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Sr.	Date of	Order or other proceedings with signature of Judge	or Magistrate		
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	proceeding				
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		BEFORE THE KHYBER PAKHTUNKHWA SERVI	ICE TRIBUNAL		
		AT CAMP COURT ABBOTTABAD	ICE TRIBUNAL		
		Service Appeal No. 149/2018			
		Date of Institution 30.01.2018 Date of Decision 19.09.2018	· · · · · · · · · · · · · · · · · · ·		
		Muhammad Haroon son of Muhammad Maskeen C resident of Bandi Pahar, Tehsil and Distri	•		
			Appellant		
		Versus			
		District Police Officer Abbottabad.			
<		 District Police Officer Abbottabad. Regional Police Officer, Hazara Region Abboottabad. 			
	19.09.2018				
S.			Respondents		
		Mr. Subhan Sher	Chairman		
		Mr. Muhammad Hamid Mughal			
		JUDGMENT	<i>,</i>		
		MUHAMMAD HAMID MUGHAL, MEM	BER:Learned		
		counsel for appellant and Mr. Usman Ghani	learned District		
		Attorney for respondents present.			
		2. The appellant (Ex-Constable) has filed the p	resent appeal u/s		
		4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against			
	되 유	the order dated 14.09.2017 whereby he was awarded	ed major penalty		
	**	of dismissal from service on the charge that he frau	dulently digested		
2 200	th .	huge amount i.e. more than Rs.1700000/- with the	***		
;		revenue staff and Mst. Muneza Bano from	the applicable		

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Mukhamadan Gul. The appellant has also challenged the order dated 08.01.2018 vide which the departmental appeal of the appellant, against the original impugned order, was rejected/filed.

- 3. At the very outset learned counsel for appellant assailed the impugned orders on the ground that the same are extremely harsh. Learned counsel for appellant argued that the appellant was inducted in Police Department in the year 1994 and as such he had a considerable length of service when the impugned order of dismissal from service was passed. Learned counsel for appellant argued that the criminal court already observed that the real controversy between the parties was of civil nature regarding the possession of immovable property. Learned counsel for the appellant requested that since the appellant has more than twenty three (23) years length of service at his credit therefore the impugned punishment of dismissal from service may be modified and converted into compulsory retirement from service.
- 4. As against that learned District Attorney argued that the impugned punishment of dismissal from service was awarded to the appellant upon fulfillment of all the codal formalities and legal requirements, as such the impugned orders are lawful and valid.
 - 5. Arguments heard. File perused.
- 6. There is no dispute that the appellant had more than twenty three (23) years of service at his credit when the impugned order of his dismissal from service was passed. Consequently while appreciating the arguments of learned counsel for the appellant and

circumstances of the present case, this Tribunal is of the considered view that the impugned punishment is harsh. As such for the purpose of safe administration of justice the impugned punishment of dismissal from service is modified and converted into compulsory retirement from service from the date of issuance of the original impugned order i.e. w.e.f 14.09.2017. The present service appeal is partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Hamid Mughal) Member

19.09.2018

(Subhan Sher) 19.5.200

Chairman

17.07.2018

Appellant Muhammad Haroon in person present. Mr. Shamraiz Khan, ASI on behalf of the respondents alongwith Mr. Usman Ghani, District Attorney present and submitted comments. Copy placed on file. Case to come up for rejoinder, if any, and arguments on 19.09.2018 before the D.B at camp court, Abbottabad.

Chairman
Camp Court, A/Abad

19.09.2018

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney for respondents present.

Vide separate judgment of today of this Tribunal placed on file, the impugned punishment of dismissal from service is modified and converted into compulsory retirement from service from the date of issuance of the original impugned order i.e. w.e.f 14.09.2017. The present service appeal is partially accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room..

(Muhammad Hamid Mughal) Member Subhan Sher) 9.9.305 Chairman

ANNOUNCED 19.09.2018 22.03.2018

Counsel for the appellant present. Preliminary arguments heard. The appellant was dismissed from service on 14.09.2017 against which he filed departmental appeal on 21.09.2017 which was not responded to and thereafter, he filed the present service appeal on 30.01.2018.

The learned counsel for the appellant argued that the disciplinary proceedings involved determination of some factual controversy which concern with a contract between the parties. In that contract, the appellant happened to be a witness and had no concern with the suit property. That the role of the appellant was not in official capacity but in private capacity. The learned counsel for the appellant also invited the attention of this Tribunal towards a miscellaneous application for suspension of order of dismissal.

8-5-13

The points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 23.05.2018 before S.B at camp court, Abbottabad. Notice of application should also be issued to the respondents for the date-fixed.

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Appoilant Deposited
Security of Process Fee

Chairman Camp court, A/Abad

23.05.2018

Neither the appellant nor his counsel present. Respondents are also not in attendance. To come up for further proceedings on 17.07.2018 before S.B at camp court, Abbottabad.

Chairman Camp court, A/Abad

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Form-A FORMOF ORDERSHEET

Court of	
,	•
Case No.	149/2018

	Case NO. 145/2010				
S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
1	2	3			
1	30/1/2018	The appeal of Mr. Muhammad Haroon presented today by Haji Sabir Hussain Tanoli Advocate may be entered in the			
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		Institution Register and put up to Worthy Chairman for proper			
.		order please.			
		REGISTRAR			
2-	8-2-18	This case is entrusted to Touring S. Bench at A.Abad for			
		preliminary hearing to be put up there on $22 - 3 - 2018$			
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Service Appeal No. 149 /2018

Muhammad Haroon

...APPELLANT

VERSUS

DPO, Abbottabad and others

...RESPONDENTS

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, 7.	Copy of the plaint and order sheets	"D"	297635
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..APPELLANT

Through:

Dated: 1/2018

(HAJÍ SABIR HÚSSÁIN TANOLI)

Advocate Supreme Court of Pakistan,

Abbottabad

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1/22

Service Appeal No. 149 /2018

Muhammad Haroon S/o Muhammad Maskeen, Constable No.649, R/o Bandi Pahar, Tehsil and District Abbottabad

Khyber Pakhtirk APPELLANT Service Tribunat

VERSUS

Diary No. 154

Dated 30-1-2018

- 1) District Police Office, Abbottabad.
- 2) Regional Police Office, Hazara Region, Regional Police Office, Abbottabad.
- 3) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST ORDER
OF RESPONDENT NO.1 BEARING NO.2452/PA
DATED 14.09.2017 WHEREBY THE APPELLANT
WAS DISMISSED FROM SERVICE AND CRIMINAL
CASE WAS ALSO DIRECTED TO BE REGISTERED
AGAINST THE APPELLANT AND ORDER OF
RESPONDENT NO.2 BEARING NO.5/PA DATED
05.01.2018 DISPATCH NO.338 DATED 08.01.2018
VIDE WHICH ORDER OF RESPONDENT NO.2 WAS
MAINTAINED AND APPEAL OF THE APPELLANT
WAS FILED.

Filedto-day
Régistrar

PRAYER:

ON ACCEPTANCE OF INSTANT
APPEAL, IMPUGNED ORDER DATED 14.09.2017
AND ORDER OF APPELLATE AUTHORITY DATED
05.01.2018 MAY KINDLY BE SET ASIDE AND
APPELLANT MAY KINDLY BE REINSTATED IN
THE SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth,

FACTS:-

- 1. That appellant was enrolled in the Police Department as Constable on 07.07.1994.
- 2. That appellant was serving in the Police Department with unblemished service record during last about 23 years meritorious services.
- 3. That one Mumdan Gul S/o Ghulab Gul had submitted an application to respondent No. 1 alleging therein the departmental proceedings against the appellant and initiating criminal proceeding also. (Copy of the application is annexed as Annexure "A")
- 4. That similar application and ultimately an application
 Under Section 22-A Cr.P.C was also submitted by the

said Mumdan Gul on the similar charge before Additional Session Judge-VI / Ex-Officio Justice of Peace Abbottabad which was dismissed on 22.01.2016. (Copy of the order dated 22.01.2016 is annexed as Annexure "B")

- 5. That said Mumdan Gul also filed a suit with regard to same subject matter bearing suit No.38/1 which is still sub-judice before Civil Court Abbottabad. (Copy of the plaint and order sheets are annexed as Annexure "C")
- 6. That appellant had also filed a suit against the above said person being suit No.391/1 of 2017. (Copy of the plaint and order sheets are annexed as annexure "D")
- 7. That respondent No1 charge sheeted the appellant and inquiry Committee was constituted vide order dated 05.06.2017. (Copy of the charge sheet is annexed as Annexure "E")
- 8. That Inquiry Officer submitted his inquiry report and recommended the appellant for award of punishment of dismissal and registration of criminal case which was approved by the respondent No. 1. (Copy of the inquiry report is annexed as Annexure "F")

- 9. That consequent upon the recommendation of Inquiry Officer, the appellant was dismissed from service by awarding major punishments of dismissal from service by respondent No. 1 vide order dated 14.09.2017. (Copy of the order dated 14.09.2017 is annexed as Annexure "G")
- 10. That during the pendency of departmental proceedings against the appellant, appellant submitted an application to respondent No.2 who vide letter dated 26.07.2017 directed the respondent No.1 to stop the departmental proceedings against the appellant. (Copy of the letter bearing No.355 dated 26.07.2017 is annexed as Annexure "H" while application is annexed as Annexure (I")
- 11. That on the directions of respondent No.1, an FIR bearing No. 412 dated 12.09.2017 U/S 419, 420, 34 P.P.C Police station City, Abbottabad was already registered. (Copy of the FIR is annexed as Annexure "J")
- 12. That appellant in reply to the show cause notice submitted detail reply alongwith complete evidence.

 (Copy of the reply is annexed as Annexure "K")

- 13. That appellant feeling aggrieved by the order of respondent No.1 dated 14.09.2017 filed an appeal / representation before respondent No2 on 21.09.2017.

 (Copy of the departmental appeal is annexed as Annexure "L")
- 14. That respondent No.2 sent the case back to the respondent No. 1 for re-inquiry, appellant appeared before the Inquiry Officer and again filed his detail reply on 14.12.2017. (Copy of the reply is annexed as Annexure "M")
- 15. That appellant was arrested in the criminal case after cancelation of bail before arrest and granted regular bail by learned JM-II Abbottabad on 14.10.2017. (Copy of the bail granting order is annexed as Annexure "N")
- 16. That complainant submitted an application for cancelation of bail before ADJ-VI Abbottabad which was also dismissed on 13.12.2017. (Copy of the order dated 13.12.2017 is annexed as Annexure "O")
- 17. That respondent No.2 dismissed the appeal / representation of the appellant vide order dated 05.01.2018 bearing daily diary No.338 dated 08.01.2018.

