمد اللہ خان حرمی 18-03-1986

کو فیکم پولیس ضلع خوں میں بطور کانسٹیبل مقرر کیا گیا اور انہی ڈویژن کے تحت

تعمیرات میں مشورہ تعمیرات، تعمیراتی ضلع، تعمیرات صدر تعمیرات

تعمیرات ٹاؤن شپ، چوکی شیخ نذیر، اور ایچ بی میں ڈروئی سرانجام دیا گیا۔

RRB دلپارڈ کے مطابق مذکورہ الزام علیہ AGI محمد اللہ خان کے

دلپارڈ پر پانچ اجیت اور ڈکٹ Bed انٹری موجود ہے۔

الزام علیہ پر لکھے گئے الزامات کے بابت مفصل ذرائع اور

انٹیلی جنس ایجنسی سے بھی معلومات حاصل کی۔ معلوم ہوا

کہ مذکورہ زیادہ تر مقامی درمیانی طبقوں پر سفارتی سفارتوں پر لگائے گئے

انٹیلی جنس کے حوالے کر رہے ہیں اور یہ معلوماتیں انہی کے ذریعے سے حاصل ہوئی ہیں۔

موجودہ درمیانوں اور درمیانوں سے تعلقات استوار کرنا اور ان کو ناگاہک ذرائع

کی طرف منتقل کرنے کا بھی موقع ملتا ہے۔ اس کے نتیجے میں

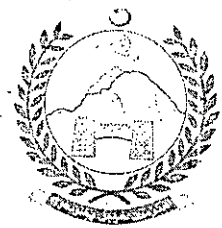
سے تہہ کار، قیود اور غیر انجمن ہے۔ جس کو (NATAR)

سزا دینے کی سفارش کی گئی ہے۔

Handwritten signatures and notes at the bottom of the page, including a large signature on the left and several smaller ones on the right.

(12)

Approved: E



OFFICE OF THE
DISTRICT POLICE OFFICER,
BANNU.

Phone No: 0928-9270 038

Fax No: 0928-9270045

O.B


No. 1447 /EC

Dated 31.12.2013

To: ASI Hamdullah Jan of District Bannu Police.

ORDER

1. You, ASI Hamdullah Jan, at the time of your posting at Police Station Mandan were charged for the misconduct communicated to you during departmental proceedings, the gist of which is that you had a tainted reputation and remained involved in anti social activities. Accordingly proper departmental enquiry was conducted to find out facts.
2. Mr. liaqat Shah DSP Naurang District Lakki was appointed as Enquiry Officer who has submitted his findings wherein the charges leveled against you have been proved.
3. You were called in the orderly room on 30.12.2013 and were heard in person. You had nothing substantial in your defense. I, Mohammad Iqbal, DPO Bannu, as competent authority under Police Rules (amended vide NWFP gazette, 27 January 1976) have come to the conclusion that charges leveled against you are proved beyond any doubt and that your retention in police service would be harmful for the force. I have, therefore, decided to impose major penalty upon you by retiring you compulsorily from service. This order will take effect immediately.


District Police Officer,
Bannu.



