

ORDER

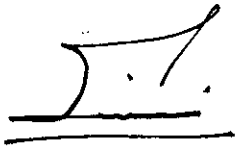
27.07.2021

Appellant alongwith Miss Naila Jan, Advocate, present. Mr. Arif Saleem, Steno alongwith Mr. Muhammad Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

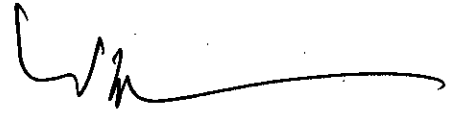
Vide our detailed judgment of today, separately placed on file in Service Appeal bearing No. 981/2018 titled "Syed Mohammad Abdullah Versus Inspector General of Police Khyber Pakhtunkhwa Peshawar and two others", the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

27.07.2021



**(SALAH-U-DIN)
MEMBER (JUDICIAL)**



**(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)**

15.07.2021

Appellant alongwith Miss. Naila Jan, Advocate, present. Mr. Arif Saleem, Steno alongwith Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard, however order could not announced due to rush of work. To come up for order before the D.B on 27.07.2021.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



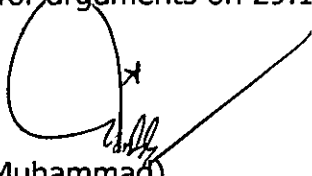
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

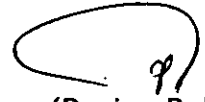
16.10.2020

Counsel for appellant present.

Riaz Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 29.12.2020 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

29.12.2020

Due to summer vacation, case is adjourned to 31.03.2021 for the same as before.

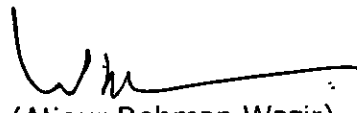

Reader

31.03.2021

Appellant in person present.

Mr. Kabirullah Khattak, Addl. A.G for respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, case is adjourned to 15.07.2021 for arguments before the D.B.


(Atiqur Rehman Wazir)
Member(E)


(Rozina Rehman)
Member(J)

14.01.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 11.03.2020 before D.B. Appellant be put to notice for the date fixed,


Member


Member

11.03.2020

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 29.04/2020 before D.B.


Member

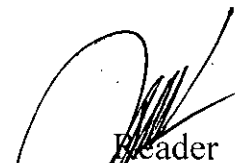

Member


29.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 05.08.2020 before D.B.

05.08.2020

Due to summer vacation case to come up for the same on 16.10.2020 before D.B.


Reader


Reader

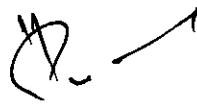
02.07.2019 Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Adjourned. To come up for further proceeding on 28.08.2019 before D.B


(Hussain Shah)
Member

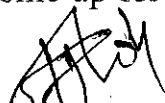

(M. Amin Khan Kundi)
Member

28.08.2019 Appellant in person present. Asst: AG for respondents present. Appellant submitted an application for adjournment. Adjourn. Case to come up for arguments on 12.11.2019 before D.B.


Member


Member

12.11.2019 Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Mr. Inayat Ullah Head Constable for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 14.01.2020 before D.B.


Member


Member

18.03.2019

Appellant in person and Addl:AG alongwith Mr. Ishaq Gul, DSP (Legal) for respondents present.

Learned counsel for the appellant required time for placing on record copy of judgment passed by learned Judge Anti Terrorism Court, Kohat in case No. 61/ATC-1/2014 decided on 07.10.2015.

Learned Addl: AG, on the other hand, is required to bring on record the controversial statement of appellant recorded during the investigation and also before the Trial Court.

Adjourned to 09.05.2019 before D.B. The requisite record shall positively be make available on the next date.


Member


Chairman

09.05.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Bilal Ahmed H.C. for the respondents present. The learned Member (Executive) Mr. Hussain Shah is on leave, therefore, the bench is incomplete. Adjourned to 02.07.2019 for arguments before D.B.


(Muhammad Amin Khan Kundi)
Member

17.10.2018

Counsel for the appellant present. Mr. Arif Saleem, Steno
alongwith Mr. Kabirulalh Khattak, Addl: AG for respondents
present. Written reply not submitted. Requested for adjournment.
Granted. Case to come up for written reply/comments on
03.12.2018 before S.B.


(Ahmad Hassan)
Member

03.12.2018

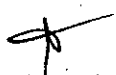
Counsel for the appellant present. Mr. Bilal Ahmad, LHC
alongwith Mr. Kabirullah Khattak, Addl: AG for respondents
present.

Representative of the respondents has ~~been~~ submitted
written reply/comments. To come up for arguments on
28.01.2019 before D.B.


Chairman

28.01.2019

Counsel for the appellant present. Mr. Muhammad Jan,
alongwith Mr. Muhammad Farooq, Inspector (Legal) for
respondents present. Rejoinder on behalf of the appellant submitted
which is placed on file. Case to come up for arguments on
18.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

31.08.2018

Counsel for the appellant Zeeshan Hussain present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Police Department as Constable. It was further contended that during service the appellant was dismissed from service on the allegation that he had not conducted investigation in a criminal case honestly. It was further contended that the appellant filed service appeal which was partially accepted and the respondents were directed to conduct de-novo inquiry. It was further contended that de-novo inquiry was conducted and the appellant was imposed major penalty of forfeiture of approved service of two years and the intervening period was treated as leave without pay vide order dated 07.05.2018. The appellant filed departmental appeal was rejected on 11.07.2018 hence, the instant service appeal on 04.08.2018. It was further contended that the de-novo inquiry was not conducted according to law therefore, the impugned order is illegal and liable to be set-aside.

Appellant Deposited
Security Process Fee

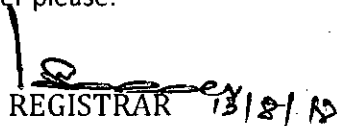

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 17.10.2018.


(Muhammad Amin Khan Kundi)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1016/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/08/2018 15-8-2018	<p>The appeal of Mr. Zeeshan Hussain resubmitted today by Naila Jan 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 13/8/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>31/8/2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Zeeshan Hussain Constable No. 186/500 r/of Kohat District Police received today i.e. on 04.08.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Memorandum of appeal may be got signed by the appellant.
- 3- Copy of show cause notice and its reply mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 4- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 5- Copy of judgment passed by this Tribunal on the appeal of the appellant mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 1536 /S.T,

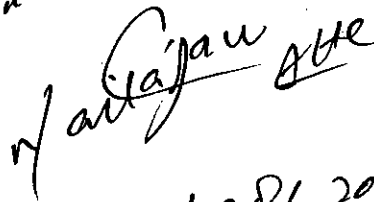
Dt. 04/8 /2018.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Naila Jan Adv. Pesh.

All the objection were removed except the objection No. 4 there for the same may be asked from respondents.

