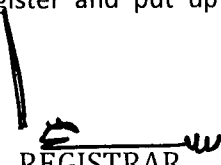


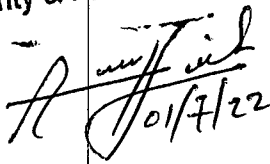



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 898/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/06/2022	<p>The appeal of Mr. Hameedullah resubmitted today by Roeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	<p>15.6.22</p> <p>Noted BY COUNSEL</p> <p> 18/6/2022</p>	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>28-6-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
28.06.2022	<p>Rs-500/- Appellant Deposited Security & Process Fee</p> <p> 10/7/22</p>	<p>Learned counsel for the appellant present. Preliminary arguments heard and record perused.</p> <p>Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for written reply/comments on 10.08.2022 before D.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E)</p>

The appeal of Mr. Hameedullah son of Ahmad Ex-Constable No. 3310 District Nowshera received today i.e. on 02.06.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list has not been dully filled in.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Application for condonation of delay is unsigned.
- 4- Details of documents are not given on the flags.
- 5- Copy of final show cause notice mentioned in the memo of appeal (Annexure-F) is not attached with the appeal which may be placed on it.
- 6- Copy of departmental appeal is incomplete which may be completed.
- 7- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 1246 /S.T,


Dt. 03/06 /2022


REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Roeeda Khan Adv. Pesh.

objects No 1 To 7
has been removed


8/6/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 898 of 2022

Hameed Ullah Ex-Constable No. 3310 Police Line District Mardan
..... Appellant

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Memo of Appeal with verification		1-4
2.	Application for condonation of delay		5&6
3.	Addresses of the parties		7
4.	Affidavit		8
5.	Copy of 491 Petition	A	9-11
6.	Copy of FIR	B	12
7.	Copy of bail order	C	13-17
4.	Copy of charge sheet and reply	D&E	18 TO 22
5.	Copy of reply of final show cause notice	F	23 TO 27
6.	Copy of impugned order	G	(28)
7.	Copy of Departmental Appeal and rejection order	H&I	(H) 29 TO 34
8.	Copy of revision Petition	J	35 TO 41
9.	Wakalat Nama		

Dated 02/06/2022

Hameed Ullah
Appellant

Through

Roeda Khan
Advocate, High Court,
Peshawar.

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____ of 2022

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi PO
Miyar tehsil and District Nowshera.

..... Appellant

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

**APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974, AGAINST
THE IMPUGNED ORDER DATED 25/10/2021
WHEREBY MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE HAS BEEN
AWARDED TO THE APPELLANT AGAINST
WHICH THE APPELLANT FILED
DEPARTMENTAL APPEAL ON 11/11/2021
WHICH HAS BEEN REJECTED ON 05/04/2022
ON NO GOOD GROUNDS.**

Prayer:

On acceptance of this appeal both the
impugned orders dated 25/10/2021 and rejection
order dated 05/04/2022 may kindly be set aside and
the appellant may kindly be reinstate on his service
alongwith all back benefits.

Respectfully Sheweth:

FACTS

The appellant respectfully submits as under:

- 1) That the appellant has been appointed as Constable
with respondent /Department since long time.
- 2) That after appointment the appellant performed his
duty with full devotion and hard work and no

complaint whatsoever has been made against the appellant.

- 3) That the appellant has been illegally and unjustifiably has been taken by the SHO Police Station Risalpur on 17/02/2021 and kept the appellant his illegal confinement against which the brother of appellant namely Muhammad Ayub filed 491 Petition before the court concerned for the production of the appellant from the illegal confinement on 24/02/2021. (Copy of 491 Petition and order as Attached as Annexure-A).
- 4) That as a result of illegal action mention in Para-3 the SHO of Police Station Risalpur charge the appellant in a false and fabricated criminal case FIR No. 58 dated 04/03/2021 U/S 395-PPC Police Station Risalpur, it is pertinent to mention here that the appellant has not been directly charge in the mentioned FIR. (Copy of FIR is attached as Annexure-B).
- 5) That the appellant has been bail ousted from the above criminal case by the Peshawar High Court Peshawar on 26/03/2021. (Copy of bail order is attached as Annexure-C).
- 6) That a charge sheet and statement of allegation has been issued to the appellant on 30/03/2021 by the respondent Department which has been properly replied by the appellant whereby the appellant denied all the allegations leveled against the appellant. (Copy of charge sheet and reply is attached as Annexure- D&E).

- 7) That a final show cause notice has been issued to the appellant which has been properly replied by the appellant whereby the appellant denial all the allegation level against the appellant. But un lucky the appellant has not been kept the copy of charge sheet. (Copy of reply of final show cause notice is attached as Annexure- F).
- 8) That on 25/10/2021 the impugned order has been issued against the appellant whereby the appellant has been dismissed from service on the allegation of involvement of the said criminal case. (Copy of impugned order is attached as Annexure-G).
- 9) That the appellant submitted Departmental Appeal on 11/11/2021 which has been rejected on 05/04/2022 on no good grounds. (Copy of Departmental Appeal and rejection order are attached as annexure-H&I).
- 10) That the appellant submitted revision petition on 11/04/2022 against the impugned order. (Copy of revision petition is attached as annexure-J).

GROUNDS

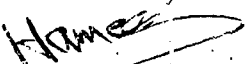
- A). That the impugned orders dated 25/10/2021 and 05/04/2022 are void and illegal because it has been passed without full filling the codal formalities.
- B). That the FIR in which the appellant has been falsely implicated has been lodge against the un-known person and the appellant has been charged in 161 statement of the co-accused in the above mentioned case which has no value.

- C). That no Departmental Inquiry has been initiated against the appellant before imposing major penalty which is mandatory.
- D). That no statement of witness has been recorded and no opportunity of personal hearing has been provided to the appellant.
- E). That the respondent Department should be waited for the decision of the criminal cases.

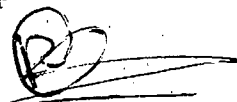
It is therefore most humbly prayed that On acceptance of this appeal both the impugned orders dated 25/10/2021 and rejection order dated 05/04/2022 may kindly be set aside and the appellant may kindly be reinstate on his service alongwith all back benefits.

Any other remedy which this august tribunal deems fit that may also onward granted in favor of appellant.

Dated 02/06/2022


Appellant

Through


Roeeda Khan
Advocate, High Court,
Peshawar.

Verification:

Verified that the contents of the above appeal are true and correct to the best of my knowledge and belief.


Deponent

- 5 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____ of 2022

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi
P/O Miyar tehsil and District Nowshera.

..... Appellant.

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

APPLICATION FOR CONDONATION OF DELAY (IF ANY).

Respectfully Sheweth:

- 1) That the petitioner/appellant has filed the accompanied appeal today in which no date has yet been fixed.
- 2) That petitioner/appellant has a good prima facie case and is hopeful for its success and the grounds mentioned in appeal may be treated as integral part of this application.
- 3) That there are many Judgment of the supreme Court that cases should be decided on merit rather than on technicality.

- 6 -

It is, therefore, most humbly prayed that on acceptance of this application the delay if any may be condoned in the interest of justice.

Dated 02/06/2022

Petitioner /Appellant

Through

Rooeda Khan
Advocate, High Court
Peshawar

AFFIDAVIT

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi PO Miyar tehsil and District Nowshera do hereby solemnly affirm and declare on oath that the content of the above application are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.


DEPONENT

- 7 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____ of 2022

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi
PO Miyar tehsil and District Nowshera.

..... Appellant

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

ADDRESSES OF THE PARTIES

Appellant

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor
Mondi PO Miyar tehsil and District Nowshera.