(Copy of the order dated 05.01.2018 of respondent No.2 is annexed; as Annexure "P")

18. That appellant seeks to impugned the order of respondents No.1 & 2, inter-alia, on the following grounds:-

GROUNDS:-

- a. That, impugned order of respondents No. 1 & 2 are illegal, void, without jurisdiction and without lawful authority.
- b. That appellant is a poor person having 8 children and removal / dismissal from service on a baseless charge is a very harsh act of respondent No.1 and appeal was dismissed by respondent No. 2 without considering his own letter written to respondent No.1 directing them to stop the inquiry against the appellant.
- of witnesses, cross examination of the appellant and giving no opportunity of personal hearing award of major punishment is not sustainable.

- d. That, appellant is only the marginal witness in the registered deed could not held responsible for committing fraud and moreso when subject matter in dispute is sub-judice before the competent Court of law without declaration of guilt or otherwise of the appellant, no departmental proceedings on the similar charge can be initiated against the appellant.
 - That similar application was turned down by the respondent No.1 and Justice of Peace had also denied the similar relief and declared the appellant innocent by dismissing the application U/S 22-A Cr.P.C, how respondent No.1 can sit over the verdict of Justice of Peace and declare the appellant as an accused on the similar charge hence orders of respondent No.1 & 2 are not sustainable at law.
- f. That impugned order of dismissal and order of appellate authority were without reason which are not sustainable. Impugned order passed by the departmental authority did not qualify to be a reasoned order, no independent reason / finding had been given by the authorities which was mandatory. Mandate to file an application / representation would be frustrated if the authority was merely

conveying an order of dismissal without assigning any reasons. Right of fair trial had been violated in the circumstancing hence impugned orders are not sustainable.

- g. That major penalty would not awarded without proof of guilt of the appellant, the charge leveled against the appellant is still to be scrutinized by the judicial forum in a criminal and civil proceedings pending before the competent Court of law.
- h. That so-called inquires were conducted by the subordinate officer of respondent No.1, who was personally biased against the appellant and complainant was near and dear of him, respondent No.1; personally asked the appellant to pay RS.17,00,000/- to complainant which was not possible for the appellant being a poor low paid Constable that too innocent having no nexus with the matter in issue, hence punishment awarded to appellant is biased and malafide, hence not sustainable at law.
- i. That due process of law has not been followed, explanation given by the appellant was not

considered and major penalty was awarded on mere allegation without any proof.

j. That appeal is well within time.

PRAYER:

It is, therefore, humbly prayed that on acceptance of the instant appeal, The impugned order dated 14.09.2017 and order of appellate authority dated 05.01.2018 may kindly be set aside and appellant may kindly be reinstated in the service with all back benefits.

..APPEĽLANT

Through:

Dated:- 29// /2018

(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan,
Abbottabad

VERIFICATION:-

Verified that the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and that nothing material has been suppressed from this Honorable Tribunal.

Dated:- 29/1./2018

APPELLANT

Service Appeal No. /2018

Muhammad Haroon

...APPELLANT

VERSUS

DPO, Abbottabad and others

..RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Muhammad Haroon S/o Muhammad Maskeen, Constable No.649, R/o Bandi Pahar, Tehsil and District Abbottabad *appellant*, do hereby solemnly affirm and declare on Oath that the contents of instant *Service Appeal* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

Dated:- 29/1 /2018

...APPELLANT



Service Appeal No. /2018

Muhammad Haroon

...APPELLANT

VERSUS

DPO, Abbottabad and others

...RESPONDENTS

SERVICE APPEAL CERTIFICATE

Certified that no such like Service Appeal has earlier been filed before this Hon'ble Tribunal.

..APPELLANT

Through:

Dated:- 29// /2018

(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan,

Abbottabad

Service Appeal No. /2018

Muhammad Haroon

::APPELLANT

VERSUS

DPO, Abbottabad and others

...RESPONDENTS

SERVICE APPEAL ADDRESSES OF THE PARTIES

Respectfully Sheweth;

The addresses of the parties are as under;

APPELLANT:

Muhammad Haroon S/o Muhammad Maskeen, Constable No.649, R/o Bandi Pahar, Tehsil and District Abbottabad

RESPONDENTS:

- 1) District Police Office, Abbottabad.
- 2) Regional Police Office, Hazara Region, Regional Police Office, Abbottabad.
- 3) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

APPELLANT

Through:

Dated:- 29// /2018

(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan,
Abbottabad

Service Appeal No.

/2018

Muhammad Haroon

...APPELLANT

VERSUS

DPO, Abbottabad and others

...RESPONDENTS

SERVICE APPEAL

APPLICATION FOR SUSPENSION OF THE IMPUGNED ORDER DATED 14.09.2017, TILL FINAL DISPOSAL OF TITLED SERVICE APPEAL.

Respectfully Sheweth,.

- 1. That the titled Service Appeal is being filed before this Honourable Tribunal, instant application may kindly be treated as an integral part of the main Service Appeal.
- 2. That appellant has a good Prima-Facie case and balance of convenience also lies in his favour and there is every likelihood of his success.
- 3. That if the impugned order dated 14.09.2017 is not suspended then appellant would suffer irreparable loss and the purpose of filing instant Service Appeal would become infructuous.

It is, therefore, humbly prayed that on acceptance of foregoing application, the impugned order dated 14.09.2017

may kindly be suspended till final disposal of titled Service Appeal.

...APPELLANT

Through:

Dated:- 24// /2018

(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan,
Abbottabad

AFFIDAVIT:

I, Muhammad Haroon S/o Muhammad Maskeen, Constable No.649, R/o Bandi Pahar, Tehsil and District Abbottabad *Applicant*, do hereby solemnly affirm and declare on Oath that the contents of instant *Application* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

Dated:- 29// /2018

...APPELLANT



من سن ما و معرف استازها و الما المولا و المو

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COURT OF SENIOR CIVIL JUDGE L'UDICIAL MAGISTRATE, ABBOTTABAD

CASENO 381, C.J-VII/A.T.D & 2016

Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary. Date of Order or Proceedings Civil Suit/Petition presented through counsel. proceedings Same is hereby entrusted to the Court of learned Civil Judge/Family Judge Court/Rent Controller_VIJ Abbottabad. Plaintiff/petitioner/learned counsel £3.1 directed to appear before the said court. 16/02/16 فعلااش 19109/17 عَلَى أرعوبي روى معلى وهول ملك تعدور 16:02.2016 مر مال مبتس ملو صاب عالى بر مال كارى وعوى دستروم ها - دعوى بِمَا يُعِلَقِي - يَمِن كَا رِوُ عَرِي. "يَن مَا وَوْسَ سَرِلُونِيلَ . عَلَى wed of the is it a come where यह दी गुरंग त्यां में हैं। हैं। या नंतर के تستريدساس - جردرست عن . تل دهرسه م. ده

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Asmawilah Wazig Civil audge VIVJE Abbottabad

Order....24 17/07/2017

Parties present.

This order is to dispose of an application under order 07 Rule 11

Counsel for respondents/plaintiffs contested the very application by filing written reply.

I have heard the arguments advanced by learned counsel for the parties and have gone through the case file.

The present suit is for declaration against the defendants to the effect that plaintiffs have purchased property from khasra number 394, measuring 73K-13M, to the extent of 08-Marla situated in Mouza Salhad-1 Abbottabad, at sale consideration of Rs.13,00,000/-through registry #1289, attested on 28.10.2013. Plaintiff has sought different reliefs along with conditional recoveries.

Cont:/P-1

HAJI SABIR HUSSAM TANOLI ABELITA SABIR HUSSAM TANOLI ABELITA SABIR ABELITA I FEBRUARI ABELITA SABIR ABELITA I FEBRUARI Arguments and perusal of file reveal that petitioners/defendants have raised question of jurisdiction as well as question of proper court fee. While, court fee has been affixed, questions of jurisdiction and cause of action cannot be disposed of separately as the same are intermingled with those questions of facts, which need pro and contra evidence. Therefore, the application being prematute and devoid of force, stands dismissed: No order as to costs.

File to come up for filing of written statement by defendant No.1 on 19/09/2017.

Announced 17/07/2017

(Asmatallah Wazir) Civil Judge-VII/JM Abbottabad.

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HEW CITY IS WHAT WAS SOND MOD 2/6/11 18/201 4/2 / Suje wie 1/4 المركبين ماية بالله ببالرطل كان ميل ما بالحرف محدة مره كم وصلح اللي أور مقدمه 0310-0975064 03/08/17 Sh فيملرانيتي 19/09/17 ا كل ما كا ولا عاج كل الحمال الله على المال الله على المال اللجه عارض نوالتي عور الحني عال مفتدا مي الهجازا الف دعوی الدی استور و گری استور وی برس فراد داد کر 7 18 SEP 2017 الدر دعاعلی صابره مرتدر کردر مقال کے مولی کو بلیک 560 I Cop by Jan 1 5 0 pla - by with by 5 مر عالم الرجال الرجاع المو فقرن عالى الم 2 des 1.66 cesm de = c'hell isio والمن المرفعان المالي in and findice in the ,5) (00)= (c) 100/2

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03/08/2017

Mea Mohammad Sarwar Tanoli Advocate for the plaintiff present and filed the instant suit.

The instant suit is coupled with an application for temporary injunction. Preliminary arguments on temporary application heard. In the light of arguments, notice of application be issued to the defendants/respondents for 22/8 /2017. File be put up before learned M.O.D on the date fixed.

03/08/17

فيال

19109/17

(Asmatullah Wazir) Civil Judge-VII/JM/MOD Abbottabad.

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JI SABIR HUCKEN TANOLI

∍0r.....03 `07.09.2017

Case file received from the court of MOD. It is a family Suit. Case file is entrusted to court of CJ/Family Judge <u>Affil</u> Abbottabad for disposal in accordance with law. Parties are directed to appear before said court for today.

Senior Civil Judge, Abbottabad.

Abboltabad.

Abboltabad.

P18 SEP 2017 Case file received from the Country.

P18 SEP 2017 Learned SCJ. Abbottabad Be prot up a fire

EXAMINER Judge

District & Sessions Secreting.

Asmall July 1969

Counsel for the plaintiff present. Plaint stands examined as per check list and it has been found that the instant suit is for declaration cum permanent injunction against the defendants. Prima facie the subject matter is of civil nature and falls within the jurisdiction of civil court. Valuation for the purpose of court fee and jurisdiction is mentioned as Rs.1000/- for Juzz Alif & Bay.