Resubmitted by



13/08/2018

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A 1016 /2018

Zeeshan Hussain

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa
Peshawar and others

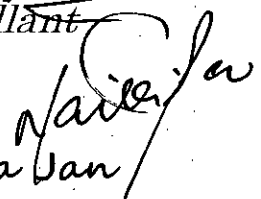
INDEX

<i>S#</i>	<i>Description of Documents</i>	<i>Annex</i>	<i>Pages</i>
1.	Grounds of Appeal		1-6
2.	Affidavit.		7
3.	Addresses of Parties.		8
4.	Copy of Judgment	"A"	9-
5.	Copy of the show cause notice and reply	"B & C"	10-12
6.	Copy of the impugned order dated 07/05/2018	"D"	13-14
7.	Copy of Departmental appeal and order	"E & F"	15-17
8.	Other documents		
9.	Wakalatnama		

Dated: 10/08/2018


Appellant

Through


Naila Jan
Advocate High Court
Peshawar.

D

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

Khyber Pakhtukhwa
Service Tribunal

Diary No. 1227

Dated 04-8-2018

In Re S.A 1016 /2018

Zeeshan Hussain Constable No.186/500 R/O Kohat District
Police.

-----*(Appellant)*

VERSUS

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. The Deputy Inspector General of Police Kohat Region Kohat.
3. The District Police Officer, District Kohat.

-----*(Respondents)*

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE
IMPUGNED ORDER NO.4500-05/PA KOHAT DATED
07/05/2018, WHEREBY THE PUNISHMENT OF
FORFEITURE OF APPROVED SERVICE UPTO 2
YEARS AND THE INTERVENING PERIOD WAS
TREATED AS LEAVE WITHOUT PAY

Filed to-day

Registrar

4/8/18

PRAYER:

ON ACCEPTANCE OF THIS APPEAL THE
IMPUGNED ORDER NO.4500-05/PA DATED
07/05/2018 MAY GRACIOUSLY BE SET ASIDE
AND THE APPELLANT MAY KINDLY BE

Re-submitted to -d
and filed.

Registrar

13/8/18

2

RESTORE TO HIS ORIGINAL POSITION IN TO
SERVICE WITH ALL BACK BENEFITS

Respectfully Sheweth

1. That the appellant was appointed as Constable in the Respondent department and after appointment the appellant performed his duty with great zeal, zeast, and to the entire satisfaction of the Respondents.
2. That the appellant was promoted as Assistant sub Inspector on the basis of seniority cum fitness and posted as Constable Thana in Police Station Kohat. The appellant was proceeded departmental which was ended on the dismissal of the appellant. After availing departmental remedy the appellant approached to service Tribunal by filling service appeal NO. 269/2016 which was finally decided vide order judgment dated 04/12/2017 and the dismissal order was set aside the appellant was reinstated into service however the department was directed for conducting denovo inquiry within 90 days. (Copy of the judgment is annexed as annexure "A")

3. That a slip shod inquiry was conducted by the inquiry officer no charge sheet alongwith statement of allegation was served and the whole proceedings were conducted at the back of the appellant the appellant was issued show cause notice which was replied. (Copy of the show cause notice and reply are annexed as annexure "B & C")
4. That the appellant was awarded minor punishment of forfeiture of approved service upto two years while the intervening period was treated as leave without pay vide the impugned order dated 07/05/2018 by Respondent No.3. (Copy of the impugned order dated 07/05/2018 is annexed as annexure "D")
5. That feeling aggrieved from the above order the appellant filed a departmental appeal before Respondent No.2. however the same were rejected vide order 11/07/2018.(Copy of the departmental appeal and appellate order are annexed as annexure "E & F")
6. That feeling aggrieved from both the impugned orders the appellant having no other remedy hence filling this appeal on the following grounds inter alia:-

GROUND:

A. That the impugned orders dated 07/05/2018 and 11/07/2018 are against the law facts and principle of natural justice hence liable to be set aside.

B. That the appellant has not been treated in accordance with law and Rules and was subjected to discrimination hence violation of Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

C. That the denovo proceeding has been conducted in total violation of the judgment of this Hon'ble tribunal.

D. That the Hon'ble Tribunal directed the Respondents for conducting proper proceedings but the appellant was neither issued/served with any charge sheet, statement of allegation nor did provided any opportunity of defense. which is mandatory under E & D rules 2011.

E. That no chance of personal hearing/defense has been provided to the appellant further the appellant has not been provided opportunity of fair trial as guaranteed by Article 10-A of the

5

Constitution of Islamic Republic of Pakistan
1973.

F. That no pro and contra evidence has been collected by the inquiry officer nor did opportunity of cross examination has been provided which is mandatory under E&D rules 2011.

G. That the appellant has been made escape goat hence the Respondents violated the principle of Natural Justice.

H. That the appellant has never been provided the inquiry report.

I. That thought public prosecutor was held responsible to defend the Respondents but the inquiry officer failed to discuss his role.

J. That serious reservations raised by the anti terrorism court in Para 27,28 of its judgment dated 07/10/2015 on the dubious role of the DSP, SHO and ASHO, but no action was taken against them and the appellant was made escape goat which was indorsed by the tribunal in Para No.6 of its judgment dated 04/12/2017. However the appellant was again subject to discrimination by issuing the impugned orders.

K. That during all their period with effect from 07/01/2016 till reinstatement order dated 04/05/2018. The appellant was jobless and faced starvation.

L. That the appellant has been condemned unheard.

M. That any other ground not raised here may graciously be allowed to raise at the time of arguments.

It is, therefore, requested that the appeal may kindly be accepted as prayed for.

Dated: /08/2018

Through

Zaman
Appellant
Naila Jan
Naila Jan
Advocate High Court
Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Naila Jan
Advocate.

7

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2018

Zeeshan Hussain

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa
Peshawar and others

AFFIDAVIT

I, Zeeshan Hussain Constable No.186/500 R/O Kohat District Police, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Zeeshan
DEPONENT

Identified By :

Naila Jan
Advocate High Court
Peshawar.



D

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2018

Zeeshan Hussain

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa
Peshawar and others

ADDRESSES OF PARTIES

APPELLANT.

Zeeshan Hussain Constable No.186/500 R/O Kohat District
Police.

RESPONDENTS:

1. The Inspector General of Police Khyber
Pakhtunkhwa Peshawar.
2. The Deputy Inspector general of Police Kohat Region
Kohat.
3. The District Police Officer District Kohat.

Dated: /08/2018

Through

Zeeshan
Appellant

Naila Jan
Advocate

Advocate High Court
Peshawar.

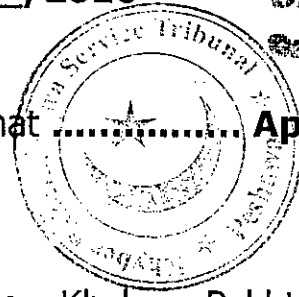
9 Amrta ZA

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 219 /2016

K.W.P. Provincial
Service Tribunal
Diary No. 198
Dated 10-3-2016

Mr. Syed Mohammad Abdullah, Ex: ASI,
R/O Usterzai Payan, Kohat City, District Kohat **Appellant**



VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Deputy Inspector General of Police, Kohat Region Kohat.
- 3- The District Police Officer, District Kohat.