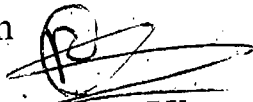
Respondents

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

Dated 02/06/2022


Appellant

Through


Rooeda Khan
Advocate, High Court,
Peshawar.

- 8 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____ of 2022

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi
P/O Miyar tehsil and District Nowshera.

..... Appellant

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

AFFIDAVIT

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi
PO Miyar tehsil and District Nowshera do hereby solemnly affirm and
declare on oath that the content of the above application are true and
correct to the best of my knowledge and belief and nothing has been
kept secret and concealed from this Hon'ble Tribunal.


DEPONENT

(A) (9)
BEFORE THE COURT OF SESSIONS JUDGE
NOWSHERA

Muhammad Ayub S/o Sher Ahmad
Resident of Zor Mandi PO; Miyar Tehsil & Distt: Nowshera.
Petitioner.

VERSUS

1-SHO PS: Risalpur.

Respondent

APPLICATION UNDER SECTION 491 CR.P.C FOR
PRODUCTION OF DETENUEE HAMEED ULLAH
S/O SHER AHMAD FROM RESPONDENT.

Respectfully Shewth:-

It is submitted as under:-

1- That the petitioner is Pakistani by National and presently living at the above said vicinity.

2- That the detnuee Hameed Ullah aged about 35 years is the brother of the petitioner.

3- That the local police of PS: Risalpur on 17-02-2021 taken away forcibly the detnuee from his house without any legal charge.

4- That the local police of the Police Station Risalpur is denying regarding the presence of the detnuee without any legal justification.

(10)
5- That the said act of the respondent is illegal against law and facts.

6- That the respondent have no legal right to kept the detunes in illegal confinement.

7- That the respondent is legally bound to produce the detenues before the concern court with 24 hours.

IT IS THEREFORE, MOST HUMBLY PRAYED THAT ON ACCEPTNACE OF THIS PETITION THE DETUNEES (BROTHER OF PETITIONER) MAY KINDLY BE RECOVERED FROM THE CLUTCHES OF RESPONDENT AND HANDEDOVER TO THE PETITIONER BEFORE THIS HONORABLE COURT.

Dated:- 24-02-2021.

Petitioner

Through Counsel:-

(MIAN ARSHAD JAN)

Advocate High Court
Advocate Supreme Court
District Courts Nowshera

AFFIDVIT:-

I do hereby solemnly affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed.


DEPONENT

FORM-A

FORM OF ORDER SHEET

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-V,
NOWSHERA.

CASE# _____ TITLE Muhammad Ayub Vs SHO Risalpur

SN OF ORDER OF PROCEEDINGS	DATE OF ORDER OF PROCEEDINGS	ORDER OF OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE THAT OF PARTIES OR COUNSEL WHERE NECESSARY.
Order....02	24 th Feb,2021	<p>The instant petition u/s 491 Cr.P.C received from the court of learned Sessions Judge, Nowshera. Be checked and entered into relevant register.</p> <p>Muhammad Ayub, petitioner submitted the present petition under section 491 Cr.P.C for the production of detainee namely Hameed Ullah s/o Sher Ahmad brother of petitioner, as he has illegally been confined by respondent. It is contended that detainee has illegally and un-justifiably been taken by the respondent on 17.02.2021 and till to date he was not produced before any competent court of law and his son is in illegal confinement of respondent. In order to verify the contention of petitioner, Bailiff of this Court is directed to visit the police station Risalpur, to see that whether detainee named above is in illegal confinement in the Police Station Risalpur or any case has been registered against him or he is legally been arrested by police. He is also directed to check the relevant register of FIR and Daily Diary in order to ascertain the fact that whether any case is registered against him or not. Copies of the relevant documents be procured from SHO in court for perusal. If it is found that detainee is not involved in any case, then SHO be directed to attend the Court and detainee named above be produced before the court today i.e. 24.02.2021. Notice also be issued to respondent for the date fixed.</p> <p style="text-align: right;"> SUMERA WALI Additional Sessions Judge-V Nowshera.</p>

تقسیم (B) راجستری
 0314-9637468

ابتدائی اطلاعی رپورٹ

تاریخ

ابتدائی اطلاع بہت جرم قابل دست اندازی پوس رپورٹ محدود رپورٹ 15 مارچ 2017ء مجموعی مشاہدہ و عدالت

10	58	تاریخ	4:30 وقت	16:45
10	58	تاریخ	4:30 وقت	16:45
10	58	تاریخ	4:30 وقت	16:45
10	58	تاریخ	4:30 وقت	16:45
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10	58	تاریخ	4:30 وقت	16:45

پوس رپورٹ کی تاریخ 20:00 بجے وقت 4:30 بجے وقت 23:30 بجے وقت
 پوسٹ اطلاع دہندہ سٹیٹ
 0301-6767333
 0305-491113
 سٹارٹ میں ولید فخر علی
 37 سال ساکن علی علی محمد
 پوسٹ نمبر 395

پوسٹ نمبر 395
 پوسٹ نمبر 395
 پوسٹ نمبر 395

پوسٹ نمبر 395
 پوسٹ نمبر 395
 پوسٹ نمبر 395

ابتدائی اطلاع نیچے درج کرو۔ جو ہولمہ فرانسس صاحبہ کا بیان ہے کہ میں پوسٹ نمبر 395 کے پوسٹ آفس میں مقیم ہوں۔ 1870ء میں میری بہن علیہ علیہ کے ساتھ پوسٹ آفس میں مقیم رہا۔ پوسٹ آفس میں مقیم رہا۔ پوسٹ آفس میں مقیم رہا۔ پوسٹ آفس میں مقیم رہا۔ پوسٹ آفس میں مقیم رہا۔

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FORM OF ORDER SHEET

IN THE COURT OF DISTRICT & SESSIONS JUDGE, NOWSHERA.

Petition # _____ TITLE M. omer N. vsVersus...The State etc

NO OF ORDER OF PROCEEDINGS	DATE OF ORDER OF PROCEEDINGS	ORDER OF OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE THAT OF PARTIES OR COUNSEL WHERE NECESSARY.
Order---01	24/2/21	<p>The instant petition titled above taken out from the petition box, checked and found correct. Put up before the learned Court for order, please.</p> <p style="text-align: right;"><i>[Signature]</i> Reader, Sessions Court, Nowshera.</p> <p>Entrusted to the court of learned ASJ- <u>Five</u> Nowshera, for disposal.</p> <p style="text-align: right;"><i>[Signature]</i> Shahnaz Hameed Khattak Sessions Judge, Nowshera.</p>

(14)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

Cr.M.B.A.No.837-P of 2021.

Date of hearing: 26.03.2021.

M/s Mian Arshad Jan, Muhammad Jamal Afridi and Shams-ul-Haq, advocates for the petitioner.

Mr. Umar Farooq, AAG for the State.

Mr. Muhammad Muazzam Butt, advocate for the complainant.



JUDGMENT

LAL JAN KHATTAK, J. For the reasons recorded in the connected Cr.M.B.A.No. 836-P of 2021, this petition is allowed and it is directed that the petitioner be released on bail subject to his furnishing bail bonds in the sum of Rs.1,00,000/- with two sureties each in the like amount to the satisfaction of learned trial court.

JUDGE

Announced,

26.03.2021.

Sadia Shah CS (SL) (P) (12) Mr. Justice L. Jan Khattak

Ed/

CERTIFIED TO BE TRUE COPY

27 MAR 2021

15

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)**

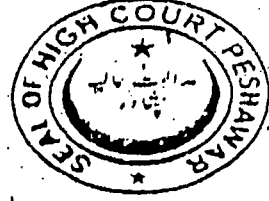
Cr.M.B.A.No.836-P of 2021.

