


05.3.2015

Appellant in person and Mr. Muhammad Jan, GP with Nazir Ahmad, H.C for the respondents present. It was brought in our notice that against the same impugned order, the case of Asghar Ali Shah at S.No. 11, is pending before the learned Bench-I. Office is directed to club the case of the said Asghar Ali, Shah and other cases, if any, against the same impugned order. To come up for order/further proceedings on 09.4.2015.

09.04.2015


MEMBER Appellant with counsel (Mr. Imtiaz Ali Advocate) and Mr. Muhammad Jan, GP with Nazir Ahmad, H.C for the respondents present. Arguments heard. Record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 163/2014, titled "Tariq Saleem Versus Deputy Inspector General of Police, D.I.Khan Region etc.", this appeal is also disposed of as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
09.04.2015


MEMBER


MEMBER

10.12.2014

Clerk to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Nazir Ahmad, H.C for the respondents present. The Tribunal is incomplete. To come up for the same on 5.1.2015.


READER

5.1.2015

Clerk to counsel for the appellant and Mr. Ziaullah, GP with Nazir Ahmad, H.C for respondents present. The Tribunal is incomplete. To come up for the same on 17.3.2015.


READER

9.2.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Juma Khan S.I (Legal) for the respondents present. Arguments heard. To come up for order on 26.2.2015.


MEMBER


MEMBER

26.2.2015

Appellant in person and Muhammad Jan, GP with Nazir Ahmad, H.C for the respondents present. Case is adjourned to 05.3.2015 for order.


MEMBER


MEMBER

10.7.2014.

Counsel for the appellant and Mr. Muhammad Jan, GP with representative of the respondents present and submitted before the court that written reply prepared and placed before the respondents for signature. He requested for adjournment. To come up for written reply on 01.09.2014.

MEMBER

MEMBER

01.09.2014

Appellant in person and Mr. Muhammad Jan, GP with Hamid Nawaz, ASI (Legal) J for the respondents present and reply filed. Copy handed over to appellant. To come up for rejoinder on 30.09.2014.

MEMBER

30.09.2014

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Muhammad Bilal, H.C for the respondents present. Rejoinder received, copy whereof is handed over to the learned AAG. To come up for arguments on 13.11.2014.

MEMBER

13.11.2014

Clerk to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Nazir Ahmad, H.C for the respondents present. The Tribunal is incomplete. To come up for the same on 10.12.2014.

MEMBER

Appeal No. 164/2014.


Mr. Muhammad Alamgir

25.03.2014

Appellant with counsel present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 09.12.2013 vide which the appellant was awarded major penalty of removal from service with immediate effect. However, in the departmental appeal filed by the appellant, major penalty removal from service was converted into demotion to the rank of ASI.

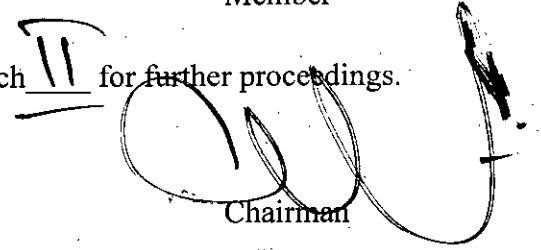
Since the appellant alleged malafide on the part of respondents while passing impugned order and the matter pertaining to terms and conditions of service, therefore, the appeal in hand is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 09.06.2014.

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


Member

25.03.2014

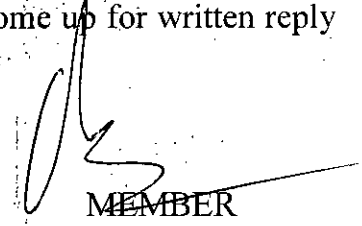
This case be put before the Final Bench II for further proceedings.


Chairman

9.6.2014

Appellant with counsel and AAG present. None is available on behalf of the respondents. Fresh notice be issued to them through registered post. To come up for written reply on 10.7.2014.


MEMBER


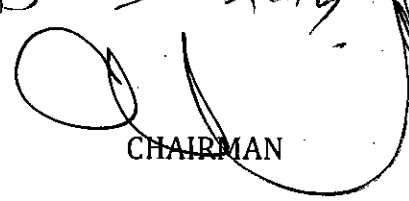

MEMBER

10

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 164/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/02/2014	<p>The appeal of Mr. Muhammad Alamgir presented today by Mr. Intiaz Ali 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	11-2-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>25-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

Service Appeal No. 164 / 2014.

Muhammad Alamgir **APPELLANT**

Versus

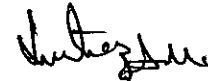
DIG of Police, D.I.Khan & others **RESPONDENTS**

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5.	Copy of Writ Petition	B	11-13
6.	Copy of charge sheet	C	14
7.	Copy of statement of allegation	D	15
8.	Copy of judgment dated 19.11.2013	E	16-22
9.	Copy of reply	F	23-26
10.	Copy of final report	G	27
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Appellant

through



Advocates, Peshawar.

Dated: .02.2014.

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

Service Appeal No. **164** / 2014.

Muhammad Alamgir,
Assistant Sub-Inspector,
Police Lines, D.I Khan

APPELLANT

Versus

1. **Deputy Inspector General of Police,**
Dera Ismail Khan Region.
2. **District Police Officer,**
Dera Ismail Khan.
3. **DSP / DSB (Inquiry Officer),**
Dera Ismail Khan
4. **Regional Police Officer,**
Dera Ismail Khan.....

RESPONDENTS

APPEAL u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated **13.01.2014** of Respondent No.1 whereby while setting aside order dated **09.12.2013** of Respondent No.2 imposing major penalty of removal from service, reinstated the appellant in service by converting his punishment into demotion to the rank of ASI.

PRAYER IN APPEAL: That orders dated **13.01.2014** and **09.12.2013** may kindly be set aside / modified and appellant may be reinstated in service as Sub-Inspector.

10/2/14

Respectfully Sheweth:

1. **THAT** appellant initially joined Police Department as Constable on **15.03.2001**. While in service he did his graduation and also obtained law graduate degree.
2. **THAT** after acquiring aforesaid qualification appellant appeared in competitive exams and was recommended by NWFP Public Service Commission and appointed as Assistant Sub-Inspector in the year 2006. He was later promoted as Sub-Inspector in the year 2012 and was posted as SHO Darabin and Porova, District D.I Khan.
3. **THAT** the District Police Officer Dera Ismail Khan (Respondent No.2) in purported compliance with directions of Respondent No.4, placed appellant along with 20 other police officials under suspension, pending departmental proceedings against each of them vide order dated **23.10.2013**. Copy of order dated 23.10.2013 is enclosed and marked "A".
4. **THAT** all the 21 suspended police officials, including present appellant, questioned their suspension as well as order dated **23.10.2013** of Respondent No.2 through Writ Petition No.421-D/2013 before the Peshawar High Court D.I Khan bench. Copy of Writ Petition is enclosed and marked "B".
5. **THAT** during the pendency of aforementioned Writ Petition appellant as well as the other 20 police officials were issued similar charge sheets and statements of allegations on vague and stereotyped allegations of *corruption, ill-reputation and inefficiency*. While observing that a formal inquiry is necessary and expedient DSP / DSB Dera Ismail Khan (Respondent No.3) was appointed as Inquiry Officer to conduct departmental inquiry against appellant, under KPK Police Rules, 1975. Copy of charge sheet and statement of allegations are enclosed and marked "C" & "D".

