

28.3.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Usman Khan, Inspector (Legal) for the respondents present and reply filed. To come up for arguments on 14.6.2014. Rejoinder, if any, in the meantime.

MEMBER

MEMBER

04.6.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Usman Khan, Inspector (Legal) for the respondents present. Arguments heard. To come up for order on 12.6.2014.

MEMBER

MEMBER

12.6.2014

Appellant in person and Mr. Usman Khan, Inspector (Legal) for the respondents present. Arguments already heard. Record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 25/2014, Mukhtiar Muhammad Versus The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc., this appeal is also partially accepted as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
12.06.2014.

MEMBER

MEMBER

3.
15.01.2014

Counsel for the appellant present and submitted an application for early hearing. To come up for arguments on early hearing application on 23.01.2014.



Member


4.
23.01.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the order dated 09.12.2013, the appellant filed departmental appeal, which has been rejected on 02.01.2014, hence the present appeal on 07.01.2014. He further contended that the impugned order is not a speaking order and 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, Notice be issued to the respondents for submission of written reply on 26.02.2014.


Member

5.
23.01.2014

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


Chairman

26.2.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, GP with Usman Khan, Inspector (Legal) for the respondents present and requested for time. To come up for written reply on 28.3.2014.


MEMBER

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. _____

27/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07/01/2014	<p>The appeal of Mr. Bahar Ali presented today by Mr. Khaled Rahman Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;">REGISTRAR</p>
2	7-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>27-2-2014</u></p> <p style="text-align: right;">CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 27 /2014

Bahar Ali

.....Appellant

The PPO and others

.....Respondents

Versus

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-6
2.	Extracts from ACRs of appellant		A	7-14
3.	Suspension order	23.10.2013	B	0-15
4.	Charge Sheet and Summary of Allegations		C	16-17
5.	Order thereby Mr. Salim Riaz Khan, DSP Shabqadar was appointed as Enquiry Officer	23.10.2013	D	0-18
6.	Reply to Charge Sheet		E	0-19
7.	Enquiry Report		F	20-22
8.	Impugned order	09.12.2013	G	0-23
9.	Departmental appeal		H	24-25
10.	Impugned appellate order	02.01.2014	I	0-26
11.	Reinstatement order of Hameed Khan	19.11.2013	J	0-27
12.	Wakalat Nama			

Through

Baich
Appellant

[Signature]
Khaleq Rahman
Advocate, Peshawar
Cell # 0345-9337312

Dated: 6 / 01/ 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 27 /2014

23
07-01-14

Bahar Ali,
Ex-ASI, District Police CharsaddaAppellant

Versus

1. The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police,
Mardan Region-I, Mardan.
3. The District Police Officer,
District Charsadda.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 02.01.2014 VIDE WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 09.12.2013 ISSUED BY RESPONDENT NO.3 WHEREBY THE APPELLANT WAS IMPOSED UPON THE MAJOR PENALTY OF COMPULSORY RETIREMENT WAS REJECTED.

PRAYER:

On acceptance of the instant appeal, the impugned appellate order dated 02.01.2014 passed by Respondent No.2 and the impugned order dated 09.12.2013 passed by Respondent No.3 may graciously be set aside and appellant be re-instated into service with all back benefits.

7/1/14

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant joined the service of Police Force on 27.08.1988 as a Constable and later on promoted as Assistant Sub-Inspector. Since his appointment, appellant has been performing his duties to the entire satisfaction of his high-ups. During his service he earned "A" & "A1" reports (*Annex:-A*).
2. That vide order dated 23.10.2013 (*Annex:-B*) appellant alongwith others were placed under suspension and a Charge Sheet and Summary of Allegations (*Annex:-C*) were issued to appellant alleging therein involvement in corruption and simultaneously Mr. Salim Riaz Khan, DSP Shabqadar was appointed as Enquiry Officer vide order dated 23.10.2013 (*Annex:-D*) to conduct enquiry into the allegations.
3. That in response to the Charge Sheet, appellant submitted his reply (*Annex:-E*) thereto thereby denying the allegations and explaining his position. The reply may kindly be considered an integral part of this appeal.
4. That thereafter an irregular and unlawful summary and fact finding enquiry was conducted at the back of the appellant in absence of the appellant and the Enquiry Officer recommended major punishment

for the appellant vide Enquiry Report (*Annex:-F*).

5. That on the basis of the illegal and false findings the competent authority vide impugned order dated 09.12.2013 (*Annex:-G*) imposed the major penalty of compulsory retirement upon the appellant with immediate effect.
6. That being aggrieved of the impugned order *ibid*, appellant preferred departmental appeal (*Annex:-H*) to Respondent No.2 but the same was also summarily rejected vide impugned appellate order dated 02.01.2014 (*Annex:-I*). Hence this appeal *inter-alia* on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That appellant has been imposed upon the major penalty on the basis of no evidence. Not an iota of evidence/material has been brought to prove the allegations leveled against the appellant. Whereas to the contrary appellant has earned "A" & "A1" Reports with no complaints and even the competent authority has given the appellant "A" Report and endorsed no complaint against the

appellant. Thus the entire allegations were a cooked up story in order to target the appellant illegally to show efficiency to the high-ups.

- C. That instead of a regular enquiry, an irregular, fact finding enquiry was conducted in a highly prejudicial manner and without collecting evidence the conclusion was jumped upon suddenly declaring the appellant as corrupt in utter deviation of the procedure and rules on the subject. Legally speaking the so called enquiry conducted cannot be made basis for any punishment muchless major.
- D. That it is a settled legal principle that where major penalty is proposed then only a regular enquiry is to be conducted wherein the accused must be associated with all stages of the enquiry including the collecting of oral and documentary evidence in his presence and he must be confronted to the same and must be afforded an opportunity of cross-examining the witnesses. In the case in hand a summary enquiry was concluded in an irregular manner and appellant was illegally found guilty without any evidence. Thus the impugned enquiry being irregular and the impugned orders based thereupon are nullity in the eye of law and hence liable to be set aside.
- E. That the controversy was indeed factual in nature and the same could only be resolved by holding a regular enquiry. It is also a settled legal principle that in such eventuality where factual controversy is involved then only alternative left with the

competent authority is to hold a regular enquiry into the allegations. Since no such enquiry had been contemplated, therefore, the direct and abrupt conclusion arrived at by the Enquiry Officer is ill-founded and therefore not maintainable.

- F. That no opportunity of personal hearing was afforded neither by the competent authority, nor by the Enquiry Officer nor even by the appellate authority which are the mandatory requirements of law. Thus appellant was condemned unheard as the action has been taken at the back of the appellant which is against the principle of natural justice.
- G. That one Sub-Inspector Hameed Khan against whom the action was initiated, was let off the hook even before the completion of enquiry and reinstated by Respondent No.2 (DIG) vide order dated 19.11.2013 (*Annex:-J*) and some including Mr. Khurshid Khan SI were even relieved of the charges even after the enquiry was conducted and they were found guilty, therefore, appellant has been highly discriminated.
- H. That the appellant has served the Department for about 26 years and has consumed his precious life in the service and keeping in view his longstanding service the imposition of the major penalty in peculiar facts and circumstances of the case is harsh, excessive and does not commensurate with the guilt of the appellant.

- I. That the allegations leveled against the appellant are general and sweeping in nature and moreover fabricated without any legal and tangible footings nor the same have been substantiated. The Hon'ble High Court has vide order dated 05.12.2013 directed that the enquiry be conducted in accordance with law but the order was not adhered to.
- J. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through



Appellant

Khaled Rahman,
Advocate, Peshawar.

Dated: 8 / 01/2014

7

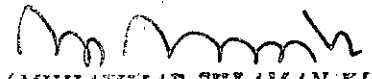
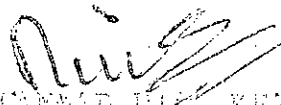
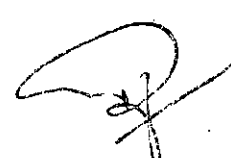
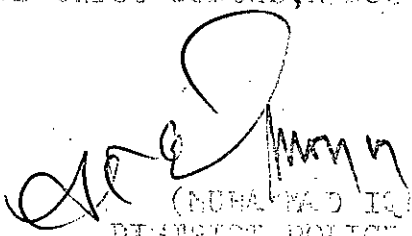
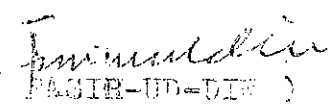
No. 13-17

Amir A'

POLICE DEPARTMENT

HEADQUARTERS CID, N.-W.F.P.

