

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	22.02.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>CAMP COURT D.I KHAN.</u></p> <p style="text-align: center;">APPEAL NO.403/2014</p> <p style="text-align: center;">(Aman Ullah Khan-vs-Regional Police Officer, Bannu Region, Bannu and others.)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>Counsel for the appellant (Mr. Saad Ullah Khan Marwat, Advocate) and Mr. Mir Faraz, (Inspector Legal) alongwith Mr. Farhaj Sikandar, GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against office order dated 10.03.2014 of respondent No.1, whereby representation of appellant against order dated 31.12.2013, dismissing appellant from service, was rejected for no legal reason.</p> <p>3. It was not controverted that on the terms of service appeal No.498/2014 namely Jamshaid Ali Shah-vs-PPO, Peshawar decided on 04.05.2015, the instant appeal may also be remitted for proceedings <i>de-novo</i> in accordance with law. Consequently, the impugned orders dated 10.03.2014 and dated 31.12.2013 are set</p>

...the record is returned to the ...
...is returned into service for the purpose of proceedings
...of record. Parties are left to bear
...to the record room.

(PIR BAKHSH SHAH)
MEMBER

(ABDUL LATIF)
MEMBER

...

aside and the case is remitted to the respondent-department and the appellant is reinstated into service for the purpose of proceedings *de-novo*. Appeal disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

ANNOUNCED
22.02.2016

403/2014

27.07.2015

Appellant in person and Mr. Minhaj Sikandar, GP for the respondents present. Appellant submitted rejoinder, which is placed on file and copy whereof is handed over to the learned GP. To come up for arguments on 24-08-2015 at camp court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

26.10.2015

Appellant in person and Mr. Farhaj Sikandar, GP with Mir Faraz, Inspector (Legal) for the respondents present. The Bench is incomplete, therefore, case to come up for arguments at camp court D.I.Khan on 28-12-15.



MEMBER
Camp court, D.I.Khan

09.09.2014

Appellant with counsel (Arbab Saiful Kamal, Advocate) present. Notices to the respondents could not be issued due to non deposit of security amount and process fee. The learned counsel for the appellant requested for further time. The security amount and process fee be deposited within 3 days, whereafter notices be issued to the respondents for written reply/comments on

300/-
Bank
with File

08.01.2015
Chairman

08.01.2015 No one is present on behalf of the appellant. Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply/comments on 28.04.2015.

Reader.

28.04.2015 Counsel for the appellant and Mr. Shafi-u-Zaman, Naib Court alongwith Addl: A.G for respondents present. Written statement submitted. The appeal is assigned to D.B for rejoinder and final hearing. The appeal pertains to territorial limits of *D.I. Khan Division* and as such to be heard at Camp Court *D.I. Khan* on 25.5.2015.

Chairman

25.05.2015 Clerk of counsel for the appellant and Mr. Farhaj Sikandar, GP for the respondents present. Due to general strike of the legal fraternity, counsel for the appellant is not available. To come up for rejoinder and arguments at camp court, D.I.Khan on 27.07.2015 at camp court, D.I.Khan.


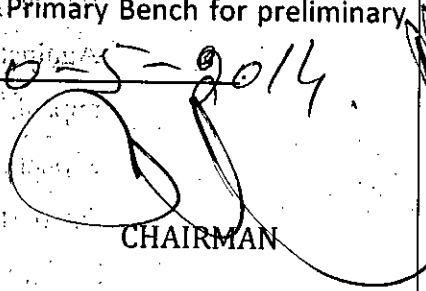
MEMBER
Camp court, D.I.Khan

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 403/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/03/2014	The appeal of Mr. Amanullah Khan presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.  REGISTRAR
2	24-3-2014	This case is entrusted to Primary Bench for preliminary hearing to be put up there on 20-5-2014  CHAIRMAN