6. **THAT** the Writ Petition filed by appellant and his other colleagues were dismissed on **19.11.2013** on the ground that the same was hit by the bar contained in Article 212 of the Constitution. Copy of judgment dated 19.11.2013 is enclosed and marked "E".
7. **THAT** notwithstanding the fact that charge sheet as well as statement of allegations did not contain any specific instances or grounds justifying the charge of corruption etc., enabling the appellant to submit/offer a proper defense, he nevertheless submitted a detailed reply to the show cause notice. Copy of reply is enclosed and marked "F".
8. **THAT** Inquiry Officer (Respondent No.3) without specifying any details about the alleged misconduct of appellant and/or referring to any material/evidence in support thereof and also brushing aside detailed reply submitted by the appellant, vide an undated and hurriedly compiled final report, by holding the appellant guilty of the charges, proceeded to recommend imposition of major punishment. Copy of final report is enclosed and marked "G".
9. **THAT** the Respondent No.2 on receipt of aforesaid *perfunctory* inquiry report mechanically and without application of mind, vide order dated **09.12.2013** by endorsing the *erroneous* findings and recommendation of enquiry officer, awarded the appellant major punishment of *removal from service*. Copy of order dated 09.12.2013 is enclosed and marked "H".
10. **THAT** against the order dated **09.12.2013** appellant preferred an appeal on **23.12.2013** which has been partially accepted in terms that finding of guilt has been maintained but by taking a so-called lenient view, order of Respondent No.2 date **09.12.2013** removing the appellant from service, has been set aside / modified by converting the appellant's punishment into demotion to the lower rank of Assistant Sub-Inspector. Copy of departmental appeal and order dated 13.01.2014 are enclosed marked "J" and "K".
11. **THAT** mortally aggrieved of aforesaid orders of Respondent No.2 dated **09.12.2013** and that of Respondent No.1 dated **13.01.2014**, appellant is

constrained to invoke the jurisdiction of this Hon'ble Tribunal, on the following amongst other: -

GROUND:

- A. **THAT** the impugned orders, on the face of it, are *harsh, arbitrary* and *devoid of any reasons*.
- B. **THAT** the charge framed against the appellant and statement of allegations issued thereon were *vague* and *not in accordance with the relevant provisions of law*. Appellant was kept unaware of any particular/specific allegation leveled against him, he thus being denied his right to properly defend himself, has practically been *condemned unheard*.
- C. **THAT** the entire proceedings right from its inception up to its culmination in imposition of major punishment upon appellant suffers from *illegal, arbitrary, and colorful* exercise of powers by the authorities concerned. Neither any specific and tangible charge of corruption, inefficiency etc. was leveled against the appellant nor anything of the sort, even remotely suggesting misconduct has been proved through the *sham* and *fake* inquiry proceedings. The so called final report as well as impugned orders besides being *whimsical* and *arbitrary*, display utter disregard of *principles of natural justice* and absolute non-application of mind by Respondent No.1, to 3.
- D. **THAT** not only relevant provisions of service rules have been violated with impunity but appellant has also been denied his fundamental right to *fair trial* and *due process*, guaranteed by the newly inserted Article 10A of constitution of Islamic Republic of Pakistan.
- E. **THAT** bare perusal of the so-called final report reveals that none of the so-called charges have been proved against the appellant and he has only been penalized for filing a Writ Petition before the High Court, along with his other colleagues. Only an extremely *biased* person, with *no understanding of law of the land* could have termed approaching a court of law by a civil servant against an adverse order, as *indiscipline* OR

creating factions/union of comrades in police force, justifying imposition of major penalty upon appellant, more so when he was not even charged on such count, in the first place. Unfortunately Respondent No.1 and 2 also *erroneously* went along with such *frivolous, illegal and un-constitutional* approach of the inquiry officer.

- F. **THAT** the hasty manner of the inquiry proceedings suggests that the fate of appellant had been pre-determined. This fact is amply proved by the fact that on **06.12.2013** appellant submitted his reply to show cause notice before the Inquiry Officer and on the same day the Inquiry Officer without taking any pains to analyze, verify the contents of such reply prepared and finalized his so-called final report and submitted the same on the next day. Copies of order sheet / proceedings are enclosed marked "L".
- G. **THAT** it is unfortunate to note that even the Appellate Authority (Respondent No.1) has failed to appreciate that no charge whatsoever had been proved against the appellant and he therefore did not deserve a mere lenient view but his appeal deserved outright acceptance.
- H. **THAT** the Authority (respondent no.2) while suspending petitioner and mechanically ordering disciplinary proceedings against the appellant *in compliance of directions of* respondent no.4 vide letter No.3439-40/ES dated 22.10.2013, failed to discharge his statutory obligation in terms of Rule 5 Sub-rule (1) of KP Police Rules, 1975. Under said provision Authority is required to examine and evaluate any information of misconduct against a subordinate, before initiating proceeding against the concerned official. The entire edifice created open such weak and irregular foundation is liable to be set at naught.
- I. **THAT** although as many as 3, albeit vague and un-specific, charges were leveled against the appellant, but impugned orders like the so-called Final Report are silent as to which, if any, charge was proved against him. Imposition of major punishment as a result of proceedings carried out in such a slipshod manner cannot be countenanced, much less endorsed / approved by a court of law or Tribunal.

J. **THAT** other grounds / pleas may be raised at the time of hearing, with the permission of this learned Tribunal.

For the foregoing reasons, it is, therefore, respectfully prayed that on acceptance of this appeal, the orders dated **13.01.2014** and **09.12.2013** may kindly be set aside / modified and appellant may be reinstated in service as Sub-Inspector with all back benefits from the date when he was demoted from his rank.



Appellant

through



Imtiaz Ali

Advocate Supreme Court of Pakistan

and



Ishtiaq Ahmad,

Advocate, High Court.

Dated: 08.02.2014

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

Service Appeal No. / 2014.

Muhammad Alamgir APPELLANT

Versus

DIG of Police, D.I.Khan & others RESPONDENTS

AFFIDAVIT of Mr.Muhammad Alamgir, Assistant Sub-Inspector, Police Lines, D.I Khan.

I, Mr.Muhammad Alamgir, Assistant Sub-Inspector, Police Lines, D.I Khan do hereby solemnly declare and state: -

1. That the accompanying appeal has been drafted under the instructions of the appellant imparted through me.
2. That I am personally conversant with the facts and circumstances of the case as contained therein.
3. That the facts and circumstances mentioned in the accompanying appeal are true and correct to the best of my knowledge and belief.

M. de B...
Deponent

VERIFICATION:

The contents of the above affidavit are true and correct to the best of my knowledge and belief.

Verified on Oath at Peshawar this day of February, 2014.

Identified by:

[Signature]
Advocates.

M. de B...
Deponent

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

Service Appeal No. / 2014.

Muhammad Alamgir APPELLANT

Versus

DIG of Police, D.I.Khan & others RESPONDENTS

MEMO OF ADDRESSES

APPELLANT

**Muhammad Alamgir,
Assistant Sub-Inspector,
Police Lines, D.I Khan**

RESPONDENTS

1. **Deputy Inspector General of Police,
Dera Ismail Khan Region.**
2. **District Police Officer,
Dera Ismail Khan.**
3. **DSP / DSB (Inquiry Officer),
Dera Ismail Khan**
4. **Regional Police Officer,
Dera Ismail Khan**



Appellant
through



Dated: .02.2014.

Advocates, Peshawar.

(9)

"A"

ORDER

In compliance of directions received vide letter No. 3439-40/IS, dated 22.10.2013 from the office of Regional Police Officer, Dera Ismail Khan, following officers/officials are hereby placed under suspension and closed to Police Lines with immediate effect, pending departmental proceedings against each.

1. Inspector Muhammad Yousof SHO Kulachi.
2. Inspector Sana Ullah SHO Cantt.
3. Inspector Kifayat Hussain CO/Inv.
4. SI Faiz Kateem SHO Draban.
5. SI Muhammad Imran SHO Baharpur.
6. SI Mohammad Nawaz SHO Band Kurai.
7. SI Ghulam Kazim Addl. SHO Prova.
8. SI Abdul Hamid Incharge Traffic Staff.
9. SI Khalid Mehmood Incharge Inv. PS/University.
10. ASI Tong Saqem Police Lines Dikhan (already suspended)
11. SI Asghar Ali Shah Police Lines Dikhan.
12. SI Sagheer Abbas Police Lines Dikhan.
13. SI Muhammad Hashim ASHO PS/Cantt.
14. SI Alamgiri Khan Police Lines Dikhan.
15. HC Saad Ullah No. 555 OASI.
16. HC Javed Akbar No. 1190.
17. HC Akhtar Menir No. 319 Police Lines Dikhan.
18. HC Muhammad Ramzan No. 1098 TO Traffic Staff.
19. HC Muhammad Akram No. 1130 TO Traffic Staff.
20. Constable Driver Muhammad Aslam No. 1774.
21. HC Said Khan No. 684 Gunmen.

District Police Officer,
Dera Ismail Khan

No. 23873

Dated Dikhan the 23/10 2013

Copy of above is submitted to Regional Police Officer Dera Ismail Khan for favour of information w/r to his office No. quoted above. It is requested that a formal order on initiation of departmental proceedings against officers mentioned at S.No. 1 to 3 along with issuing of charge sheet/summary of allegation may kindly be issued in light of provisions of Rules, the said officers being of the rank of Inspector.

Handwritten signature: M. Iqbal

District Police Officer,
Dera Ismail Khan

Handwritten signature

A

BETTER COPY

(10)

ORDER

In compliance of directions received vide letter No.3439-40/ES, dated 22.10.2013 from the Office of Regional Police Officer, Dera Ismail Khan, following officers / officials are hereby placed under suspension and closed to Police Lines with immediate effect, pending departmental proceedings against each.