Annual confidential report on the working of Assistant: Sub-Inspectors, Sub-Inspectors and Inspectors for the year ending 31st December, 2005.

Name, Provincial or Rang No. Rank and Grade.	D-list HC Behar Ali No.24.
Where and on what duties employed during the past 12 months.	Received from PTC Bangu on 12.10.05. from 12.10.05 to 15.11.2005 Police Lines Cha; from 15.11.05 to 8.12.05 P.O. Sro Killi. from 8.12.05 to 31.12.05 Baharrir Malkhana - Shacador.
Class of Superintendent of Police's Report, i.e. 'A' or 'B'	A
Is he honest?	No complaint.
Remarks by:— (1) Superintendent of Police, (2) Deputy Commissioner and (3) Deputy Inspector-General of Police. 12.10.05 To 31.12.05 Jera  (MUHAMMAD SULAMAN KHAN) Dy: Inspector General of Police Mardan Region-I, Mardan	From 12.10.05 to 15.11.05. Period less than three months, hence no comments.  (MUHAMMAD FARID KHAN) Dy: Superintendent of Police, H.Q.s: Charsadda From 16.11.2005 to 31.12.2005. Period less than three months, hence no comments  (MUHAMMAD FARID KHAN) DY: SUPERINTENDENT OF POLICE, SHACADOR. From 12.10.05 to 21.11.05. Period less than three months, hence no comments  (MUHAMMAD IQBAL) DISTRICT POLICE OFFICER, CHARADDA. From 21.11.05 to 31.12.05. Period less than three months, hence no comments  (FASIH-UD-DIN) DISTRICT POLICE OFFICER, CHARADDA.

A

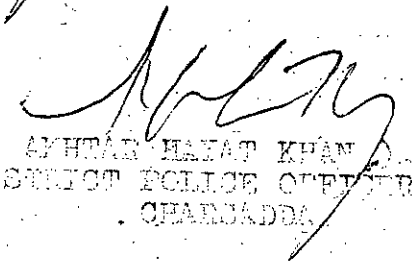
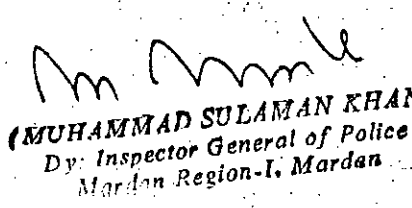
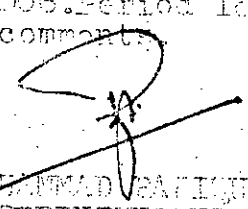
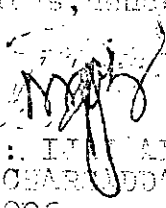
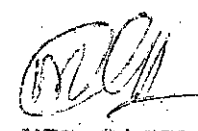
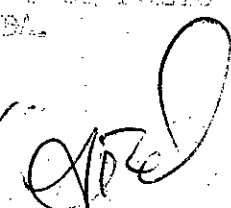
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No. 13-17

POLICE DEPARTMENT

HEADQUARTERS CID, N.-W.F.P.

Annual confidential report on the working of Assistant: Sub-Inspectors, Sub-Inspectors and Inspectors for the year ending 31st December, 2006.

Name, Provincial or Rang No. Rank and Grade.	D-list HC Behar Ali No.24.
Where and on what duties employed during the past 12 months.	from 1.1.2006 to 1.2.06 MHC Malkhana Chhobadar from 1.2.2006 to 31.12.2006 MHC Malkhana Chd:
Class of Superintendent of Police's Report, i.e. 'A' or 'B'	A B
Is he honest?	NO complaints
Remarks by:— (1) Superintendent of Police, (2) Deputy Commissioner and (3) Deputy Inspector-General of Police. from 19.6.2006 to 31.12.06. <i>A good officer</i>  (AYUB HAMEED KHAN) DISTRICT POLICE OFFICER CHARBADA. 1-1-2006 to 31-12-2006 844n  (MUHAMMAD SULAMAN KHAN) Dy. Inspector General of Police Mardan Region-I, Mardan	from 1.1.2006 to 1.2.2006. Period less than three months, hence no comment.  (MUHAMMAD RAFIQUE KHAN) DY. SUPERINTENDENT OF POLICE, CHARBADA. from 1.2.2006 to 25.2.06. Period less than three months, hence no comment.  (IJAZ AHMAD) DSP/ CHARBADA. from 25.2.2006 to 31.12.2006. <i>A hard working and efficient Police officer.</i>  (MIR KASIM KHAN) DY. SUPERINTENDENT OF POLICE, CHARBADA. from 1.1.2006 to 19.6.2006. <i>A good officer.</i>  (FASIH-UD-DIN ASLAM) DISTRICT POLICE OFFICER, CHARBADA.

CID

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No. 13-17

POLICE DEPARTMENT

HEADQUARTERS CID, NW.F

Annual confidential report on the working of Assistant: Sub-Inspectors, Sub-Inspectors & Inspectors for the year ending 31st December, 2007.

Name, Provincial or Rang No. Rank and Grade.	D-list HC Bahar Ali No.24.
Where and on what duties employed during the past 12 months.	from 1.1.2007 to 20.3.2007 MHC PS Charsadda; from 20.3.2007 to 17.5.2007 MHC PS Nisetta; from 17.5.2007 to 7.6.2007 Police Lines CI from 7.6.2007 to 5.7.2007 MHC PS Prang. from 5.7.2007 to 31.12.2007 MHC PS Tangi.
Class of Superintendent of Police's Report, i.e. 'A' or 'B'	A
Is he honest?	No Complaint
Remarks by:— (1) Superintendent of Police, (2) Deputy Commissioner and (3) Deputy Inspector-General of Police. from 23.2.2007 to 31.12.2007. I agree. (PEROZE SHAH) PSP, DISTRICT POLICE OFFICER, CHARBADDA. <u>1-1-07 to 6-2-07</u> Period less than three months (MUHAMMAD SULAMAN KHAN) Dy. Inspector General of Police Mardan Region-1, Mardan <u>07-02-2007 to 31-12-2007</u>	from 1.1.2007 to 20.3.2007. Period less than three months, hence no comm (MER CASIM KHAN) D.S.P/ CHARBADDA. from 20.3.2007 to 5.7.2007. Hard worker and good Police fit for further promotion (SAJJAD ALI KHAN) DY: SUPERINTENDENT OF POLI HQrs: CHARBADDA. from 5.7.2007 to 31.12.2007. A Hard working officer. Kind his job well (SAID WAHAB KHAN) DY: SUPERINTENDENT OF POLI TANGI. from 1.1.2007 to 23.2.2007. Period less than three months, hence no comm (AKHTAR HAYAT KHAN) DISTRICT POLICE OFFIC CHARBADDA.

10

Police No. 99

GS&PD NWFP 1677 F.S. 1000 P. of 100 7.11.94 (11)

No. 13-17

POLICE DEPARTMENT

HEADQUARTERS CID, N.-W.F.P.

Annual confidential report on the working of Assistant Sub-Inspectors, Sub-Inspectors and Inspectors for the year ending 31st December, 4.2.2010 to 28.10.2010.