Counsel for the plaintiff, verifies the contents of plaint as true and correct. Be registered.

Summons as well as notice of stay application be issued to the defendants/respondents for 19/9/2017.

To come up for attendance of defendants for date fix

18292 14109/17

(Acmardiidh)Wazir)
Civil Judge-VII/JM,

Abbottabad.

18/09/17 18/09/17 DISCIPLINARY ACTION E. 36

I Syed Ashfaq Anwar (PSP) District Police Officer Abbottabad as Competent Authority of the opinion that you <u>Constable Muhammad Haroon No.</u>

694 have rendered yourself liable to be proceeded against as you committed the following act/omission within the meaning of Police Disciplinary Rules 1975.

STATEMENT OF THE ALLEGATIONS

- r/o Charmang Bajor Agency presently Thanda Choa Nawansher to Worthy Regional Police Officer Abbottabad which was sent to DSP, Cantt for preliminary enquiry. According to the report of DSP Cantt Abbottabad you had fraudulently digested an huge amount i.e more than 17,00000/- with the collaboration of revenue staff and Mst Muneza Beno from applicant who was new comer and is a stranger in Abbottabad which is against the human rights. Your this act is not only against the norms of KP Police but also dishonesty and against the Rules.
- 2). For the purpose of scrutinizing your conduct with reference to the above, allegations, an Enquiry Committee consisting of the following is constituted.

Mr. Shams ur Rehman Addl: SP, Abbottabad.

3). The Enquiry Officer/Committee shall in accordance with the provision of this ordinance, provide reasonable opportunity of hearing to the accused, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action the accused.

4). The accused a well conversant representative of departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer/Committee.

A T F S T E D
HAJI SANIN NICOANI TANOLI
Advocato Suprana Count of Pakisten
Abbettabad

SYED ASHFAQ ANWAR (PSP)
District Police Officer

Abbottabad

No: 211

/PA, Dated Abbottsbad the 15/06 /2017.

CC:

Constable Muhammad Haroon No. 694 with the direction to submit his defense within 07 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer of the date, time and place fixed for the purpose of departmental proceedings.

Page 2 of 2

- 1). I Syed Ashfaq Anwar (PSP) District Police Officer Abbottabad as competent authority hereby charge you Constable Muhammad Haroon No. 694 as explained in the attached statement of allegations.
- 2). You appear to be guilty of misconduct under Police disciplinary rules 1975, and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.
- 3). You are therefore, directed to submit your written defense within seven days on the receipt of this Charge Sheet in the Enquiry Officer.
- 4). Your written defense, if any should reach the Enquiry Officer with in the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
- 5). Intimate whether you desire to be heard in person or otherwise.

6). A statement of allegation is enclosed.

SYED ASHFAQ ANWAR (PSP)
District Police Officer
Abbottabad

.

Apportunity



PACT FINDING ENQUIRY AGAINST CONSTABLE MUHAMMAD HARGOR NO.OX

OF POLICE LINES ABBOTTABAD

BRIEF OF ALLEGATIONS:-

Constable Haroon No.694 of Police Lines Abbottabad was Charge Sheeted by W/District Police Officer, Abbottabad vide his good office Endst: No.211/PA dated 05-06-2017 on the allegations that "an application submitted by Muskhmadan Gul s/o Gulab Gul r/o Charmang Bajor Agency presently Tanda Choa Nawansher to Worthy Regional Police Officer, Hazara Region Abbottabad which was sent to DSP Cantt for preliminary enquiry. According to the report of DSP Cantt Abbottabad he had fraudulently digested an huge amount i.e more than 17,00000/- with the collaboration of revenue staff and Mst: Munaza Bano from applicant who was new comer and in a stranger in Abbottabad which is against the human rights. His this act is not only against norms of KP Police but also dishonesty and against the Rules".

CANO CIMPROCEED WES

During course of enquiry alleged official alongwith all the concerned were summoned to enquire the matter, statements were also obtained which are placed with

anquiry file.

STATEMENT OF DEFAULTER OFFICIAL:

Defaulter Official in his defensive statement stated that complainant stated application before high-ups which is based on fake allegations. Complainant Mukhmadan Gul s/o Gulab Gul also stated an application for 22A but the same was registered by Honorable Court of Law. He further stated that neither he deal for the selling of land nor he given land registry to him. He alleged that Mst: Munaza Bano is involved in the case for digesting the amount by complainant. The same case is already in the Court of Learned Civil Judge VII and

next date is fixed on 20-06-2017.

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Add: Superintendent of Police
H: Qrs Assembled.
Correct State 1238
Dy: No 1860 / PA
Dated A8 - 9 - 120 / 7

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FINDINGS:-



During the course of enquiry it was found their one Mst: Munaza Bano Millian Javed purchased a piece of land, in this respect Mr. Haroon (Police Constable) contacted with the said lady. Moreover, Haroon was key-man who sold the plot of one Zakir s/o Muhammad Afsar Khan in the name of Mst: Munaza Bano through Mutation No.394 on 26-06-2013. All the payment between both parties were made through Haroon Constable who is also a witness on various documents which were required for the transfer of plot. After a period of 3½ months again Constable Haroon using his sources and returned the same plot by Mst: Munaza Bano and sold 0-8 Marlas in the name of Mukhmadan Gul, 0-2 Marlas in the name of Zaheer (his brother). It is worth to mention here that in all this activities Haroon played the role of focal person for getting amount from the parties and handed over the amount to parties.

It is astonishing that property in question, is land of one Gohar Rehman, and Constable Haroon sold it with the consent of owner and fraudly prepared the fake documents. So Constable Haroon is completely found involved in this fraud.

Keeping in view of above, it is recommended that charged official may be awarded punishment of dismissal as well a case is also required to be registered on fraud for digesting a huge amount by complainant.

FSCAL PILL

Addl: Superintendent of Police, Abbottabad

documents protected for protection of the state of the st





This office order will dispose of the departmental enquiry against Constable Muhammad Haroon No. 694. An application was submitted by Mukhmadan Gul s/o Gulab Gul r/o Charmang Bajor Agency presently Thanda Choa Nawansher to Worthy Regional Police Officer Abbottabad which was sent to DSP. Cantt for preliminary enquiry. According to report of DSP Cantt Abbottabad he had fraudulently usurped an amount i.e. Rs. 17,00000/- for provision of landed plot with the collaboration of revenue staff and Mst: Muneza Beno from applicant who was new comer and a stranger in Abbottabad which is against the dictats of justice.

He was served with a Charge Sheet along with statement of allegations. Mr. Shams-ur-Rehman Addl: SP Abbottabad was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. He was provided ample opportunity to defend himself and rebut the allegations leveled against him. The Enquiry Officer submitted his findings. wherein allegations as per Charge Sheet have been proved. Consequently he was issued Final Show Cause Notice and was summoned to appear in Orderly Room on 08-09-2017. He was given a patient hearing but he had nothing plausible to state in his defence.

Forgoing in view, the undersigned is of the considered opinion that there is no chance that Constable Muhammad Haroon No, 694, will become a good Police Officer as he had fraudulently usurped an amount Rs. 17,00000/- in the guise of provision of landed plot. Police department cannot afford to retain such cheat in the force. Based on the recommendation of the Enquiry Officer, the undersigned has come to the conclusion that the charges against the delinquent officer stand established. Consequently, I, Syed Ashfaq Anwar, PSP, District Police Officer, Abbottabad as a competent authority, am constrained to award him the major punishment of Dismissal from service with immediate effect.

Order announced.

ct Police Officer Abbottabad -

No.24 52 /PA 14-9-17

ŀ. Establishment Assistant alongwith complete Enquiry File containing 140 pages for completion of record.

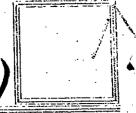
Pay Officer, DPO Office Abbottabad.

OASI DPO Office for necessary action.

office of the:

REGIONAL POLICE OFFICER, HAZARA REGION, ABBOTTABAD

Ph. Ir: 0992-9310516, 9310021-22, Fax. II: 0992-931002



KeF:

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/C.Cell

Dated: 24/7 /2017

MARIE .

ANNEX H

To:

The District Police Officer,

Abboliabad.

Subjecti

APPLICATION OF CONSTABLE HAROON NO.654

Memorandum

Constable Haroon No.094 presently in Police Lines Abbottabad appeared before the worthy Regional Police Officer, Hazara Region, Abbottabad and submitted application vide No.1488/C dated 26/07/2017 with relevant evidence (enclosed).

Upon perusal of documents, the competent authority is convinced that the departmental proceedings so initiated against the official may be stopped immediately as the competent coun u/s 22-A has categorically affirmed that no offence on the part of the said official has been committed and the matter is purely of civil nature. Hence the aggreeved party, if any, may obtain remedy from the court concerned, which is proper forem as well.

Please ensure compliance.

For Regional Police Officer, Hazara Region, Aribotiabad

HAJI SABIR HUSSAIN TANGLI Advocate Suprems Court of Pekistan Abbattakad

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Annex.J.