صاحب عالی

بھنو صاحب جی Di میں ڈوٹریک نوٹ

استدعا بحال کرنے میں سائل کے بعدہ میں سائل ASI

صاحب DPO میں نوٹ نے ایک فرضی حکم پر اور فرضی التزامات

کے تحت بحال آرڈر مورفہ 31/12/13 B 08 عبر 1447 مورفہ 31/12/13

کو ملدزمیت سے جبری ریٹائرڈ کر دیا گیا ہے

صاحب حضور مودبانہ صحت ذیل ہیں کہ مورفہ 31/12/13 کو فکڑ

کو کسی میں بطور کنٹریکٹ رہی ہوا آجھی طرف سے ٹرننگ 86

کے کو ٹر کو بس کے بعدہ سپڈ کنٹریکٹ ترقیاتی ہو کر آجھی

کارروائی کی بنیاد پر 200 میں بعدہ ASI ترقیاتی ہوا اور

آجھی غربت کی صورت سے ڈیوٹی جو آفران بالہ نے مختلف تعالوں

پر تبدیلی کے ڈیوٹی نکلنے سے کرنا کے مدت ملدزمیت میں

کیسی کیا ہے زیادتی، ظلم، جبر نہیں کیا ہے جو مندرجہ بالا لوگ

میں دیا ہوا اور ایک بلکہ مسلمان ہونے کے ناطے پراسرار کام دینا

صاحب والہ داد محمد پریہ اللہ ہے کہ آپ نے تمام تر تبادلات

سفارش کی بنیاد پر اور آجھی میں پسند تعالوں پر کیا ہے

2) محمد پریہ اللہ ہے کہ آپ فریوں لڑکوں اور لڑکیوں کے شرف میں

صاحب والہ جملہ التزامات کی بنیاد پر صاحب DPO میں نے ملدزمیت سے

حصہ ریٹائرڈ کیا گیا ہے۔ چونکہ اللہ تعالیٰ گواہ ہے کہ صلح بنوں
میں جتنے لوگ ہیں آفران کرپشن اور عہدت فروشی کے
کاروبار میں مصروف ہیں تمام عوام اور لوگ آفران کو
اس کے بارے میں خوب واقف ہیں۔

۳۔ حالانکہ میں ایک غریب شخص ہوں تو کرسی کے بغیر کوئی دوسرا ذریعہ
معاش نہیں ہے۔ دو بیویاں کا خاوند ہوں۔ مال کے دار ہوں
دو بیویاں اور مال بچوں اس تو کرسی پر یا لٹا ہوں۔
لہذا بذریعہ استدعا کی جاتی ہے کہ میں سائل کو اسی تاریخ سے
تو کرسی پر بحال کرنے کا حکم صادر فرمایا جاوے تاکہ سزا

عمر بھر دعا گور سیرگا فقط مزید 10/14

العارضین

سائل محمد اللہ خان آسی تحصیل، صلح بنوں تعلیم خود

ASi/10/1114

Handwritten signature or initials.

ORDER

My this order will dispose of departmental appeal preferred by Ex: ASI Hamd Ullah Jan of Operation Staff, Bannu against the order of Major Punishment of Compulsory retirement from service by DPO/Bannu vide OB No. 1447 dated 31-12-2013 for committing of the following omissions:-

- That his reputation was reported to be tainted as well as charged for anti social activities

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

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

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

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

No. 639-40 /EC, dated Bannu the 10 / 03 /2014.

Copy to:-

1. The District Police Officer, Bannu along with service record containing departmental proceeding file for information and necessary action w/r to his office memo: No. 1002 dated 28-02-2014.
2. ✓ Ex: ASI Hamd Ullah Jan.

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

[Handwritten signature]

POWER OF ATTORNEY

In the Court of 12 PK Severe Federal Return

Hamidullah Jan } For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

P.P.O and others } Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

{ Sajid Amin Advocate my true and lawful attorney, for me
in my same and on my behalf to appear at Peshawar. to appear, plead, act and
answer in the above Court or any Court to which the business is transferred in the above
matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits.
Compromises or other documents whatsoever, in connection with the said matter or any
matter arising there from and also to apply for and receive all documents or copies of
documents, depositions etc, and to apply for and issue summons and other writs or sub-
poena and to apply for and get issued and arrest, attachment or other executions, warrants
or order and to conduct any proceeding that may arise there out; and to apply for and
receive payment of any or all sums or submit for the above matter to arbitration, and to
employee any other Legal Practitioner authorizing him to exercise the power and
authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other
lawyer may be appointed by my said counsel to conduct the case who shall have the same
powers.