Name, Provincial or Rang No. Rank and Grade.	ASI BAHAR AIMAD NO. 24
Where and on what duties employed during the past 12 months.	P.S EAST CANTT: 4.2.2010 to 28.10.2010.
Class of Superintendent of Police's Report, i.e. 'A' or 'B'	A
Is he honest?	No Complaint
Remarks by:— (1) Superintendent of Police, (2) Deputy Commissioner and (3) Deputy Inspector-General of Police. From 4.2.2010 to 28.9.2010. (MUHAMMAD KARIM KHAN) SENIOR SUP DT: OF POLICE, OPERATION PESHAWAR.	From 4.2.2010 to 19.9.2010 DS/2 Cantt: Peshawar. From 19.9.2010 to 28.10.2010. S/Cantt: Peshawar. <i>As per</i> <i>Worker, medical work professional</i> (SHAFI ULLAH) DY: SUP DT: OF POLICE, CANTT:, PESHAWAR. From 23.7.2010 to 28.10.2010. (IMTIAZ ALI SHAI) DY: SUP DT: OF POLICE, CANTT:,, PESHAWAR. From 4.2.2010 to 18.9.2010. (TAU SEEF HAIDER) SUP DT: OF POLICE, CANTT:,, PESHAWAR.

As per

POLICE DEPARTMENT

HEADQUARTERS CID, M.A.W.F

Annual confidential report on the working of Assistant Sub-Inspectors, Sub-Inspectors & Inspectors for the year ending 31st December, 2007.

Name, Provincial or Rang No. Rank and Grade.	D-list PC Babar Ali No.24.
Where and on what duties employed during the past 12 months.	from 1.1.2007 to 20.3.2007 NHC PS Charsadda from 20.3.2007 to 17.5.2007 NHC PS Bisat from 17.5.2007 to 7.6.2007 Police Lines Charsadda from 7.6.2007 to 5.7.2007 NHC PS Prang. from 5.7.2007 to 31.12.2007 NHC PS Tangi.
Class of Superintendent of Police's Report. i.e. 'A' or 'B'	A
Is he honest?	No Complaint
Remarks by:— (1) Superintendent of Police, (2) Deputy Commissioner and (3) Deputy Inspector-General of Police. From 23.2.2007 to 31.12.2007. <i>I agree.</i> <i>1-1-07 to 6-2-07</i> Period less than three months (MUHAMMAD SULAMAN KHAN) Dy. Inspector General of Police Mardan Region-I, Mardan 07-02-2007 to 31-12-2007	from 1.1.2007 to 20.3.2007. Period less than three months, hence no comment. (MIR QASIM KHAN) D.S.P/ CHARSADDA. from 20.3.2007 to 5.7.2007. <i>Hard worker and good Police Fit for further promotion</i> (SAJJAD ALI KHAN) DY: SUPERINTENDENT OF POLICE HQRs: CHARSADDA. from 5.7.2007 to 31.12.2007. <i>A Hard Working officer. Done his job well.</i> (SAID WAHED KHAN) DY: SUPERINTENDENT OF POLICE TANGI. from 1.1.2007 to 23.2.2007. Period less than three months, hence no comment. (ABDUL HAYAT KHAN) DISTRICT POLICE OFFICER CHARSADDA.

Dy. Insp. Gen. (12)

Police No. 99

CRPND NWFP 1677 ES FORM 100 7.3.1994 (47)

No. 13-17

POLICE DEPARTMENT

HEADQUARTERS CID, N.-W.F.P.

Annual confidential report on the working of Assistant: Sub-Inspectors, Sub-Inspectors and Inspectors for the year ending 31st December, 2006.

Name, Provincial or Rang No. Rank and Grade.	D-list HQ Bahawalpur, etc.
Where and on what duties employed during the past 12 months.	from 1.1.2006 to 1.2.2006 MUG Malakand, Malakand from 1.2.2006 to 31.12.2006 MUG Malakand, etc.
Class of Superintendent of Police's Report, i.e. 'A' or 'B'	A B
Is he honest?	NO Complaints
<p>Remarks by:—</p> <p>(1) Superintendent of Police,</p> <p>(2) Deputy Commissioner and</p> <p>(3) Deputy Inspector-General of Police.</p> <p>from 10.6.2006 to 31.12.06.</p> <p><i>A good officer</i></p> <p><i>[Signature]</i></p> <p>(SAHIB KHAN KHAN) DISTRICT POLICE OFFICER QUANBASA</p> <p>1-1-2006 to 31-12-2006</p> <p><i>844n</i></p> <p><i>[Signature]</i></p> <p>(MUHAMMAD SULAMAN KHAN) Dy. Inspector General of Police Mardan Region-I, Mardan</p>	<p>from 1.1.2006 to 1.2.2006. Period less than three months, hence no comment.</p> <p><i>[Signature]</i></p> <p>(SAHIB KHAN KHAN) DISTRICT POLICE OFFICER QUANBASA</p> <p>from 1.2.2006 to 25.2.06. Period less than three months, hence no comment.</p> <p><i>[Signature]</i></p> <p>(SAHIB KHAN KHAN) DISTRICT POLICE OFFICER QUANBASA</p> <p>from 25.2.2006 to 31.12.2006.</p> <p><i>A hard working and efficient Police officer.</i></p> <p><i>[Signature]</i></p> <p>(SAHIB KHAN KHAN) DISTRICT POLICE OFFICER QUANBASA</p> <p>from 1.1.2006 to 10.6.2006.</p> <p><i>A good officer.</i></p> <p><i>[Signature]</i></p> <p>(SAHIB KHAN KHAN) DISTRICT POLICE OFFICER QUANBASA</p>

Police No. 99.

GS&PD. NWFP. 1559. F.S. 5000. of 1009/12.

1990-(62)

No. 13-17

13

POLICE DEPARTMENT

KHYBER PAKHTUNKHWA POLICE

Annual Confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors and Inspectors for the year ending 31st December, 2012

Name, Provincial or Range No.	ASI Bahar Ali No. 24
Rank and Grade	
Where and on what duties employed during the past 12 months.	From 01.01.2012 to 30.09.2012 MASI PS Shabqadar & then transferred to Investigation Wing
Class of Superintendent of Police's Report, i.e "A" or "B"	"A"
Is he honest?	NO complaints
Remarks by :- (1) Superintendent of Police, (2) Regional Deputy Inspector General of Police.	<p>From 01.01.2012 to 30.09.2012</p> <p>Good Police officer</p> <p><i>(Signature)</i> (Muhammad Zahir Shah Khan) Dy: Superintendent of Police, Shabqadar</p> <p>From 01.01.2012 to 30.09.2012</p> <p>(MUHAMMAD NISAR ALI MARWAT)PSP District Police Officer, Charsadda</p> <p><i>(Signature)</i></p>

Police No. 99.

1990-(62)

No. 13-17

POLICE DEPARTMENT

KHYBER PAKHTUNKHWA POLICE

14

Annual Confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors and Inspectors for the year ending 31st December, 2011

Name, Provincial or Range No.

ASI Bahar Ali No. 24

Rank and Grade

Where and on what duties Employed during the past 12 months.

From 01.01.2011 to 16.12.2011 MASI PS Shabqadar & then transferred to Investigation wing

Class of Superintendent of Police's Report, i.e "A" or "B"

"A one"

Is he honest?

Yes he is honest.

Remarks by :-

- (1) Superintendent of Police,
- (2) Regional Deputy Inspector General of Police.

From 01.01.2011 to 08.09.2011
 An efficient, obedient and good common sense. His overall performance during the period under report is outstanding.
 (Jehangir Khan)
 Dy: Superintendent of Police, Shabqadar

From 08.09.2011 to 16.12.2011

I agree above remarks

Jehangir Khan
 (Muhammad Zabir Shah Khan)
 Dy: Superintendent of Police, Shabqadar

From 01.01.2010 to 16.12.2010

Agreed
Chaudhary

(Muhammad Nisar Ali Marwat)
 District Police Officer,
 Charasadda

ATE


ORDER

Annex B' (15)

The following police officers/officials are hereby placed under suspension and close to police lines Charsadda with immediate effect due to their bad reputation for corruption.

S.No	Name & Rank	Present Posting
1	SI Khurshid Khan	Police Lines
2	SI Hameed Khan (ACB)	Police Lines
3	ASI Bahar Khan	I/C PP Majoki
4	ASI Zia Ul Haq (ACB)	I/C Malkhana PS Charsadda
5	ASI Mukhtiar Khan	Police Lines
6	ASI Hikmat Shah (ACB)	PS Tangi
7	ASI Masood Khan	Upper Course
8	IIC Tariq Mehmood No.188	PS Batagram
9	IIC Bakhtawar Shah No.809	Police Lines
10	IIC obaidullah 173	Police Lines

Separate departmental enquiries are being initiated against them & Mr. Saleem Riaz Khan DSP Shabqadar is nominated as enquiry officer.