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. ⁴⁰³ /2014

Aman Ullah Khan

Versus


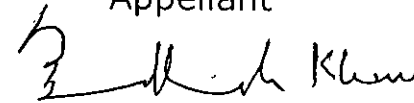
R.P.O & others

I N D E X

S.No	Documents	Annex	P. No.
1.	Memo of Appeal		1-3
2.	Charge Sheet, 06.12.2013	"A"	4-5
3.	Reply to Charge Sheet	"B"	6-8
4.	Verification Of Patwari, 18.12.2013	"C"	9
5.	Dismissal from Service, 31.12.2013	"D"	10
6.	Representation,	"E"	11
7.	Rejection Order, 10.03.2014	"F"	12

Dated. 21.03.2014

Through


Appellant

Saad Ullah Khan Marwat
Advocate.
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 403 /2014

Aman Ullah Khan S/o Muhammad Tariq Khan,
R/O Kaki, Bannu, Ex-Constable No. 1977,
QRF, Police Line, Bannu Appellant

Versus

1. Regional Police Officer, Bannu Region,
Bannu.
2. District Police Officer, Bannu.
3. Provincial Police Officer, KP, Peshawar. Respondents

AWJ. P. P. P.
Bannu
No. 480
21-3-14

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
AGAINST OFFICE ORDER NO. 609-10 / EC, DATED
10.03.2014 OF RESPONDENT NO. 1, WHEREBY
REPRESENTATION OF APPELLANT AGAINST OB
NO. 1450/EC DATED 31.12.2013, DISMISSING
APPELLANT FROM SERVICE, WAS REJECTED FOR
NO LEGAL REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That appellant was appointed as constable in Police Force on 15.07.2007 and under gone through various courses, like Rider Squad, Quick Response Force Squad, etc.
2. That on 06.12.2013, appellant was served with Charge Sheet along with statement of allegation by R. No. 2 directly and not through Inquiry Officer whereby charges of tainted reputation and involvement in anti social activities were leveled against him. (Copy as annex "A")
3. That the aforesaid charge sheet was replied by appellant, denying the allegations in toto. (Copy as annex "B")

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21/3/14

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4. That on 18.12.2013, Patwari Halqa and Bank Authorities submitted report to the authority that no agriculture land or Bank Balance exists at the name of appellant anywhere. (Copy as annex "C")
5. That perhaps inquiry in the matter was conducted by Inquiry Officer but appellant was neither associated with the same nor any statement of any witness(s) was ever recorded in his presence nor he was afforded opportunity of cross examination, what to speak of self defence, being mandatory.
6. That on 31.12.2013, major penalty of dismissal from service upon appellant was imposed by R. No. 2. (Copy as annex "D")
7. That appellant submitted representation before R. No. 1 for reinstatement in service which was rejected on 10.03.2014 for no legal reason. (Copies as annex "E" & "F")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That as is evident from the record, no specific charge was leveled against appellant and he was proceeded on assumptions and presumptions.
- b. That if such charge leveled against appellant is taken into consideration, then none of the police official / officer was exempted from the same.
- c. That appellant was awarded with the major punishment of dismissal from service but the mandatory procedure was not adapted for him in this respect. He was condemned unheard as no statement of any witness(s) was ever recorded in presence of appellant nor he was afforded opportunity of cross examination what to speak of personal hearing and self defence.
- d. That some other officials / officers were dealt with along with appellant for the same charges but they were exonerated from the same while appellant was dealt with illegally and as per the dicta of the apex court,

A

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6-12-13

CHARGE SHEET

1. MUHAMMAD IQBAL District Police Office, Bannu, as competent authority, hereby charge you Constable Aman Ullah No.1977-QRF Police Line, 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.

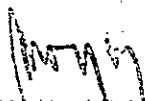
2. By reason of the above you appear to be guilty of misconduct under the police Rules (Amended vide NWFP gazette, 27 January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.


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.


(MUHAMMAD IQBAL)
District Police Officer,
Bannu.

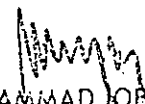
Attested


STATEMENT OF ALLEGATIONS:

1. Muhammad Iqbal, District Police Officer, Bannu as competent authority, am of the opinion that Constable Aman Ullah No.1977 QRF Police Line, 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).