کونٹر ﴿ فَا تَیْل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدوز بر دفعہ ۱۵ مجموعہ ضابطہ فوجداری فقانه سٹی

ں ایبیت ہاد وتت وتو یہ 28/10/2013 وقت نامعلوم تھانہ سٹی نمبرعلیت 412

چا کیدگی پر چه 12/09/2017 و ت 12:30 بیج	
حمدانی گل ولدگلان گل ، قو م مداخیل ، سکنه با بره حیار منگ ، نواگئی شلع	
باجوژ، حال شنڈا چوآ، نوال شہر	
زيردفعه PPC 419/420/34	
كچېرى ايېك آباد جانب جنوب بفاصله 2/3 فرلانگ از تھانه	
برسيد كى تحريرى درخواست حكم افسران بالأبر مقدمه قائم موا-	
سېيل داک	

ابتدائی اطلاع نیجے درج کرو

ATTESTED

HAJI SABIR HUSSAIN TANQU

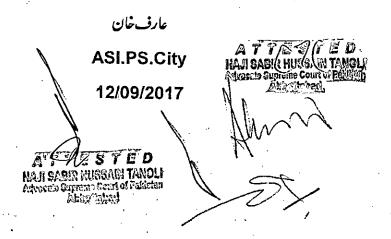
Advocate Suprema Court of Pakistan

Abbattanesa

بوقت صدر تحریری درخواست بوساطت سلیم خان ASI وصول ہوکر ذیل ہے۔ بخد مت جناب DPO صاحب، ایب تبارہ درخواست کی درخواست بایدہ چار منگ ڈاکنا نہ نوا گئی تحصیل نوا گئی ضلع با جوڑ حال سننہ شدند اچھ آنواں شہر، ایب تبارہ کی درخواست برادون ولد تھر مسکین سکنہ بایدہ چار منگ کی بہاڑ حال سکنہ تحقّہ جلال بابا شدند امیر اپولیس کنشیل ایب آباد۔ نبر 2 مسماۃ منزہ بانو زوجہ انتیاز جاوید، سکنہ جلال بابا چوک اپر ملکپورہ مکان نمبر 443/UM ایب آباد ورخواست برادصدور تھم براے شروع بانو زوجہ انتیاز جاوید، سکنہ جلال بابا چوک اپر ملکپورہ مکان نمبر 443/UM ایب آباد ورخواست برادصدور تھم براے شروع کی اور خواست برادصدور تھم براے شروع میں مسکن کے جناب عالی اسمنہ مون و دوخواست ذیل عرض ہے۔ نمبر 1۔ یہ کمن سائل جو کہ بدروران ملٹری آپریشن مردوری برطلاف دہشتگر دان با جوڑ ایجنبی ہے ترک سکونت کر کے بیثا ورا کر اپنی جا سکیاد خرید کر مکان بنایا جو بیثا ور بیس ہماری محنت مزدوری مردوری مردوری مردوری میں اپنا مکان فروخت کر کے ایب آبادیس میں کو موخوت مردوری م

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رجٹری پرخرچ کروا کہ ہمیں موقع پر قبضہ دیا جوہم نے رجٹری کے فوراً بعد جگہ کو بلڈوز رلگوا کر ہموار کروایا اور پھرایٹ بجری اور سینٹ وسریا وغیرہ اور مزدوری پرزائداز تین لا کھرویے خرچ کر کے جگہ پرمکان کے ڈھانچہ کے لیے پلر وغیرہ لگوا دیے تو گوہر الرحمٰن نا می شخص سکنیه ؤ هیری میرانے آگر جمیں بیرکہا کہ جگہاس کی ہے تعمیرات کام سے روک دیا جسکا گلہ محمہ ہارون کو کیا جس برمحمود ہارون نے موقع کی نشاندہی کروائی اور دومرتبہ پٹواریوں اور گرداوروں نے بتایا کہ جگہ خسر ہنمبر 394 موضع سلہڈ میں نہ ہے بلکہ خسرہ نمبر 395 موضع سلہڈ میں ہےاوراس کے بعد محمد ہارون ہمیں چکما دیتار ہا کہاولاً تو وہ بیجگہ ہی درست موقع نشاندہی کرکے ہارے حوالے کریگا اور ثانیا ورست موقع نہ ہونے کی صورت میں اس جگہ کی بجائے دوسری جگہ سے 08 مرلے زمین کا بلاث دیگا جبکہ محمد ہارون نے ایبانہ کیا اور نہ ہی صرف ہماری رقم زبردتی ہضم کی بلکہ ہماراونت بھی ضائع کیا۔اور جگہ صرف ہوا میں ہے علاوہ ازیں محمہ ہارون مذکورہ مختلف معاہدہ وجرگہ ہائے کر کے بھی منحرف ہوتا رہایہاں تک کیمن سائل نے آگرایک درخواست جناب DIG صاحب ہزارہ ریجن کو دی جو کہ برائے انکوائر ی DSP کینٹ کو مارک ہوئی اور جب DSP کینٹ نے انکوائری کی تو مذکورہ مجر ہارون کوقصور وار قرار دیانقل فیصلہ انکوائری لف ہے۔ نمبر 2 میر کہ بعد میں SP صاحب کوبھی درخواست دی جو کہ بعد انکوائری SP صاحب نے بھی مذکورہ محمد ہارون کوقصور وار قرار دیا اور اسکے خلاف قانونی کار دائی کے متعلق لکھا نقل لف ہے۔ نمبر 3 یہ کی مجمر ' ہارون نہ کورہ اب بھی پولیس کاملازم ہونے کا ناجائز فائدہ آٹھار ہاہے اورا سکے خلاف تا حال سی قتم کی کوئی محکمانہ وفو جداری کاروائی نہ ہوسکی ہے حالانکہ مذکورہ ہرلحاظ سے فراڈ ، دھوکہ دہی ، دھونس ودھمکی دینے کا مرتکب ہوا ہے اور باوجود وصول کرنے رقم 17 لا کھرویے نة جگه ده ربا ہے اور نه ہی رقم واپس کرر ہاہے لہذا آپ جناب سے التماس ہے که برخلاف محمد ہارون صاحب قانونی محکمانه کاروائی بشمول فوجداری کاروائی کی جا کرمن سائل کورقم مبلغ 17 لا کھرویے بحق من سائل از ال مجمد ہارون واپس دلائی جانے کا حکم صا در فر مایا جاوے نشان انگھوٹھا حمدانی گل گلاب المرقوم 08/09/2017 درخواست سلیم خان ASI کے نام مارک ہوئی جس نے درخواست كى پشت پر ذيل تحرير كيا بخدمت افسر انچارج صاحب تهانه شي جناب عالى درخواست ازاں حمداني گل ولد كلاب گل سكنه بابره چار منگ نوا گئی ضلع با جوڑ حال مختذا چو با نواں شہر نے ایک تحریری درخواست برخلاف محمد ہارون ولدمحم مسکین سکنہ بانڈی پہاڑ حال جلال بابا چوک محتذا میرا پولیس ملازم کانشیبل ایب آبادنمبر 2 مساة منذه با نو زوجه امتیاز جاوید سکنه جلال بابا چوک ایرملکپوره بوساطت افسران بالاموصول ہوئی مضمون درخواست سے سریدست صورت جرم PPC 419/420/34 کی پائی جاتی ہے مقدمه رجير كرك نقل يرچه معه درخواست استامپ و ديگر كاغذات بغرض تفتيش حواله DTV سثاف كيا جاوے دستخط انگريزي سليم خان ASI تقانه شي 12/09/2017 كارواكي تقانه آيده درخواست حكم افسران بالا پرمقدمه بجرم بالا قائم هو كرنقل پرچه معه درخواست حکم افسران بالا اسٹامپ ودیگر کاغذات بخرض تفتیش حواله DTV سٹاف کیا جاتا ہے۔ پرچیگز ارش ہے۔



بحوالہ فائنل شوکازنوٹس نمبری, 274/PA موردد ایست آباد 06/07/2017 کوارسیاز دفتر جناب، DPO صاحب شلع ایست آباد جواب فائنل شوکازنوٹس ذیل عرض ہے:۔

1- جناب عالی! معروض خدمت ہوں کہ سمی محمد دان گل نے علم نمبری 2014-C/ 8/9/15 کو کن سائل کے خلاف پہلے ایک درخواست جناب DIG صاحب بزارہ ریجن کو دی جس پر SHO تھانہ گی نے 157 ضمن 2 کی دریافت کی جو داخل دفتر ہوئی اب مزکورہ نے دوبارہ درخواست جناب DIG صاحب کو دے دی ہے جس پر من سائل کوشر کا زنوٹس وغیرہ ہوکرانکوائزی ہورہ کی در بنیا دے۔ (تا کیدیش نقل درخواست لف ہے)۔

2- یہ کر فرکورہ مجددان گل نے اُس کے بعد درخواست A-22 مقدمددرج رجشر ڈکروانے کیلئے جناب سیشن نے صاحب کودی جو کہ بعدالت جناب سیشن نے صاحب-۱۷۱ بیٹ آبادنے ساعت کے بعدخارج کردی (حکم عدالت کی کافی لف ہے)۔

3۔ جناب عالی! من سائل پر جوالزامات فائل شو کا زنوٹس میں لگائے گئے ہیں اُن میں من سائل بے تصور د بے گناہ ہوں۔ نہ تو من سائل نے نہ کورہ کو بلاٹ دیااور نہ ہی اس سے رقم وصول کی۔

4۔ یہ کہ فہ کورہ کو بلاث منزہ با نونے خودر جٹری کرے دیا اور رجٹر ارے رُو پروپلاٹ کی رقم از خودوصول کی جو کہ انگوائری کے دوران منزہ بانوتسلیم بھی کر چک ہے۔

5۔ یہ کہ فہ کورہ تکر دان گل مرصہ 15 سال سے ایم پائر روڈ ایبٹ آباد پر گارشنس کا کار دبار کرتا ہے ادرائی مارکیٹ میں من سائل کا حقیق بھائی تحرظ ہیر بھی کا مرتا ہے۔ ان دونوں نے ل کر منزہ یا تو سے خود جگہ تریدی ہے۔ س سائل کا آگی تریداری سے کسی قسم کا کوئی تحرید کا کوئی تحرید کے تعلق واسطینہ ہے۔ اگر فیکورہ کے پائس کن سائل سے جگہ ترید نے کا کوئی تحریدی ثبوت موجود ہے تو بیش کرے۔

6۔ یک مذکورہ محمد دان گل نے من سائل کے وشمنوں کے ساتھ ل کر محکمہ مال سے نشاندہ می رپورٹ بھاری رشوت دے کرمن سائل کے خلاف مقدمہ رجٹر ڈ کروانے کیلئے حاصل کی جس پر ملحقہ مالکان اداختی خسرہ نمبرات 294، 396، 397 نے جتاب DC ساحب کو کمیشن برموقع کی ورخواست دی جو کہ کمیشن نے رپورٹ برموقع دی کہ مندرجہ بالاخسرہ نمبرات میں کھاتہ شریک مالکان ہیں۔ (رپورٹ کمیشن لف ہے)۔

7۔ یک ندکورہ محد دان گل اس دوران می سائل کو برطریقے سے براسان کرتا دہااورافسران بالاسے بھی من سائل کو پریشان کروا تا رہا مجدر بوکر من سائل نے ایک فریداری معاہدہ کیا لیکن اُس میں بیٹر طار بھی گئی کدا گرندرقیدی پیکے منصوبہ کی فریس آگیا تو معاہدہ منسوخ تصور ہوگا۔ (معاہدہ کی کا لی وکا لی سیکٹن-۱۷ء لف ہے)۔

8۔ یہ کہ ندکورہ محمد دان گل ہر نے آنے والے افسران کوسیای افزر سوخ کے ذریعے سے سفارش کرواکرمس گائیڈ کرتا ہے اور من سائل کو بلیک میل کرتا ہے اور شکین قتم کی دھمکیاں بھی دیتا ہے۔