..... **Respondents**

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED 7-1-2016
WHEREBY THE APPELLANT WAS DISMISSED FROM
SERVICE WITHOUT CONDUCTING REGULAR INQUIRY
IN THE MATTER AND AGAINST THE APPELLATE ORDER
DATED 26-02-2016 WHEREBY THE APPEAL OF THE
APPELLANT HAS BEEN REJECTED ON NO GOOD
GROUND**

PRAYER:

That on acceptance of this appeal the impugned orders dated 7-01-2016 and 26-02-2016 may very kindly be set aside and the appellant may kindly be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant was appointed as Constable in the respondent Department in the year 1994. That after appointment the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors.

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

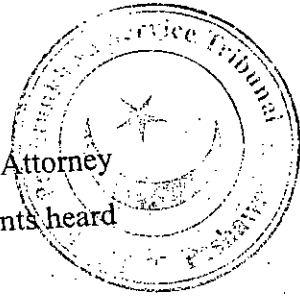
- 2- That during service the appellant was promoted to the Rank of Assistant Sub Inspector on the basis of seniority cum fitness. That appellant while serving as ASI/ Thana Moharrir in police station Kohat City a charge sheet along with statement of allegation were served on the appellant on the allegation that appellant has recorded contradictory statements in high profile sectarian case before learned Anti

10/3/16
10/3/16

Order

04.12.2017

(u)



Counsel for the appellant and Mr. Usman Ghani, District Attorney
alongwith Mr. Arif Saleem, ASI for respondents present. Arguments heard
and record perused

This appeal is also accepted as per detailed judgment of today
placed on file in connected service appeal No: 259/2016 entitled "Akhtar
Abbas-vs- The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar
and 2 others". Parties are left to bear their own cost. File be consigned to
the record room.

Announced *Sd/- Ahmed Hassan*
Member
04.12.2017

Sd/- M. Amin Khan Kundi
Member

Certified true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

[Signature]
12/12/17

Date of Presentation 07-12-17
Date of Hearing 08-12-17
Date of Judgment 12-12-17
Date of Delivery 12-12-17

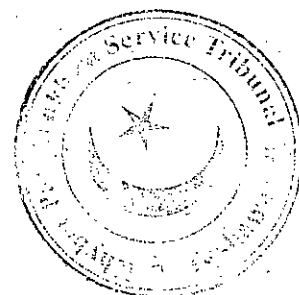
D

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 259/2016

Date of Institution ... 17.03.2016

Date of Decision ... 04.12.2017



Akhtar Abbas, Ex-LHC No.32,
S/O Abbas Ghulam,
R/O Alizai, Police Station Usterzai, Kohat

... (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and 2 others.
... (Respondents)

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate

--- For appellant.

MR. USMAN GHANI,
District Attorney

--- For official respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

... MEMBER(Executive)
... MEMBER(Judicial)

Handwritten signature and date: Akhtar Abbas 4/12/2017

JUDGMENTAHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant service appeal as well as connected service appeals no. 269/2016 titled Zeeshan Haider and no. 219/2016 titled Syed Muhammad Abdullah as similar question of law and facts are involved therein.

2. Arguments of the learned counsel for the parties heard and record perused.

ATTESTED

Handwritten signature
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

12

FACTS

3. Brief facts of the case are that the appellant was serving as Head Constable when subjected to inquiry on the allegations of giving a wrong statement before Trial Court in case FIR no. 1220 dated 18.11.2013 registered regarding terrorism incident relating to Imam Bargah, Kohat where-against he preferred departmental appeal on 18.01.2016 which was rejected on 26.02.2016, hence, the instant service appeal on 17.03.2016.

ARGUMENTS

4. Learned counsel for the appellant argued that Khyber Pakhtunkhwa Police is divided into two wings i.e Operation and Investigation. Once FIR is lodged then it is the duty of the investigation wing to investigate the case and as such the appellant was least concerned with investigation. That proper departmental enquiry was not conducted before imposition of major penalty of dismissal from service on the appellant. Opportunity of cross examination and personal hearing were denied to him. Though show case notice was served on the appellant but copy of the enquiry report was not attached with the same which is a serious irregularity on the part of respondents. The enquiry officer miserably failed to discuss the role of Public Prosecutor, who was solely responsible to defend the respondents in the court of law. The respondents should have referred the matter to the concerned agencies to initiate the disciplinary proceedings against the Public Prosecutor concerned. Statement recorded under Section 161 of CRPC has not evidentiary value in the court of law. The inquiry officer acted as a prosecutor by serving questioner on the appellant and others. He further argued that the respondents should have filed appeal against the judgment of Anti Terrorism Court in Peshawar High Court. Reliance was placed on 2011 PLC(C.S) 1111, 2008 SCMR 1369, 2003 SCMR 215 and 2005 SCMR 1617.

5. On the other hand learned District Attorney assailed the arguments of the learned counsel for the appellant and stated that proper departmental enquiry in accordance with

ATTESTED


 District Attorney
 Khyber Pakhtunkhwa
 Service Tribunal

M. A. J. Khan
 4/8/2016

13

rules was conducted and all legal formalities were observed and the appellant was found guilty. Impugned order was passed according to law and rules.

CONCLUSION.

6. Careful perusal of record would reveal that proper departmental enquiry strictly according to invogue rules was not conducted before imposition of major penalty of dismissal from service on the appellant. It is a well settled principle that in case major penalty is to be imposed on a civil servant proper enquiry should be conducted and full opportunity of defense and personal hearing should be provided to the accused official. Opportunity of cross examination and personal hearing were denied to him. Though show cause notice was served on the appellant but copy of the enquiry report was not attached with the same which is a serious departure from the laid down procedure and raises doubts on the fair and transparent inquiry proceedings. We are of the considered view that in the case in hand Article 4, 10-A and 25 of the constitution were violated and appellant was condemned unheard. It is strange that despite serious reservations raised by the ~~Accountability~~ ^{Anti-Corruption} Court in para 27-28 of the judgment dated 07.10.2015 on the dubious role of DSP, SHO and ASHO no action was taken against them. Needless to add that appellant was not only made escapegoat but also meted out discriminatory treatment.

7. As a nutshell of the above discussion, the appeal is accepted. Impugned order is set aside and the respondents are directed to conduct *de-novo* enquiry within a period of 90 days after receipt of this Judgment. Enquiry should be conducted in accordance with law and rules. The issue of back benefits shall be subject to the final outcome of the *de-novo* enquiry. Parties are left to bear their own costs. File be consigned to the record room.

File in record

Announced *Self Ahmad Hassan, Member*

04.12.2017

Self M. Amin Khan Kundi, Member

Date of Presentation of Application 07-12-17
 Number of Words 1200
 Copying Fee 8
 Urgent —
 Total 8
 Name of Copyist [Signature]
 Date of Completion 12-12-17
 Date of Delivery of Copy 12-12-17

Certified to be true copy
 Kh. [Signature]
 Service Tribunal,
 Ferozpur



Amer B

10

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

No 3322/PA dated Kohat the 4/4/2018

FINAL SHOW CAUSE NOTICE

1. I, Abbas Majeed Khan Marwat, District Police Officer, Kohat as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, Constable Zeshan Hussain No. 500 as follow:-

i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 442-43/PA dated 17.01.2018.

ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

You have intentionally and deliberately recorded contradictory statement in high profile sectarian case before learned AT Court in case vide FIR No.1220, dated 18.11.2013, u/s 302,324,353,34 PPC,13 AO, 7 ATA, in which three persons including gunman of DSP City Kohat were killed and two civilians sustained severe injuries.