Date of hearing: 26.03.2021.

M/s Mian Arshad Jan, Muhammad Jamal Afridi and Shams-ul-Haq, advocates for the petitioners.

Mr. Umar Farooq, AAG for the State.

Mr. Muhammad Muazzam Butt, advocate for the complainant.



JUDGMENT

Gain

LAL JAN KHATTAK, J.: Through this judgment, I shall also decide Cr.M.B.A.No.837-P of 2021 titled "Hameedullah Vs. The State" as both the petitions have emanated from same FIR No. 58 dated 04.02.2021 under sections 395, 365/342/412 PPC registered at Police Station Risalpur, Nowshera wherein the petitioners have been charged for committing robbery.

2. Arguments heard and record gone through.

3. Though it is the prosecution case that an amount of Rs.1,10,00,000/- was looted by the petitioners which one Ijaz, Cashier of M/s Khyber Tobacco Mardan, had collected

May
ATTESTED
EXAMINER
Peshawar High Court

(16)

from the Company's distributors at Sargodha and Chakwal but pronounced aspect of the case is that neither statements of the distributors, from whom the money was collected, have been recorded nor Investigating Officer of the case has associated cashier Ijaz in the case so as to bring his view point on record. Though, according to the prosecution, an amount of Rs.80,00,000/- has been recovered on the pointation of petitioner Sharifullah but said amount was taken into possession on 25.02.2021 from an almirah allegedly lying in the petitioner's office and there is no material on the record to show that the office was owned or possessed exclusively by the petitioner. Likewise, the recovery of Rs.14,50,000/- has not been effected from petitioner Hamiedullah rather same was taken into possession from his brother in the police station. Besides, no identification parade of the petitioners, as per law, has been conducted by the prosecution which could show that they were the same persons who had looted the amount from cashier Ijaz on the spot near Peshawar-Rashakai Interchange.

Ijaz

May
ATTESTED
 EXAMINER
 Peshawar High Court

171
4. Tentative assessment of the case record has led this court to believe that involvement of the petitioners qua their guilt in the crime needs further inquiry in terms of sub-section 2 of section 497 Cr.P.C., therefore, they have succeeded in making out a case for their release on bail.

5. For what has been discussed above, this petition is allowed and it is directed that the petitioners be released on bail provided each of them furnishes bail bonds in the sum of Rs.1,00,000/- with two sureties each in the like amount to the satisfaction of learned trial court.

JUDGE

Announced.

26.03.2021.

[Signature]

No. 31439
Date of Presentation of Application 27/3/21
No of Pages 70
Copying fee 1
Total 28
Date of Preparation of Copy 27/3/21
Date of Delivery of Copy 27/3/21
Received By [Signature]

[Signature]
CERTIFIED TO BE TRUE COPY
16/9
27 MAR 2021



(D) (14)

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2021

CHARGE SHEET

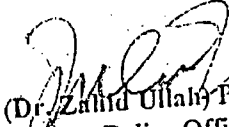
I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority, hereby charge Washman Constable Hameed Ullah No.3310, while posted at Police Lines Mardan (now under suspension Police Lines Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

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

4. Intimate whether you desired to be heard in person.


Dr. Zahid Ullah PSP
District Police Officer
Mardan



(15)

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomidn@gmail.com

2021

No. 107 /PA

Dated 3rd 1.3 /2021

DISCIPLINARY ACTION

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Hameed Ullah No.3310, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

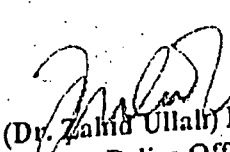
STATEMENT OF ALLEGATIONS

Whereas, Washman Constable Hameed Ullah No.3310, while posted at Police Lines Mardan (now under suspension Police Lines Mardan), has been charged in a case vide FIR No.58 dated 04-02-2021 U/S 395/365/342/171/412 PPC PS Risalpur District Nowshera.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, ASP Muhammad Qais Khan SDPO/Takht-Bhai is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable Hameed Ullah is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

(E)

(18)

Before The DPO Mardan.

Subject: Reply to the Charge Sheet + statement of allegations
NO 107 PA dated 30.3.2021

Respected Sir,

Your honour had issued the subject charge sheet + statement of allegations to the petitioner in the following allegations:

" Whereas westman constable Hameedullah, no 3210, while posted at police lines mardan (now under suspension) police lines mardan has been charged in a case vide FIR No 58 dated 4.2.2021 U/S 395/365/342/171/412 PPC PS Risalpur District Nowshera-12

In response to the charge sheet, the petitioner submits as under.

1. It is submitted that the matter relates to case FIR No 58 dated 4.2.2021 U/S 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that 4.2.2021 some unknown accused boarded in XLI motor car No 888 along with white colour vigo number unknown and vitz no unknown reached near Rashakai interchange. The accused took away the complainant, Mirhar Ali along with their follow to Peshawar. The accused snatched cash amount Rs 1,10,00000 and motor car from him. on the report of the complainant, a Criminal case has been registered in the PS Risalpur. (Copy of FIR enclosed)

2. In the above case accused usman Hussain s/o of Ghithar Hussain at Shahid s/o Tariq Javed of Peshawar were arrested. Later accused usman Hussain allegedly disclosed to the police that - accused Sharifullah s/o Haji Raheemullah s/o Parakh Islam chail was also accompanied with him during the commission of offence.

3. It is pertinent to note, that - accused Shahid a Sharifullah are property dealers. The petitioner's family also deals in property selling and purchasing. In connection of the same dealing, accused Shahid was previously known to him.

4. It was learnt to the petitioner, that - during interrogation

Page - (2)

(7)

when Azeem Shahid was asked, that whether he knows any one in marada. The accused disclosed that Petitioner is known to him.

5) on 17.2.2021 Shafiq Inspector, ASI Sajid Akbar of Nowshera district summoned the petitioner to the marada college. Chwica on mobil phone. Petitioner met with them at college chwica. Inspector Shafiq disclosed that the name of the petitioner has been brought by the arrested accused Shahid in the above case. The petitioner told that accused Shahid is known to him as he is from Peshawar and deals in property matters. Inspector Shafiq took the petitioner to PS Jabbi. It was the evening time. The Police produced accused Shahid before the petitioner.

6) The SHO PS Risalpur kept the petitioner along with accused woman Masra and Shahid in illegal C.I. confinement till 25.2.2021. Our arrest was shown by the police of PP Toror in a motor car no NV-173 xli vide DDPO 5 dated 25.2.2021. (copy enclosed)

7) During the illegal confinement petitioner's brother namely Muhammad Ayub also filed an application up 491 crpc in the court of S. J. Judge Nowshera on 24.2.2021. When the police came to know regarding application up 491 crpc, there they showed the arrest of the petitioner on the following day, i.e. 25.2.2021. (copy of application up 491 crpc along with counterclaim are enclosed.)

8) on 26.2.2021. Petitioner along with other accused were produced in the court, where one day police custody was granted by the court. It is worth to mention here that during illegal confinement SHO PS Risalpur SI, Saifullah and IO SI, Ali Akbar subjected the petitioner to intense physical torture. They were compelling the petitioner and his family to produce (Page 3)

The alleged stolen amount. The Petitioner did chased before the Police officials, that he is innocent and has got no concern with the instant case.