AMERICA STREET





ىنى تىر 2 تا 2

10۔ پیکے جناب DSP صاحب کینٹ ایبٹ آباد نے جوابتدائی انگوائری کی وہ بالکل میکطرفہ ہوئی ہے اور من سائل کی کوئی بات نہیں من گی اور نہ ہی کوئی کورٹ آ دور یا دوسرے کا غذات لف کئے گئے۔

11- جناب عالی! چونکه من سائل کے خلاف محمد دان گل نے سول نج-۱۱ ایبٹ آباد کی عدالت میں مذکورہ بالا دعویٰ دائر کررکھا ہے اسلئے تا فیصلہ دعویٰ صدا من سائل کے خلاف کی گئی انکوائری کو یا تو داغل دفتر کیا جائے یا پھرتا فیصلہ دعویٰ مذکورہ انکوائر کا کو Pendingر کھنے کا تھم صادر فرمایا جاوے۔

لہٰذا ندکورہ بالا تھا کن کی روشی میں آنجناب سے استدعاہ کہ من سائل کے خلاف جوانکوائری کی گئی ہے وہ یکطرفہ ہوئی ہے اور من سائل کو واتی شنوائی کا موقع بھی فراہم نہیں کیا گیا اسلے من سائل ندکورہ اکوائری سے مطمئن نہیں ہے ۔ لہٰذااستدعاہے کہ کی غیر جانبدار آفیسر سے من سائل کے کیس کی ری انکوائری کروائی جا کر من سائل کو افساف فراہم کیا جائے۔ نیز یہ کمن سائل کے غیر جانبدامن سائل اور اس کے جیوب فرجوٹے جیوٹے وی جیس جو سارے کے سادے زرتعلیم ہیں اور جن کا واحد کشیل من سائل ہی کہ وائن اور اس کے جیوب پر جم فرماتے ہوئے من سائل کے خلاف انگوائری کو وائل وفتر فرمایا جادے۔ من سائل معانی کا خواسٹھارے اور آئندہ من سائل احتمام کے احداث کا مورتے فراہم نہیں کرے گا ۔ سائل آپ بلندم تبدیلے تاحیات دعا گورہےگا۔

الرقوم:14/07/2017_سايب آباد

سائل:

كالشيبل محد مارون تمبر 694 متعينه بوليس لائن ايسك آباد

HAJI SABIR USSAIN TANOLI
Advocata Suprema Count of Podlisten
Abouttabed

بخدمت جناب DIG صاحب ہزارہ ریجن ،ایب آباد

عنوان: محكمانه الهل برخلاف Dismissal order نمري Dismissal order ما حيث المادي محكمانه الهل برخلاف DPO معا حيث المادي الم

جناب عالى! مؤجبات البيل ذيل بين:

جناب عالى!

- 1۔ سائل کنظیبل ہارون نمبر 694 معروض خدمت ہوں کہ سائل کو تھم نمبر نمبری 17-9-14/ 2452/PA مجاریہ DPOصاحب ضلع ایب آباد کے زیرتخت مورخہ 14/09/2017 کوملازمت سے برطرف کردیا گیا ہے۔ (نقل آرڈور برطرفی لف ہے)۔
- 2۔ یہ کہ من سائل کو بل ازیں فائنل شوکا زنوٹس نمبری 274/PA مورخہ 206/07/2017 کو جناب DPO صاحب شلع ایب نے آبادی طرف سے بھیجا گیا تھا اور من سائل نے اپنی بے گناہی کے جملہ ثبوت ہائے کے ہمراہ نہ کورہ شوکا زنوٹس کا جواب مقررہ معیاد کے اندر تفصیلی داخل کر وایا گیا جسمیں من سائل نے تفصیل کے ساتھ اپنی بے گناہی کے ثبوت فراہم کئے گرسائل کی طرف سے پیش کئے گئے شوت ہائے کو یکسرنظر انداز کر دیا گیا اور سائل کو فہ کورہ بالا برطر فی آرڈ رکے ذریعے نوکری سے برطرف کر دیا گیا جو کہ سائل کے ساتھ سرا سرنا انصافی اور ظلم ہے۔
- 35 یہ کہ دوران انکوائری مورخہ 26/07/2017 کو آنجناب کی طرف سے ایک لیٹرنمبری 355 جناب DPO صاحب ضلع ایب آباد کو جاری فرمایا گیا جسمیں آنجناب نے DPO صاحب کومن سائل کے خلاف شروع کی گئی انکوائری کوفوری طور پر STOP کرنے کا تھم صا در فرماتے ہوئے تحریر کیا کہ چونکہ ہائل کے خلاف A 22-کے مقدمہ میں کورٹ نے فیصلہ صا در کیا ہے کہ سائل کی طرف سے کوئی جرم سرز دنہیں کیا گیا ہے اور معامل خالفتا سول نوعیت کا ہے جو کہ سول کورٹ میں زیر ساعت ہے اور یہی اس کیلئے پر ایرفورم ہے۔ (نقل لیٹر فیکورہ مجاربی آنجناب لف ہے)۔
- 4۔ جناب عالی: سائل کا مقدمہ سول کورٹ میں چل رہا ہے اور ابھی کوئی فیصلہ نہیں ہوا ہے جبکہ اسی دوران سائل کو جناب DPO صاحب کی طرف سے برطرف کردیا گیا ہے جو کہ سائل کے ساتھ ناانصافی ہے۔
- 5۔ جناب عالی! من سائل پر جوالزامات فائنل شوکازنوٹس میں لگائے گئے تھائن میں من سائل بے قصور و بے گناہ ہوں۔ نہ تو من سائل نے نہ کوئی بلاٹ کسی کوفروخت کیا اور نہ ہی کسی سے کوئی رقم وصول کی اور سائل نے قبل ازیں اپنی بے گناہی کی بابت آنجناب کو بھی ایک درخواست لف ہے)۔
- 6۔ جناب عالی: ندکورہ پلاٹ جس کو بنیاد بنا کرمن سائل کونوکری سے برطرف کیا گیا ہے منزہ بانو نے خود رجسڑی کر کے دیا اور رجسڑ ار کے ژو بروپلاٹ کی رقم ازخودوصول کی جو کہا نکوائری کے دوران منزہ بانوشلیم بھی کر پچکی ہے۔
- 7۔ یہ کہ نذکورہ محمد دان گل عرصہ 15 سال سے ایمپائر روڈ ایبٹ آباد پر گارمنٹس کا کاروبار کرتا ہے اور اُسی مارکیٹ میں من سائل کا حقیقی بھائی محمد ظہیر بھی کا م کرتا ہے۔ ان دونوں نے مل کر منزہ بانو سے خود جگہ خریدی ہے۔ من سائل کا اسکی خریداری سے کسی قسم کا کوئی تحریری شبوت موجود ہے تو پیش کرے۔ تعلق واسطہ نہ ہے۔ اگر مذکورہ کے پاس من سائل سے جگہ خرید نے کا کوئی تحریری شبوت موجود ہے تو پیش کرے۔
- 8۔ یہ کہ ذکورہ محمد دان گل نے من سائل کے دشمنوں کے ساتھ ال کر محکمہ مال کے نشاندہی رپورٹ بھاری رشوت دے کرمن سائل کے خلاف مقدمہ رجٹر ڈ کروانے کیلئے حاصل کی جس پر ملحقہ مالکان اراضی خسرہ نمبرات 394، 396، 397 نے جناب

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صغینبر2 تا2

DCصاحب کوئمیشن برموقع کی درخواست دی جو که کمیشن نے رپورٹ برموقع دی که مندرجه بالاخسر ه نمبرات میں کھانہ شریک مالکان ہیں۔(رپورٹ کمیشن لف ہے)۔

9۔ یہ کہ ندکورہ محمد دان گل اس دوران من سائل کو ہر طریقے سے ہراساں کرتا رہااورافسران بالاسے بھی من سائل کو پریشان کرواتا رہا مجبور ہوکر من سائل نے ایک خریداری معاہدہ کیالیکن اُس میں بیشرط رکھی گئی کہ اگریدر قبری پیک منصوبہ کی ذومیں آگیا تو معاہدہ منسوخ تصور ہوگا۔ (معاہدہ کی کا بی وکا بی سیشن-۱۷ الف ہے)۔

10۔ یہ کہ مذکورہ محمد دان گل ہر نئے آنے والے افسران کوسیاسی اثر رسوخ کے ذریعے سے سفارش کروا کرمس گائیڈ کرتا ہے اور من سائل کو بلیک میل کرتا ہے اور علین قتم کی دھمکیاں بھی ویتا ہے۔

11۔ یہ کہ بعدالت جناب بیش نجے صاحب-۱۷۱ یب آبادے 22-A کی درخواست خارج ہونے پر نہ کورہ نے من سائل کے خلاف آیک دعویٰ بعدالت جناب سول نجے صاحب ۱۱۰کے پاس دائر کیا جو کہ زیر ساعت ہے جسکی اگلی تاریخ بیش مور دے 13/10/2017 مقرر ہے۔ (تائید میں دعویٰ کی کا بی لف ہے)۔

12۔ یہ کہ جنابDSP صاحب کینٹ ایبٹ آباد نے جوابتدائی انگوائری کی وہ بالکل یکطرفہ ہوئی ہےاورمن سائل کی کوئی بات نہیں سن گئی اور نہ ہی من سائل کا کوئی کورٹ آرڈر یا دوسرے کاغذات لف کئے گئے۔

13۔ جناب عالی مرتبت: اس کے بعد جناب ایڈیشنل SP صاحب نے جوفائنل انکوائری کی اُس میں بھی سائل کونہ تو بولنے کا موقع دیا گیا اور نہ ہی سائل کے کاغذات، کورٹ آرڈرزوغیرہ انکوائری رپورٹ کے ساتھ لف کئے گئے اور جملہ انکوائری کیطرفہ ہوئی۔

14۔ جناب عالی: من سائل کے خلاف بوانکوائریاں گی گئی ہیں وہ سراسر پکطرفہ تھیں اور سائل کو ذاتی شنوائی کا موقع بھی فراہم نہیں کیا گیا اور بالآخر سائل کو برطرف کردیا گیا جو کہ سائل کے ساتھ سراسرانصافی ہے۔

البذا فذکورہ بالاحقائق کی روشی میں آنجناب سے استدعاہے کہ سائل کے چھوٹے چھوٹے وی جی بیں جو سارے کے سارے ذیر تعلیم بیں اور جن کا واحد کفیل من سائل ہی ہے۔ لہذا من سائل اور اس کے بچوں پر دیم فرماتے ہوئے من سائل کے برطر فی آرڈرکومنسوخ فرمایا جا کرمن سائل کونوکری پر بحال فرمائے جانے کا تھم صادر فرمایا جاوے میں سائل اور اس کے بچے آنجناب کیلئے تاحیات دعا گور دہیں گے۔ کرمن سائل کونوکری پر بحال فرمائے جانے کا تھم صادر فرمایا جاوے میں سائل اور اس کے بچے آنجناب کیلئے تاحیات دعا گور دہیں گے۔ ایسٹ آیاد

سائل:

كانشيبل محمر بإرون نمبر 694 ،سابقه بوليس ملازم ،ايبك آباد

NA TED

ANNEX MIZ

بیان

جناب عالى!