1. Inspector Muhammad Yousaf SHO Kulachi
2. Inspector Sana Ullah SHO Cantt.
3. Inspector Kifayat Hussain GO/Inv:
4. SI Faiz Kateem SHO Draban.
5. SI Muhammad Imran SHO Paharpur
6. SI Muhammad Nawaz SHO Band Kurai
7. SI Ghulam Kazim Addl: SHO Prova
8. SI Abdul Hamid Inchage Traffic Staff
9. SI Khalid Mehmood Inchage Inv: PS/Unversity
10. ASI Tariq Saleem Police Lines DIKhan (already suspended)
11. Asghar Ali Shah Police Lines DIKhan
12. SI Sagheer Qadoos Police Lines DIKhan
13. SI Muhammad Hashim ASHO PS/Cantt
14. SI Alamgir Khan, Police Lines DIKhan
15. HC Saadullah No.555 OASI
16. LHC Javed Akbar No.1199
17. HC Akhtar Munir No.819 Police Lines DIKhan
18. HC Muhammad Ramzan No.1098 TO Traffic Staff
19. HC Muhammad Akram No.1130 TO Traffic Staff
20. Constable Driver Muhammad Aslam No.774
21. HC Said Khan No.684 Gunmen

**District Police Officer
Dera Ismail Khan**

No.23873/

Dated DIKhan the 23/10/2013

Copy of above is submitted to Regional Police Officer Dera Ismail Khan or favour of information w/r to his office No. quoted above it is requested that a formal order on initiation of departmental proceedings against officers mentioned at S.No.1 to 3 along with issuing of charge sheet/ summary of allegation may kindly be issued in light of provisions of Rules, the said officers being of the Rank of Inspector.

**District Police Officer
Dera Ismail Khan**

E

[Handwritten signature]

EX-1000R
7.1.12

(Note: The address of parties as given above are sufficient for the purpose of service)

ATTESTED

- 8. District Accounts Officer (Amplifier of Accounts) (P.O. & S.O. (P.O. & S.O.))
- 7. Accountant General, K.P.K., Peshawar.
- 6. District Police Officer, D.I.Khann.
- 5. Deputy Inspector General of Police (K.P.O.), D.I.Khann Range, D.I.Khann.
- 4. A.P.O. Office, K.P.K., P.O., Peshawar.
- 3. Addl. Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar.
- 2. Additional Inspector General of Police (Hqs), Khyber Pakhtunkhwa, Peshawar.
- 1. Provincial Police Officer, Khyber Pakhtunkhwa, C.P.O., Peshawar.

[Handwritten signature]

26/1/12

Versus

(Defendants)

- 21. Said Khan, Head Constable No. 681, Office of D.P.O., D.I.Khann.
- 20. Muhammad Aslam, Constable No. 771, Office of D.P.O., D.I.Khann.
- 19. Muhammad Akram, Head Constable No. 1130, Office of D.P.O., D.I.Khann.
- 18. Muhammad Kamran, Head Constable No. 1098, Office of D.P.O., D.I.Khann.
- 17. Akhtar Muneer, Head Constable No. 319, Office of D.P.O., D.I.Khann.
- 16. Javed Akbar, Lance Head Constable No. 1199, Office of D.P.O., D.I.Khann.
- 15. Saad Ullah, Head Constable No. 555, Office of D.P.O., D.I.Khann.
- 14. Alauddin Khan, Sub Inspector, Office of D.P.O., D.I.Khann.
- 13. Muhammad Hashim, Sub Inspector, Office of D.P.O., D.I.Khann.
- 12. Saqib Ali, Sub Inspector, Office of D.P.O., D.I.Khann.
- 11. Asghar Ali Shah, Sub Inspector, Office of D.P.O., D.I.Khann.
- 10. Farq Sadeem, ASI, Office of D.P.O., D.I.Khann.
- 9. Khalid Mahmood, Sub Inspector, Office of D.P.O., D.I.Khann.
- 8. Abdul Hameed, Sub Inspector, Office of D.P.O., D.I.Khann.
- 7. Chitram Kazim, Sub Inspector, Office of D.P.O., D.I.Khann.
- 6. Muhammad Nawaz, Sub Inspector, Office of D.P.O., D.I.Khann.
- 5. Muhammad Imran, Sub Inspector, Office of D.P.O., D.I.Khann.
- 4. Faiz Rafeem, Sub Inspector, Office of D.P.O., D.I.Khann.
- 3. Raza Hussain, Sub Inspector, Office of D.P.O., D.I.Khann.
- 2. Samiullah Inspector, Office of D.P.O., D.I.Khann.
- 1. Muhammad Yousof, Inspector, Office of D.P.O., D.I.Khann.

2382



(11)

With Petition No.

BEFORE THE PESHAWAR HIGH COURT, D.I. KHAN, PESHAWAR.

B

b

PETITION UNDER ARTICLE 199, CONSTITUTION OF IRP, 1973.

PRAYER:-

- To kindly direct and require the respondents to act in accordance with law, desist from acting contrary to law, desist from discriminating the petitioners against the provisions of law and rules.
- To declare Order No. 1330/R dated 23.10.2013 of Respondent No.6, issued in consequence of Letter No. 3439-40/ES dated 22.10.2013 emanating from Respondent No.5, as Illegal, Ultra virus, Null and Void ab-initio, issued wrongly to the detriment of petitioners, and thereby direct and require respondents to desist from giving effect to the said Order and any action ancillary / consequential thereto.
- To direct and require the respondents to reinstate the petitioners to regular duty in accordance with law, rules. Besides, grant of any other remedy that this Hon'ble Court may consider appropriate in the circumstances.

Respectfully Stated,

The petitioners prefer instant petition on, inter-alia, the grounds hereinafter submitted apropos the following facts.

BRIEF FACTS:-

1. That the petitioners, sane, adult citizens are residing within territorial jurisdiction of this Hon'ble court and are rightfully eligible for the purpose of relief sought hereby.
2. That the petitioners have been employed in the KPK Police Department and are posted at district D.I.Khan by the respondent Police Officers for discharge of their duties.
3. That by the dint of order issued by Respondent No.6 vide his office No.23873 dated 23.10.2013 in consequence of Letter No.3439-40/ES dated 22.10.2013 emanating from office of Respondent No.5, as impugned hereby, services of the petitioners have been ordered as suspended. Copy of impugned Order is placed at Annex-A while copy of Letter of respondent No.5 could not be obtained despite effort and can be requisitioned through respondent No.5.
4. That aggrieved by the discriminatory action and omission on part of the respondents, in their failure to abide by the Law & Rules in vogue and left with no other remedy available to them, the petitioners approach this Hon'ble court seeking redressal of their grievance as prayed on the grounds mentioned hereinafter.

GROUND:

- a. That the petitioners are duly qualified, as per their due seniority as well professional skills and academics to hold their respective offices and perform active duties in keeping with the provisions of Police Order-2002. Nothing to the adversity of petitioners is available with the respondents to restrain petitioners from performance

ATTESTED

EXAMINOR
28/10/13

of the active duty or for that purpose to suspend the services of petitioners without any lawful justification but under political and extraneous influence.

- b. That the act and omission on part of respondents while placing the petitioners under suspension through impugned order is against the spirit of principles governing public / civil service and thereby has caused grave miscarriage of justice to the petitioners provoking interference by this Hon'ble Court in its constitutional jurisdiction to correct, rectify and undo the wrong.
- c. That the petitioners have been discriminated and victimized apparently due to extraneous and political interference and without any lawful justification. Withholding and ignoring Law, Rules & good governance besides cautions of public / civil service by respondents in placing the petitioners under suspension en-block, appears to be an effort not only to appease political bosses but to frustrate the rights of the petitioners accredited duly by the constitution, law and precedents; thus calling for interference by this Hon'ble court.
- d. That counsel for the petitioner may graciously be allowed to raise additional grounds and records, as the case may be, during the course of arguments, if need be.

Prayer:-

In view of the above facts and grounds mentioned hereinafore, it is humbly requested that by graciously declaring the impugned order as Wrong, Improper, Nullity in law, illegal ab-initio, Ultra-Virus and inoperable against petitioners, the respondents may very graciously, be directed and required to desist from acting upon or giving effect to the said order, as well any ancillary or consequential acts / effects, and to reinstate the petitioners to active service / duties, together with grant of any other appropriate remedy that this Honourable Court may graciously determine, in the light of relevant circumstances.