9) During the illegal confinement, due to pressure and continuous Torture from Police the petitioner informed his brother and close door neighbor Amir Khan who managed to arrange for the production of cash amount Rs 14,00,000 as the Police were demanding the same amount. The Petitioner also informed his brother namely Abdullah for the sending the amount by mobile phone. The arrangement of amount was made as under :-

- ① An alto motor car was sold on 13.2.2021 at a rate of Rs 5,90,000. (Sale deed is enclosed)
- ② The brother of the Petitioner had sent Rs 3,00,000 on 19.2.2021 (Bank receipt is enclosed)
- ③ Jewelry was sold on 19.2.2021 at a rate of Rs 50,000 (receipt is enclosed).
- ④ Rs 50,000 was given by Amir to brother.

The total amount came Rs 14,00,000. The said total amount was brought by Amir to the Petitioner and handed over to the Petitioner. This was shown as recovery from the possession from the Petitioner in the recovery memo dated 26.2.2021.

This illegal practice is the extreme boundary of Criminality. This fact can be confirmed from the released documents and verbal statement of Amir during the course of enquiry. (The recovery memo dated 26.2.2021 is enclosed.)

10) The motor car NV-173 where in the credit of the petitioner along with other is shown belong to Fazal Akbar who is known to the Petitioner. In fact the same car was recovered from his possession in the name of Chhala Khan on 25.2.2021 and was taken into possession as case property, being used by the petitioner in the

post. The same motor car does not relate to the instant case at any stage.

For honour:

- A): The Accused is innocent and has been falsely implicated in the instant case.
- B): There is no single evidence against the Petitioner to connect him with the commission of offence.
- C): The Complainant has charged the unknown Accused. Neither the Complainant nor other PWS have charged the Petitioner for the offence in any statement recorded u/s 164 CrPc. Merely the Petitioner has been charged in the statements recorded u/s 161 CrPc, which are not admissible in the eye of law.
- D): The Petitioner and no other Accused had made confession in the Court and all such facts denote that the Prosecution case is a concocted story.
- E): The identification Parade was not conducted before a judge during investigation, which has made the involvement of the Petitioner in the case doubtful and suspicious.
- F): The CCTV Footage from Wali-interchange to Peshawar interchange have not confirmed the arrival of the vehicle mentioned in the FIR on the date of occurrence on the spot.
- G): The recovery of alleged stolen amount worth Rs 14,50,000 and recovery of motor car no NY-173 is illegal and contrary to the law, which detail is already given in Para 9 and 10 above.
- H): The Petitioner was released on bail by the Honourable Court of Peshawar High Court dated 26.3.2021. According to the order of the High Court Accused

1. Accused Petitioner is not directly charged in the FIR
2. Recovery of Rs 14,50,000 has not been effected from the possession of the Petitioner. as the same was taken into possession from his brother in the Police Station.
3. No identification parade of the Petitioner as per law was conducted.
4. The High Court believe that involvement of the Petitioner and their guilt in the Crime needs further enquiry.

The above points raised by the honorable Court also needs your kind attention and consideration.

(Copy of order of High Court Patna is enclosed.)

i) : There is no chance of conviction of Petitioner in the instant case, rather there possibilities of a acquittal in the case. The case is pending trial in the court. Better would be, that the Prasad departmental enquiry be kept pending till to the final judgment of the Competent of law. The departmental procedure and judicial procedure can not run parallel to each other.

Keeping in view the above facts and Circumstances mentioned it is humbly requested, that the subject charge issued to the Petitioner may kindly be filed please.

Dated: 20.07.2021

Yours obediently,

[Signature]
 Washman Constable Hemuchellah
 NO 3310, Police Lines Mandan,

(17) (23)

BEFORE THE WORTHY DISTRICT POLICE OFFICER MARDAN

Subject: **REPLY TO THE FINAL SHOW CAUSE NOTICE NO. 297 / PA DATED 15-09-2021**

Respected Sir,

Your Honour had issued Charge Sheet & statement of allegation No. 107/PA dated 30/03/2021 to the petitioner with the following allegation:

“Whereas, Washerman Constable Hameedullah No. 3310, while posted at Police Lines has been charged in a case vide FIR No. 58 dated 04-02-2021 U/S 395/365/342/171/412 PPC PS Risalpur District Nowshera.

1. It is submitted that in the light of above charge sheet a departmental enquiry was initiated against the petitioner and Mr. Muhammad Qais Khan SDPO Takht Bhai was nominated as E.O. The petitioner submitted his detailed reply to the charge sheet but was not considered. The E.O submitted his enquiry finding before your Honour and recommended the petitioner for the award of major punishment. In the light of the enquiry finding, your Honour had issued the subject FINAL SHOW CAUSE NOTICE to the petitioner. (Copy of FSC is enclosed).
2. That the detailed and comprehensive reply in response to the charge sheet is reproduced below for your kind perusal:

BRIEF FACTS OF THE INCIDENT:

1. It is submitted that the matter relates to Case FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that on 04/02/2021 some unknown accused boarded in XLI Motor Car No. 888 along with white colour Vigo No. Unknown and Vitz No. Unknown reached near Rashakai Interchange. The accused took away the complainant Nihar Ali along with other fellows to Peshawar. The accused also snatched cash amount Rs. 1,10,00,000/- and motorcar from him. On the report of the complainant a criminal case has been registered in PS Risalpur. (Copy of FIR enclosed).
2. In the above case accused Usman Husain S/O Iftikhar Hussain and Shahid S/O Tariq Javed R/O Peshawar were arrested. Later on accused Usman Hussain Allegedly disclosed to the Police that accused Shareefullah S/O Haji Raheem Ullah R/O Barakoh

241

Islamabad was also accompanied with him during the commission of offence.

3. It is pertinent to note that accused Shahid & Sharifullah are property dealers. The petitioners family also deals in property dealing. In this connection of the same dealing accused Shahid was previously known to the petitioner.
4. It was learned to the Petitioner that during interrogation when accused Shahid was asked that whether he knows any one in Mardan District. The accused disclosed that Petitioner is known to him.
5. On 17/02/2021 Inspector Shafi, ASI Javed Iqbal of Nowshera District Summoned the Petitioner to Mardan College Chowk on Mobile Phone. Petitioner met with him at College Chowk Mardan. Inspector Shafi disclosed that the name of the Petitioner has been brought by the arrested accused Shahid in the above case. The petitioner told that accused Shahid known to him as he is from Peshawar and deals in property matters. Inspector Shaif took the Petitioner to Police Station Pabbi. It was the evening time when the Police Produced accused Shahid before the Petitioner.
6. That SHO PS Risalpur kept the petitioner along with co-accused Usman Hussain and Shahid in illegal confinement till 25/02/2021. Later-on the arrest of all the three including petitioner were shown by the Police of PP Taroo in motorcar No. NV-173 Xli vide DD No. 5 Dated 25/02/2021. (Copy enclosed)
7. That during the illegal confinement, petitioner's brother namely Muhammad Ayub also filed an application U/S 491 CrPC in the Court of Session Judge Nowshera on 24/05/2021. When the Police came to know regarding application U/S 491 CrPC, thereafter they showed the arrest of the petitioner on the following day i.e. 25/02/2021 in the above mentioned criminal case. (Copy of application U/S 491 CrPC along with court ordrs are enclosed)
8. That on 26/02/2021 Petitioner along with other accused were produce in the court, where one day Police Custody was granted by the Court. It is worth to mention here that during illegal confinement SHO PS Risalpur, SI Saifullah and IO/SI Ali Akbar subjected the Petitioner to intense physical torture. They were compelling the petitioner and his family to produce the alleged stolen amount before

251

the Police. The petitioner disclosed before the Police Official that he is innocent and has got no concern with the instant case.