AND to all acts legally necessary to manage and conduct the said case in all
respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf
under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the
Court/my authorized agent shall inform the Advocate and make him appear in Court, if the
case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be
held responsible for the same. All costs awarded in favour shall be the right of the counsel
or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year 2012
Executant/Executants _____
Accepted subject to the terms regarding fee Asijid Amin

Sajid Amin
SAJID AMIN
ADVOCATE HIGH COURT
Legal Advisor Services & Labour Laws Consultants
FR-3-4, Fourth Floor, Bilour Plaza Peshawar Cantt.
Ph: 091-5272054, Mob: 0333-4584986, 03339155956

Ijaz Anwar
Ijaz Anwar
Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3 &4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0333-9107225

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2014

Hamdullah Applicant

Versus

Provincial Police Officer and others Respondents

**APPLICATION FOR THE SUSPENSION OF
OPERATION OF ORDERS DATED 31/12/2013
AND 10/03/2014 TILL THE FINAL DISPOSAL
OF THE TITLED APPEAL.**

RESPECTFULLY SHEWETH,

1. That applicant has filed the titled appeal before this Honourable Tribunal in which today i.e. 23/5/2014 is the date fixed for the preliminary hearing.
2. That the facts and grounds mentioned in the titled appeal may be read as integral part of the instant application.
3. That applicant has got very good prima facie case and is sanguine of his success in the same.
4. That balance of convenience lies in favour of the applicant and an irreparable loss would accrue to him if the instant application was not accepted.

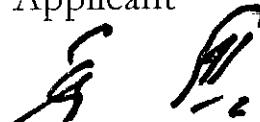
5. That any grounds will be raised at the time of arguments with prior permission of this Honourable Tribunal.

It is therefore, most humbly prayed that on acceptance of this application operation of the orders dated 31/12/2013 and 10/03/2014 may please be suspended till the final decision of the titled appeal.



Applicant

Through



IJAZ ANWAR

And

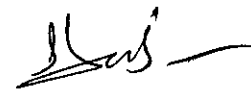


SAJID AMEEN

Advocates, Peshawar.

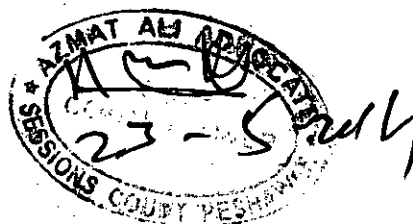
AFFIDAVIT:-

I, do hereby solemnly affirm and declare on oath that all the contents of instant application are true and correct and nothing has been concealed from this Honourable Tribunal.



DEPONENT

ATTESTED



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

Service Appeal No. 499/2014

Hamad Ullah Jan

....Appellant

V E R S U S

The Provincial Police Officer KPK Peshawar & others

....Respondents

REPLICATION ON BEHALF OF THE

APPELLANT

Respectfully Sheweth:-

The appellant submits his replication as under:

ON PRELIMINARY OBJECTIONS

1. Contents incorrect and misleading the appeal being filed in accordance with the prescribed rules and procedure hence maintainable in its present form.
2. Contents incorrect and misleading all facts necessary for the disposal of the appeal are brought before the Hon'ble Tribunal and nothing has been concealed.
3. Contents incorrect and misleading the appeal is filed well within in the prescribed period of limitation.
4. Contents incorrect and misleading the appellant has illegally been awarded the major penalty hence has got the necessary cause of action to filed the instant appeal.

5. Contents incorrect and misleading the appellant being an aggrieved civil servant has got the necessary locus standi to filed the instant appeal.
6. Contents incorrect misleading no rule of estoppel is applicable in the instant case.