2384 Dated 25.10.2013

26/10/13

Humbly,
(DIK) Petitioner & Attorney
Through Counsel.

(Muhammad Ismail Alizai)
Advocate High Court, D.I. Khan.

AFFIDAVIT

I, Asghar Ali Shah, the petitioner & attorney for rest, do hereby affirm on Oath and declare that contents of the instant petition are true and correct to the best of my knowledge and as per official records and that nothing has been willfully concealed or kept from this Honourable Court.

Dated: 25.10.2013

Identified by
(Muhammad Ismail Alizai)
Advocate High Court, D.I. Khan.

Asghar Ali Shah
Inspector Office
D.I. Khan
Deponent

On the 26th day of October 2013
At D.I. Khan
2386 26-10-13

ATTESTED

29/10/13

(14) 20

CHARGE SHEET

Where as, I am satisfied that a formal enquiry ~~conducted~~ completed by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

That you while serving in Police Department have been involved in the following misconduct:-

1. Corruption.
2. Ill reputation.
3. Inefficiency.

This act on your part amounts to gross misconduct which is punishable under the rules.

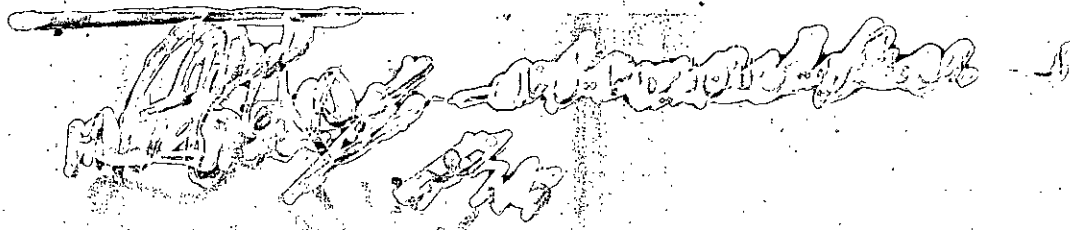
AND WHEREAS, I am of the view that the allegation if established would call for a major penalty as defined in rules-4(i)(B) of the aforesaid rules.

AND THEREFORE, as required by Police Rules 6(1) of the aforesaid rules, **I Mohammad Nisar Ali (PSP)** District Police Officer Dera Ismail Khan hereby charges you **SI Alamgir** with the misconduct on the basis of the statement attached to this Charge Sheet.

AND, I, hereby direct you further under rules 6(i)(B) of the said rules to put in written defence within 7-days of receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state at the same time whether you desire to be heard in person or otherwise.

AND, in case, your reply is not received within the prescribed period, without sufficient case, it would be presumed that you have no defence to offer and that expert proceeding will be initiated against you.


District Police Officer,
Dera Ismail Khan



DISCIPLINARY ACTION

15

D

I, MOHAMMAD NISAR ALI (PSP), District Police Officer, Dera Ismail Khan, as a competent authority am of the opinion that you SI Alamgir have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of the Khyber Pakhtunkhwa Police Rules 1975.

STATEMENT OF ALLEGATION

That you while serving in Police Department have been involved in the following misconduct:-

1. Corruption.
2. Ill reputation.
3. Inefficiency.

This act on your part amounts to gross misconduct which is punishable, under the rules.

Hence the statement of allegation.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation: DSP/DSB Dera Ismail Khan is appointed as enquiry officer to conduct proper departmental enquiry under Police Rules 1975.

3. The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the accused, record its findings and make, within ten days of the receipt of this order recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.

Barh
District Police Officer,
Dera Ismail Khan

No. 25081-82/Dated DIKhan the

28-10-2013

Copy to: -

1. DSP/DSB Dera Ismail Khan. The enquiry officer for initiating proceeding against the defaulter under the provision of Khyber Pakhtunkhwa Police Rules 1975. Enquiry papers containing _____ pages are enclosed.
2. SI Alamgir with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.

Barh
District Police Officer,
Dera Ismail Khan

*Recd
SI Alamgir
Barh*

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"E"



JUDGMENTSHEET
PESHAWAR HIGH COURT D.I.KHAN BENCH
JUDICIAL DEPARTMENT

WP No. 491-D of 2013

Date of hearing 19-11-2013

Appellant / petitioner (Muhammad Yousaf Ather) by

Mw. Muhammad Ismael Khan Alizai Adv & Co.

Respondent (Govt of KP & others) by

Mw. Samanullah Khan Shaukur A.A.S.

LAL JAN KHATTAK J. - Vide my detailed judgment in

writ petition No.490 of 2013 this writ petition No.491 of 2013

alongwith its CM.No.523 of 2013 is dismissed.

ANNOUNCED
19.11.2013.

[Signature]
JUDGE

[Signature]
JUDGE

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30/11

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21/12/17



17



JUDGMENTSHEET
PESHAWAR HIGH COURT D.I. KHAN BENCH
JUDICIAL DEPARTMENT

wP No. 490-D of 2013
Date of hearing: 19-11-2013

Appellant / petitioner: Muhammad Hussain d others
Mr. Muhammad Ismail Khan Alizai Advocate
Respondent: Govt of P.K.K d others by
Mr. Saieullah Khan Shaami AAS

LAL JAN KHATTAK J. - Through this common judgment we intend to dispose of writ petition No.490 of 2013 and writ petition No.491 of 2013 as common questions of law and facts are involved therein.

2. Petitioners who are police officials have prayed this court to issue a writ in the following manner:-

- i) "To kindly direct and require the respondents to act in accordance with law, desist from acting contrary to law, desist from discriminating the petitioners against provisions of law and rules."
- ii) To declare Order No.1330/R dated 23.10.2013 of respondent No.6 issued in consequence of letter No.3439-40/ES dated 22.10.2013 emanating from respondent No.5 as illegal,

Gan

ATTESTEL

EXAMINOR
Peshawar High Court

[Signature]
21/12/13

[Decorative flourish]

Ultra virus, null and void ab-initio, issued wrongly to the detriment of petitioners, and thereby direct and require respondents to desist from giving effect to the said Order and any action ancillary/consequential thereto."

iii) *To direct and require the respondents to reinstate the petitioners to regular duty in accordance with law, rules. Besides, grant of any other remedy that this Hon'ble Court may consider appropriate in the circumstances."*

3. Brief facts of the case are that the respondent No.1 on 23.10.2013, passed against the petitioners, the following order:-

Gain

"In compliance with the order of Deputy Inspector General of Police, Dera Ismail Khan Range vide his office Memo: No.3439-40/ES, dated 22.10.2013, the following Police Officers/Officials is hereby placed under suspension on the allegation of ill reputation, corruption and inefficiency and closed to Police-Lines, Tank for further departmental proceedings with immediate effect."

ATTESTER

EXAMINER
[Signature]
2/12/13



19

4. In pursuance of the afore-said order, disciplinary proceedings have now been initiated against them through an enquiry officer. They have been charge-sheeted and accordingly directed to put in their written defence within seven days.

5. Feeling aggrieved of the afore-said order petitioners have impugned the same through the instant writ petition.

6. Notice of the petition was given to the respondents who appeared and on their behalf the learned AAG raised a preliminary objection to the maintainability of the writ petition on the ground that the petitioners are civil servants and the proceedings initiated against them pertain to terms and conditions of their service on which Service Tribunal has the exclusive jurisdiction to proceed with.

7. Learned counsel for the petitioners in response to the above contended that though apparently the matter pertains to the terms and conditions of service but as the impugned order has been passed in sheer violation of law and rules on the

ATTESTEL: subject which is also tainted with mala fide, therefore, in such

EXAMINOR
 Peshawar High Court
 11/2/13

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like situation the High Court is well-possessed with a power to declare it illegal and contrary to law.

8. We have heard learned counsels for the parties and perused the record of the case.

9. Perusal of the record reveals that admittedly the petitioners are civil servants performing their duties in various capacities in the police department. Equally there is no dispute that the order impugned by the petitioners pertains to the terms and conditions of their service as disciplinary proceedings have been initiated against them under the relevant law by the respondents. Likewise there is no denying the fact that there is established a Service Tribunal which has exclusive jurisdiction over the issue agitated by the petitioners in the impugned writ petition.