9. During the illegal confinement, due to pressure and continuous torture from Police, the petitioner informed his brother and closed door neighbor Amir Khan R/O Manikhela to arrange for the production of Case Amount Rs. 14,00,000/-, as the Police were demanding the same amount. The petitioner also informed his brother namely Abdullah (serving in Saudi Arabia) for sending the amount by Mobile Phone. The arrangement of the said amount was made as under:

- i. Sold an Alto motorcar on 18/02/2021 @ Rs. 5,90,000/- (Sale deed is enclosed).
- ii. The brother of the petitioner had sent Rs. 3,00,000/- on 19/02/2021 (Bank Receipt is enclosed).
- iii. Jewelry was sold on 19/02/2021 @ Rs. 4,50,000/- (Receipt is enclosed).
- iv. Rs. 60,000/- was given by Amir Khan as borrow.

The total amount comes to be Rs. 14,00,000/-. The said total amount was brought by Amir Khan PS Risalpur and handed over to SHO Risalpur. This fact can confirmed by examining Amir Khan. Unfortunately the said amount was shown as recovery from the possession of petitioner vide recovery memo dated 26/02/2021.

This illegal practice is the extreme boundary of cruelty. This can also be confirmed from the relevant documents already enclosed. (The recovery memo dated 26/02/2021 is enclosed)

10. The motorcar No. NV-173 where in the arrest of the petitioner along with other accused is shown belongs to Fazal Akbar R/O Kass Killi Toru. In facts the same car was recovered from his possession in the Bazar of Ghala Dher on 23/02/2021 and was taken into possession as a case property, being used by the petitioner in the past. The said motorcar does not relates to the instant case at any stage.

GROUND FOR THE FILING OF F.S.C.N. :

- I. The petitioner is innocent and has been falsely implicated in the instant case.
- II. There is no single evidence against the petitioner to connect him with the commission of offence.

(26)

- III. The complainant has charged has unknown accused. Neither the complainant, nor other PW's have charged the petitioner for the commission of offence in any statement recorded U/S 164 CrPC. Merely the petitioner has been charged for the commission of offence in the statements recorded U/S 161 CrPC, which are not admissible in the eye of law.
- IV. The petitioner and no other accused had make confession in the court and all such facts denotes that the prosecution case is a concocted story.
- V. The identification parade was not conducted before a Judge, during investigation, which has made the involvement of the petitioner in the case to be doubtful and suspicious.
- VI. The CCTV Footage from Wali Interchange to Peshawar Interchange have not confirmed the arrival of the vehicles on the spot mentioned in the FIR on the date of occurrence.
- VII. The recovery alleged stolen amount worth Rs. 14,50,000/- and recovery of motorcar NV-173 is illegal and contrary to the law, which details is already given in Para 9 and 10 above respectively.
- VIII. The petitioner was released by bail by the Honourable Court of Peshawar High Court order dated 26/03/2021 on the following grounds.
 - a. Petitioner not directly charged in the FIR.
 - b. Recovery of Rs. 14,50,000/- has not been effected from the possession of the petitioner as the same was taken into possession from Amir Khan closed door neighbor of the petitioner in the PS Risalpur.
 - c. No identification parade of the petitioner as per law was conducted.
 - d. The High Court believe that involvement of the petitioner qua their guilt in the crime needs further enquiry. All these grounds from Para "a" to "d" needs your kind attention and consideration. (Copy of High Court order dated 26/03/2021 is enclosed).

ILLEGAL / SUPERFACIAL ENQUIRY PROCEEDING:

- i. The enquiry officer has conducted a superficial and illegal enquiry against the petitioner.

- (27)
- ii. During the proceeding of enquiry, the petitioner produced a detailed and comprehensive reply to the charge sheet but no aspect of the reply was considered. Only one PW OII/SI Ali Akbar was summoned and his statement was recorded in the absence of Petitioner. No opportunity of cross examination at this PW was given to the petitioner. Only believing on this single statement the EO recommended the petitioner for award of major punishment. Only one sided drama was played during enquiry.
- iii. Several lacunas and discrepancies were made during the course of enquiry by the EO. The statement of the following of Amir Khan R/O Manikhela who produced the amount Rs. 14,00,000/- to SHO Risalpur has not been recorded by the EO during the course of enquiry. Similarly one Fazal Akbar R/O Kass Kaley Toru (The Owner of motorcar No. NV-173) was not examined during the course of enquiry. Moreover, Inspector Shafi, ASI Sajid Iqbal who took the petitioner in custody have also not been examined during the enquiry.
- iv. All the enquiry proceedings are illegal and against the norm of justice.

PRESENT POSITION OF THE CRIMINAL CASE:

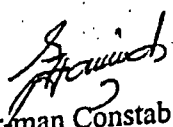
The criminal case vide FIR No, 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC is pending trail. There is no chance of conviction of petitioner in the instant case rather there is possibility of acquittal of the petitioner in the case. Better would be that the present departmental enquiry be kept pending till to the arrival of the final judgment of the competent court of law. According to the basic principle of justice the departmental procedure and judicial procedure cannot run parallel to each other.

PRAYERS:

Keeping in view the above facts and circumstances, it is humbly requested that the subject final show cause notice may kindly be filed please.

Dated: 18/09/2021

Yours Obediently,


Washer-man Constable
Hameed Ullah
No. 3310
Police Lines, Mardan.
Cell: 0345-1968881

MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: pdomdn@gmail.com

Dated 28/10/2021

ORDER ON ENQUIRY OF CONSTABLE HAMEED ULLAH NO.3310

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official (Washer-man), under the allegations that while posted at Police Lines Mardan (now under suspension Police Lines Mardan), was placed under suspension vide this office OB No. 587 dated 22-03-2021, issued vide order/endorsement No.2035-39/OSI dated 24-03-2021 on account of charging in a case vide FIR No.58 dated 02-02-2021 U/S 395/365/342/171/412 PPC PS Risalpur (Nowshera).

To ascertain real facts, the delinquent official was proceeded against departmentally through ASP Muhammad Qais Khan, the then SDPO/Takht-Bhai vide this office statement of Disciplinary Action/Charge Sheet No.107/PA dated 30-03-2021, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.610/SI dated 08-07-2021, holding responsible the alleged official of gross misconduct with recommending for major punishment.

In this connection, he was served with a Final Show Cause Notice, under Police Rules-1975, issued vide this office No.297/PA dated 15-09-2021, to which, his reply was received and found un-satisfactory.

Final Order

Constable Hameed Ullah (Washer-man) was heard in OR on 20-10-2021. During OR, he was given ample opportunity to explain his position, to which, he failed, therefore, keeping in view the enquiry report and related documents, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 1240
Dated 28/10 2021.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The SP/Investigation Nowshera with reference to his office letter No.1329/HC/Inv: dated 16-03-2021.
- 2) The DSP/11Qrs Mardan.
- 3) The P.O & I.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with () Sheets.

(1 H) (281)

To

The Deputy Inspector General,
Of Police Mardan,
Region-I, Mardan.

**Subject: APPEAL AGAINST THE ORDER OF DPO / MARDAN
ISSUED VIDE OB NO. 1941 DATED 25/10/2021 WHEREBY
THE APPELLANT WAS AWARDED MAJOR
PUNISHMENT OF DISMISSED FROM SERVICE.**

Respected Sir,

The DPO / Mardan had issued charge sheet and statement of allegations No. 107-PA dated 30.03.2021 to the appellant with the following allegations:

“whereas Washerman Constable Hameedullah No. 3310, while posted at Police Lines has been charged in a case vide FIR No. 58 dated 04/02/2021 U/S 365/35/342/171/12 PPC PS Risalpur District Nowshera. (Copy attached).