District Police Officer
Charsadda

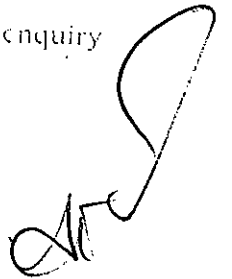
O.B. No. 1248

Dated 23-10-2013

No. 516-2-1 /HC, dated Charsadda the 23/10/2013.

Copies for information to the:

1. Deputy Inspector General of Police Mardian Region - I Mardan
2. Mr. Saleem Riaz Khan DSP Shabqadar is directed to initiate departmental enquiry against the defaulter officers and submit findings of enquiry.
3. All concerned



Ammye
16

CHARGE SHEET U/S 6(1)(a) POLICE RULES 1975

You ASI Bahar Khan, posted at this District Police, is hereby charged for committing the following omission/commissions.

"While posted at this District Police, though a reliable source, it came to notice that you are involved in corruption and earning bad name for the department. Being a member of discipline force, your act is highly objectionable, which is against the rules/regulations of the discipline force.

You are hereby called upon to submit your written defense against the above charges before the enquiry officer.

Your reply should reach the enquiry officer within 07-days from the date of receipt of this charge sheet, failing which exparte proceedings shall be initiated.

Summary of allegations is enclosed herewith.


District Police Officer,
Charsadda



(17)

(1)

SUMMARY/STATEMENT OF ALLEGATIONS U/S 6(1)(a) POLICE RULES 1975

"While posted at this District Police, though a reliable source, it came to notice that he is involved in corruption and earning bad name for the department. Being a member of discipline force, his act is highly objectionable, which is against the rules/regulations of the discipline force". The act falls within the purview of misconduct, contained u/s 2(iii) of Police rules 1975.


District Police Officer,
Charsadda

No. 528-30 /HC, dated Charsadda the 23 /10 /2013

Copies forwarded to:

1. Deputy Inspector General of Police Mardan region-1- Mardan
2. DSP Shabqadar (Enquiry Officer)
3. ASI Bahar Khan, Police lines Charsadda.



(1)

(18)

Army D

**ORDER OF ENQUIRY AGAINST ASI BAHAR KHAN, CONTAINED UNDER
SUB-SECTION 3, SECTION 5 OF POLICE RULES 1975**

It has been made to appear before me that accused ASI Bahar Khan, while posted at Police Lines Charsadda, is prima-facie guilty of the following charges, to be dealt with under General Police Proceedings, contained u/s 5(3) of Police Rules 1975.

"While posted at this District Police, though a reliable source, it came to notice that you are involved in corruption and earning bad name for the department. Being a member of discipline force your act is highly objectionable, which is against the rules/regulations of the discipline force.

The act of accused official falls within the ambit of gross misconduct and is liable to be proceeded with under the General Police Proceedings, contained in Police Rules 1975.

From the above charge, I am convinced that the said official has ceased to become efficient and is accused of gross misconduct, I, Shafiullah Khan, District Police Officer, Charsadda, being authorized officer within the meaning of 2(ii) Police Rule 1975 of the said rules, nominate enquiry officer **Mr. Saleem Riaz Khan, DSP Shabqadar** to enquire into the charges, against the accused official.


The enquiry officer after completing all enquiry proceedings, shall forward the verdict/findings to the undersigned within stipulated period of 10-days, contained u/s 6 (5) of the rules.

Charge sheet and summary of allegations against the accused official, is being issued separately, reply whereof should be submitted before the enquiry officer within the period of 07-days from date of receipt.


District Police Officer,
Charsadda

No. 528-30 /HC, dated Charsadda the 23/10 2013.

Copy to enquiry officer DSP Shabqadar with the direction to enquire the matter and submit report as soon as possible.



D

بخدمت جناب ڈی۔ پی۔ او صاحب چارسدہ

(19)

Annex 'E'

جناب عالی! بحوالہ چارج شیٹ نمبری 528-30/23/10/2013 از جناب ڈی۔ پی۔ او صاحب چارسدہ مورخہ: 23/10/2013 سائل مودبانہ اور دلی احترام کے ساتھ حسب ذیل معروض خدمت ہے۔

- (۱) یہ کہ سائل پر چارسدہ ڈسٹرک پولیس میں تعیناتی کے دوران رشوت لینے اور محکمہ کے بدنامی کا باعث بننے کے جوازات جناب کے نوٹس میں لائے گئے ہیں۔ مکمل غلط فہمی اور بد نیتی پر مشتمل ہیں۔
- (۲) یہ کہ سائل چارسدہ ڈسٹرک پولیس میں مختلف پوسٹوں پر رہ چکا ہے۔ اس دوران میں نے اپنی قابلیت کے مطابق، دیانتداری جانفشانی سے اور عزت و وقار کیساتھ اپنی ڈیوٹی سرانجام دی ہے۔ نہ تو کبھی رشوت لی ہے۔ اور نہ ہی محکمہ کے بدنامی کا باعث بنا ہوں۔
- (۳) یہ کہ سائل نے ہمیشہ محکمہ کے مفادات اور بالادستی کو مقدم رکھا ہے۔ اور بحیثیت ڈسپلن فورس کے ممبر کے ہمیشہ محکمہ پولیس کے احترام و نیک نامی کی لاج رکھی ہے۔ اور عوام الناس کے نظروں میں محکمہ پولیس کے قدر و منزلت کو بڑھایا ہے۔ اور سائل پولیس فورس کے لئے موجب فخر و ناز رہا ہے۔
- (۴) یہ کہ سائل محکمہ پولیس میں بحیثیت کنسٹیبل 27/08/1988 کو بھرتی ہو کر تقریباً 25 سال محکمہ کی خدمت کی ہے۔ اس دوران سائل نے کبھی بھی افسران بالا کو شکایت کا موقع نہیں دیا ہے۔ سائل نہ تو کرپشن میں ملوث رہا ہے۔ اور نہ ہی محکمہ کی بدنامی کا باعث بنا ہے۔
- (۵) یہ کہ اس طویل مدت ملازمت جو تقریباً 25 سال پر محیط ہے۔ سائل نے دیانتداری و جانفشانی سے محکمہ کی خدمت کی ہے۔ اور یہی وجہ ہے۔ کہ مجھے ASI کے پوسٹ پر ترقی دی گئی۔ جو کہ میری اچھی کارکردگی کی تصدیق کرتا ہے۔
- (۶) یہ کہ سائل ایک بڑے خاندان کے کفالت کا واحد ذریعہ ہے۔ اور سائل کو اگر کوئی سزا دی گئی۔ تو نہ صرف سائل کے کیریئر کو نقصان پہنچ جائیگا۔ بلکہ سائل کے خاندان کا مستقبل تباہ ہو جائیگا۔

لہذا مودبانہ التماس ہے۔ کہ مندرجہ بالا حقائق کو مد نظر رکھتے ہوئے ہمدردانہ غور کر کے نرمی کا برتاؤ رکھا جائے۔ اور چارج شیٹ وغیرہ کو فائل کیا جائے۔

m: The Dy: Superintendent of Police,
Shabqadar.

To: The District Police Officer,
Charsadda.

No. SS/L/11/S, dated Shabqadar the 07/12/2013

SUBJECT: ENQUIRY AGAINST ASI BAHAR KHAN.

Dear Sir,

In pursuance of your good office order No. 528-30/HC, dated 23-10-2013, enquiry in the above cited case was completed by the undersigned. Its step-wise details are given below:

ALLEGATIONS AGAINST ASI BAHAR KHAN:

"While posted at this District Police, through a reliable source, it came to notice that he is involved in corruption and earning bad name for the department. Being a member of disciplined force, his act is highly objectionable, which is against the rules/regulations of the disciplined force". The act falls within the purview of misconduct, contained u/s 2(iii) of Police rules 1975.