Jan

10. According to Article 212 of the Constitution of Pakistan, 1973, the matter involved in the instant writ petition exclusively falls within the ambit of service tribunal. For the purpose of advantage Article 212 is reproduced as under:-

ATTESTED

"212. Administrative and Courts and Tribunals.--(1) Notwithstanding anything

EXAMINER OF
2/12/13

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hereinbefore contained, the appropriate Legislature may by act [provide for the establishment of] one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of---

(a) Matters relating to the terms and conditions of persons [who are or have been] in the service of Pakistan, including disciplinary matter;

(b) -----

(c) -----

(2) Notwithstanding anything hereinbefore contained, where any Administrative Court or Tribunal is established under clause (1), no other Court shall grant an injunction, make any order or entertain any proceeding in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends.

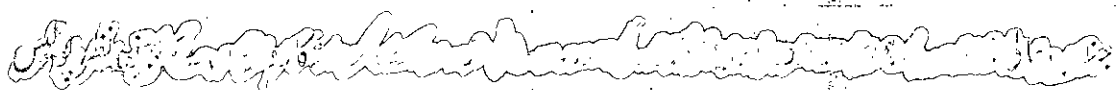
Jan

11. In view of the above clear cut bar this Court is not possessed with a jurisdiction to entertain the issue agitated in the instant writ petition by the petitioners.

12. So far as the contention of the learned counsel for the petitioner that as the impugned order is based on mala fide, therefore, this court can upset the same notwithstanding the

ATTESTED

EXAMINOR
M. 2/12/13



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bar contained in Article 212 of the Constitution. We are afraid to be in agreement with the learned counsel for the petitioners as it is by now a settled law that even an order based on mala fide too can be assailed before the Service Tribunal.

13. For what has been discussed above, we found the instant writ petition not maintainable before this Court and the same is, therefore, dismissed alongwith CM. However, the petitioners may seek their remedies before the competent forum under relevant the law.

ANNOUNCED
19.11.2013.

[Signature]
JUDGE

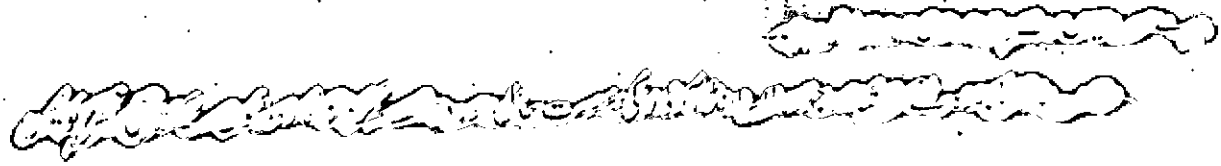
[Signature]
JUDGE

ATTEST

EXAMINOR

[Signature]

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30/11



بیان از ان SI محمد عالمگیر خان (D/49) حال معطل پولیس لائن ڈیرہ اسماعیل خان

جناب عالی! مشمولہ چارج شیٹ و شیمنٹ آف ایلیکشن معروض ہوں کہ بندہ پر لگائے جانے والے الزامات میں کوئی صداقت نہیں ہے۔ بندہ مورخہ 15-03-2001 کو محکمہ پولیس میں بطور کانسٹیبل بھرتی ہو کر اپنی احسن کارکردگی کی بدولت مورخہ 26-12-2006 کو مقابلے کے امتحان زیر تحت پبلک سروس کمیشن صوبہ سرحد (KPK) DIK رتج سے P.ASI سلیکٹ ہو کر اپنی احسن کارکردگی کی بدولت مورخہ 13-12-2012 کو سب انسپکٹر (BPS-14) ترقی یاب ہوا۔ اپنی پولیس سروس (تقریباً 13 سال) میں کئی حکمانہ کورسز (ریکورڈ، لوئر کلاس، انٹرمیڈیٹ، اپر کلاس) کے علاوہ عملی طور پر بھی اعلیٰ کارکردگی کا مظاہرہ کیا۔ بندہ محکمہ پولیس میں ذیل رینک میں نوکری کر چکا ہے۔ بالخصوص کانسٹیبل ڈیوٹی / ASI، A.SHO کے علاوہ اور بطور افسر مہتمم تھانہ بھی تعینات رہا جن کی تفصیل ذیل ہے:

نمبر شمار	نوعیت	تھانہ	ضلع
1	S.H.O	درابن	ڈیرہ اسماعیل خان
2	S.H.O	پروا	ڈیرہ اسماعیل خان

عالی قدر! شیمنٹ آف ایلیکشن میں بندہ پر جو الزامات عائد کئے گئے ہیں وہ حقیقت کے منافی ہیں۔

☆ کرپشن (Corruption)

دوران سروس بندہ پر نہ تو کبھی کرپٹ ہونا ثابت ہوا اور نہ ہی بندہ کے خلاف کوئی ایسی دستاویزی شہادت (انکوائری رپورٹ / ایف آئی آر) موجود ہے جس کی بنیاد پر بندہ کو کرپٹ گردانا جاسکے۔

☆ بُری شہرت (Ill Reputation)

بندہ ڈسپلن کا پابند اور افسران بالا کے احکام کے تابع اپنے فرائض منصبی نہایت جانفشانی اور دیانداری سے سرانجام دینے پر یقین رکھتا ہے۔ علاوہ ازیں بندہ محکمہ پولیس میں ابتدائی درجے (کانسٹیبل) بھرتی ہو کر موجود الوقت "سب انسپکٹر" تک ترقی یاب ہوا ہے۔ بندہ کے خلاف نہ تو حکمانہ طور پر اور نہ ہی publically کبھی کوئی شکایت نسبت کرپشن، بُری شہرت اور ناقص کارکردگی کے حوالے سے نہ تو کی گئی اور نہ ہی زیر غور ہے۔ اس بابت بندہ کا سروس ریکارڈ روز روشن کی طرح عیاں ہے۔ سالانہ رپورٹ ہائے (ACRs) بھی قابل ملاحظہ ہیں۔ (سروس ریکارڈ کی فوٹو کاپی بھی ہمراہ لفت قابل ملاحظہ ہے۔)

☆ ناقص کارکردگی (In-efficiency)

محکمہ پولیس میں کانسٹیبل بھرتی ہو کر سب انسپکٹر کے رینک تک پہنچنا اور دوران سروس کلیدی عہدوں پر تعینات رہنے سے بندہ کی کارکردگی پر کبھی جاسکتی ہے۔ بحیثیت ایس ایچ او بندہ جہاں جہاں تعینات رہا بندہ نے بہتر کارکردگی کا مظاہرہ کیا۔

بالخصوص برآمدگی ناجائز اسلحہ و ایمونیشن و نشیات، گرفتاری POS، کارروائی انسدادی از قسم 106 ض ف تا 110 ض ف، برآمدگی مال مسروقہ۔ علاوہ ازیں بذریعہ مصالحت کئی ایسے اہم نوعیت کے واقعات اپنی مداخلت اور Supervision کی وجہ سے حل کئے جو عوام الناس میں طویل عرصہ سے عداوت کا باعث تھے۔ جملہ امور بارے بندہ کی جائے تعیناتیوں سے پتہ براری کی جاسکتی ہے۔

جناب عالی! بندہ نے ہمیشہ موجودہ لاء اینڈ آرڈر کی صورت حال اور دہشت گردانہ کارروائیوں کے پیش نظر پولیس

فوز کا میج بہتر بنانے اور مورال بلند رکھنے کی کوشش میں offensive policing (جرات آزمایا پولیس کاری) کا مظاہرہ کیا ہے۔ بالخصوص بندہ کے لئے یہ بات قابل فخر ہے کہ بندہ کو ایک اچھی شہرت رکھنے کی وجہ سے ASI رینک ہی میں ایک ایسے تھانہ میں (دراہن) SHO تعینات کیا گیا۔ جہاں دہشت گردوں کی ایک کامیاب کارروائی کی وجہ سے نہ صرف امن وامان کا قیام قصہ پارینہ بن چکا تھا بلکہ علاقہ میں قانون کی عملداری اور پولیس رٹ قائم کرنا بھی چیلنج تھی؟

☆ وضاحت ☆

بحوالہ مقدمہ نمبر 234 مورخہ

302.324.353.404.427148.149.7ATA.3/4Exp جرم 23-11-2011

پی پی سی تھانہ دراہن (تھانہ دراہن پر دہشت گردوں نے پولیس ملازمان کو بریغمال کر کے اپنے مذموم مقاصد کے حصول کے لیے راکٹ لانچروں، دستی بموں اور ہینڈ گرنیڈوں سے حملہ کیا اس حملے میں ASI محمد اکرم اور کانسٹیبل قسمت اللہ شہید ہوئے جبکہ SHO ذوالفقار خان اور چار کانسٹیبلان شدید زخمی ہوئے طرمان ادہشت گرد 15/20 منٹ تک مقابلہ کرنے کے بعد چلے گئے اور اپنے ساتھ کافی تعداد میں سرکاری اسلحہ و ایمونیشن بھی لے گئے۔