ON FACTS

1. Contents need no reply, however contents of para No.1 of the appeal are true and correct.
2. Contents of Para no.2 of the appeal are correct the reply submitted to the para is incorrect and misleading.
3. Contents of Para No.3 of the appeal are correct the reply submitted to the para is incorrect, misleading and without any proof.
4. Contents of Para No.4 of the appeal are correct the reply submitted to the para is incorrect and misleading.
5. Contents of Para No.5 of the appeal are correct the reply submitted to the para is incorrect and misleading.
6. Contents of Para no.6 of the appeal are correct the reply submitted to the para is incorrect and misleading.
7. Contents of Para no.7 of the appeal are correct the reply submitted to the para is incorrect and misleading. Moreover the procedure provided under the Government Servant (E&D) Rules, 2011, has not been adhered to before the imposition of penalty upon

the appellant. The appellant being civil servant, the relevant law for proceeding against him was the said rules.

8. Contents need no reply, however contents of para No.8 of the appeal are true and correct.
9. Contents of Para no.9 of the appeal are correct the reply submitted to the para is incorrect and misleading.


ON GROUNDS:-

Grounds "A" to "O" taken in the memo of appeal are legal and will be substantiated at the time of hearing of the appeal. However the replies submitted to the grounds are incorrect misleading baseless and without any proof.

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


Appellant

Through

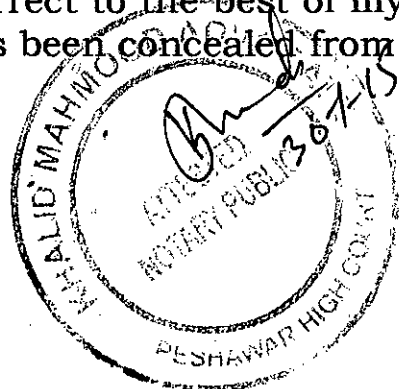

IJAZ ANWAR
Advocate, Peshawar

& 
SAJID AMIN
Advocate, Peshawar

Dated 24/10/2014

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above replication as well as the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




DEPONENT

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No. 499/2014

Hamdullah Jan, Ex-Assistant Sub Inspector, District Police, Bannu. (Appellant)

VERSUS

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

REPLY BY RESPONDENT NO.1,2 & 3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

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

OBJECTIONS ON FACTS:

- 1) Pertains to record hence needs no comments.
- 2) Incorrect. The appellant has bad reputation in the Police force and always performed duty as routine and never showed exceptional performance.
- 3) In wake of initiatives of Govt: regarding eradication of corruption from the government servants, the appellant and others were found of tainted reputation and their involvement in anti social activities, thus he was suspended followed by regular inquiry under Police Rules 1975.
- 4) Incorrect. The allegations were verified through various sources and found accurate. Thereafter conveyed to appellant and scrutinized through inquiry officer.
- 5) The reply of appellant was found unsatisfactory and based on unsound reasons.
- 6) Incorrect. Regular inquiry wherein all the opportunities of hearing and defense were afforded to appellant.
- 7) All the opportunities of hearing were provided to appellant. Final show-cause notice is not mandatory under Police Rules 1975.
- 8) Pertains to record hence needs no comments.
- 9) Incorrect. The orders are legal, valid, based on facts, law and justice.


OBJECTIONS ON GROUNDS.

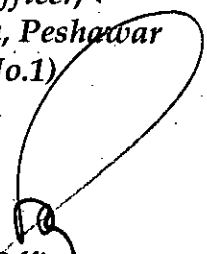
- (A) Incorrect. The appellant was treated under the proper law/rules i-e Police Rules 1975 and no right of appellant has been violated.
- (B) Incorrect. Regular inquiry through inquiry officer (DSP Nourang Lakki Marwat) was conducted and all the opportunities of hearing/defense were afforded to the appellant in accordance with law/rules.
- (C) Incorrect. The allegations were verified through various sources and conveyed to appellant in shape of charge sheet based on statement of allegations which was established in the regular inquiry conducted by the inquiry officer.