1۔ سائل کنٹیبل ہارون نمبر 694 معروض خدمت ہوں کہ سائل کو تھم نمبر نمبری 17-9-14/ 2452/PA مجاریہ 10 صاحب ضلع ایب آباد کے زیرتحت مورخہ 14/09/2017 کومازمت سے برطرف کردیا گیا ہے۔ (نقل آرڈر برطرفی لف ہے)۔

- 2- یہ کہ من سائل کو قبل ازیں فائنل شوکا زنوٹس نمبری 274/PA مورخہ 274/07/2017 کو جناب DPO صاحب ضلع ایب آبادی طرف سے بھیجا گیا تھا اور من سائل نے اپنی بے گیا ہی ہے جملہ ثبوت ہائے کے ہمراہ ندکورہ شوکا زنوٹس کا جواب مقررہ معیاد کے اندرتفصیلی داخل کر وایا گیا جسمیں من سائل نے تفصیل کے ساتھ اپنی بے گنا ہی کے ثبوت فیرا ہم کئے گرسائل کی طرف سے پیش کئے گئے۔ ثبوت ہائے کو یکسرنظر انداز کر دیا گیا اور سائل کو فذکورہ بالا برطرفی آرڈر کے ذریعے نوکری سے برطرف کر دیا گیا جو کہ سائل کے ساتھ سرا سرنا انصافی اورظلم ہے۔
- 35 یہ دوران انکوائری مورخہ 26/07/2017 کو آنجناب کی طرف سے ایک لیٹر نمبری 355 جناب DPO صاحب ضلع ایب آباد کو جاری فرمایا گیا جسمیں آنجناب نے DPO صاحب کو من سائل کے خلاف شروع کی گئی انکوائری کو فوری طور پر STOP کرنے کا حکم صادر فرماتے ہوئے تحریر کیا کہ چونکہ سائل کے خلاف A -22 کے مقدمہ میں کورٹ نے فیصلہ صادر کیا ہے کہ سائل کی طرف سے کوئی جرم سرز ذہیں کیا گیا ہے اور معاملہ خالفتاً سول نوعیت کا ہے جو کہ سول کورٹ میں زیر ساعت ہے اور یہی اس کیلئے پرایر فورم ہے۔ (نقل لیٹر فرکورہ مجاربی آنجناب لف ہے)۔
- 4۔ جناب عالی: سائل کا مقدمہ سول کورٹ میں چل رہا ہے اور ابھی کوئی فیصلہ نہیں ہوا ہے جبکہ اسی دوران سائل کو جناب DPO صاحب کی طرف سے برطرف کر دیا گیا ہے جو کہ سائل کے ساتھ ناانصافی ہے۔
- 5۔ جناب عالی! من سائل پر جوالزامات فائنل شوکازنوٹس میں لگائے گئے تھے اُن میں من سائل بےقصور و بے گناہ ہوں۔ نہ تو من سائل نے نہ کوئی پلاٹ کسی کوفروخت کیا اور نہ ہی کسی سے کوئی رقم وصول کی اور سائل نے قبل ازیں اپنی بے گناہی کی بابت ہناب کہ بھی ایک درخواست نمبری کا 1488 مورخہ 26/07/2017 کوگز اری تھی۔ (کا بی درخواست لف ہے)۔
- 6۔ جناب عالی: ندکورہ پلاٹ جس کو بنیاد بنا کرمن سائل کونوکری سے برطرف کیا گیا ہے منزہ بانو نے خود رجسڑی کر کے دیا اور رجسڑ ار کے ژو بروپلاٹ کی رقم ازخودوصول کی جو کہ انکوائری کے دوران منزہ بانوشلیم بھی کرچکی ہے۔
- 7۔ یہ کہ ذکورہ محمد دان گل عرصہ 15 سال سے ایمپائر روڈ ایبٹ آباد پر گارمنٹس کا کاروبار کرتا ہے اور اُسی مارکیٹ میں من سائل کا حقیقی بھائی محمد ظہیر بھی کام کرتا ہے۔ ان دونوں نے مل کرمنزہ بانو سے خود جگہ خریدی ہے۔ من سائل کا اسکی خریداری سے کسی قسم کا کوئی تحریری ثبوت موجود ہے تو بیش کرے۔ تعلق واسطہ نہ ہے۔ اگر ندکورہ کے پاس من سائل سے جگہ خرید نے کا کوئی تحریری ثبوت موجود ہے تو بیش کرے۔
- 8۔ یہ کہ ذکورہ محمد دان گل نے من سائل کے دشمنوں کے ساتھ مل کر محکمہ مال سے نشاندہی رپورٹ بھاری رشوت دے کرمن سائل کے خلاف مقدمہ رجٹر ڈ کروانے کیلئے حاصل کی جس پر ملحقہ مالکان اراضی خسرہ نمبرات 394، 396، 397 نے جناب DC صاحب کو کمیشن برموقع کی درخواست دی جو کہ کمیشن نے رپورٹ برموقع دی کہ مندرجہ بالاخسرہ نمبرات میں کھانہ شریک مالکان بیں۔ (رپورٹ کمیشن لف ہے)۔
- 9۔ یہ کہ ذکورہ محمد دان گل اس دوران من سائل کو ہرطریقے سے ہراساں کی کا ہااورافسران بالاسے بھی من سائل کو پریشان کروا تا

CATEGORE SANTANOMA CATEGORES SANTANOMA CATEGORES SANTANOMA CATEGORES SANTANOMA ر ہا مجور ہوکر من سائل نے ایک خریداری معاہدہ کیالیکن اُس میں بیشرط رکھی گئی کڈا گر پیر تبھی پیک منصوبہ کی ذرقیس آگیا تو معاہدہ ' منسوخ تصور ہوگا۔ (معاہدہ کی کا بی وکا بی سیشن-۱۷، لف ہے)۔

10۔ یہ کہ مذکورہ محمد دان گل ہر نے آنے والے افسر ان کوسیاسی اثر رسوخ کے ذریعے سے سفارش کروا کرمس گائیڈ کرتا ہے اور من سائل کو بلیک میل کرتا ہے اور علین فتم کی دھمکیاں بھی ویتا ہے۔

11- یہ کہ بعدالت جناب سیشن جے صاحب-۱۷ایب آبادے 22-A کی درخواست خارج ہونے پر ندکورہ نے من سائل کے خلاف ایک دعویٰ بعدالت جناب سول جے صاحب -۷۱۱ کے پاس دائر کیا جو کہ زیر ساعت ہے جسکی اگلی تاریخ بیثی مورخہ 13/10/2017 مقررہے۔(تائید میں دوئی کی کا بی لف ہے)۔

12۔ بیکہ جناب DSP صاحب کینٹ ایبٹ آباد نے جوابندائی انگوائری کی وہ بالکل یکطرفہ ہوئی ہے اور من سائل کی کوئی بات نہیں سی گئی اور نہ ہی من سائل کا کوئی کورٹ آرڈر یا دوسرے کاغذات لف کئے گئے۔

13۔ جناب عالی مرتبت: اس کے بعد جناب ایڈیشنل SP صاحب نے جوفائنل انکوائری کی اُس میں بھی سائل کونہ تو بولنے کا موقع دیا گیا اور نہ ہی سائل کے کاغذات، کورٹ آرڈرزوغیرہ انکوائری رپورٹ کے ساتھ لف کئے گئے اور جملہ انکوائری کی طرفہ ہوئی۔

14۔ جناب عالی: من سائل کے خلاف جوانکوائریاں کی گئی ہیں وہ سراسر یک طرفہ تھیں اور سائل کو ذاتی شنوائی کا موقع بھی فراہم نہیں کیا گیا اور ہالآخر سائل کو برطرف کر دیا گیا جو کہ سائل کے ساتھ سراسرانصافی ہے۔

15- یه کیٹرائل کورٹ عالیہ احسان سواتی ال-JM-ایبٹ آباد نے اپنے آرڈ رمورخہ 14/10/2017 میں واضع طور پرتح ریفر مایا ہے کہ مذکورہ محمد دان گل نے مختلف قتم کی درخو آسٹیں آفسر آن بالاکوڈ کے کر بلیک میل کیا ہے۔ پلاٹ ہذاسی پیک میں ایکوائر ہے۔ افسران بالا کے اصرار پر جومعا ہدہ DSP کینٹ خان خیل خان نے کروایا تھاوہ بھی منسوخ ہو چکا ہے۔ (کورٹ آرڈ رکی کا بی لف ہذاہے)۔

لہذا فدکورہ بالاحقائق کی روشی میں آنجناب سے استدعاہے کہ مائل کے چھوٹے چھوٹے 9 بچے ہیں جو مرارے کے سارے ذرتعلیم ہیں اور جن کا واحد فیل من سائل ہی ہے۔ لہذا من سائل اور اس کے بچوں پر رحم فرماتے ہوئے من سائل کے برطر فی آرڈرکومنسوٹ فرمایا جا کرمن سائل کونوکری پر بحال فرمائے جانے کا تھم صادر فرمایا جاوے من سائل اور اس کے بچے آنجناب کیلئے تا حیات دعا گور رہیں گے۔ الرقوم: 14/12/2017 ۔۔۔ ایب شآباد

سائل:

كانشيبل محمد ہارون نمبر 694، سابقه پولیس ملازم، ایبٹ آباد



Order #05

14.10.2017 Present: Mr. Ahmad Hussain Tanoli Advocate for the petitioner.

Mr. Sardar Shahzad Akbar Advocate alongwith

complainant\

Learned SPP Mr. Malik Shamroz for the state.