1. It is submitted that in the light of above charge sheet a departmental enquiry was initiated against the appellant and Mr. Muhammad Qais Khan SDPO/Takht Bhai was nominated as Enquiry Officer. The appellant submitted his detailed reply to the charge sheet, but was not considered. The Enquiry Officer submitted his enquiry finding before DPO / Mardan and recommended the appellant for the award of major punishment.
2. In the light of enquiry finding, the DPO / Mardan issued Final Show Cause Notice No. 297-PA dated 15/09/2021. The appellant submitted a detailed reply to the FSCN, but was not considered. (Copy of FSCN is enclosed).

BRIEF FACTS OF THE INCIDENT:

1. It is submitted that the matter relates to Case FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that on 04/02/2021 some unknown accused boarded in XLI Motor Car No. 888 along with white colour Vigo No. Unknown and Vitz No. Unknown reached near Rashakai Interchange. The accused took away the complainant Nihar Ali along with other fellows to Peshawar. The accused also snatched cash amount Rs. 1,10,00,000/- and motorcar from him. On the report of the complainant a criminal case has been registered in PS Risalpur. (Copy of FIR enclosed).

(30)

2. In the above case accused Usman Husain S/O Ifikhar Hussain and Shahid S/O Tariq Javed R/O Peshawar were arrested. Later on accused Usman Hussain Allegedly disclosed to the Police that accused Shareefullah S/O Haji Raheem Ullah R/O Barakoh Islamabad was also accompanied with him during the commission of offence.
3. It is pertinent to note that accused Shahid & Sharifullah are property dealers. The appellant family also deals in property dealing. In this connection of the same dealing accused Shahid was previously known to the appellant.
4. It was learned to the appellant that during interrogation when accused Shahid was asked that whether he knows any one in Mardan District. The accused disclosed that appellant is known to him.
5. On 17/02/2021 Inspector Shafi, ASI Javed Iqbal of Nowshera District Summoned the appellant to Mardan College Chowk on Mobile Phone. Appellant met with him at College Chowk Mardan. Inspector Shafi disclosed that the name of the Appellant has been brought by the arrested accused Shahid in the above case. The appellant told that accused Shahid known to him as he is from Peshawar and deals in property matters. Inspector Shaif took the appellant to Police Station Pabbi. It was the evening time when the Police Produced accused Shahid before the appellant.
6. That SHO PS Risalpur kept the appellant along with co-accused Usman Hussain and Shahid in illegal confinement till 25/02/2021. Later-on the arrest of all the three including appellant were shown by the Police of PP Taroo in motorcar No. NV-173 Xli vide DD No. 5 Dated 25/02/2021. (Copy enclosed)
7. That during the illegal confinement, appellant brother namely Muhammad Ayub also filed an application U/S 491 CrPC in the Court of Session Judge Nowshera on 24/05/2021. When the Police came to know regarding application U/S 491 CrPC, thereafter they showed the arrest of the appellant on the following day i.e. 25/02/2021 in the above mentioned criminal case. (Copy of application U/S 491 CrPC along with court orders are enclosed)
8. That on 26/02/2021 appellant along with other accused were produce in the court, where one day Police Custody was granted by the Court. It is worth to mention here that during illegal confinement

(31)

SHO PS Risalpur, SI Saifullah and IO/SI Ali Akbar subjected the appellant to intense physical torture. They were compelling the appellant and his family to produce the alleged stolen amount before the Police. The appellant disclosed before the Police Official that he is innocent and has got no concern with the instant case.

9. During the illegal confinement, due to pressure and continuous torture from Police, the appellant informed his brother and closed door neighbor Amir Khan R/O Manikhela to arrange for the production of Case Amount Rs. 14,00,000/-, as the Police were demanding the same amount. The appellant also informed his brother namely Abdullah (serving in Saudi Arabia) for sending the amount by Mobile Phone. The arrangement of the said amount was made as under:

- i. Sold an Alto motorcar on 18/02/2021 @ Rs. 5,90,000/- (Sale deed is enclosed).
- ii. The brother of the appellant had sent Rs. 3,00,000/- on 19/02/2021 (Bank Receipt is enclosed).
- iii. Jewelry was sold on 19/02/2021 @ Rs. 4,50,000/- (Receipt is enclosed).
- iv. Rs. 60,000/- was given by Amir Khan as borrow.

The total amount comes to be Rs. 14,00,000/-. The said total amount was brought by Amir Khan PS Risalpur and handed over to SHO Risalpur. This fact can confirmed by examining Amir Khan. Unfortunately the said amount was shown as recovery from the possession of appellant vide recovery memo dated 26/02/2021. This illegal practice is the extreme boundary of cruelty. This can also be confirmed from the relevant documents already enclosed. (The recovery memo dated 26/02/2021 is enclosed)

10. The motorcar No. NV-173 where in the arrest of the appellant along with other accused is shown belongs to Fazal Akbar R/O Kass Killi Toru. In facts the same car was recovered from his possession in the Bazar of Ghala Dher on 23/02/2021 and was taken into possession as a case property, being used by the appellant in the past. The said motorcar does not relates to the instant case at any stage.

GROUND FOR THE FILING OF F.S.C.N. :

- I. The appellant is innocent and has been falsely implicated in the instant case.

- 32)
- II. There is no single evidence against the appellant to connect him with the commission of offence.
 - III. The complainant has charged has unknown accused. Neither the complainant, nor other PW's have charged the appellant for the commission of offence in any statement recorded U/S 164 CrPC. Merely the appellant has been charged for the commission of offence in the statements recorded U/S 161 CrPC, which are not admissible in the eye of law.
 - IV. The appellant and no other accused had make confession in the court and all such facts denotes that the prosecution case is a concocted story.
 - V. The identification parade was not conducted before a Judge, during investigation, which has made the involvement of the appellant in the case to be doubtful and suspicious.
 - VI. -The CCTV Footage from Wali Interchange to Peshawar Interchange have not confirmed the arrival of the vehicles on the spot mentioned in the FIR on the date of occurrence.
 - VII. The recovery alleged stolen amount worth Rs. 14,50,000/- and recovery of motorcar NV-173 is illegal and contrary to the law, which details is already given in Para 9 and 10 above respectively.
 - VIII. The appellant was released by bail by the Honourable Court of Peshawar High Court order dated 26/03/2021 on the following grounds.
 - a. appellant not directly charged in the FIR.
 - b. Recovery of Rs. 14,50,000/- has not been effected from the possession of the appellant as the same was taken into possession from Amir Khan closed door neighbor of the appellant in the PS Risalpur.
 - c. No identification parade of the appellant as per law was conducted.
 - d. The High Court believe that involvement of the appellant qua their guilt in the crime needs further enquiry. All these grounds from Para "a" to "d" needs your kind attention & consideration.
(Copy of High Court order dated 26/03/2021 is enclosed).

ILLEGAL / SUPERFACIAL ENQUIRY PROCEEDING:

- i. The enquiry officer has conducted a superficial and illegal enquiry against the appellant.

- (33)
- ii. During the proceeding of enquiry, the appellant produced a detailed and comprehensive reply to the charge sheet but no aspect of the reply was considered. Only one PW OII/SI Ali Akbar was summoned and his statement was recorded in the absence of appellant. No opportunity of cross examination at this PW was given to the appellant. Only believing on this single statement the EO recommended the appellant for award of major punishment. Only one sided drama was played during enquiry.
 - iii. Several lacunas and discrepancies were made during the course of enquiry by the EO. The statement of the following of Amir Khan R/O Manikhela who produced the amount Rs. 14,00,000/- to SHO Risalpur has not been recorded by the EO during the course of enquiry. Similarly one Fazal Akbar R/O Kass Kaley Toru (The Owner of motorcar No. NV-173) was not examined during the course of enquiry. Moreover, Inspector Shafi, ASI Sajid Iqbal who took the appellant in custody have also not been examined during the enquiry.
 - iv. All the enquiry proceedings are illegal and against the norm of justice.