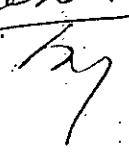
STATEMENT OF ALLEGATIONS:

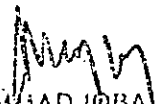
- 1. He has been suspended by the Regional Police Officer, Bannu on the basis of his tainted reputation and his alleged involvement in anti-social activities. His activities are against the norms of a disciplined service; morality and impartialness which are badly required for the police force.
- 2. 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: 6-12-2013

Copies to (1) Constable Aman Ullah No.1977 QRF Police Line
(2) DSP Naurang, District Lakki Marwat (3) SRC Bannu.

Attested



(MUHAMMAD IQBAL)
District Police Officer,
Bannu.

To,

**The District Police Officer,
Bannu.**

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

Respected Sir,

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

1. The petitioner recruited in police deptt: as constable on 2007 and after undergoing basic training in the training institution, reported back in the District for performance of duty. The petitioner was then deputed for the training of different courses ATS and Civil defense which were successfully completed and thereafter the petitioner has been assigned the duties in various police stations which was discharged efficiently.
2. That the petitioner was posted on various establishment in police deptt: and performed the duty with great zeal and zest and this is why that the officers under whom command, I have performed the duty has made no complaint what so ever against the petitioner and was happy from the performance of duty..
3. That throughout my service since 2008, the petitioner has not done any such thing/action which is against the spirit of police rules as well as disciplinary force. The service record of the petitioner is so much clean that during the entire period of service, no complaint has been received from the public to the officers and this is why that no departmental action has been initiated against the petitioner from any corner on the basis of Anti-Social activities.

4. That the petitioner has performed front line duty in the raid proceeding of police as well as ATS and Civil defense duty whenever the services of petitioner was required in connection of the above courses.

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

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

7. According to the dicta of Supreme court of Pakistan as well as service tribunal and the constitution of Islamic republic of Pakistan 1973 no official/officer should be condemned without solid reasons / proof of any allegation and in the case of any allegation against the spirit of police rules/service laws, the official/officer will be suspended when there is some clue leading towards the allegations but in the case of petitioner no complaint what so ever has been made against the petitioner nor any kind of tinted allegation has been refereed in the

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charge sheet. The general allegations without proof is nothing but amounts the harassment of the official.

8. The petitioner is the only bread earner of the family and such like defamation will certainly discourage myself as well as other police officials in performance of duty specially in the situation facing by the police now a days.
9. That the allegations in the charge sheet are not governed by any cogent/solid proof and no official/officer can be entangle with such like allegations without substantive proof. The allegation of Anti-Social activities in-morality and un- impartialness against the petitioner are not substantiated by any reasons.

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

Attested
by

Yours Obediently

امان اللہ بٹ
Aman Ullah
FC No. 1977
Police Line Bannu.


C

9

18-12-13

جناب عالی! - تصدیق کی جاتی ہے کہ مسی امان اللہ خان و در محمد طارق خان

کے نام موضوع نئی ڈرامیں کوئی زرعی جائیداد اس لیے -

رپورٹ عرض ہے  عطا اللہ خان پیواری

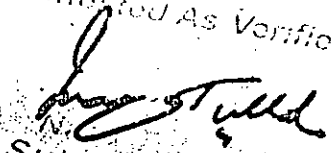
18-12-2013

جناب عالی! - رپورٹ ^{شعب} ڈی اے اے اے - تصدیق سند



18/12/2013

Attested As Verified



Sub Tahsil Nakki

تایید 18/12/13

Attested

by 



D 10 31-12-13

**OFFICE OF THE
DISTRICT POLICE OFFICER,
BANNU.**

Phone No: 0928-9270 038

Fax No: 0928-9270045

OB No. 1450 /EC

Dated 31.12.2013

To: Constable Amanullah No.1977 of District Bannu Police.

ORDER

1. You, Constable Amanullah No.1977 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 of dismissal from service upon you. This order will take effect immediately.

Attested
by


District Police Officer,
Bannu.

E

11

BEFORE THE REGIONAL POLICE OFFICER BANNU REGION BANNU

Subject: Appeal against the order of dismissal passed by District Police Officer Bannu.

Vide No. _____

Respectfully Sir,

I had joined the Police force on 15-07-2007 and after completed my requisite training was posted in District Bannu in various police posts, in rider squad, QRF Squad, PS Miryan and PS Kakki.