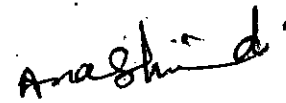
- (D) Incorrect. The appellant was provided opportunities and defense at all level and was also heard in orderly room held on 30.12.2013 and 10.03.2014 but he failed to satisfy the respondents regarding the allegations leveled against him.
- (E) Incorrect. Despite bad entries in service record of appellant allegations of dealing of pretty boys and girls for illegal purpose were established during departmental probe.
- (F) Incorrect. The involvement of appellant in anti social immoral activities were verified through secret sources and the names of the informers can not be disclosed under the law/rules.
- (G) Incorrect. All the codal formalities have been observed during departmental probe. Final show-cause is not mandatory under Police Rules 1975.
- (H) Incorrect. As per inquiry report, the appellant was found involved in anti social and immoral activities.
- (I) Incorrect. Misconduct on the part of appellant was established through regular inquiry carried out by enquiry officer i.e DSP Naurang Lakki Marwat.
- (J) Incorrect. All codal formalities fulfilled opportunities of defense were afforded to appellant during course of inquiry.
- (K) Incorrect. The appellant has indifferent record and after proper probe, his retention in police force was found harmful and thus retired him from service compulsory.
- (L) Incorrect. The misconduct on the part of appellant has been established through various sources and regular inquiry.
- (M) Reply and departmental appeal of appellant were found unsatisfactory and based on unsound reasons.
- (N) Incorrect. The appellant has been given financial benefit of service and never dismissed from service.
- (O) That the respondents may also be allowed to add other grounds at the time of hearing.

Prayer:

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


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)
2/11/14


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


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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No. 499/2014


Hamdullah Jan, Ex-Assistant Sub Inspector, District Police, Bannu. (Appellant)

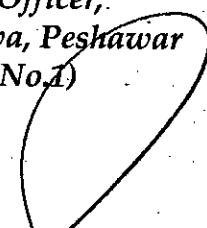
VERSUS

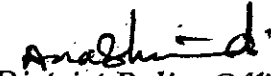
- 1) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Regional Police Officer, Bannu Region, Bannu.
- 3) The District Police Officer, Bannu. (Respondents)

COUNTER AFFIDAVIT

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


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


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


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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Appeal No. 499/2014

Hamdullah Jan, Ex-Assistant Sub Inspector, District Police, Bannu. (Appellant)


VERSUS

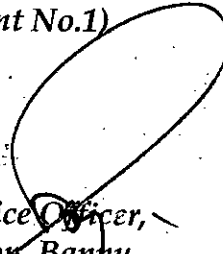
- 1) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Regional Police Officer, Bannu Region, Bannu.
- 3) The District Police Officer, Bannu. (Respondents)

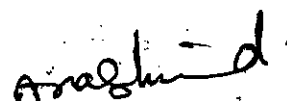
AUTHORITY LETTER.

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

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


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


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


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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 499 /2014

Hamdullah *Jur.*

.... Applicant

Versus

Provincial Police Officer and others

.... Respondents

APPLICATION FOR THE SUSPENSION OF
OPERATION OF ORDERS DATED 31/12/2013
AND 10/03/2014 TILL THE FINAL DISPOSAL
OF THE TITLED APPEAL.

RESPECTFULLY SHEWETH,

1. That applicant has filed the titled appeal before this Honourable Tribunal in which today i.e. 23/5/2014 is the date fixed for the preliminary hearing.
2. That the facts and grounds mentioned in the titled appeal may be read as integral part of the instant application.
3. That applicant has got very good prima facie case and is sanguine of his success in the same.
4. That balance of convenience lies in favour of the applicant and an irreparable loss would accrue to him if the instant application was not accepted.

5. That any grounds will be raised at the time of arguments with prior permission of this Honourable Tribunal.

It is therefore, most humbly prayed that on acceptance of this application operation of the orders dated 31/12/2013 and 10/03/2014 may please be suspended till the final decision of the titled appeal.

Applicant

Through

IJAZ ANWAR

And

SAJID AMEEN

Advocates, Peshawar.

AFFIDAVIT:-

I, do hereby solemnly affirm and declare on oath that all the contents of instant application are true and correct and nothing has been concealed from this Honourable Tribunal.

DEPONENT