You openly supported/favored the accused charged for above mention offences by stating the following:-

a. You have stated that on the eventful day you were present at duty, In the meanwhile a procession duly armed with daggers and Lathis came there and started firing near the Imam Bargha. Totally contrary to the factual situation on ground.

b. You have also stated that firing was coming from all four sides. Although there was no armed civilian in-front of Imam Bargha.

c. You have not uttered a single word about the accused facing trial and you made the presence of the complainant Mazhar Jehan Inspector and eye witness DSP Lal Farid doubtful by not uttering a single word to the effect that they were present at the time, place and firing by the accused and resiled from your earlier statement recorded u/s 161 CrPC during the course of investigation.

d. Being an experienced police personnel, you have provided an extra ordinary benefit to the accused in this high profile sectarian case which led to their acquittal. This amounts to gross professional misconduct, willful joining hands with accused and irresponsibility on your part.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules *ibid*.

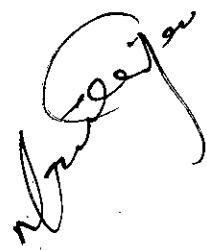
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

[Handwritten signature]

(10/13)

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.
5. The copy of the finding of inquiry officer is enclosed.


DISTRICT POLICE OFFICER,
KOHAT *27/02/14*



11

جناب عالی!

Ambika

حوالہ فائل نمبر شوکلار نوٹس PA/3322 مورخہ 4-4-2018

مجاہد صاحب DPہ صاحب فوڈسٹ مسرز (پن) خدمات پورے۔ کہ مقدمہ عدالت 1220

302-324-353

34-13A9-TATA

مورخہ 18-11-2018 جز 1

تھانہ سٹی کوڈ پاٹ -

محکمیت کنسٹیبل گارڈ سیرجیب ابا بارگاہ کوڈسٹ بدردان سماعت عدالت (ATC) کورٹ

میں شہادت دی۔ جناب نمران صاحب (PP) کی موجودگی میں چیف ریکارڈ کیا گیا

میں نے آیا اور قوسہ کفیشی انسر کو جوبیان 16 APR دیا تھا۔ وہ بیان عدالت (ATC)

میں ریکارڈ کیا گیا۔ یہ دروزن بیانات آپ جیسے ہے۔ تجویز ایک انزرا لکھا گیا ہے

کہ بیان 16 APR سے منصف ہوا ہے۔ میرے (دوڑ) بیانات بغور دیکھا جائے

اس میں کوئی شک نہیں ہے۔ عدالت (ATC) میں فائٹنگ کے متعلق کہا تھا۔

کہ فائٹنگ شروع ہوئی ہے۔ اور ٹائٹل کے دوران دوڑ روپ چھٹی ہے

تجربیتہ ایسی چلتا۔ کہ فائٹنگ کے کہاں سے شروع ہے۔ چونکہ مجھے انٹرنی کی بھی

نہیں آتی۔ میں نے ایسی بیان بحال (ATC) میں ریکارڈ کیا گیا تھا۔

میں نے کوئی غلط بیانی سے کہا نہیں لیا ہے۔ چونکہ میں کنسٹیبل ہوں۔

وہی تجربے کے متعلق شہادت ریکارڈ کیا گیا تھا۔ مجھے کفیشی انسر کے اور

سرکاری دلیل خرمان PP صاحب نہیں سمجھا گیا تھا۔ میں نے جو

شہادت ATC کورٹ ریکارڈ کیا گیا تھا۔ اللہ تعالیٰ کو جمان

نا لہر جان کر شہادت دی ہے۔

ATC کورٹ کا یو ایف ویل آر کی فور ریکھا جائے تو اتنی غلطیاں

پراپٹیوں، رکھی گویا ان اور کفیشی انسر کے خلاف کر (فرحان) ہے

Handwritten signature and text at the top right.

ہمارے خلاف کوئی غلطی تحریر نہیں کی ہے۔

عدالت سروس ٹریبیونل کورٹ ہسٹوری میں جمع صاحب نے اپنے
فصلے پر تحریر فرمایا ہے۔ کہ اس مقدمہ میں اہم گواہوں کے
بیانات اچھاڑے نہیں گئے۔ صرف کنسٹبل زکریا خان حسین کی قربانی
کا ٹکڑا بنا دیا گیا۔ چونکہ قربانی کا ٹکڑا بنانے کے لیے گھر لکھا جاتا ہے
سپرے خلاف تمام الزامات جو چھوڑ رکھے گئے ہیں۔ بے بیاد ہے
من سائل واحد والدین کا سپہا رہے

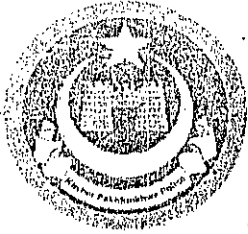
استدعا ہے کہ سائل کی انوائٹری پر مدد فرمائے اور فرمائے سائل
کے حق کا حکم صادر فرمائیں۔ سائل کی مہارت اور دعا ہے۔

2/10/2018
2/10/2018

ایک فرمان بردار / تابعدار

کانسٹبل زکریا خان حسین نمبر 186

9-4-2018 مورخہ



13

Amir 9 1

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

No 4500-05/PA dated Kohat the 07/5/2018.

ORDER

This order will dispose of de-novo departmental proceedings initiated against Constable Zeshan Hussain No. 186/500 under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

The essential facts arising of the case are that Constable Zeshan Hussain No. 186/500 (**hereinafter called accused**) while posted the then Guard at Imam Bargha Syed Habib Shah Kohat City was dismissed from service vide order dated 07.01.2016. The accused official has intentionally and deliberately recorded contradictory statement in high profile sectarian case before learned A.T Court in case vide FIR No.1220, dated 18.11.2013, u/s 302,324,353,34 PPC,13 AO, 7 ATA, in which three persons including gunman of DSP City Kohat were killed and two civilians sustained severe injuries. He openly supported/favored the accused charged for above mention offences by stating the following:-

i. He stated that on the eventful day he was present at duty, In the meanwhile a procession duly armed with daggers and Lathis came there and started firing near the Imam Bargha. Totally contrary to the factual situation on ground.

ii. He has also stated that firing was coming from all four sides. Although there was no armed civilian in-front of Imam Bargha.

iii. He has not uttered a single word about the accused facing trial and he made the presence of the complainant Mazhar Jehan Inspector and eye witness DSP Lal Farid doubtful by not uttering a single word to the effect that they were present at the time, place and firing by the accused and resiled from his earlier statement recorded u/s 161 CrPC during the course of investigation.

iv. Being an experienced police personnel, he has provided an extra ordinary benefit to the accused in this high profile sectarian case which led to their acquittal. This amounts to gross professional misconduct, willful joining hands with accused and irresponsibility on his part.

In compliance with the Judgment of Service Tribunal dated 04.12.2017, denovo departmental proceedings initiated after approval. The SP Operations, Kohat was appointed as enquiry officer by the competent authorities. Charge Sheet alongwith statement of allegations issued to the accused official. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The said constable was held guilty of the charges vide finding of the enquiry officer and recommended for minor punishment.