نوٹ: اس وقوعہ میں بعد تفتیش، عمران گنڈہ پورا اور اسکے دیگر ساتھی ملوث پائے گئے۔

تھانہ دراہن کا چارج سنبھالتے ہی بندہ نے شب روز ایک کر کے نہ صرف علاقہ میں پولیس رٹ قائم کرتے ہوئے قانون کی عملداری کو یقینی بنایا بلکہ تھانہ دراہن پر حملہ کے ذمہ دار "عمران گنڈہ پور گروپ" کے خلاف گھیرہ تنگ کیا انفارمیشن Sources کو بڑھایا جس کے نتیجے میں مذکورہ بہت جلد اپنے منطقی انجام کو پہنچا (عمران گنڈہ پور مذکورہ ضلعی پولیس کو 29 دہشت گردی کے سنگین مقدمات میں مطلوب تھا جنکی تفصیل ہمراہ لف قابل ملاحظہ ہے۔ کیونکہ مذکورہ نے تھانہ دراہن سے ملحق FR درازندہ کو اپنا مسکن بنا رکھا تھا۔) اور بارہا پولیس فورس کو ٹارگٹ کر چکا تھا۔

عمران گنڈہ پور کے وقوعہ ہلاکت میں بندہ کے مؤثر کردار ہر ذریعہ سے تسلی و تصدیق کی جاسکتی ہے۔ علاوہ ازیں بندہ نے دوران تعیناتی SHO دراہن تھانہ کی ویلفیئر اور حدود آراضی قائم کرانے میں جو کردار ادا کیا وہ روز روشن کی طرح عیاں ہے۔ کیونکہ طویل عرصہ سے آراضی تھانہ (Govt: Property) غیر قانونی طور پر زیر قبضہ چلی آرہی تھی آراضی سرکاری واگزار کرانے اور قانون کی عملداری یقینی بنانے میں بندہ نے کلیدی کردار ادا کیا جو بریکارڈ ہے۔

حکومت SHO تھانہ دراہن از مورخہ 24-11-2011 تا 23-12-2012 تک کی گئی کارروائی کی تفصیل ذیل ہے:

نمبر شمار	تفصیل برآمدگی	نمبر شمار	تفصیل برآمدگی
1	12 عدد کلاشنکوف	2	19 عدد پستل مختلف قسم
3	22 ضرب رائل مختلف قسم	4	17 عدد بندوق بارہ پور
5	1806 عدد کارتوس مختلف قسم	6	بھنگ 11750 گرام
7	افیون 80 گرام	8	چرس 5185 گرام
9	1000 کاشن شراب	10	29 PO's

اسی طرح بندہ نے بحیثیت SHO تھانہ پروا از مورخہ 2013-03-21 تا 2013-08-26 عرصہ پانچ ماہ پانچ یوم کے دوران اعلیٰ کارکردگی مظاہرہ کیا۔ اور ایک دیہاتی تھانہ میں جرائم پیشہ افراد کے خلاف موثر کارروائی کرتے ہوئے ذیل برآمدگی عمل میں لائی۔

☆ برآمدگی ناجائز اسلحہ و ایمونیشن ☆

کلاشنکوف	کالا کوف	ریپیٹر بارہ بوری	بندوق بارہ بوری	پستل ہر قسم	رائفل ہر قسم	کارتوس ہر قسم
07	01	05	12	17	24	665

☆ برآمدگی منشیات و گرفتاری PO's ☆

چرس	افیون	شراب	PO's
260 گرام	4000 گرام	03 لیٹر	72

☆ کارروائی انسدادی ☆

زیر دفعہ 106 ض ف	زیر دفعہ 107 ض ف	زیر دفعہ 109 ض ف	زیر دفعہ 110 ض ف
04	332	17	02

☆ 1 کارروائی بابت برآمدگی مال مسروقہ ☆

- 1۔ بحوالہ مقدمہ نمبر 154 مورخہ 2013-05-15 جرم 380-457 ت پ تھانہ پروا (مسروقہ رقم مبلغ 02 لاکھ روپے برآمد کر کے ملزم کو گرفتار کیا)
- 2۔ بحوالہ مقدمہ نمبر 255 مورخہ 2013-08-01 جرم 411-380-454 ت پ تھانہ پروا (02 بندوق بارہ بوری برآمد کر کے بدنام زمانہ چوروں (1) سیف اللہ ولد امان اللہ قوم ماچھی (2) ثناء اللہ ولد فیض محمد قوم ڈمرہ سکناے میالی کو گرفتار کیا۔
- 3۔ بحوالہ مقدمہ نمبر 274، مورخہ 2013-08-26 جرم 411-406 ت پ تھانہ پروا میں ٹریکٹر برآمد کر کے ملزم نذیر ولد امیر قوم کٹائی سکناے چڑی بوھر کو گرفتار کر لیا۔

☆ 2 آٹھ قتل / آٹھ قاتل سمیت ملزمان کی گرفتاری ☆

- 1۔ بحوالہ مقدمہ نمبر 264 مورخہ 2013-08-18 جرم 13A-34-302 ت پ تھانہ پروا میں ملزمان (1) بشیر احمد ولد حاجی منظور (2) عبدالغفور ولد بشیر احمد اقوام بلوچ (3) نظر حسین ولد مراد قوم کھر سکناے میرن کو گرفتار کر کے آٹھ قتل بندوق بارہ بوری سکناے، یکسرب چائندر انفل (7.62 بوری) و (15) عدد کارتوس برآمد کئے۔
- 2۔ بحوالہ مقدمہ نمبر 266، مورخہ 2013-08-18 جرم 149-148-324 ت پ تھانہ پروا میں ملزمان (1) حسن علی (2) ہاشم علی پسران غلام حسن اقوام کنڈی سکناے کنڈی آباد جال والا کو آٹھ قاتل سمیت گرفتار کیا۔
- 3۔ بحوالہ مقدمہ نمبر 270 مورخہ 2013-08-23 جرم 302 ت پ تھانہ پروا میں ملزم عبدالعزیز ولد رمضان قوم بلوچ سکناے لٹنہ پاڑہ کو گرفتار کر کے آٹھ قتل (دھولا) برآمد کیا۔

☆3 کارروائی بابت معاملات پر اپرٹی Dispute☆

1. بحوالہ مقدمہ نمبر 220 مورخہ 06-07-2013 جرم 34--406 ت پ تھانہ پروا میں ملزمان (ا) عصمت اللہ ولد رمضان بلوچ سکندنا سیولہ (۲) بشیر ولد صدیق قوم کھوکھر سکندناے وانڈہ نجی کو گرفتار کر کے پیش عدالت کیا جو بروئے راضی نامہ عدالت عالیہ ہائی کورٹ پیچ ڈیزہ سے ضمانت پر رہا ہوئے۔ (ماہین فریقین آراضی کی نسبت 15 لاکھ روپے کے فراڈ کا تنازعہ تھا۔)

☆4 کارروائی بابت گرفتاری فرار شدہ قیدی احوالاتی (وقوعہ سینزل جیل ڈیرہ)☆

بحوالہ مقدمہ نمبر 554 مورخہ 30-07-2013 جرم 4-365-353-324-302

27-431-224-225A120B-186-148-149-3/4EXP:7ATA ت پ تھانہ چھاؤنی میں فرار شدہ ذیل کسان کو گرفتار کیا

۱۔ غلام شبیر ولد میراجان قوم پتانی سکندنا ہزارہ پیکہ (مطلوبہ بحوالہ مقدمہ 52 مورخہ 11-11-2013 جرم 302 ت پ تھانہ چودھوان

۲۔ محمد اعظم ولد باران خان سکندنا کھڈ بزدار علاقہ چودھوان (مطلوبہ بحوالہ مقدمہ نمبر 136 مورخہ

20-12-2009 جرم 302 ت پ تھانہ چودھوان

باوجود اپنے فرائض منصبی بطریق احسن سرانجام دینے کے بندہ پر کرپشن، بری شہرت اور ناقص کارکردگی جیسے الزامات لگا کر معطل کر دینا ضرورت توجہ طلب ہے۔