PRESENT POSITION OF THE CRIMINAL CASE:

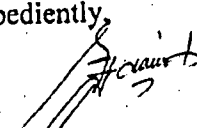
The criminal case vide FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC PS Risalpur is pending trail. There is no chance of conviction of the appellant in the instant case rather there is possibility of acquittal of the appellant in the case as per justice DPO / Mardan was required to kept pending the departmental enquiry till to the arrival of the final judgment of the competent court of law. According to the basic principle of justice the departmental enquiry and judicial proceedings cannot run parallel to each other.

PRAYERS:

Keeping in view the above facts and circumstances, it is humbly requested that on acceptance of this appeal. The order of DPO /Mardan may kindly be set-aside and the appellant be reinstated in service from the date of dismissal please.

Dated: 11/11/2021

Yours Obediently,


Wasther-man Constable
Hameed Ullah
No. 3310
Police Lines, Mardan.
Cell: 0345-1968881

(L)

34

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Washerman Constable Hameed Ullah No. 3310 of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 1941 dated 25.10.2021. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Mardan was involved/charged in case vide FIR No. 58 dated 04.02.2021 u/s 395/365/342/171/412-PPC Police Station Risalpur District Nowshera.

Proper departmental enquiry proceedings were initiated against him and the then Sub Divisional Police Officer, (SDPO) Takht Bhai, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to District Police Officer, Mardan, wherein he found him guilty of the misconduct and recommended him for awarding major punishment.

In light of findings of the enquiry Officer, the District Police Officer, Mardan issued Final Show Cause Notice to the delinquent Officer to which his reply was received and was found unsatisfactory. He was heard in Orderly Room by the District Police Officer, Mardan on 20.10.2021 but he failed to advance any cogent reason in his defense. Therefore, he was awarded major punishment of dismissal from service by the District Police Officer, Mardan vide his office OB: No. 1941 dated 25.10.2021.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 31.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the involvement of appellant in this heinous criminal case is clearly a stigma on his conduct because recovery was duly effected from direct possession of the appellant. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. Moreover, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.


Regional Police Officer,
Mardan.

No. 2751 /ES, Dated Mardan the 05/04 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 294/LB dated 02.12.2021. His Service Record is returned herewith

(15) (35)

To,

The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

Subject: MERCY PETITION AGAINST THE ORDER OF DISTRICT POLICE OFFICER MARDAN ISSUED VIDE O.B NO. 19421 DATED 25.10.2021 WHEREBY DISMISSAL FROM SERVICE AND REJECTION OF APPEAL BY REGION POLICE OFFICER MARDAN VIDE HIS OFFICE ORDER NO. 2751/ES DATED 05/04/2022.

Respected Sir,

Your Honour had issued Charge Sheet & statement of allegation No. 107/PA dated 30/03/2021 to the petitioner, with the following allegation:

“Whereas, Washerman Constable Hameedullah No. 3310, while posted at Police Lines has been charged in a case vide FIR No. 58 dated 04-02-2021 U/S 395/365/342/171/412 PPC PS Risalpur District Nowshera.

1. It is submitted that in the light of above charge sheet a departmental enquiry was initiated against the petitioner and Mr. Muhammad Qais Khan SDPO Takht Bhai was nominated as E.O. The petitioner submitted his detailed reply to the charge sheet but was not considered. The E.O submitted his enquiry finding before your Honour and recommended the petitioner for the award of major punishment. In the light of the enquiry finding, your Honour had issued the subject FINAL SHOW CAUSE NOTICE to the petitioner. (Copy of FSC is enclosed).
2. That the detailed and comprehensive reply in response to the charge sheet is reproduced below for your kind perusal:
3. That in the light of enquiry finding, the DPO Mardan awarded major punishment of dismissal from service to the petitioner vide OB No. 1941 dated 25/10/2021. Being aggrieved from the said order, the petitioner filed an appeal before the Regional Police Officer Mardan, which was rejected vide office order No. 2751/ES dated 05/04/2022. Copy of order No. 2751/ES is enclosed hence the present (Mercy Petition).

(36)

BRIEF FACTS OF THE INCIDENT:

1. It is submitted that the matter relates to Case FIR No. 58 dated 04/02/2021. U/S 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that on 04/02/2021 some unknown accused boarded in XLI Motor Car No. 888 along with white colour Vigo No. Unknown and Vitz No. Unknown reached near Rashakai Interchange. The accused took away the complainant Nihar Ali along with other fellows to Peshawar. The accused also snatched cash amount Rs. 1,10,00,000/- and motorcar from him. On the report of the complainant a criminal case has been registered in PS Risalpur. (Copy of FIR enclosed).
2. In the above case accused Usman Husain S/O Iftikhar Hussain and Shahid S/O Tariq Javed R/O Peshawar were arrested. Later on accused Usman Hussain Allegedly disclosed to the Police that accused Shareefullah S/O Haji Raheem Ullah R/O Barakoh Islamabad was also accompanied with him during the commission of offence.
3. It is pertinent to note that accused Shahid & Sharifullah are property dealers. The petitioner's family also deals in property dealing. In this connection of the same dealing accused Shahid was previously known to the petitioner.
4. It was learned to the Petitioner that during interrogation when accused Shahid was asked that whether he knows any one in Mardan District. The accused disclosed that Petitioner is known to him.
5. On 17/02/2021 Inspector Shafi, ASI Javed Iqbal of Nowshera District Summoned the Petitioner to Mardan College Chowk on Mobile Phone. Petitioner met with him at College Chowk Mardan. Inspector Shafi disclosed that the name of the Petitioner has been brought by the arrested accused Shahid in the above case. The petitioner told that accused Shahid known to him as he is from Peshawar and deals in property matters. Inspector Shaif took the Petitioner to Police Station Pabbi. It

was the evening time when the Police Produced accused Shahid before the Petitioner.

6. That SHO PS Risalpur kept the petitioner along with co-accused Usman Hussain and Shahid in illegal confinement till 25/02/2021. Later-on the arrest of all the three including petitioner were shown by the Police of PP Taroo in motorcar No. NV-173 Xli vide DD No. 5 Dated 25/02/2021. (Copy enclosed)
7. That during the illegal confinement, petitioner's brother namely Muhammad Ayub also filed an application U/S 491 CrPC in the Court of Session Judge Nowshera on 24/05/2021. When the Police came to know regarding application U/S 491 CrPC, thereafter they showed the arrest of the petitioner on the following day i.e. 25/02/2021 in the above mentioned criminal case. (Copy of application U/S 491 CrPC along with court ordrs are enclosed)
8. That on 26/02/2021 Petitioner along with other accused were produce in the court, where one day Police Custody was granted by the Court. It is worth to mention here that during illegal confinement SHO PS Risalpur, SI Saifullah and IO/SI Ali Akbar subjected the Petitioner to intense physical torture. They were compelling the petitioner and his family to produce the alleged stolen amount before the Police. The petitioner disclosed before the Police Official that he is innocent and has got no concern with the instant case.
9. During the illegal confinement, due to pressure and continuous torture from Police, the petitioner informed his brother and closed door neighbor Amir Khan R/O Manikhela to arrange for the production of Case Amount Rs. 14,00,000/-, as the Police were demanding the same amount. The petitioner also informed his brother namely Abdullah (serving in Saudi Arabia) for sending the amount by Mobile Phone. The arrangement of the said amount was made as under:

381

- i. Sold an Alto motorcar on 18/02/2021 @ Rs. 5,90,000/- (Sale deed is enclosed).
- ii. The brother of the petitioner had sent Rs. 3,00,000/- on 19/02/2021 (Bank Receipt is enclosed).
- iii. Jewelry was sold on 19/02/2021 @ Rs. 4,50,000/- (Receipt is enclosed).
- iv. Rs. 60,000/- was given by Amir Khan as borrow.