Signature

Final Show Cause Notice alongwith copy of enquiry finding was served upon the accused official. Reply received unsatisfactory, without any plausible explanation.

Therefore, the accused official was called in Orderly Room, held on 03.05.2018 and heard in person, but he failed to submit any explanation to his gross professional misconduct.

In view of the above and available record, I agreed with the finding of enquiry officer, therefore, in exercise of powers conferred upon me under the **rules ibid I**, Abbas Majeed Khan Marwat, District Police Officer, Kohat impose a minor punishment of **of forfeiture of approved service up to 02 years** on accused constable Zeshan Hussain No. 186/500. He is reinstated in service with immediate effect. The **intervening period is treated as leave without pay on the principle "no work, no pay"** and pay is hereby released.

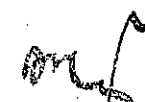
Announced
03.05.2018


OB No. 462
Date 7.5 /2018
No 4500-05 / PA dated Kohat the 07-5-2018.


DISTRICT POLICE OFFICER,
KOHAT

Copy of above is submitted for favour of information to the:-

1. Deputy Inspector General of Police, Enquiry & Inspections w/r to his letter No. 517/E&I dated 02.04.2018.
2. Regional Police Officer, Kohat w/r to his office Endst: No. 639/EC dated 18.01.2018.
3. AIG Legal Peshawar w/r to his letter No. 2806/Legal dated 21.12.2017.
4. Reader, Pay officer, SRC and OHC for necessary action.


DISTRICT POLICE OFFICER,
KOHAT


21/05/2018

17

Amir Khan F

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Constable Zeeshan Hussain No. 186/500 of Kohat district Police, against the punishment order, passed by DPO Kohat vide OB No. 462, dated 07.05.2018 whereby he was awarded minor punishment of forfeiture of two years approved service and leave without pay for the allegations of producing contradictory statement before the Anti-Terrorism Court Kohat and facilitation of accused with undue favour.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Kohat and perused. He was also heard in person in Orderly Room, held in this office on 11.07.2018, but he did not advance any plausible explanation in his defense.

Record indicates that the appellant has willfully contradicted his statement before ATC, which resulted into acquittal of nominated accused and the same has been established by Enquiry Officer in his findings. The punishment order of DPO Kohat is justified. His appeal is hereby rejected.

Order Announced
11.07.2018

(MUHAMMAD LAZ KHAN) PSP
Region Police Officer,
Kohat Region


No. 772 /EC, dated Kohat the 13/7 /2018.

Copy for information and necessary action to the District Police Officer, Kohat w/r to his office Memo: No. 12666/LB, dated 11.06.2018. His Enquiry File / Fauji Missal is returned herewith.

(MUHAMMAD LAZ KHAN) PSP
Region Police Officer,
Kohat Region

Kat

Handwritten notes and signatures at the bottom of the page, including a circular stamp and various scribbles.

46294			
ایڈوکیٹ: <u>M/aila Jav</u>	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر:	رابطہ نمبر: <u>03129215471</u>		

بعدالت جناب: Kp Service Tribunal Peshawar

مخانب: <u>appellant</u>	دعوی: <u>Service Appeal</u>
<u>Zeshan Hussain</u>	علت نمبر: <u>Appeal No. 1061/18</u>
بنام	مورخ:
<u>Police</u>	جرم:
	تھانہ:

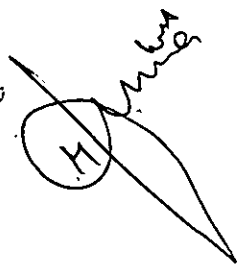
باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام M/aila Jav and Humayun کیلئے Humayun کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 02/08/2018

العبد _____ واہ شہ _____ العبد _____
 مقام Peshawar کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔



Accepted

Accepted

by M/aila Jav

Zeshan Hussain n/o. 1861/500
 Counselor Zeshan Hussain n/o. 1861/500



Amratur B

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

No. 3322/PA dated Kohat the 4/4/2018

FINAL SHOW CAUSE NOTICE

1. I, Abbas Majeed Khan Marwat, District Police Officer, Kohat as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, Constable Zeshan Hussain No. 500 as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 442-43/PA dated 17.01.2018.
 - ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.
I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.
You have intentionally and deliberately recorded contradictory statement in high profile sectarian case before learned AT Court in case vide FIR No.1220, dated 18.11.2013, u/s 302,324,353,34 PPC,13 AO, 7 ATA, in which three persons including gunman of DSP City Kohat were killed and two civilians sustained severe injuries.
You openly supported/favored the accused charged for above mention offences by stating the following:-
 - a. You have stated that on the eventful day you were present at duty, In the meanwhile a procession duly armed with daggers and Lathis came there and started firing near the Imam Bargha. Totally contrary to the factual situation on ground.
 - b. You have also stated that firing was coming from all four sides. Although there was no armed civilian in-front of Imam Bargha.
 - c. You have not uttered a single word about the accused facing trial and you made the presence of the complainant Mazhar Jehan Inspector and eye witness DSP Lal Farid doubtful by not uttering a single word to the effect that they were present at the time, place and firing by the accused and resiled from your earlier statement recorded u/s 161 CrPC during the course of investigation.
 - d. Being an experienced police personnel, you have provided an extra ordinary benefit to the accused in this high profile sectarian case which led to their acquittal. This amounts to gross professional misconduct, willful joining hands with accused and irresponsibility on your part.
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules *ibid*.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

[Handwritten signature]

(10/13)

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.
5. The copy of the finding of inquiry officer is enclosed.

C
DISTRICT POLICE OFFICER,
KOHAT *27/02/4/4*

27/02/4/4

جناب عالی!

11

Amir

جوالہ فائنل شوگان لٹس PA/3322 فورم 4-4-2018

مجاہد جناب DPO صاحب کوٹاٹ معروف خدمات ہیں۔ کہ مقدمہ عدالت 1220
مورخہ 18-11-03 (م) 302-324-353
34-13A0-TATA کھانہ سٹی کوٹاٹ۔

محشیت کنٹریبل ٹھارو سید حبیب امان بارگاہ کوٹاٹ بدوران سماعت عدالت (ATC) کورٹ
میں شہادت دی۔ جناب نرمان صاحب (PP) کی موجودگی میں چیف ریکارڈ کیا گیا
میں آیا وقوعہ گفیشی انسر کو بیان 161 CPC دیا گیا۔ وی بیان عدالت (ATC)
میں ریکارڈ کیا گیا۔ یہ دونوں بیانات آپ جسے ہے۔ جو پیر ایک انزا لگا گیا ہے
کہ بیان 161 CPC سے متعلق ہوئے ہیں۔ میرے دونوں بیانات بغور دیکھا جائے
اس میں کوئی تضاد نہیں ہے۔ عدالت (ATC) میں مائنٹنگ کے متعلق کہا تھا۔
کہ مائنٹنگ شروع ہوئی ہے۔ اور مائنٹنگ کے دوران دو روپ چھٹی کر
چھ پتہ نہیں چلتا۔ کہ مائنٹنگ کہاں سے شروع ہے۔ چونکہ مجھے انٹرنیٹ کی سہولت
نہیں آتی۔ میں نے یہی بیان عدالت (ATC) میں ریکارڈ کیا گیا تھا۔
میں نے کوئی غلط بیانی سے کام نہیں لیا ہے۔ چونکہ میں کنٹریبل ہوں۔
وہی تجربے کے متعلق شہادت ریکارڈ کیا گیا تھا۔ مجھے گفیشی انسر نے اور
سرکاری ڈیپل نرمان PPCPP نہیں سمجھا گیا تھا۔ میں نے جو
شہادت ATC کورٹ ریکارڈ کیا گیا تھا۔ اللہ تعالیٰ کو جانندہ
ناخبر جان کر شہادت دی ہے۔