On 7-11-2013, I was placed under suspension on the following charges 1,2.

1. I was suspended by Regional Police Officer on the basis that my tainted reputation and alleged involvement in anti-social activities.
2. By the 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.

The SDPO Serai Naurang Lakki was appointed as inquiry officer and he conducted departmental inquiry and after completion the inquiry, submitted his finding report to the DPO Bannu, consequently DPO Bannu dismissed me from service.

Ground of Appeal-

1. That the order of the DPO Bannu is against law, fact and record. The order of dismissal has course great mischarge of justice is not based on plausible reason.
2. No witness was examined in my presence and hence I was deprived of my legal right to cross examine the witness. No evidence whatsoever has been brought against me, so substantial the charges leveled, which are misconceived, here say and not based on cogent reason.
3. That as per police rules as required that finding report of the inquiry officer should be provided to the defaulter police officer but no such report was provided, Nor any final showcause was issued to me which is sheer violation of Khyber Pakhtunkhwa rules 1975.

Prayer: I have joined the police department in year 2007 and successfully completed the requisite police training. I am Master of Arabic, qualified person and have put in the short spell of six years service in the police department.


N.B. Sir. I want to bring in your kind notice that my senior officer alongwith my other colleagues were suspended and charged on the same allegations but they were exonerated in the inquiry by one way or other.

- | | | |
|----------------------|---------------------|------------------|
| 1. ASI Abdul Khanan. | 2. ASI Sadullah | 3. HC Shahqiaz |
| 4. HC Shafidullah | 5. HC Ghulam Subhan | 6. HC Hazrat Ali |
| 7. FC Farooq | | |

In view of the above submission it is earnestly requested to kindly interfere and very graciously set a side the impugned order of DPO Bannu.

I shall be very thankful for this kindness.

Amanullah Khan
my


(Amanullah Khan)
Ex-Police Constable.



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10-3-14

POLICE DEPARTMENT.

BANNU REGION.

ORDER

My this order will dispose of departmental appeal preferred by Ex: FC Aman Ullah No. 1977 of Operation Staff, Bannu against the order of Major Punishment of dismissal from service by DPO/Bannu vide OB No. 1450 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: FC was proceeded against departmentally for the above misconduct. Mr. Liaqat Shah, DSP/Naurang, District Lakki Marwat was appointed as Enquiry Officer, who conducted proper departmental enquiry into the allegations and submitted his findings. The delinquent Police FC was reported to be guilty of the charges. Hence, he was awarded major punishment of dismissal 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. 609-10/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. 817 dated 28-01-2014.
2. ✓ Ex: FC Aman Ullah No. 1977.

Attested by

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

یعدالت جناب سرسٹریٹ ہونٹل صوبہ سندھ پشاور

اسلام آباد

جناب

امان اللہ خان

محکمہ لوہی و عہدہ

بنام

دعویٰ اصل

باعث شکریہ ایٹکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی متعلقہ آن مقام پشاور کیلئے سید امان اللہ خان سے روایت سے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت مذکورہ کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تقدیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مشارق قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقدمہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر واختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 3 18
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العبد

العبد

العبد

Arbab Singh Akmal
ایڈووکیٹ

سید امان اللہ خان مروت
ایڈووکیٹ

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Dubina Nag
من روپیہ تازہ
ایڈووکیٹ

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,

Appeal No. 403/2014

Aman Ullah Khan s/o Muhammad Tariq Khan,
r/o Kaki, Bannu, Ex-Constable No.1977,
QRF, Police Line, Bannu.

(Appellant)

VERSUS

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

REPLY BY RESPONDENT NO.1,2 & 3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- 1) That the appeal of appellant is barred by law & time.
- 2) That the order of respondent No.1 is very much legal.
- 3) That the appeal is not maintainable in its present form.
- 4) That the appellant has concealed the material facts from the Honourable Tribunal.
- 5) That the appeal is bad in law due to non-joinder and mis-joinder of necessary parties and inquiry conducted his accordance with law.
- 6) That the appellant has approached the Honourable Tribunal with unclean hands.
- 7) That the appellant has got no cause of action and locus standi to file the instant appeal.
- 8) That the appellant has been estopped by his own conduct to file the appeal.