The total amount comes to be Rs. 14,00,000/-. The said total amount was brought by Amir Khan to PS Risalpur and handed over to SHO Risalpur. This fact can confirmed by examining Amir Khan. Unfortunately the said amount was shown as recovery from the possession of petitioner vide recovery memo dated 26/02/2021.

This illegal practice is the extreme boundary of cruelty. This can also be confirmed from the relevant documents already enclosed. (The recovery memo dated 26/02/2021 is enclosed)

10. The motorcar No. NV-173 where in the arrest of the petitioner along with other accused is shown belongs to Fazal Akbar R/O KassKilliToru. In facts the same car was recovered from his possession in the Bazar of GhalaDher on 23/02/2021 and was taken into possession as a case property, being used by the petitioner in the past. The said motorcar does not relates to the instant case at any stage.

GROUND OF MERCY-PETITION

- I. The petitioner is innocent and has been falsely implicated in the instant case.
- II. There is no single evidence against the petitioner to connect him with the commission of offence.
- III. The complainant has charged has unknown accused. Neither the complainant, nor other PW's have charged the petitioner for the commission of offence in any statement recorded U/S 164 CrPC. Merely the petitioner has been charged for the

391

commission of offence in the statements recorded U/S 161 CrPC, which are not admissible in the eye of law.

- IV. The petitioner and no other accused had make confession in the court and all such facts denotes that the prosecution case is a concocted story.
- V. The identification parade was not conducted before a Judge, during investigation, which has made the involvement of the petitioner in the case to be doubtful and suspicious.
- VI. The CCTV Footage from Wali Interchange to Peshawar Interchange have not confirmed the arrival of the vehicles on the spot mentioned in the FIR on the date of occurrence.
- VII. The recovery alleged stolen amount worth Rs. 14,50,000/- and recovery of motorcar NV-173 is illegal and contrary to the law, which details is already given in Para 9 and 10 above respectively.
- VIII. The petitioner was released by bail by the Honourable Court of Peshawar High Court order dated 26/03/2021 on the following grounds.
 - a. Petitioner not directly charged in the FIR.
 - b. Recovery of Rs. 14,50,000/- has not been effected from the possession of the petitioner as the same was taken into possession from Amir Khan closed door neighbor of the petitioner in the PS Risalpur.
 - c. No identification parade of the petitioner as per law was conducted.
 - d. The High Court believe that involvement of the petitioner qua their guilt in the crime needs further enquiry. All these grounds from Para "a" to "d" needs your kind attention and consideration. (Copy of High Court order dated 26/03/2021 is enclosed).

PRESENT POSITION OF THE CRIMINAL CASE:

The criminal case vide FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC is pending trail. There is no chance of

(30)

conviction of petitioner in the instant case rather there is possibility of acquittal of the petitioner in the case. Better would be that the present departmental enquiry be kept pending till to the arrival of the final judgment of the competent court of law. According to the basic principle of justice the departmental procedure and judicial procedure cannot run parallel to each other.

ILLEGAL / SUPERFACIAL ENQUIRY PROCEEDING:

- i. The enquiry officer has conducted a superficial and illegal enquiry against the petitioner.
- ii. During the proceeding of enquiry, the petitioner produced a detailed and comprehensive reply to the charge sheet but no aspect of the reply was considered. Only one PW OII/SI Ali Akbar was summoned and his statement was recorded in the absence of Petitioner. No opportunity of cross examination at this PW was given to the petitioner. Only believing on this single statement the EO recommended the petitioner for award of major punishment. Only one sided drama was played during enquiry.
- iii. Several lacunas and discrepancies were made during the course of enquiry by the EO. The statement of the following of Amir Khan R/O Manikhela who produced the amount Rs. 14,00,000/- to SHO Risalpur has not been recorded by the EO during the course of enquiry. Similarly one Fazal Akbar R/O Kass Kaley Toru (The Owner of motorcar No. NV-173) was not examined during the course of enquiry. Moreover, Inspector Shafi, ASI Sajid Iqbal who took the petitioner in custody have also not been examined during the enquiry.
- iv. All the enquiry proceedings are illegal and against the norm of justice.

OBSERVATIONS RAISED BY RPO MARDAN WHILE REJECTING THE APPEAL:

The petition has clearly mentioned above regarding the innocence present case. Unfortunately the Worthy /DIG Mardan (appellant

417

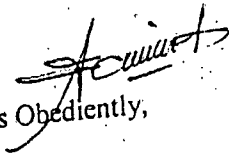
authority) has mentioned in his rejection order that the recovery of amount worth 1,400,000/- was directly affected from the position of the petitioner. Regarding this fact a complete detail has been already mentioned in the title (brief facts of the incident) at Para-9 above. It is crystal clear, that is per recovery memo dated 26/02/2021 that amount worth Rs. 14,50,000/- on was produced by one Amir (relative of the petitioner) to the I.O in PS Risalpur. In such circumstances, petitioner cannot be held responsible for the direct recovery of Rs. 1,450,000/-.

Again unfortunately, the version of petitioner was not considered at any stage of enquiry and as such the petitioner _____ suffered a lot. The petitioner humbly submits that Para No. 9 of the (Brief facts of the incident) and recovery memo dated 26/02/2021 may kindly be perused on priority basis.

PRAYERS:

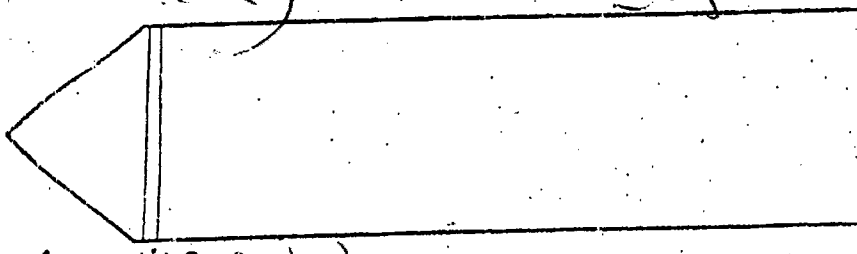
Keeping in view the above facts and circumstances, it is humbly requested that on acceptance of this mercy-petition. The order of DPO /Mardan may kindly be set-aside and the appellant be reinstated in service from the date of dismissal please.

Dated: 11/04/2022


Yours Obediently,

Washer-man Constable
HAMEED ULLAH
No. 3310
Police Lines, Mardan.
Cell: 0345-1968881

تاریخ: _____



سید محمد منجانب اسد زکریا
بنام

محمد الہ

باعث تحریر آنکہ

با بالائیں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

ادوار کے لیے ذیل کے حقائق

یا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
نئی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
نے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
نے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
انگریزی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
روائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جاتہ التوائے مقدمہ کے سب سے وہوگا۔
مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
اوکالت نامہ لکھدیا کہ سند ہے۔

محمد الہ

ماہ _____ 20 _____

گواہ _____

کے لئے منظور ہے۔

محمد الہ