

23.05.2022

Counsel for the appellant present and submits that vide order dated 11.03.2019, the appellant was awarded minor punishment of forfeiture of two years approved service against which he filed departmental appeal which was rejected on 03.03.2020 and he then filed revision petition which also met with the same fate and rejected on 03.03.2022, against which he filed the present appeal on 21.03.2022. Let it be admitted for full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee and security within 10 days. Thereafter, notices be issued to the respondents. To come up for Written reply/comments have not been submitted. Learned AAG seeks further time to furnish reply/comments. To come up for written reply/comments on 23.06.2022 before S.B.

Rs-500/-
Appellant Deposited
Security & Process Fee

A. H. Hashmi
30/5/22

10

23rd June, 2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional A.G for respondents present.



Chairman

Respondents have not submitted written reply/comments. Learned AAG seeks time for submission of written reply/comments. Last chance is given. To come up for written reply/comments on 16.08.2022 before S.B.





(Kalim Arshad Khan)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 461/2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/03/2022	<p>The appeal of Mr. Muhammad Javed resubmitted today by Mr. Taimur Ali Khan Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	<p><i>Noted by counsel D. 8/4/22</i></p>	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put up there on <u>23-05-2022</u>. notices be issued to the appellat and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Muhammad Javed Khan, ASI No. 661 MR, PP Eathem, PS Kalu Khan, District Swabi received today i.e. on 21.03.2022 is incomplete on the following score which is returned to the counsel for the appelland for completion and resubmission within 15 days.

1. Copy of departmental appeal is not attached with the appeal which may be placed on it.
2. Copies of Annexures C, attached with the appeal are illegible which may be replaced by legible/better one.

No. 716 /S.T,

Dt. 21-3- /2022

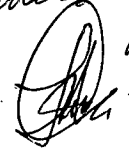

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sec,

- 1- *The appelland did not keep the copy of departmental appeal therefore unable to ~~connect~~ annexed with the appeal.*
- 2- *Removed*

Resubmitted after compliance



31/03/2022.


**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

CASE TITLE: *Muhammed Saaved V/S Police Deptt.*

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: *Timur A. Khan*

Signature: 

Dated: _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 461 /2022

Muhammad Javed

V/S

Police Department

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APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

Room No. FR 8, 4th Flour,
Bilour plaza, Peshawar cantt:
Cell# 0333-9390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

Muhammad Javed Khan, ASI No.661 MR,
PP Eathem, PS Kalu Khan, District Swabi.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan Region Mardan.
3. The District Police Officer, Mardan.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 11.03.2019, WHEREBY THE MINOR PUNISHMENT OF FORFEITURE OF TWO (02) YEARS APPROVED SERVICE HAS BEEN IMPOSED THE APPELLANT, AGAINST THE ORDER DATED 03.03.2020, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AND AGAINST THE ORDER DATED 03.03.2022, WHEREBY THE REVISION OF THE APPELLANT HAS ALSO BEEN REJECTED.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDERS DATED 11.03.2019 03.03.2020 AND 03.03.2022 MAY KINDLY BE SET ASIDE AND THE FORFEITED (02) YEARS APPROVED SERVICE OF THE APPELLANT MAY KINDLY BE RESTORED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST

TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY
ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant is appointed in the respondent in the year 1992 and since his appointed he is performing his duty with great devotion and honesty, whatsoever assigned to him and also have good service record throughout.
2. That the appellant while posted as in-charge PP Hathian, a charge sheet along with the statement of allegations were issued to the appellant in which the following allegation was leveled against the appellant,

Whereas ASI Javed Khan while posted as in-charge PP Hathian, self generated the remarks of Mr. Ali Bin Tariq the then SDPO of Tahkht Bhai in his ACR for the year 2017 vide Regional Office Mardan Endst: No.358/PA dated 05.10.2018.

The appellant submitted his reply to charge in which he denied the allegation and gave facts about the situation, however he did not keep the copy of reply to show cause notice which may be requisite from the department. **(Copy of charge sheet along with statement of allegations is attached as Annexure-A)**