ATC کورٹ کا کیو اے منسلک اگر بغور دیکھا جائے تو اتنی غلطیاں
پرائیوٹ، زہی کوہان اور گفیشی انسر کے خلاف تحریر فرمائی ہے

ہمارے خلاف کوئی غلطی تحریر نہیں کی ہے۔

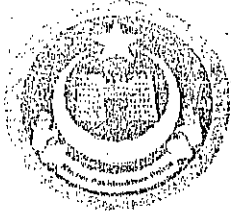
عدالت سروس ٹریبیونل کورٹ ہسٹوری میں جمع فراہم کرنے کے لیے
ضلعی پریکٹس فراہم کیا ہے۔ کہ اس مقدمہ میں اہم و اہل ذمہ کے
بیانات (پکارڈ) نہیں کیے گئے۔ صرف کنسٹبل زکیشان حسین کی قربانی
کا بکرا بنایا گیا۔ چونکہ قربانی کا بکرا بے ذمہ کے لیے تحریر کیا جاتا ہے
میرے خلاف تمام الزامات جو پھیل چکے ہیں۔ بے بنیاد ہے
من سائل واحد والدین کا سہارا ہے

استدعا ہے کہ سائل کی اولاد بڑی پر نبرد افہ عجز فرما کر سائل
کے لیے حکم صادر فرمائیں۔ سائل نامیہ سارا گریہ گا۔

ایک فرما بنیاد / تابعدار

کنسٹبل زکیشان حسین نمبر 186

9-4-2018



13

Amir 9

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

No 4500-05PA dated Kohat the 07/5/2018

ORDER

This order will dispose of de-novo departmental proceedings initiated against Constable Zeshan Hussain No. 186/500 under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

The essential facts arising of the case are that Constable Zeshan Hussain No. 186/500 (**hereinafter called accused**) while posted the then Guard at Imam Bargha Syed Habib Shah Kohat City was dismissed from service vide order dated 07.01.2016. The accused official has intentionally and deliberately recorded contradictory statement in high profile sectarian case before learned A.T Court in case vide FIR No.1220, dated 18.11.2013, u/s 302,324,353,34 PPC,13 AO, 7 ATA, in which three persons including gunman of DSP City Kohat were killed and two civilians sustained severe injuries. He openly supported/favored the accused charged for above mention offences by stating the following:-

i. He stated that on the eventful day he was present at duty, In the meanwhile a procession duly armed with daggers and Lathis came there and started firing near the Imam Bargha. Totally contrary to the factual situation on ground.

ii. He has also stated that firing was coming from all four sides. Although there was no armed civilian in-front of Imam Bargha.

iii. He has not uttered a single word about the accused facing trial and he made the presence of the complainant Mazhar Jehan Inspector and eye witness DSP Lal Farid doubtful by not uttering a single word to the effect that they were present at the time, place and firing by the accused and resiled from his earlier statement recorded u/s 161 CrPC during the course of investigation.

iv. Being an experienced police personnel, he has provided an extra ordinary benefit to the accused in this high profile sectarian case. which led to their acquittal. This amounts to gross professional misconduct, willful joining hands with accused and irresponsibility on his part.

In compliance with the Judgment of Service Tribunal dated 04.12.2017, denovo departmental proceedings initiated after approval. The SP Operations, Kohat was appointed as enquiry officer by the competent authorities. Charge Sheet alongwith statement of allegations issued to the accused official. The accused official was associated with the proceedings and afforded ample opportunity of defense by E.O. The said constable was held guilty of the charges vide finding of the enquiry officer and recommended for minor punishment.

Final Show Cause Notice alongwith copy of enquiry finding was served upon the accused official. Reply received unsatisfactory, without any plausible explanation.

Therefore, the accused official was called in Orderly Room, held on 03.05.2018 and heard in person, but he failed to submit any explanation to his gross professional misconduct.

In view of the above and available record, I agreed with the finding of enquiry officer, therefore, in exercise of powers conferred upon me under the **rules ibid I**, Abbas Majeed Khan Marwat, District Police Officer, Kohat impose a minor punishment of **forfeiture of approved service up to 02 years** on accused constable Zeshan Hussain No. 186/500. He is reinstated in service with immediate effect. The **intervening period is treated as leave without pay on the principle "no work, no pay"** and pay is hereby released.

Announced
03.05.2018



DISTRICT POLICE OFFICER,
KOHAT

OB No. 462
Date 7.5.2018

No 4500-05 / PA dated Kohat the 07-5-2018.

Copy of above is submitted for favour of information to the:-

1. Deputy Inspector General of Police, Enquiry & Inspections w/r to his letter No. 517/E&I dated 02.04.2018.
2. Regional Police Officer, Kohat w/r to his office Endst: No. 639/EC dated 18.01.2018.
3. AIG Legal Peshawar w/r to his letter No. 2806/Legal dated 21.12.2017.
4. Reader, Pay officer, SRC and OHC for necessary action.


DISTRICT POLICE OFFICER,

17

Amirul F

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Constable Zeeshan Hussain No. 186/500 of Kohat district Police, against the punishment order, passed by DPO Kohat vide OB No. 462, dated 07.05.2018 whereby he was awarded minor punishment of forfeiture of two years approved service and leave without pay for the allegations of producing contradictory statement before the Anti-Terrorism Court Kohat and facilitation of accused with undue favour.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Kohat and perused. He was also heard in person in Orderly Room, held in this office on 11.07.2018, but he did not advance any plausible explanation in his defense.

Record indicates that the appellant has willfully contradicted his statement before ATC, which resulted into acquittal of nominated accused and the same has been established by Enquiry Officer in his findings. The punishment order of DPO Kohat is justified. His appeal is hereby rejected.

Order Announced
11.07.2018

(MUHAMMAD LAZ KHAN) PSP
Region Police Officer,
Kohat Region

No. 773 /EC, dated Kohat the 13/7 /2018.

Copy for information and necessary action to the District Police Officer, Kohat w/r to his office Memo: No. 12666/LB, dated 11.06.2018. His Enquiry File / Fauji Missal is returned herewith.