OBJECTIONS ON FACTS


1. Pertain to record, hence needs no comments.
2. Pertain to record, hence needs no comments.
3. Pertain to record. The reply of appellant was found unsatisfactory and baseless.
4. Pertain to the record of Revenue Department and Bank Authority.
5. Incorrect. Proper charge sheet based on statement of allegations was issued to appellant. All the opportunities of hearing/defense were afforded to the appellant under the rules.
6. The appellant was heard in orderly room held on 30.12.2013 but he had nothing substantial in his defense and thereafter order No.1450/EC dated 31.12.2013 was passed by the respondents No.2 in accordance with Police Rules (amended vide NWFP Gazette 27 January 1976).
7. Incorrect. The departmental appeal of appellant was found baseless and unsatisfactory and filed by respondent No.1 after providing opportunity of hearing to appellant and verification of allegations through various sources.

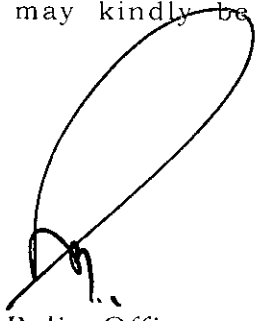
OBJECTIONS ON GROUNDS.

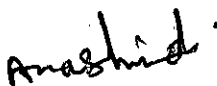
- A. Incorrect. Charges of tainted reputation and involvement in anti social activities have been specifically mentioned in the statement of allegations delivered to the appellant. Further more, inquiry officer has mentioned the miss-conduct committed by appellant in his inquiry finding report which is enclosed as annexure "A".
- B. Incorrect. The charges leveled against the appellant was established through impartial inquiry conducted b DSP Naurang Lakki Marwat.
- C. Incorrect. The punishment of dismissal was awarded to the appellant in accordance with existing rules and after scrutinizing of the charges through inquiry officer and providing of opportunities of defense/hearing.
- D. Incorrect. The cases of other officials/officers were different from the appellant's case. Those who were found not guilty, they were exonerated while those who were found guilty, were punished in accordance with law. All the officials/officers including appellant were treated on merits and in accordance with rules.
- E. Incorrect. Ignorance of law is no excuse. Special law police rules 1975, (amended vide NWFP gazette 27 January 1976) is applicable to police force and the appellant was treated under the said rules.
- F. Incorrect. The orders of the respondents are based on facts, justice and in accordance with law/rules.
- G. Incorrect. The record of the appellant is tainted with bad entries. The allegations were scrutinized through impartial Enquiry officer as well as other sources by the respondents.

Prayer:

In view of the above facts and stated reasons, it is humbly prayed that the appeal of appellant is devoid of legal force, may kindly be dismissed with costs.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.3)


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.1)


District Police Officer,
Bannu.
(Respondent No.2)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,

Appeal No. 403/2014

Aman Ullah Khan s/o Muhammad Tariq Khan,
r/o Kaki, Bannu, Ex-Constable No.1977,
QRF, Police Line, Bannu.


(Appellant)

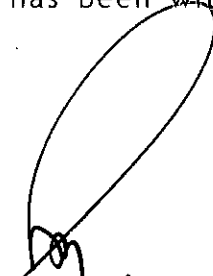
VERSUS


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


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.1)


District Police Officer,
Bannu.
(Respondent No.2)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,

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QRF, Police Line, Bannu.

(Appellant)


VERSUS

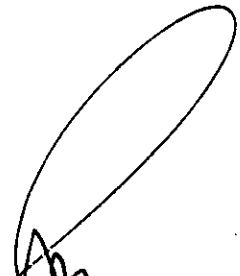
- 1) The Regional Police Officer, Bannu Region, Bannu.
- 2) The District Police Officer, Bannu.
- 3) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar. (Respondents)


AUTHORITY LETTER.

Mr. Mir Faraz Khan Inspector Incharge legal cell Office of DPO Bannu, is hereby authorized to appear before the Honorable 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.3)


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.1)


District Police Officer,
Bannu.
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Aman Ullah Khan s/o Muhammad Tariq Khan,
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QRF, Police Line, Bannu.