اگر

افسران بالا کے پاس ایسے الزامات کی بابت کوئی شہادت دستیاب ہے۔ تو بندہ ہر فورم پر اس کا سامنا کرنے کو تیار ہے۔ عالی قدر! بندہ نے آج تک اپنے فرائض منصبی کی انجام دہی میں کوتاہی نہیں برتی اور ایک جرات آزمایا پولیس کاری کے ذریعے پولیس فورس کے مورال کو بلند کرنے کی کوشش کی ہے۔ بندہ پولیس فورس میں ایک اچھے کارکن کی حیثیت سے جانا جاتا ہے۔ کیونکہ قانون کی بالادستی برقرار رکھنے کیلئے بندہ نے کبھی بھی رشوت، سفارش اور دیگر ناجائز ذرائع کو فوقیت نہیں دی۔ اور ہمیشہ پولیس فورس کی عزت اور وقار کو برقرار رکھنے کی کوشش کی ہے۔

لہذا

درج بالا حقائق کی روشنی میں استدعا ہے کہ مشمولہ چارج شیڈ و شیڈنٹ آف ایلکیشن بلا منہ کارروائی داخل دفتر فرمایا

جاوے۔ بندہ برائے آئندہ مزید محتاط رہتے ہوئے جناب کا تازہ ترین مشکور و ممنون رہے گا۔

جملہ ضروری نقول و تعریفی اسناد ہمراہ لف قابل ملاحظہ ہیں۔

محمد عالمگیر خان (D/49)۔ حال معطل پولیس لائن ڈیرہ اسماعیل خان

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61

فائنل رپورٹ

نمبر _____
مورخہ _____

عنوان :-

حکمانہ انکوائری برخلاف SI عالمگیر خان نمبر 49/D حال معطل پولیس لائن ڈیرہ اسماعیل خان


جناب عالی!

بحوالہ بشمولہ چارج شیٹ نمبر 82-25081 مورخہ 28.10.2013 بجاریہ جناب ڈسٹرکٹ پولیس آفیسر صاحب ڈیرہ اسماعیل خان معروض ہوں کہ SI عالمگیر خان پر الزام ہے کہ وہ بری کرپشن، بری شہرت اور ناقص کارکردگی میں ملوث پایا گیا ہے جس کی بنیاد پر مذکورہ SI کو معطل پولیس لائن کر کے چارج شیٹ جاری فرمائی جا کر مین DSP/DSB ڈیرہ اسماعیل خان کو انکوائری آفیسر مقرر کرنے کا حکم صادر کیا۔ کارروائی انکوائری کا آغاز کرتے ہوئے SI عالمگیر خان 49/D حال معطل پولیس لائن ڈیرہ نے تحریری جواب چارج شیٹ (4) صفحات پر مشتمل پیش کیا جو لف انکوائری ہذا ہے۔ SI مذکورہ کو خود طلب کر کے سنا گیا جس نے عائد کردہ الزامات کو مسترد کیا ہے۔ سٹیبلشمنٹ برانچ سے ریکارڈ سروس رول طلب کر کے چیک بھی کیا گیا۔

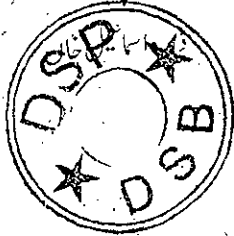
SI مذکورہ مورخہ 15.03.2001 کو بطور کنسٹیبل محکمہ ہذا میں بھرتی ہو کر بعد میں پبلک سروس کمیشن کے ذریعے سے محکمہ ہذا میں بطور ASI سلیکٹ ہو کر بطور ASI بھرتی ہوا۔ SI مذکورہ دوران سروس SHO شفٹ تعینات رہا ہے بمطابق ریکارڈ SHO شپ میں اس سے قبل بھی معطل کیا گیا تھا۔

واضح رہے کہ SI مذکورہ دیگر معطل شدہ افسران کے ہمراہ ایسے الزامات میں معطل ہونے والے اپنی معطلی کے خلاف عدالت عالیہ ہائی کورٹ پشاور ڈیرہ اسماعیل خان میں ایک برٹ معطل ہونے کے فوراً بعد دائر کی تھی جو عدالت سے خارج ہو چکی ہے۔ عدالت فیصلے کی فونو کاپی ہمراہ لف ہے۔ یہ معطل شدہ افسران ایک فورس کے ملازم ہوتے ہوئے جس میں کسی یونین یا گروہ بندی کی ہرگز اجازت نہیں ہوتی مگر ان پولیس افسران کے اس کے برعکس کام کیا ہے انکو چاہیے تھا کہ حکمانہ انکوائری مکمل ہونے پر فیصلے کا انتظار کرتے کسی سزا کی صورت میں حسب ضابطہ اپیل کرتے اگر اپیل مسترد کی جاتی تو پھر سروس ٹرنٹیوٹل میں اپیل دائر کرتے جو ایسے مقدمات کو نمٹانے کا اصلی فورم ہے۔

کیلیں انکوائری اور معلومات سے پایا جاتا ہے کہ SI مذکورہ کے خلاف جو الزامات لگائے گئے ہیں ان میں قصور وار پایا جاتا ہے جبکہ دیگر افسران کے ساتھ مل کر ایک سپین فورس میں گروہ بندی اور منافرت پھیلانے کی کوشش کی ہے Major Punishment دیئے جانے کی سفارش کی جاتی ہے۔ رپورٹ مرتب، ڈیڑھ ہزارش ہے۔


(احسان الدین خان)

ڈی ایس بی، DSB



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ORDER

This order is aimed to dispose off the departmental proceeding against SI Alamgir No. 49/D on the charges of corruption, ill-reputation and inefficiency.


The defaulter Sub Inspector was served with the charge sheet and statement of allegation and an enquiry was conducted into the matter through Mr. Salahuddin Khan DSP DSB DIKhan. The enquiry officer submitted his finding, in which he stated that the defaulter Sub Inspector is found guilty of the charges leveled against him and recommended him for major punishment. The defaulter Sub Inspector was summoned in Orderly Room on 09.12.2013 and heard in person by giving opportunity of defence but he could not satisfy the undersigned about his misconduct. The enquiry file/available record was perused and the undersigned came to the conclusion that the charges leveled against him are stand proved.

Therefore, in the light of above, I Muhammad Nisar Ali (PSP) District Police Officer DIKhan in exercised of powers conferred upon me under the Police Rules-1975, hereby award him major punishment of removal from service with immediate effect.

Sawh
District Police Officer,
Dera Ismail Khan

ORDER ANNOUNCED
Dated 09.12.2013

(a) Register 289
(b) Appn. at the 11-12-013
12-12-013

Attested

District Police Officer
Dera Ismail Khan

Ex-31 Alamgir Khan
12-12-013
For ADD:al

J

29

To, Deputy Inspector General of Police,
Dera Ismail Khan Range,
Dera Ismail Khan.

Subject: DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE ORDER DATED 09.12.2013, BY DISTRICT POLICE OFFICER, DERA ISMAIL KHAN, VIDE WHICH WHILE AWARDING MAJOR PUNISHMENT THE APPELLANT HAS BEEN REMOVED FROM SERVICE.

Respectfully Stated,

1. That the appellant initially joined the Police Department as Constable on 15.03.2001 and during this service the appellant improved his education qualification privately and passed graduation as well as LLB.
2. That after acquiring qualification mentioned above the appellant appeared in the exam of Public Service commission as ASI and got selected as ASI in the year 2006 and started performing his duties, wherein so many times he was assigned different difficult duties, which were performed by the appellant successfully and later on in the year 2012 he was promoted to the rank of SI and he was posted as SHO at P.S Darabin and Paroa, District Dera Ismail Khan.
3. That the appellant received charge sheet along with statement of allegations dated 28.10.2013 from the office of District Police Officer, Dera Ismail Khan, wherein without any reference to the date, time and person three allegations were levelled against the appellant of i). corruption ii). Ill reputation iii). inefficiency, therefore, the appellant requested the DPO that as he has been served with statement of allegations, for which he has to submit his reply but allegations are not specified regarding gross misconduct, therefore, he may be provided the complete allegations to enable the appellant to furnish detailed reply but the appellant was refused, therefore, he along with some other police officials filed a Writ Petition seeking therein directions to the DPO, Dera Ismail Khan that he should act in accordance with law and should provide the detail of allegations, which Writ Petition was dismissed being not maintainable, as barred by Article 212 of the Constitution of Islamic Republic of Pakistan, however the

Honourable High Court provided a guide line that such like deficiencies can be agitated before Service Tribunal, the proper forum.