1. Learned counsel seeks release of petitioner Muhammad Haroon s/o Muhammad Miskeen charged in case FIR 412 dated: 12.09.2017 u/s 419/420/34 PPC registered against him at PS: City, Abbottabad on the ground that petitioner is only a witness of sale deed and not the purchase or seller of the land, occurrence took place in 2013, while report is lodged with an inordinate delay of four years, application u/s 22-A Cr. PC of the complainant has been rejected vide order dated:22.01.2016 by learned Ex-Officio Justice of Peace, piece of land has been transferred in the name of the complainant and he has its possession, complainant has started construction in the plot, his main contention could be against owner of the plot and not the present petitioner, he has only facilitated the sale deed between the parties, he is a government servant and is being blackmailed by the complainant by moving different applications to the higher authorities of his ted to be a True Cop. department, due to the blackmailing of the domplainant, petitioner

even agreed to purchase the land for himself and entered into an Judgagreement with him but the property has got acquired by the government for CPEC on 13.08.2015, departmental proceedings initiated against the petitioner has been stopped by Regional Police Officer Hazara Region vide order dated: 26.7.2017, complainant has also filed a civil suit against the petitioner, Mrs. Munazza Bano is the owner of the land and her BBA has got confirmed on the basis of same facts and circumstances of the case, the offence does not falls





within the prohibitory clause, original documents are with the prosecution and there is no chance of their tempering by the petitioner. He relied on PCRLJ 2014-1223(Islamabad), PLJ 2017-479(Lahore) ,PCRLJ 2013-538 (Lahore), PCRLJ 2013-649 (Sind), PCRLJ 2013-1197 (Islamabad), SCMR 1996-1132 and requested to release the petitioner on bail.

2. Opposing the arguments, learned counsel for the complainant stressed that petitioner is the sole person responsible for the transaction, he is a police constable taking advantage of his uniform, different inquiries were conducted against the petitioner and he has been found guilty, petitioner has given possession from Khasra No.394 but the land does not exist there in Khasra No.394, he has committed cheating and fraud with the complainant as he actively participated in the sale proceeding, therefore, he is equally responsible for the commission of offence and requested to reject the bail petition. He relied on SCMR 2017-616, PCRLJ 2010-419 (Lahore), PCRLJ 2009-19 (Pesh), PCRLJ

Arguments heard and record perused.

2008-1010 (Pesh).

- 4. Contents of FIR show that petitioner facilitated the sale deed between the complainant and owner of the land Mst. Munazza Bano.
- 5. Perusal of record further shows that property has been transferred in the name of petitioner and registry has been made in his favor, hence, case of petitioner does not attract the provision of section 419/420 PPC and needs further inquiry.
- 6. Petitioner is neither the owner of the land nor he could be held responsible for the return of the money on behalf of the owner of the





land. Therefore, the case of petitioner has created a room for grant of bail.

- 7. Ex Officio Justice of Peace has thoroughly elaborated the contention of complainant in his order date: 22.1.2016 and he has consequently filed a civil suit against the petitioner and Mst. Munazza Bano. Therefore, complainant can get his piece of land separated by meets and bound by the competent court.
- 8. Whether petitioner joined hands with the co-accused would be determined at the time of trial. Therefore, the matter is one of further inquiry.
- 9. The offence also does not fall within the prohibitory clause.

 Therefore, I find no exceptional grounds to refuse the concession of bail and at the same time, petitioner is no more required for the purpose of investigation.
- 10. Resultantly, petition is accepted and petitioner is released on bail in the sum of bail bond worth Rs. 200,000/- each with two sureties each in the like amount to the satisfaction of this court. Bail bonds be submitted back after duly signed by the petitioner.

Record be returned to the quarter concerned and file be consigned to record room after completion and compilation.

Announced in open court.

14.10.2017

Application and Con

P1 2 AN 2018

Aliya Insan Swati
Judicial Magistrate-II/S.30
Abbottabad

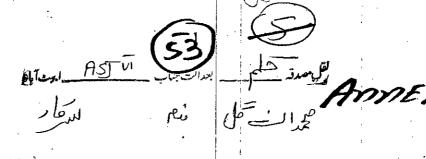
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Petitioner alongwith his. counsel Respondent/accused on bail along with clerk of his counsel present and requested for adjournment as his counsel has gone to august Supreme Court of Pakistan. Granted. To come up for arguments on 13/12/2017

> (Adif Majeed Khan) AD&SJ-VI, Abbottabad.

IN THE COURT OF ADIL MAJEED KHAN, ADDITIONAL SESSIONS JUDGE-VI, ABBOTTABAD.

B.C.A No. /4-C of 2017 Mohammdan Gul--Vs---State etc.

1).

MER

STRICT & SESSION JULE

Petitioner/complainant alongwith his counsel respondent/accused namely Muhammad Haroon alongwith his counsel present.

Through the instant BCA, petitioner/complainant has sought cancellation of bail granted to the accused/respondent by learned JM-II, Abbottabad vide order dated 14.10.2017, in case FIR # 412 dated 12.09.2017 under sections 419/420/34 PPC registered at Police Station City, Abbottabad.

3). Crux of the report lodged in the shape of FIR by the complainant is that he migrated from Bajor Agency to District Abbottabad, where respondent/accused Muhammad Haroon agreed to sell 08 Marlas of land to the him, alleging it to be the ownership of his sister (co-accused Mst. Munaza Bano), and





showed a plot to the complainant near his residential house at Thanda Maira Abbottabad. The deal was struck between the complainant and respondent/accused for Rs. 11,20,000/whereafter registered deed was executed in favour of complainant. However, when the complainant started construction on said plot. one Gohar Rehman asked the complainant to stop the construction alleging that the said plot was his ownership, whereupon complainant sought pointation from Patwari and Girdawar, who told to him that disputed plot was not situated in Khasra No. 394 (which was sold to the complainant) and was situated in Khasra No. 395. So, the complainant contacted respondent/accused who assured the complainant that he will handover plot to him at another place, however, avoided to do so despite several jirgas. Hence, the complainant was constrained to file several applications before DIG, Hazara etc whereupon several enquiries ere conducted and respondent/accused was found guilty, However, no proceedings were initiated against him, hence, the

4). After registration of the case respondent/accused obtained BBA which was recalled by this court vide order dated 09.10.2017, whereafter he was arrested. Thereafter, he applied for his release on post arrest bail to learned JM-II, Abbottabad which was accepted and he was allowed bail vide order dated 14.10.2017 subject to furnishing surety bond in the sum of Rs. 2,00,000/- with sureties. Dissatisfied | with the

the

present FIR.

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petitioner/complainant has moved the instant application for cancellation of the same.

- 5). Arguments heard and record perused.
- Gop) It is well settled that grounds for cancellation of bail are quite different from the grounds for grant of bail. Where bail has been granted by a court of law, then very cogent, strong and exceptional grounds are required for recalling the same. Bail can be cancelled if the same has been granted in capricious manner either without assigning reasons or on the basis of perverse or invalid reasons, or the accused attempts to temper with the evidence, hampers the investigation or commits or attempt to commits the same offence or absconds after grant of bail.

7). In the present case none of the ingredients for cancellation of the bail granted to respondent/accused by learned JM-II, Abbottabad are made out. Order granting bail is well reasoned and sound. Respondent/accused has neither absconded nor there is any material to show that he has either tampered with the evidence or has committed or attempted to commit the same offence.

In view of the above, the instant petition being devoid of force is dismissed. Record be returned while file of this court be consigned to record room after its completion.

Announced SESSION JUDGE LINBOR TARRAD TO THE PROPERTY OF THE P

(Adil Majeed Khan) Additional Sessions Judge-VI, Abbottabad.

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Annex F

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by Ex-Constable Muhammad Haroon No: 694 of Abbottabad District against the order of punishment i.e. Dismissal from service awarded by the DPO Abbottabad vide his Order Endst: No.2452 dated 14.09.2017.

Facts leading to his punishment are that an application was submitted by Mukhamadan Gul s/o Gulab Gul r/o Charmang Bajor Agency presently Thanda Choa Nawansher to W/RPO Hazara which was sent to DSP Cantt for preliminary enquiry. According to report of DSP Cantt Abbottabad he had fraudulently usurped an amount i.e Rs.17,00000/- for provision of landed plot with the collaboration of revenue staff and Mst: Muneza Bano from applicant who was new comer and stranger in Abbottabad which is against the dictates of justice.

After receiving his appeal, comments of DPO were obtained. The comments of DPO were examined /perused. The undersigned called him in OR and heard in person where he failed to explain any plausible reason in his defence. However, the undersigned directed to Addl: SP Abbottabad for conducting De-novo enquiry to meet ends of justice. Addl: SP Abbottabad submitted her findings in which she mentioned that Ex-Constable Muhammad Haroon No: 694 could not justify for his innocence as well as for, cheating complainant Makhmadan Gul. The undersigned again called him in OR on 03.01.2018 but again he failed to explain any cogent reason. Therefore the punishment awarded to him by the DPO Abbottabad i.e Dismissal from service seems to be genuine, hence his appeal is filed:

egion Abdottabad

Dated Abbottabad the

/2017.

Copy of above is forwarded to the DPO Abbottabad w/r to his Memo: No: 2942/ dated 08.11.2017 for information and necessary action.

Fauji Missal containing enquiry file is returned for your office record.

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TANAWAL LAW ASSOCIATES

In the Court of Klk, Svc. Mbnal, A7D
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Muhammer Groon VERSUS DPO and Merci
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O (A)
DPO and Thes
BY THIS POWER OF ATTORNEY, I, WE
Ahmed Arssam Zanoli Asi
The above titled case do hereby constitute and the appoint HAJI SABIR HUSSAIN TANOLI
ADVOCATE SUPREME COURT OF PAKISTAN, ABBOTTABAD as my / our ATTORNEY on
my / our behalf to appear, act and plead and do all lawful acts and things in connection with the said case,
to sign, verify, file or withdraw all proceeding, petitions, appeals, affidavit and application for the
compromise or withdrawal or for submission to arbitration of the said case to withdraw and receive
documents and any money payable to me/us during course or on the conclusion of proceeding and to sign
proper receipts, to engage or appoint any other advocate when he thinks proper.
And hereby agree to ratify whatever the Advocate do in the proceedings that the shall be entitled to
withdraw from the prosecution of the case if the whole or any part of the agreed fee remain unpaid. Read
over and accepted correct by me/us this day of
1
Signature of Executant (s)
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- S W
Accepted subject to terms mentioned above:
Haji Sabir Hussain Tanoli

Advocate Supreme Court of Pakistan, Abbottabad

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKWA, PESHAWAR.

Service Appeal No. 149/2018

Muhammad Haroon S/o Muhammad Maskeen Ex-Constable No. 694, R/o Bandi Pahar, Tehsil & District Abbottabad.