(Appellant)

VERSUS

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

REPLY BY RESPONDENT NO.1,2 & 3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- 1) That the appeal of appellant is barred by law & time.
- 2) That the order of respondent No.1 is very much legal.
- 3) That the appeal is not maintainable in its present form.
- 4) That the appellant has concealed the material facts from the Honourable Tribunal.
- 5) That the appeal is bad in law due to non-joinder and mis-joinder of necessary parties and inquiry conducted his accordance with law.
- 6) That the appellant has approached the Honourable Tribunal with unclean hands.
- 7) That the appellant has got no cause of action and locus standi to file the instant appeal.
- 8) That the appellant has been estopped by his own conduct to file the appeal.

OBJECTIONS ON FACTS

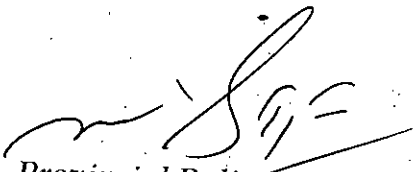
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6. The appellant was heard in orderly room held on 30.12.2013 but he had nothing substantial in his defense and thereafter order No.1450/EC dated 31.12.2013 was passed by the respondents No.2 in accordance with Police Rules (amended vide NWFP Gazette 27 January 1976).
7. Incorrect. The departmental appeal of appellant was found baseless and unsatisfactory and filed by respondent No.1 after providing opportunity of hearing to appellant and verification of allegations through various sources.

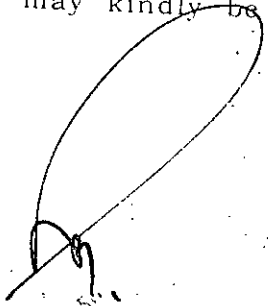
OBJECTIONS ON GROUNDS.

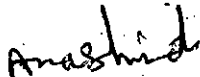
- A. Incorrect. Charges of tainted reputation and involvement in anti social activities have been specifically mentioned in the statement of allegations delivered to the appellant. Further more, inquiry officer has mentioned the miss-conduct committed by appellant in his inquiry finding report which is enclosed as annexure "A".
- B. Incorrect. The charges leveled against the appellant was established through impartial inquiry conducted b DSP Naurang Lakki Marwat.
- C. Incorrect. The punishment of dismissal was awarded to the appellant in accordance with existing rules and after scrutinizing of the charges through inquiry officer and providing of opportunities of defense/hearing.
- D. Incorrect. The cases of other officials/officers were different from the appellant's case. Those who were found not guilty, they were exonerated while those who were found guilty, were punished in accordance with law. All the officials/officers including appellant were treated on merits and in accordance with rules.
- E. Incorrect. Ignorance of law is no excuse. Special law police rules 1975, (amended vide NWFP gazette 27 January 1976) is applicable to police force and the appellant was treated under the said rules.
- F. Incorrect. The orders of the respondents are based on facts, justice and in accordance with law/rules.
- G. Incorrect. The record of the appellant is tainted with bad entries. The allegations were scrutinized through impartial Enquiry officer as well as other sources by the respondents.

Prayer:

In view of the above facts and stated reasons, it is humbly prayed that the appeal of appellant is devoid of legal force, may kindly be dismissed with costs.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.3)


Regional Police Officer,
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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,

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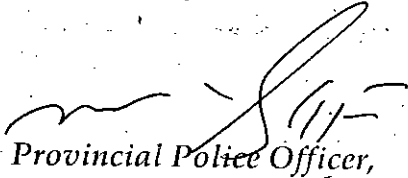
(Appellant)

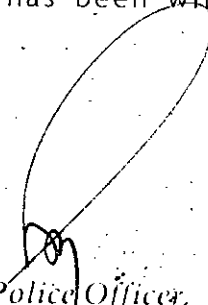
VERSUS

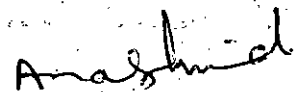
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- 2) The District Police Officer, Bannu.
- 3) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar. (Respondents)

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.3)


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.1)


District Police Officer,
Bannu.
(Respondent No.2)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,
Appeal No. 403/2014

Aman Ullah Khan s/o Muhammad Tariq Khan,
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QRF, Police Line, Bannu.