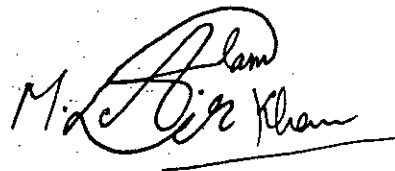
4. That thereafter the DPO office provided some documents regarding previous inquiries against the appellant, which were already filed after due process.
5. That the appellant then submitted his detailed reply to the inquiry officer and as no detail of any of the charges were provided either in the statement of allegations or subsequently provided documents so the appellant on his own prepared the reply and negated the allegations rather mentioned therein his achievements during the service in detail, as no specific allegations were alleged in the charge sheet.
6. That the inquiry officer Mr. Salahudin Khan, DSP / DSB, Dera Ismail Khan then submitted his inquiry report, wherein while recommending the major punishment he mainly stressed upon the filing of Writ Petition before Peshawar High Court Bench by group of Police Officials and termed it to be also misconduct on the part of the appellant, as the appellant was having the proper forum of approaching your goodself in appeal and then the Service Tribunal and thereby recommended major punishment, however the appellant was never provided the opportunity of hearing.
7. That after the receipt of inquiry report the District Police Officer, Dera Ismail Khan on 09.12.2013 passed the order vide which while awarding major punishment the appellant was removed from service.
8. That it is pertinent to mention here that the requirement of service laws were never complied with, as no final show cause notice was served nor any opportunity of personal hearing was provided and the inquiry officer did not even bother to furnish any sort of recommendations regarding the allegations levelled against the appellant, therefore, the entire process, being in total conflict with the law is liable to be set aside.
9. That although the appellant has furnished his reply to an ambiguous statement of allegations but that reply was also not considered by the inquiry officer and that is why there is no mention in the inquiry report regarding proof of allegations levelled against the appellant or otherwise and as mentioned above the

recommendations are based on another aspect apart from the allegations that as to why the appellant filed a Writ Petition in the High Court, despite the fact that he was having the remedy of departmental appeal and this act of the appellant was termed to be misconduct by the inquiry officer.

10. That there is nothing on record in support of general allegations levelled against the appellant and these general allegations are also not based on any complaint, service record or oral evidence against the appellant.

In view of the above made submissions, it is very humbly requested that on gracious acceptance of the instant departmental appeal / representation, the order dated 09.12.2013 passed by DPO, Dera Ismail Khan may very kindly be set aside and the appellant may be reinstated in service with all back benefits. It is further requested that appellant may be heard in person.

Your humble appellant,



Dated: 20.12.2013.

(Muhammad Alamgir Khan) Ex-SI-No. 49/D
s/o Abdur Rashid Khan,
r/o Muslim Bazaar, Dera Ismail Khan.

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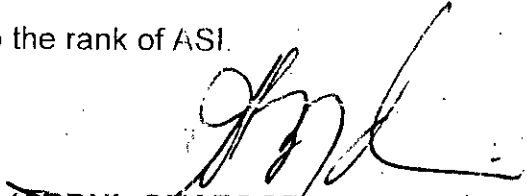
PKP

ORDER:

This order is meant to dispose off the appeal preferred by Ex-Sub Inspector Muhammad Alamgir No.49/D of DIKhan District against the order of major punishment i.e. removal from service, awarded to him by DPO DIKhan vide order dated 09.12.2013. He was proceeded against on the allegations of ill-reputation, corruption and inefficiency. A proper departmental enquiry was initiated and Mr. Salah-ud-Din, DSP DSB DIKhan was appointed as Enquiry Officer to conduct proper departmental enquiry against him. On the recommendation of Enquiry Officer, DPO DIKhan awarded him major punishment of removal from service.

The appellant/ Ex-Sub Inspector preferred the instant appeal against the order of DPO DIKhan. I have gone through the enquiry file as well as service record of the appellant and also heard him in person on 02.01.2014.

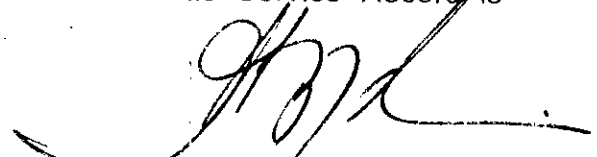
Therefore in exercise of power conferred upon me I **Abdul Ghafoor Afridi** Dy: Inspector General of Police DIKhan, in exercise of the powers conferred upon me and being a competent authority takes lenient view, set -aside the order passed by DPO DIKhan and reinstate him in service from the date of removal from service and convert his punishment into demotion to the rank of ASI.


(ABDUL GHAFUOR AFRIDI)
PSP, PPM
Deputy Inspector General of Police,
Dera Ismail Khan Region

No. 136 /ES) dts 13-1-14

Copy to the District Police Officer, DIKhan for information with reference to his office memo: No.31899 dated 31.12.2013. His Service Record is returned herewith.

Encl: S-Record
(S-Roll ①)
S-Books ②
Furnished ①


(ABDUL GHAFUOR AFRIDI)
PSP, PPM
Deputy Inspector General of Police,
Dera Ismail Khan Region

308
OB/SC
6
23/1/14
23/1/14

OB 71
16-1-14
Aillected
DSP Legal
23/1/2014

Stamp area with fields for:
(a) Name of appellant
(b) Name of officer
(c) Date of completion
(d) Date of delivery
Handwritten entries include '308', '23-1-14', and '23-1-2014'.

مخمسہ المواتری سرخلاف از عالمگیر خان

ارڈر شیٹ

تاریخ

SNO

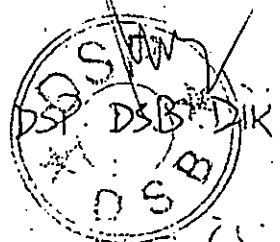
30.10.13.

امروز مخمسہ المواتری سرخلاف
از عالمگیر خان بدلتہ ڈاک جاب DPO
سے لڑھن المواتری موصول جو سر جواب خارج
موصول جو سر پیر منید کاروانی محل میں لائی جا رہی



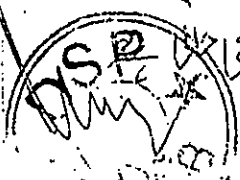
01.11.13

مخمسہ المواتری سرخلاف از عالمگیر خان ملحقہ نوٹس
لاٹری میں لڑھن کوئی لبر از عالمگیر کوئی لبر
میں لڑھن لڑھن کوئی لبر کہ وہ اپنی جواب سرخلاف
خود مصفا لئی جسے ری طور پر مراد 5/11 کو سنیا
کنا خان



5.11.13

امروز از عالمگیر خان ملحقہ نوٹس لائری نے
الک خری جواب لائری کل در خواست سنیا
کہ لائری نے عدالت عالمگیر سنیا اور جوابی کوئی سنیا DIK
میں الک لائری سنیا لائری کا ہے اور اسے
تاریخ سنیا لائری لائری لائری عدالت حکم لائری
کوئی لائری لائری لائری لائری لائری لائری
المواتری سرخلاف



آمرورہ معاملہ میں مددگاروں کی لائسنس ڈیرہ

6.12.13

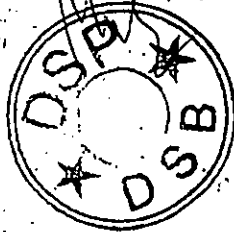
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مے تجزیہ جواب لاکس پمپوں کی جولف

انوائسز ہیڈ ہے انوائسز ہیڈ کے مات

فائل رپورٹ علیہ مرتب ہو کر لف

انوائسز کی جانچ



فائل رپورٹ مرتب ہو کر لف ہے

7.12.13

5



POWER OF ATTORNEY

IN THE Service Tribunal K-P-K Peshawar

In Re Appeal No - of 2014

Muhammad Alangir [Plaintiff
[Appellant
[Petitioner
[Complainant

Versus

D.I.G. Police [Defendant
[Respondent
[Accused
[Judgment Debtor

I/We Muhammad Alangir Assistant sub inspector Police D.I-Khan
the Petitioner above named hereby appoint **Imtiaz Ali** and **Ishtiaq Ahmad**,
Advocates 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 or any other 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 money that may be or become due and payable to us during the course or on the conclusion of the proceedings.

To do all other acts and things which may be deemed necessary or advisable during the course of the proceedings.

AND HEREBY AGREE:

- a. to ratify whatever the said Advocate may do in the proceedings.
- b. not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing.
- c. that the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I / We have signed this Power of Attorney / Vakalatnama hereunder, the contents of which have been read / explained to me/us and fully understood by me / us this 8th day of February at 2014.

Muhammad Alangir
Signature of executant/s

Imtiaz Ali Ishtiaq Ahmad

Accepted subject to the term regarding payment of fee.
Imtiaz Ali, Advocate and **Ishtiaq Ahmad**, Advocate,
High Court, Peshawar.