PROCEEDINGS:

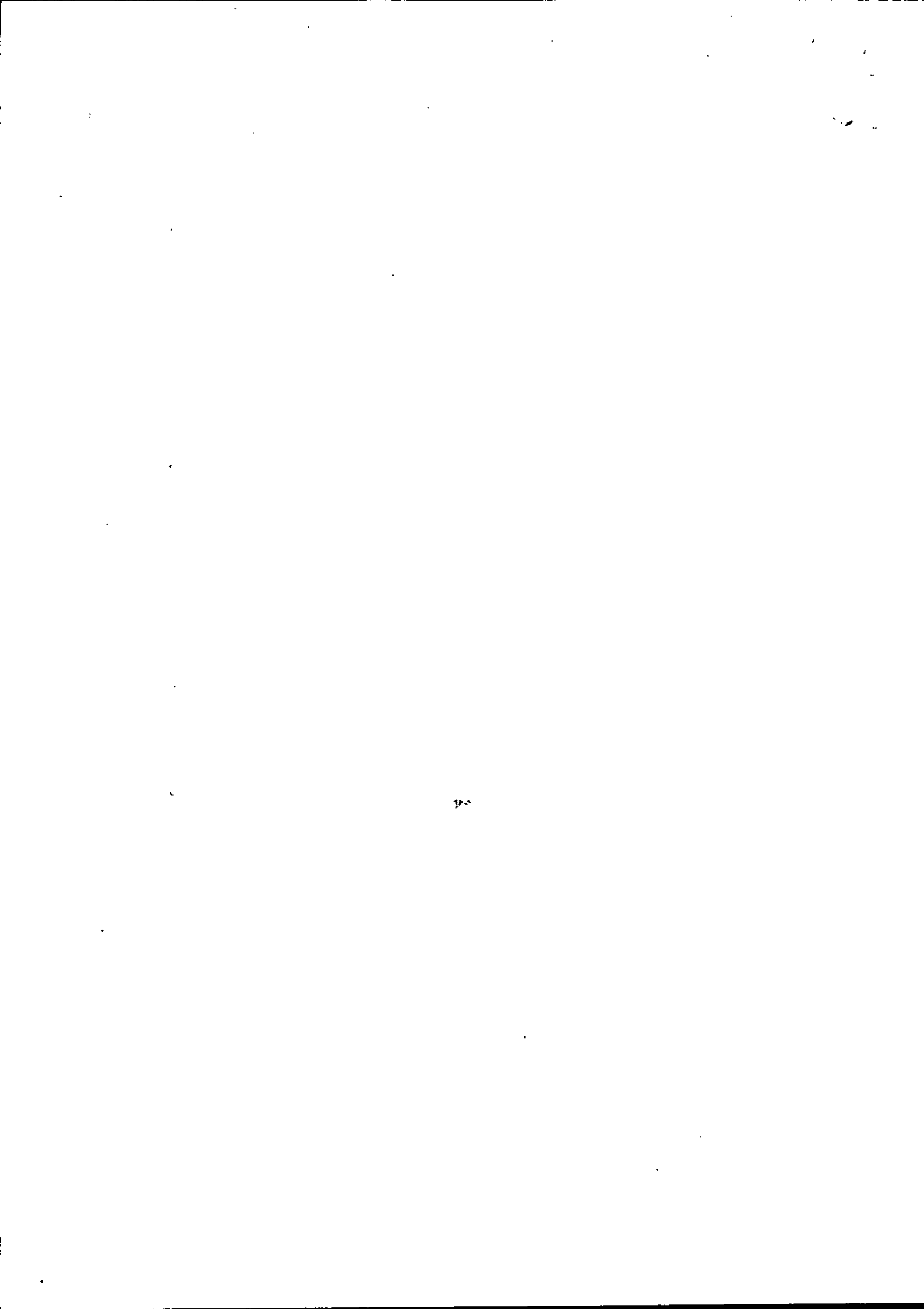
For scrutinizing the conduct of ASI Bahar Khan, the Charge Sheet and Summary of Allegations were served upon him; in response he submitted his written reply; the local personnel of secret governmental agencies like: DSB, Special Branch, MI, ISI and IB etc were contacted in this regard; the general opinion of the public and that of police officers & officials remained closed to him was asked about; his previous service record was looked into. Moreover, his standard of living, the difference in standard of living of his pre and post police service was also considered.

20

Amir F

Amir F

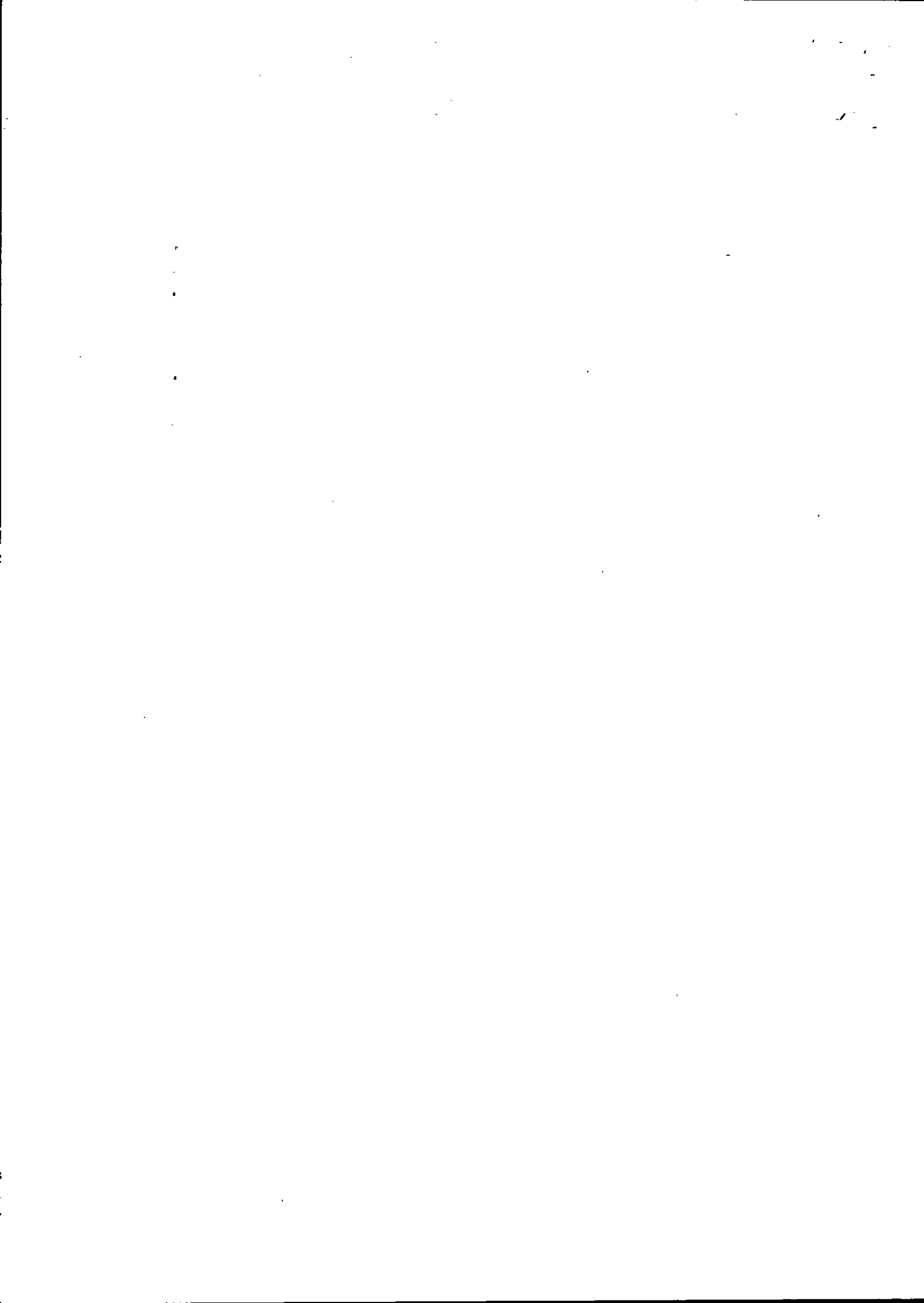
F



FINDINGS:

- I) The reply of accused ASI, Bahar Khan, is not satisfactory.
- II) His previous service record is full of public complaints and he has gone through a lot of enquiries. Apart from the enquiry in hand, some other enquiries are still pending against him. He is a constant headache for his officers.
- III) His general reputation is the worst one. He is notorious for receiving illegal gratification from the public either in the shape of cash amount or gifts. Thus he has earned a bad name for his department.
- IV) He used to pressurize the enquiry officers by political leaders for filing the enquiry in his favour and also exert pressure on his high-ups for his transfer and posting to lucrative and attractive places.
- V) All the local personnel of the secret governmental Agencies i.e DSB, Special Branch, MI, ISI and IB etc declared him the most corrupt police officer of District Charsadda.
- VI) He is also notorious for misappropriation, embezzlement, changing and altering the case properties like foreign made fire-arm weapons and valuable narcotics like heroin and opium for his personal benefit.
- VII) A visible and unexpected change in his life style and standard of living has been observed due to extravagance and lavishness.