(Appellant)


VERSUS


- 1) The Regional Police Officer, Bannu Region, Bannu.
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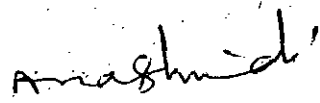
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Mr. Mir Faraz Khan Inspector Incharge legal cell Office of DPO Bannu, is hereby authorized to appear before the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited appeal.

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


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.3)


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.1)


District Police Officer,
Bannu.
(Respondent No.2)

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 403/2014

Aman Ullah Khan

Versus

R.P.O & Others

REPLICATION

Respectfully Sheweth,

PRELIMINARY OBJECTION.

All the 8 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appeal is barred by law & time, order of R. No. 1 is legal, appeal is not maintainable in its present form, concealment of material facts, bad for non & mis-joinder of necessary parties and inquiry conducted in accordance with law, unclean hands, no cause of action and locus standi to file the instant appeal and estopped by his own conduct.

ON FACTS

- 1-4. Needs no comments. As these paras pertain to record while the paras of the appeal are correct.
5. Not correct. The para of the appeal is correct. The enquiry was not conducted as per the mandate of law.
6. As above. Moreso, the para is without proof, regarding amendment etc. in the rules.
7. Not correct. The para is without proof while the same of the appeal is correct.

G R O U N D S:

- a. Not correct. It was mandatory for the respondents to supply all the enquiry proceedings to appellant before service of final show cause notice which was of course not served upon appellant but the legal requirements were not completed by the respondents. Even enquiry report with all other documents is not annexed with the reply.

- b. Not correct. No enquiry was ever made as per the mandate of law.
- c. Not correct. The ground of the appeal is correct.
- d. As above. On similar charge all shall be dealt equally.
- e. Not correct. Being Civil Servant, E&D Rules should have been applied to the case in hand.
- f. Not correct. No justice was done by the respondents in the matter and discrimination was made.
- g. Not correct. The ground of the appeal is correct. Bad entries, if any, were not communicated to appellant to confront him with the same.

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

Through

[Signature]
Appellant
[Signature]
Saadullah Khan Marwat

Dated: 24.05.2015

[Signature]
Arbab Saif Ul Kamal
[Signature]
Miss Rubina Naz
Advocates,

AFFIDAVIT

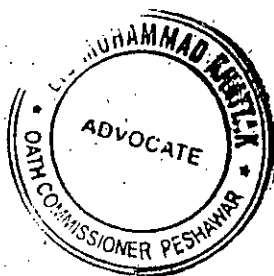
I, Aman Ullah Khan S/o Muhammad Tariq Khan, Appellant, do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief and that of the reply are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

Aman Ullah

15-5-2015

[Signature]
DEPONENT



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 403/2014

Aman Ullah Khan

Versus

R.P.O & Others

REPLICATION

Respectfully Sheweth,

PRELIMINARY OBJECTION.

All the 8 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appeal is barred by law & time, order of R. No. 1 is legal, appeal is not maintainable in its present form, concealment of material facts, bad for non & mis-joinder of necessary parties and inquiry conducted in accordance with law, unclean hands, no cause of action and locus standi to file the instant appeal and estopped by his own conduct.

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GROUNDS:

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

Through

[Signature]
Appellant
[Signature]
Saadullah Khan Marwat

Dated: 24.05.2015

[Signature]
Arbab Saif Ul Kamal
[Signature]
Miss Rubina Naz
Advocates,

AFFIDAVIT

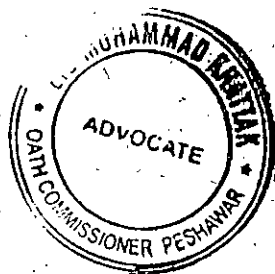
I, Aman Ullah Khan S/o Muhammad Tariq Khan, Appellant, do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief and that of the reply are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

Aur to

15-5-2015

[Signature]
DEPONENT



H.C. No. 72



S. No. Date of order/ proceedings

Order or other proceedings with signature of Judge/ Magistrate

3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 198/2014.
Jamshed Ali Shah Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc.