(MUHAMMAD LAZ KHAN) PSP
Region Police Officer,
Kohat Region

Kat

M.L.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1016/2018
Zeshan Hussain Constable No. 186/500

.....Appellant

VERSUS

Inspector General of Police
Khyber Pakhtunkhwa & others

..... Respondents

INDEX

S.#	Description of documents	Annexure	pages
1.	Reply of parawise comments	-	01-02
2.	Counter Affidavit	-	03
3.	Charge sheet and statement of allegations	A & B	04-05
4.	Reply to the charge sheet in de-novo inquiry	-	06--07

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1016/2018
Zeshan Hussain Constable No. 186/500

.....Appellant

VERSUS

Inspector General of Police
Khyber Pakhtunkhwa & others

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- i. That the appellant has got no cause of action.
- ii. That the appellant has got no locus standi.
- iii. That the appeal is not maintainable in the present form.
- iv. That the appellant is estopped to file the instant appeal for his own act.
- v. That the appellant has not come to this Hon. Tribunal with clean hands.
- vi. That the appeal is not maintainable for misjoinder and non-joinder of necessary parties.

FACTS:-


1. Pertains to record, hence no comments.
2. **Incorrect, the appellant was not promoted as ASI.** He was posted at Syed Habib Shah Imam Bargah on the eventful day and a marginal / eye witness in a heinous case vide FIR No. 1220 dated 18.11.2013 U/Ss 302, 324, 353, 34 PPC, 13 AO, 7ATA PS City Kohat. The appellant deliberately recorded wrong statement in Anti-Terrorism Court Peshawar. The benefit of this statement was extended to the accused who were acquitted. Therefore, the appellant was proceeded departmentally which culminated into his dismissal from service. However, in compliance with the judgment of this Honorable Tribunal in service appeal No. 219/2016, the appellant was proceeded with de-novo inquiry.
3. As submitted above, de-novo departmental proceedings were initiated against the appellant on the misconduct, submitted in para No. 2.
4. Correct.
5. Correct.
6. The appellant is estopped to file the instant appeal for his own conduct.


Grounds:-

- A. Incorrect, the orders passed by the respondent No. 2 & 3 are based on facts, charges levelled against the appellant have been established beyond any shadow of doubt. Hence, the respondents 2 & 3 passed legal and speaking orders in accordance with law & rules.
- B. Incorrect, the appellant was proceeded with departmentally in accordance with law & rules.

- C. Incorrect, the judgment of this Honorable Tribunal was honored / implemented in letter & spirit.
- D. Incorrect, the appellant was served with charge sheet alongwith statement of allegations to which the appellant submitted reply to the charge sheet. Copies are **annexure A & B**.
- E. Incorrect, the appellant was associated with the inquiry proceedings, he was heard by the inquiry officer, competent authorities and the departmental appellate authority.
- F. Incorrect, cogent evidence against the appellant has been brought on record.
- G. Incorrect, the appellant was proceeded on the misconduct committed /established against the appellant.
- H. Incorrect, the appellant was provided ample opportunity of defense but failed to defend himself.
- I. Irrelevant, the appellant was responsible for his own act, due to which the accused was acquitted.
- J. The appellant was posted at the place of occurrence and he was marginal eye witness of a heinous case. During course of trial, the appellant willfully contradicted his statement, which resultant into acquittal of accused.
- K. Irrelevant.
- L. Incorrect, the appellant was heard in person, associated with inquiry proceedings, but failed to defend himself during the inquiry proceedings.
- M. The respondents may also be allowed to advance other grounds at the time hearing.

Keeping in view of the above, it is submitted that the appeal is without merit and not substantiated. It is, therefore, prayed that the appeal may kindly be dismissed with cost please.


Deputy Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1016/2018
Zeshan Hussain Constable No. 186/500

.....Appellant


VERSUS


Inspector General of Police
Khyber Pakhtunkhwa & others

..... Respondents

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.


Deputy Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)



No 442-43/PA

Office of the
District Police Officer,
Kohat

Dated 17-1-2018

CHARGE SHEET.

I, **ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT**, as competent authority under Khyber Pakhtunkhwa Police Rules 1975 (amendments 2014) am of the opinion that you **Ex-Constable Zeeshan Hussain No. 500** rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

You have intentionally and deliberately recorded contradictory statement in high profile sectarian case before learned AT Court in case vide FIR No.1220, dated 18.11.2013, u/s 302,324,353,34 PPC,13 AO, 7 ATA, in which three persons including gunman of DSP City Kohat were killed and two civilians sustained severe injuries.

You openly supported/favored the accused charged for above mention offences by stating the following:-

- i. *You have stated that on the eventful day you were present at duty, In the meanwhile a procession duly armed with daggers and Lathis came there and started firing near the Imam Bargha. Totally contrary to the factual situation on ground.*
- ii. *You have also stated that firing was coming from all four sides. Although there was no armed civilian in-front of Imam Bargha.*
- iii. *You have not uttered a single word about the accused facing trial and you made the presence of the complainant Mazhar Jehan Inspector and eye witness DSP Lal Farid doubtful by not uttering a single word to the effect that they were present at the time, place and firing by the accused and resiled from your earlier statement recorded u/s 161 CrPC during the course of investigation.*
- iv. *Being an experienced police personnel, you have provided an extra ordinary benefit to the accused in this high profile sectarian case which led to their acquittal. This amounts to gross professional misconduct, willful joining hands with accused and irresponsibility on your part.*
- vi. *On acceptance of appeal, a de-nove enquiry was ordered to be initiated by DIG Enquiry & Inspections vide his letter No. 52/E&I dated 10.01.2018.*

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Police Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of Police Rules 1975.

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

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

4. A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT



Office of the
District Police Officer,
Kohat

No _____/PA

Dated _____/2018

DISCIPLINARY ACTION

I, **ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Ex-Constable Zeeshan Hussain No. 500** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

You have intentionally and deliberately recorded contradictory statement in high profile sectarian case before learned AT Court in case vide FIR No.1220, dated 18.11.2013, u/s 302,324,353,34 PPC,13 AO, 7 ATA, in which three persons including gunman of DSP City Kohat were killed and two civilians sustained severe injuries.

You openly supported/favored the accused charged for above mention offences by stating the following:-

- i. *You have stated that on the eventful day you were present at duty, In the meanwhile a procession duly armed with daggers and Lathis came there and started firing near the Imam Bargha. Totally contrary to the factual situation on ground.*
- ii. *You have also stated that firing was coming from all four sides. Although there was no armed civilian in-front of Imam Bargha.*
- iii. *You have not uttered a single word about the accused facing trial and you made the presence of the complainant Mazhar Jehan Inspector and eye witness DSP Lal Farid doubtful by not uttering a single word to the effect that they were present at the time, place and firing by the accused and resiled from your earlier statement recorded u/s 161 CrPC during the course of investigation.*
- iv. *Being an experienced police personnel, you have provided an extra ordinary benefit to the accused in this high profile sectarian case which led to their acquittal. This amounts to gross professional misconduct, willful joining hands with accused and irresponsibility on your part.*
- v. *On acceptance of appeal, a de-nove enquiry was ordered to be initiated by DIG Enquiry & Inspections vide his letter No. 52/E&I dated 10.01.2018.*

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **Mr. Jamil Akhtar SP Operations Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

**DISTRICT POLICE OFFICER,
KOHAT**

No. 442-43 /PA, dated 17-1- /2018.