ATD



22

3

CONCLUSION:

In view of the above facts and figures it is concluded that ASI Bahar Khan has proved the most corrupt man of the whole District Charsadda. He has inflicted irreparable loss to the prestige and dignity of Police Department by his lust and zeal for grabbing illegal money in the shape of worst Corruption. Further stay of this man in Police Department will prove more detrimental in the shape of black stigma.

RECOMMENDATIONS:

After proving the most corrupt man of the whole District Charsadda he is recommended for "Major Punishment".


Dy: Superintendent of Police
Shabqadar

File

ORDER

Amy G' (23)

This order will disposed off the departmental enquiry against ASI Bahar Ali, while posted at this District Police, through a reliable source, it came to notice that he is involved in corruption and earning bad name for the department. Being a member of discipline force his act is highly objectionable, which is against the rules/regulations of the discipline force".


In the above mentioned allegation he was issued Charge Sheet together with statement of ~~allegation under Sub Section 4 of Section 5 of the Police Act, 1947~~ Riaz, DSP Shabqadar was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings & recommended him for major punishment.

After going through the enquiry papers & recommendation of the enquiry officer, he is hereby awarded the major punishment of **Compulsory Retirement** from service with immediate effect.

O.B No. 1490

Dated 7/12/2013

No. 948-S1 /HC, dated Charsadda the 09/12/2013


District Police Officer,
Charsadda

Copy for information and necessary action to the:-

1. Deputy Inspector General Of Police Mardan Region 1 Mardan
2. Pay Officer
3. EC/FMCA *enclose 14 pages*



ORDER.

26

Amma I

This order will dispose-off the appeal preferred by ASI Bahar Ali of Charsadda District Police against the order of District Police Officer, Charsadda wherein he was compulsory retired from service vide District Police Officer, Charsadda OB: No. 1490 dated 09.12.2013.

Brief facts of the case are that while posted at District Charsadda, through a reliable source, it came to notice that he is involved in corruption and earning bad name for the department. Being a member of discipline force his act is highly objectionable, which is against the rules/regulations of the discipline force.

In the above mentioned allegation he was issued charge sheet together with statement of allegation under sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer Mr. Saleem Riaz, DSP Shabqadar was nominated for conducting departmental enquiry against him. The enquiry Officer after conducted proper departmental enquiry submitted findings & recommended him for major punishment. Therefore he was compulsory retired from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 01.01.2014. He failed to justify his innocence and could not advance any ground in his defence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.

(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 60 /ES, Dated Mardan the 2 - 1 - /2014.

Copy to District Police Officer, Charsadda for information and necessary action w/r to his office Memo: No. 2373/LB dated 23.12.2013

(*****)

Handwritten signature/initials

Better copy.

ORDER

Si Hameed Khan of Charsadda District Police Suspended by District Police Officer, Charsadda vide his office OB: NO. 1218 dated 23-10-2013 and endorsement No 516-21/HC, of the same day today re-instated from the date of suspension without any prejudice to the finding of the enquiry:

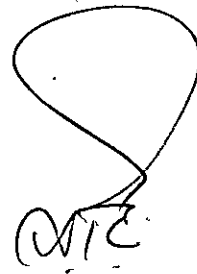
SD

MOHAMMAD SAEED DSP

No. 5376/ES,

Dated Mardan the 19/11/2013

Copy to District Police Officer, Charsadda for information and necessary action

A handwritten signature consisting of a large, stylized loop above the letters 'MTC'.

ORDER.

Amir J (27)

SI Hameed Khan of Charsadda District Police suspended by District Police Officer, Charsadda vide his office CB No. 1248 dated 23.10.2013 & endorsement No. 516-21/HC, of the same date is hereby re-instated from the date of suspension without any prejudice to the findings of the enquiry.

MUHAMMAD SAHEEDULLAH
Deputy Inspector General of Police
Mardan Region-I, Mardan

No. 5376 /ES,

Dated Mardan the 19th /13 /2013.

Copy to District Police Officer, Charsadda for information and necessary action.

(*****)

HC
Amir J
District Police Officer
Charsadda

Amir J

reinstated without completing enquiry

J

WAKALAT NAMA

IN THE COURT OF

K.P.K. Peshawar Tribunal

Bahar Ali

Appellant(s)/Petitioner(s)

VERSUS

Govt

Respondent(s)

I/We _____ do hereby appoint **Mr. Khaled Rehman, Advocate** in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by

Khaled Rehman,
Advocate, Peshawar.

9-B, Haroon Mansion
Khyber Bazar, Peshawar

Bahar Ali
Signature of Executants

BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

Bahar Ali, Ex-ASI District Police CharsaddaAppellant

VS

DPO etc:Respondents

**Reply/Parawise comments on
Behalf of Respondent No. 1
to 3 in appeal No. 27/2014.**

Respectfully Sheweth:

Preliminary Objections:

1. That the appeal of appellant is not maintainable in the present form.
2. That appellant has not approached this Hon'ble court with clean hands.
3. That appellant has suppressed actual facts/factual position from this Hon'ble Court.
4. That the appeal of appellant is not based on facts.
5. That the appeal of appellant is bad for non-joinder of necessary parties.
6. That the appellant is estopped by his own conduct to file the present appeal.
7. That the instant appeal is barred by law.

Reply on facts:

1. Para-1, incorrect, appellant having persisting reputation of being corrupt and he was living beyond on his own source of income, therefore he was compulsory retired from service vide impugned order.
2. Para-2, correct to the extent that appellant and other were proceeded departmentally within the meaning of law and rules on the subject. Proper charge sheet was issued to appellant and opportunity was provided to appellant. Regular enquiry proceedings were conducted through responsible and competent officer, consequent upon which the impugned order was passed.
3. Para-3, incorrect, the reply of appellant in response to charge sheet was found unsatisfactory.
4. Para-4, incorrect, no facts finding enquiry was conducted nor the appellant was proceeded with summary or unlawful process. The enquiry officer recommended major punishment after all needful.

May be added that proper and regular enquiry was conducted and opportunity of defense was provided to appellant.

5. Para-5, incorrect, enquiry officer has conducted detailed enquiry and has based opinion on sound and plausible reasons. However, legal proceeding took place upon which the finding was submitted.
6. Para-6, incorrect, proper speaking order was passed on the departmental appeal of appellant.

Grounds:

- A. Incorrect, appellant was treated in accordance with law and rules. Proper charge sheet was issued to appellant and regular enquiry was conducted. Therefore the impugned order is just, legal and sustainable. No unlawful action or discriminatory treatment has been done to the appellant.
- B. Incorrect, appellant was found involved in corruption and corrupt practices, possessing blemished record, and bearing bad reputation. May be added here that series of complaints for corruption had been received against the appellant, therefore he was charge sheeted on the above allegations and the disciplinary proceeding against appellant culminated in passing the impugned order.
- C. Incorrect, regular enquiry was conducted, charge sheet was issued to appellant and enquiry was entrusted to competent officer and the claim of the appellant is not based on facts.
- D. Incorrect, regular enquiry was conducted and appellant has annexed the enquiry report with the appeal as annexure "E".
- E. Incorrect, this para of the ground of appeal is mere repetition of para C and D of the grounds of appeal. Appellant has annexed the enquiry report with the appeal which is self explanatory.
- F. Incorrect, charge sheet was served on appellant and he submitted reply in response to the charge sheet. Furthermore, he was heard in person at all forum! Hence the ground F is baseless, carrying no weight.
- G. Incorrect, appellant has wrongly referred to case of another Police officer. Respondents consider each case on its own facts.