JUDGMENT

ABDUL LATIF MEMBER - Counsel for the

appellant (Mr. Sajid Amin Advocate) and Mr. Ziaullah, Government Pleader with Mir Faraz Khan, Inspector (Legal) for the respondents present.

US 115

This appeal has been preferred by appellant Mr. Jamshed Ali Shah, I.C. No. 782 District Police, Bannu under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 10.1.2014 whereby the appellant had been awarded major penalty of compulsory retirement from service and against which his departmental appeal dated 15.1.2014 had been rejected vide order dated 10.3.2014.

Through this single judgment five (5) other identical appeals submitted under Appeals No. 199/2014 Hamidullah Jan, No. 200/2014 Michboob Khan, No. 501/2014 Abdul Saboor, No. 502/2014 Sifat Ullah, 503/2014 Siraj Khan are also decided in the same terms as the appellants were proceeded and penalized for almost the same nature of charges.

4. The appellant was appointed as Constable in Police Department in the year, 1993 and was promoted to the rank of Head Constable in the year, 2005. While serving in the said capacity he amongst others was suspended from service vide order dated 7.11.2013 allegedly on account of having tainted reputation and involvement in anti-social activities. Two enquiries were conducted against him one by Mr. Liaqat Shah, DSP Naurang and the other by two Members Committee i.e. DPC Kohat and D.I.G D.I.Khan. Both the enquiries recommended him for major punishment and accordingly he was compulsorily retired from service by competent authority vide order dated 10.1.2014. He submitted departmental appeal against the said order to the appellate authority (Regional Police Officer) who did not accede to his request and filed the appeal.

5. The learned counsel for the appellant argued that the appellant was not associated with the proceedings in both the enquiries which were conducted at the same time. He submitted that due to the partisan behaviour of the enquiry officer the appellant also submitted application on 10.12.2013 for marking the enquiry to other officer which was not allowed. He stated that the appellant was not charge sheeted for the second enquiry wherein he was recommended for major punishment. He further argued that no specific charge was framed against him and no evidence was produced

against the appellant, no witnesses were produced nor was he
 allowed to cross examine any witness against him. Similarly
 no final show cause notice was issued before imposition of
 major penalty on him. He further argued that enquiry when
 proper charge sheet was issued/replied to was submitted on
 11.1.2014 whereas penalty was awarded to him on
 10.1.2014, thus the whole proceedings as well as order of
 penalty seemed to be pre-determined which is not
 maintainable under the law. He also argued that enquiry based
 his findings on secret probe which is not authentic and
 dependable in the eyes of law. He relied on 2010-
 P.C.C.S.1724 and P.C.D. 1989-Supreme Court-353.

6. The learned Government Pleader argued that all
 codal formalities were fulfilled before passing of the final
 order by the competent authority. He stated that charge sheet
 and statement of allegations were served upon the appellant
 and enquiry was conducted where proper opportunity of
 defence was given to the appellant. Moreover, the appellant
 was also heard in person before award of the penalty. As far
 the question of final show cause notice was concerned, he
 clarified that there was no provision of such notice in the
 Police Rules, 1975.

7. Arguments of the learned counsel for the parties
 heard and record perused with their assistance.

8. From record it transpired that charges leveled against the appellant were not specific and solid evidence could not be collected to substantiate the charges. The enquiry was rendered ineffective as partly was imposed on day before its submission. Moreover, the enquiry placed reliance on a secret probe instead of collection of evidence which is bad in the eyes of law. Also the conduct of second enquiry simultaneously rendered the proceedings defective.

9. The impugned order is therefore, set aside. In order to meet the ends of justice and provide opportunity of fair trial, the case is remanded back to the respondent department for de novo enquiry strictly in accordance with law/rules. The appealant is reinstated in service for the purpose of the de novo enquiry proceedings. Back benefits will be subject to outcome of the fresh enquiry which should be completed within thirty days of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

10. Connected five service appeals mentioned in para-3 of the judgment, are also disposed of in the above terms.

ANNOUNCED
04.05.2015

Shri. Mahabir Lal Singh
Shri. Prabhakar Singh
Member

10-6-2015

1600

10

18

18-6-2015
10-6-2015