....APPELLANT

VERSUS

- 1. District Police Officer, Abbottabad.
- 2. Regional Police Officer, Hazara Region, Abbottabad.
- 3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

....RESPONDENTS

Parawise Comments on behalf of Respondents

Respectfully Sheweth:

PRELIMINARY OBJECTION.

- 1. That the appellant has no cause of action.
- 2. That the appellant has not come to this Tribunal with clean hands.
- 3. That the appeal is bad for misjoinder and non joinder of necessary parties.
- 4. That the appellant is estopped by his own conduct.
- 5. That the appeal is barred by law.
- 6. That the appellant has suppressed the material facts from the Honourable Tribunal hence not entitled for any relief and appeal is liable to be dismissed without further proceeding.

ON FACTS

- Para No. 1. Correct.
- Para No. 2. Pertains to record.
- Para No. 3. Correct that one Mumdam Gul S/o Gulab Gul had submitted an application against the appellant regarding fraudulently obtaining an amount Rs:17,00,000/- for the provision of landed plot in collusion with the Revenue Officials
- Para No. 4. Pertains to record.

- Para No. 5. Pertains to record.
- Para No. 6. Needs no comments.
- Para No. 7. Needs no comments.
- Para No. 8. Correct.
- Para No. 9. Correct that on the recommendation of the enquiry officer the appellant was found involved in fraud and due to his involvement in fraud and violation of discipline he was departmentally proceeded and dismissed from service.
- Para No.10. Regarding this para it is submitted that the appellant appeared before respondent No. 2 and where he mis-stated regarding the enquiry proceedings before respondent No. 1. Hence a letter was issued from the office of respondent No. 2 regarding the stoppage of departmental proceedings till the finalization of court proceedings. However, later on respondent No. 1 was informed vide this office letter No. 17169/R dated 24.08.2017 with the directions that both the parties may be heard in person and decision be made on merit. (Copy of the letter is attached as annexure "A")
- Para No. 11. Correct that on the recommendation of enquiry officer, the appellant was found involved in fraud and preparation of fake documents hence, department has registered a criminal case vide FIR No. 412 dated 12.09.2017 U/s 419/420/34 PPC PS City, Abbottabad.
- Para No. 12. Correct to the extent that appellant furnished reply to the show cause notice, but the same was found unsatisfactory as he failed to produce sufficient reasons in his defence.
- Para No. 13. Correct. The appellant filed an appeal/representation before respondent No. 2 and he was also heard in Orderly Room but he again failed to satisfy the authority regarding his innocence his appeal was filed being meritless.
- Para No. 14 Incorrect, no such enquiry order was ever issued by respondent No. 2 in appellant case.
- Para No. 15. Pertains to record.
- Para No. 16. Pertains to record.
- Para No. 17 Pertains to record.
- Para No. 18. That the present appeal of the appellant is liable to be dismissed on following grounds;

GROUNDS.

- a. Incorrect, order of the respondent No. 1 & 2 are fully based and supported by law and having jurisdiction.
- b. In reply to this Para it is submitted that the appellant was involved in fraud case amounting to Rs. 17,00,000/- and that complainant was also a very poor person and appellant misused his official capacity and usurped huge amount from the poor person and rendered himself for departmental proceedings.
- c. Incorrect, the proper departmental proceedings were taken against appellant in accordance with law and he was also provided ample opportunity of personal hearing but he could not furnish any plausible explanation. Hence, he was awarded legal and justified punishment.
- d. Incorrect, the appellant/petitioner himself admitted his involvement in fraud case. in the light of superior courts decisions/judgments the proceeding of the courts are not binding on departmental proceedings as department is dealing with the discipline of the employee while courts are determining the criminal act of the offenders.
- e. Incorrect, mere rejecting of application u/s 22-A Cr.P.C doesn't mean that appellant/ was innocent before departmental proceedings. The object of the disciplinary proceedings is to ascertain whether the officer/ official is suitable to be retained in services.
- f. Incorrect, impugned order of the dismissal is in accordance with law and all legal formalities have been fully observed and speaking order was issued and no prejudice has been caused to officials:
- Incorrect, Proper departmental proceeding was carried out and after fulfilling of all legal requirements, punishment was imposed in accordance with law.
 - h. Incorrect, departmental enquiry was conducted by a competent officer. If there was any objection to the appellant he would have raised before conclusion of enquiry at proper forum.
 - i. Incorrect, after observing codel formalities he was awarded major punishment in accordance with law.
 - j. Incorrect, the appeal of the appellant is hopelessly time barred as well as bereft of substance.

PRAYER.

It is therefore, respectfully prayed that appeal of the appellant is without merit and substance and is liable to be dismissed with costs throughout.

> Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

(Respondent No.3)

Respondent No. 2)

District Police Officer,

Abbottabad.

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 149/2018

Muhammad Haroon S/o Muhammad Maskeen Ex-Constable No. 694, R/o Bandi Pahar, Tehsil & District Abbottabad.

....APPELLANT

VERSUS

- 4. District Police Officer, Abbottabad.
- 5. Regional Police Officer, Hazara Region, Abbottabad.
- 6. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

....RESPONDENTS

AFFIDAVIT.

We, do hereby affirm on oath that the contents of written reply are true to the best of our knowledge & belief and nothing has been concealed from the honorable Service Tribunal.

Submitted please.

Provincial Police Officer, Khyber Pakhtunkhwa,

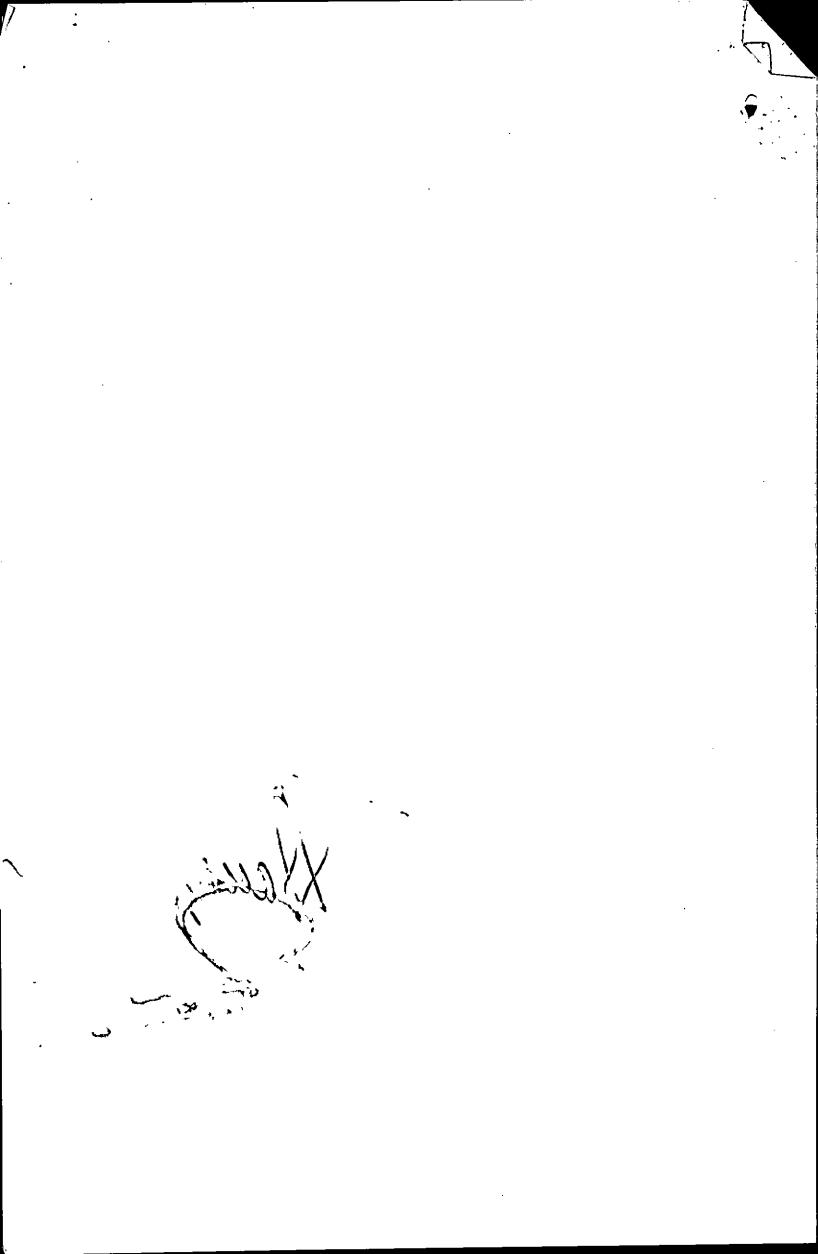
Peshawar:

Respondent No.3)

Regional Color Officer, Hazara Region, Abbottabad

(Respondent No. 2)

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BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKWA, PESHAWAR.

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- Incorrect, Proper departmental proceeding was carried out and after fulfilling of all legal requirements, punishment was imposed in accordance with law.
- h. Incorrect, departmental enquiry was conducted by a competent officer. If there was any objection to the appellant he would have raised before conclusion of enquiry at proper forum.
- i. Incorrect, after observing codel formalities he was awarded major punishment in accordance with law.
- j. Incorrect, the appeal of the appellant is hopelessly time barred as well as bereft of substance.

PRAYER.

It is therefore, respectfully prayed that appeal of the appellant is without merit and substance and is liable to be dismissed with costs throughout.

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

(Respondent No.3)

Regional Police Officer, Hazara Region, Abbottaba

Respondent No. 2)

District Police Officer,
Abbottabad.

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 149/2018

Muhammad Haroon S/o Muhammad Maskeen Ex-Constable No. 694, R/o Bandi Pahar, Tehsil & District Abbottabad.

....APPELLANT

VERSUS

- 4. District Police Officer, Abbottabad.
- 5. Regional Police Officer, Hazara Region, Abbottabad.
- 6. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

....RESPONDENTS

AFFIDAVIT.

We, do hereby affirm on oath that the contents of written reply are true to the best of our knowledge & belief and nothing has been concealed from the honorable Service Tribunal.

Submitted please.

Provincial Police Officer, Khyber Pakhtunkhwa,

-, Peshawar.

Respondent No.3)

Regional Police Officer, Hazara Region, Abbottabad

(Respondent No./2)

District Police Officer Abbottabad.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No._.1933 /ST

Dated <u>25 / 9 / 2018</u>

Τ̈́o

The District Police Officer, Government of Khyber Pakhtunkhwa, Abbotabad

Subject: -

JUDGMENT IN APPEAL NO. 149/2018, MR. MUHAMMAD HAROON.

I am directed to forward herewith a certified copy of Judgement dated 19.09.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.