- H. Incorrect, though serious charges of involvement in corruption were leveled against appellant yet in view of his period of service, penalty of compulsory retirement from service was imposed on him instead of dismissal from service.
- I. Incorrect, enquiry officer conducted open and secret enquiry and the charges were found true and correct. Furthermore, the enquiry officer also examined the service record of appellant and confirm his bad reputation.
- J. That respondent may also be allowed to raise other points during arguments.

It is therefore prayed that the instant appeal, being without substance, unmerited and may be dismissed with cost.

Respondents:

1.


Provincial Police Officer,
KPK Peshawar.

2.


Deputy Inspector General of Police,
Mardan, Region-I Mardan.

3.


District Police Officer,
Charsadda.

BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

Bahar Ali, Ex-ASI District Police CharsaddaAppellant

VS

DPO etc:Respondents

AFFIDAVIT

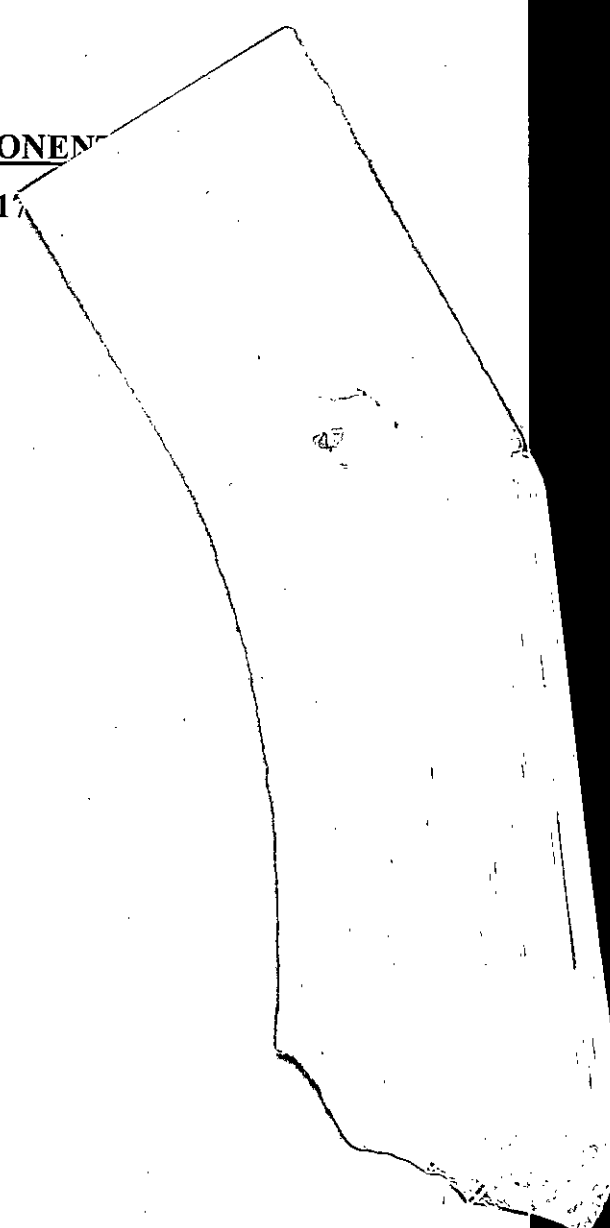
I, Usman Ali Khan, Inspector. Legal Charsadda (representative of the department), do hereby solemnly affirm and declare on Oath that contents of the accompanying parawise comments/reply are true and nothing has been concealed from this Hon'ble Court.

Identified by

Government Pleader
Khyber Pakhtunkhwa,
Services Tribunal

DEPONENT

CNIC No.17



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**Service Appeal No. 27 /2014**

Bahar Ali.....Appellant

Versus

The PPO and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO REPLY FILED BY
RESPONDENTS.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

- I. That all codal formalities as per the Khyber Pakhtunkhwa Service Tribunal Act, 1974 have been complied with and therefore the appeal is in its correct form and shape.
- II. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been treated in violation of the law.
- III. That all the facts relevant for the disposal of the instant appeal concisely have been incorporated in the appeal and nothing has been concealed from the Hon'ble Tribunal.
- IV. That the appeal is based upon facts.

- V. That all necessary and proper parties have been arrayed as Respondents in the instant appeal, hence the question of mis-joinder and non-joinder is misconceived.
- VI. That appellant has challenged the impugned order within the meaning of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Acts, 1974. It is a settled principle that estoppel does not operate against the law.
- VII. That the appeal is within time.

Facts:

1. Incorrect hence denied. The appellant has no bad reputation nor is he living beyond his source of income. There is nothing available on record or collected during enquiry which could establish that the appellant is having bad reputation or living beyond his income source. The allegations are altogether baseless and have been denied as such. Moreover, appellant has already "A" & "A1" reports with no report of complaints.
2. Incorrect. Appellant was proceeded in violation of the law inas much as an irregular enquiry was conducted against him wherein no opportunity of defence was provided to him, every thing was done at his back.

3. Incorrect. The reply to the Show Cause Notice was based upon sound grounds and reasons.
4. Incorrect. The so called enquiry was a fact finding enquiry summarily conducted without associating the appellant with the same.
5. Incorrect hence denied.
6. Incorrect.

Grounds:

- A. Incorrect. The appellant was not treated in accordance with law and rules on the subject.
 - B. Incorrect. The Answering Respondents have failed to establish the charge of corruption and corrupt practices by producing any kind of material in this respect, therefore, the allegations being not established should have been dropped but to the contrary the impugned order was passed by means of which major penalty was imposed which is illegal and hence not maintainable.
 - C. Misconceived. No regular enquiry has been conducted which is evident from the report of Enquiry Officer.
- D&E. Incorrect hence denied.
- F. Incorrect. Appellant has never been heard in person, neither by the Enquiry Officer nor by the competent authority nor by the Appellate Authority which is against the law.

- G. Incorrect. The case of the appellant as well as that of Khurshid Khan and Hameed Khan SIs were identical in nature inas much as he was also imposed upon similar penalties but in appeal the same were set aside by reinstating them into service (Order of Khurshid Khan SI **Annex:-Reply/1**). Similar is the case of Constable Ubaidullah Khan whose penalty was reduced from major to minor vide order dated 20.02.2014 (**Annex:-Reply/2**) and likewise.
- H. Incorrect. The allegations were not proved against the appellant, therefore, the major penalty is without lawful authority and hence not maintainable.
- I. Incorrect hence denied.
- J. Needs no reply.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

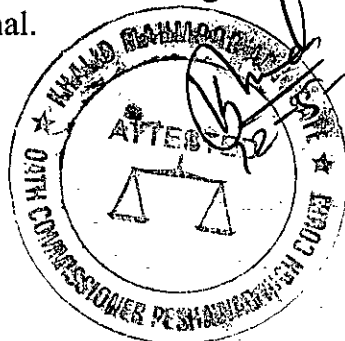
Appellant

Khaled Rahman
Advocate, Peshawar

Dated: 9/04/2014

Affidavit

I, Khaled Rahman, Advocate, as per instructions of my client, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

ORDER.

Res/

5

This order will dispose-off the appeal preferred by SI Khurshed Khan of Charsadda District Police against the order of District Police Officer, Charsadda wherein he was compulsory retired from service vide District Police Officer, Charsadda O/B No. 1493 dated 09.12.2013.

Brief facts of the case are that while posted at District Charsadda, through a reliable source, it came to notice that he is involved in corruption and earning bad name for the department. Being a member of discipline force his act is highly objectionable, which is against the rules/regulations of the discipline force.

In the above mentioned allegation he was issued he was issued charge sheet together with statement of allegation under sub Section 3, Section 5 of Police rules 1975. Enquiry Officer Mr. Saleem Riaz, DSP Shabqadar was nominated for conducting departmental enquiry against him. The enquiry officer after conducted proper departmental enquiry submitted findings & recommended him for major punishment. Therefore he was compulsory retired from service.