Copy of above to:-

1. **Mr. Jamil Akhtar SP Operations Kohat:-** The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. **The Accused Official:-** with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

حوالہ جوائی (اگر رڈ ٹی۔ لو۔ انٹرویو کی اذان کنٹریل چائینرز اے جی
کے پاس 17/18 مارچ 2015ء 43/PA-442 حوصم 1/17 (3) مارچ 2015ء کو لیا گیا

1. (انٹرویو افسر) آپ نے سالقم انٹرویو میں جو بیان دیا تھا وہ درست تھا یا غلط

ج (ذیشان علی) 186/FC (درست تھا)

2. (انٹرویو افسر) موجودہ انٹرویو میں بیان جو آپ نے جمع کروایا ہے کیا وہ درست ہے

ج (ذیشان علی) 186/FC (درست ہے)

3. (انٹرویو افسر) عدالت میں پوچھی جانے والی باتوں کے بارے میں آپ نے کیا جواب دیے تھے۔
ج (ذیشان علی) 186/FC (جوابات درست طور پر دیے گئے۔ وکیل آپ

4. (انٹرویو افسر) موجودہ انٹرویو میں جو بیان آپ نے دیا ہے وہ درست ہے۔
ج (ذیشان علی) 186/FC (جوابات درست طور پر دیے گئے۔ وکیل آپ

5. (انٹرویو افسر) آپ کی نوکری کتنی تھی

ج (ذیشان علی) 186/FC (ہاں درست ہے)

ATLAS
08/03/15
Superintendent of Police
Operation
Kohat

6. (انٹرویو افسر) آپ کی نوکری کتنی تھی

ج (ذیشان علی) 186/FC (جوابات درست طور پر دیے گئے۔ وکیل آپ
161/FC آپ کے لدا گئے تھے۔ یا نہیں

ج (ذیشان علی) 186/FC (ہاں بالکل 161/FC کا بیان لیا گیا تھا۔

7
میں (انٹرنیٹ) ایف ڈی ایف میں باکیا شدہ / افسر کو
کرنے یا شرح کرنا چاہیے

ج ڈی ڈی (186) میں اس انٹرنیٹ میں بے گناہوں
میں ایف ڈی ایف میں کسی کو پیش نہیں کر سکتا ہو۔ اور
کسی شرح کرنا چاہتا ہوں۔

شرح درجہ طور پر کی گئی ہے۔ اگر کوئی سبب
گیا۔ کوئی شرح درجہ طور پر نہیں کرے گا۔

2-3-2018

ڈسٹریکٹ ایف ڈی ایف 186
افسار

NIC 14301-1132698-3

Mob: 0315-9271221

Attested
08/03/18
(E-5)
Superintendent of Police
Operation
Khat

DE-NOVE DEPARTMENTAL ENQUIRY AGAINST CONSTABLE ZEESHAN ALI NO.500

No. 82 /PA dated Kohat the 27/03/2018

FINDING

This is in response of your office charge sheet NO.442-43/PA Dated 17.01.2018. Constable Zeeshan Ali was charge sheeted with the allegation that while he was posted at PS ustarzai, intentionally and deliberately recorded contradictory statement in high profile sectarian case before learned AT Court in case vide FIR No.1220, dated 18.11.2013 u/s 302, 324, 353, 34 PPC, 13 AO, 7ATA, in which three persons including gumnam of DSP City Kohat were killed and two civilians sustained severe injuries. He openly supported / favored the accused charged for above mention offence. On acceptance of appeal, a de-nove enquiry was ordered to be initiated by Dig Enquiry & Inspection vide his letter No. 52 Dated 10.01.2018.

STATEMENT OF ALLEGATIONS

- (i) He had stated that on the eventful day he had present at duty, in the meanwhile a procession duly armed with daggers and Lathis came there and started firing near the Imam Bargah. Totally contrary to the factual situation on ground.
- (ii) He had also stated that firing was coming from all four sides. Although there was no armed civilian in-front of Imam Bargah.
- (iii) He had not uttered a single word about the accused facing trial and he made the presence of the complainant Mazhar Jahan Inspector and eye witness DSP Lal Farid doubtful by not uttering a single word to the effect that they were present at the time, place and firing by the accused and resiled from his earlier statement recorded u/s 161 CrPC during the course of investigation.
- (iv) Being an experienced police personnel, he had provided an extra ordinary benefit to the accused in this high profile sectarian case which led to their acquittal. This amounts to gross professional misconduct, willful joining hands with accused and irresponsibility on his part.

For scrutinizing the conduct of Constable Zeeshan Ali, he was summoned for personal hearing, recorded his statement and relevant record requisitioned from concerned police station and examined thoroughly. In his written reply of charge sheet and summary of allegations, he defended himself pleading his innocence.

During the inquiry process, to determine facts and validity of the statement of the accused constable Zeeshan Ali was summoned again for cross examination, question answers which were also placed in file after duly signed and attestation. (Attached herewith for ready reference please). He was given full opportunity to defend himself. He was also asked whether he likes to cross examine any person or officer or otherwise.

Conclusion

From the de-nove enquiry so far conducted, it is concluded that statement of the defaulter Constable Zeeshan Ali No.500 is found not satisfactory and he is found guilty of the charges leveled against him.

(Therefore, he is recommended for suitable punishment as admissible under the rule.)

SUPERINTENDENT OF POLICE,
OPERATIONS KOHAT

22-03-2018

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

S.A No. ____/2019

Zeeshan Hussain

Versus

Inspector General of Police Khyber Pakhtunkhwa and others

REJOINDER ON BEHALF OF APPELLANT

**Respectfully Sheweth
Preliminary Objection:-**

All the preliminary objections raised by the Respondent are incorrect.

FACTS:-

1. Para No. 1 of the appeal has not been properly replied by the Respondents hence admitted by the Respondents.
2. Para No.2 of the appeal is correct and that of the reply is incorrect.
3. Para No.3 of the appeal has not been properly replied hence admitted by the Respondents though the denovo inquiry was conducted but in utter violation of the Judgment of this

Hon'ble Tribunal so the whole proceeding is null and void.

4. Para No.4 of the appeal has been admitted by the Respondents.
5. Para No.5 of the appeal has been admitted by the Respondents
6. Para No.6 of the appeal is correct and that of the reply is incorrect.

GROUND:-

- A. Ground A of the reply is incorrect and that of the appeal is correct.
- B. Ground B of the appeal is correct and that of the reply is incorrect.
- C. Ground C of the appeal is correct and that of the reply is incorrect.
- D. Ground D of the appeal is correct and that of the reply is incorrect.
- E. Ground E of the appeal is correct and that of the reply is incorrect.
- F. Ground F of the appeal is correct and that of the reply is incorrect.

G. Ground G of the appeal is correct and that of the reply is incorrect.

H. Ground H of the appeal is correct and that of the reply is incorrect.

I. Ground I of the appeal is correct and that of the reply is incorrect.

J. Ground J of the appeal has not been properly replied despite declaring the role of the DSP, SHO and A-SHO as dubious by the Hon'ble court but only the appellant was made escape goat thus subjected to discrimination.

K. Ground K of the appeal is not properly replied hence admitted by the Respondents.

L. Ground L of the appeal is correct and that of the reply is incorrect.

M. Ground M of the appeal is correct and that of the reply is incorrect

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

Petitioner
Through

Naila Jan

Advocate, High Court
Peshawar.

Dated 28/01/2019