I have perused the record and also heard the appellant. Keeping his enquiry file/personal hearing as well as reliable source no such activities were come to notice. Therefore, I MUHAMMAD SAIED Deputy Inspector General of Police Mardan Region-I, Mardan in exercise of the powers conferred upon me set aside the punishment awarded by DPO, Charsadda. Period he remained out of duty is treated as leave without pay and warned to be careful in future.

(Muhammad Saied) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

Handwritten signature

No. 1261 /ES,

Dated Mardan the 03/03 /2010.

Copy to the District Police Officer, Charsadda for information and necessary action.

CB-441
4.3.204

Reply

ORDER.

Rej/2 (6)

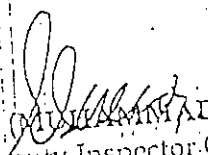
This order will dispose-off the appeal preferred by Ex-Headable Ubaid Ullah No. 173 of Charsadda District Police against the order of District Police Officer, Charsadda wherein he was compulsory retired from service vide District Police Officer, Charsadda OB: No. 1492 dated 09.12.2013.

Brief facts of the case are that while posted at District Charsadda, through a reliable source, it came to notice that he is involved in corruption and earning bad name for the department. Being a member of discipline force his act is highly objectionable, which is against the rules/regulations of the discipline force.

In the above mentioned allegation he was issued charge sheet together with statement of allegation under sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer Mr. Saleem Riaz, DSP Shabqadar was nominated for conducting departmental enquiry against him. The enquiry Officer after conducted proper departmental enquiry submitted findings & recommended him for major punishment. Therefore he was compulsory retired from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 12.02.2014. Due to his pathetic family condition, long service, he is reinstated in service with immediate effect, awarded major punishment stoppage of three years increments with cumulative effect, absence period he remained out of duty to be treated as leave without pay.

ORDER ANNOUNCED.


MUHAMMAD SAEED PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 1096 /ES, Dated Mardan the 20 /2 /2014.

Copy to District Police Officer, Charsadda for information and necessary action v/r to his office Memo: No. 2371/LB dated 23.12.2013. He may be informed accordingly.



1
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 27/2014

Bahar Ali.....Appellant

Versus

The PPO and others.....Respondents

REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO REPLY FILED BY
RESPONDENTS.

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

- I. That all codal formalities as per the Khyber Pakhtunkhwa Service Tribunal Act, 1974 have been complied with and therefore the appeal is in its correct form and shape.
- II. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been treated in violation of the law.
- III. That all the facts relevant for the disposal of the instant appeal concisely have been incorporated in the appeal and nothing has been concealed from the Hon'ble Tribunal.
- IV. That the appeal is based upon facts.

- V. That all necessary and proper parties have been arrayed as Respondents in the instant appeal, hence the question of mis-joinder and non-joinder is misconceived.
- VI. That appellant has challenged the impugned order within the meaning of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Acts, 1974. It is a settled principle that estoppel does not operate against the law.
- VII. That the appeal is within time.

Facts:

1. Incorrect hence denied. The appellant has no bad reputation nor is he living beyond his source of income. There is nothing available on record or collected during enquiry which could establish that the appellant is having bad reputation or living beyond his income source. The allegations are altogether baseless and have been denied as such. Moreover, appellant has already "A" & "A1" reports with no report of complaints.
2. Incorrect. Appellant was proceeded in violation of the law inas much as an irregular enquiry was conducted against him wherein no opportunity of defence was provided to him, every thing was done at his back.

3. Incorrect. The reply to the Show Cause Notice was based upon sound grounds and reasons.
4. Incorrect. The so called enquiry was a fact finding enquiry summarily conducted without associating the appellant with the same.
5. Incorrect hence denied.
6. Incorrect.

Grounds:

- A. Incorrect. The appellant was not treated in accordance with law and rules on the subject.
- B. Incorrect. The Answering Respondents have failed to establish the charge of corruption and corrupt practices by producing any kind of material in this respect, therefore, the allegations being not established should have been dropped but to the contrary the impugned order was passed by means of which major penalty was imposed which is illegal and hence not maintainable.
- C. Misconceived. No regular enquiry has been conducted which is evident from the report of Enquiry Officer.
- D&E. Incorrect hence denied.
- F. Incorrect. Appellant has never been heard in person, neither by the Enquiry Officer nor by the competent authority nor by the Appellate Authority which is against the law.

- G. Incorrect. The case of the appellant as well as that of Khurshid Khan and Hameed Khan SIs were identical in nature inas much as he was also imposed upon similar penalties but in appeal the same were set aside by reinstating them into service (Order of Khurshid Khan SI Annex:-Reply/1). Similar is the case of Constable Ubaidullah Khan whose penalty was reduced from major to minor vide order dated 20.02.2014 (Annex:-Reply/2) and likewise.
- H. Incorrect. The allegations were not proved against the appellant, therefore, the major penalty is without lawful authority and hence not maintainable.
- I. Incorrect hence denied.
- J. Needs no reply.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

Khaled Rahman
Advocate, Peshawar

Dated: 9/04/2014

Affidavit

I, Khaled Rahman, Advocate, as per instructions of my client, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent

ORDER.

RES/ (5)

This order will dispose-off the appeal preferred by SI Khurshed Khan of Charsadda District Police against the order of District Police Officer, Charsadda wherein he was compulsory retired from service vide District Police Officer, Charsadda OOS No. 1493 dated 09.12.2013.

Brief facts of the case are that while posted at District Charsadda, through a reliable source, it came to notice that he is involved in corruption and earning bad name for the department. Being a member of discipline force his act is highly objectionable, which is against the rules/regulations of the discipline force.

In the above mentioned allegation he was issued he was issued charge sheet together with statement of allegation under sub Section 3, Section 5 of Police rules 1975. Enquiry Officer Mr. Saleem Riaz, DSP Shabqadar was nominated for conducting departmental enquiry against him. The enquiry officer after conducted proper departmental enquiry submitted findings & recommended him for major punishment. Therefore he was compulsory retired from service.

I have perused the record and also heard the appellant. Keeping his enquiry file/personal hearing as well as reliable source no such activities were come to notice. Therefore, I MUHAMMAD SAEBED Deputy Inspector General of Police Mardan Region-I, Mardan in exercise of the powers conferred upon me set aside the punishment awarded by DPO, Charsadda. Period he remained out of duty is treated as leave without pay and warned to be careful in future.

(Muhammad Saebed) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 1261 /ES,

Dated Mardan the 03/03 /2010.

Copy to the District Police Officer, Charsadda for information and necessary action.

CB-441
4.3.204

ORDER.

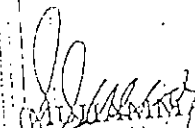
This order will dispose-off the appeal preferred by Ex-Head Constable Ubaid Ullah No. 173 of Charsadda District Police against the order of District Police Officer, Charsadda wherein he was compulsory retired from service vide District Police Officer, Charsadda OB: No. 1492 dated 09.12.2013.

Brief facts of the case are that while posted at District Charsadda, through a reliable source, it came to notice that he is involved in corruption and earning bad name for the department. Being a member of discipline force his act is highly objectionable, which is against the rules/regulations of the discipline force.

In the above mentioned allegation he was issued charge sheet together with statement of allegation under sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer Mr. Saleem Riaz, DSP Shabqadar was nominated for conducting departmental enquiry against him. The enquiry Officer after conducted proper departmental enquiry submitted findings & recommended him for major punishment. Therefore he was compulsory retired from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 12.02.2014. Due to his pathetic family condition, long service, he is reinstated in service with immediate effect, awarded major punishment stoppage of three years increments with cumulative effect, absence period he remained out of duty to be treated as leave without pay.

ORDER ANNOUNCED.


(MUHAMMAD SAAD)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 1096 /ES, Dated Mardan the 01/2 /2014.

Copy to District Police Officer, Charsadda for information and necessary action w/r to his office Memo: No. 2371/LB dated 23.12.2013. He may be informed accordingly.