3. That inquiry was conducted against the appellant in which the inquiry officer gave his finding that the character and the public dealing of the appellant is right, performing his duty with devotion and no allegation of corruption has been filed against the appellant and due to the excellent performance of the appellant the ASP might be give good remarks if he did his ACR form the ASP. **(Copy of inquiry report is attached as Annexure-B)**
4. That denovo inquiry was conducted against the appellant in which inquiry officer mentioned in recommendation that the progress made by the defaulter officer (appellant) in the year 2017 was verified and found satisfactory, but despite that the inquiry officer found him guilty. **(Copy of denovo inquiry report is attached as Annexure-C)**
5. That show cause notice was issued to the appellant which was replied by him and denied the allegation and again mentioned in his reply that Mr. Ali Bin Traiq was the SDPO of the Tahkt Bhai Sub Division and

on his transfer to FC Headquarter Peshawar, the appellant went to FC Head Quarter Peshawar for getting his ACR report, whereby due non availability of Ali Bin Tariq (reporting officer), he handed over the original copy of his ACR to on duty FC Official, deputed on the security at his Bungalow and relieved him to put up the ACR before the officer for getting his report. After three days he was informed to receive his ACR. The appellant to went to collect his ACR and had not knowledge that either ASP Ali Bin Tariq has given remarks on his ACR or some FC official by himself on which the competent authority recommended to send the signature to FSL for establishment of truth, but despite that ACR was not send to FSL for authenticity. **(Copies of show cause notice and reply to show cause notice are attached as Annexure-D&E)**

6. That on the basis above mentioned allegation, respondent No.3 passed an order dated 11.03.2019, whereby minor punishment of forfeiture of two (02) years approved has imposed upon the appellant without sending the ACR of the appellant to know the authenticity of signing on the ACR of the appellant. **(Copy of order dated 11.03.2019 is attached as Annexure-F)**
7. That the appellant field departmental appeal which was rejected on 03.03.2020 for no good grounds, however ever he did keep the copy of departmental appeal which may be requisite from the department, the appellant then filed revision on 29.01.2022, which also rejected on 03.03.2022 for no reason. **(Copies of order dated 03.03.2020, revision and order dated 03.03.2022 are attached as Annexure-G,H&I)**
8. That now the appellant has no other remedy except to file the instant in this Honourable Service Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:

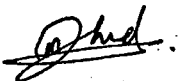
- A) That the impugned orders dated 11.03.2019, 03.03.2020 and 03.03.2022 are against the law, facts, norms of justice and material on record, therefore not tenable and are liable to be set aside.
- B) That the inquiry was not conducted according to the prescribed procedure as no opportunity of defence was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, which is violation of

law and rules and as such the impugned orders are liable to be set aside.

- C) That two inquiries were conducted on the issue, but both the inquiry officers did not bother to conduct proper inquiry to dig out the authenticity of the remarks and signature on the ACR of the appellant by sending his ACR to FSL, which means that the appellant has not been treated in accordance with law and rules and has been punished without conducting proper inquiry, which is against the norms of justice and fair play.
- D) That the appellant clearly mention in his replies to charge sheet and show cause notice that reporting officer Ali Bin Tariq on transferring to FC Head Quarter Peshawar, he went there for getting his ACR report, but he was not present at his bungalow and handed over his ACR to FC official deputed for security on and after there days he was informed to receive his ACR and has no knowledge that either ASP Ali Bin Tariq has given remarks on his ACR or some FC official by himself on which the competent authority remarks on the reply to show cause notice that send the signature to FSL for establishment of truth, but despite that the ACR of the appellant was not sent to the FSL to know the authenticity that whether the appellant himself gave remarks on his ACR of 2017 or not and without authenticity of the remarks mentioned on the ACR of the appellant minor punishment of forfeiture of two (02) years approved has imposed upon the appellant, which shows that the appellant has been punished for no fault on his part as such the impugned orders are liable to be set aside.
- E) That the inquiry officer mentioned in his first inquiry report that the character and the public dealing is of the appellant is right, performing his duty with devotion and no allegation of corruption has been filed against the appellant and due to the excellent performance of the appellant the ASP might be gave good remarks if he reported his ACR form the ASP and if the high ups admitted the performance of the appellant excellent in the year 2017 from the record of the appellant, then why the appellant needed to self generate the remarks of reporting authority (Ali Bin Tariq SDPO of Takht Bhai) in of his ACR of 2017.
- F) That the appellant has not been treated in accordance with law and rules and has been condemned unheard.

G) That the appellant seeks permission of this Honourable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT
Muhammad Javed

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. _____/2022

Muhammad Javed

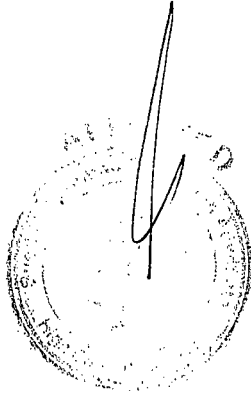
V/S

Police Department

.....

AFFIDAVIT

I, Muhammad Javed, ASI No.661 MR, PP Eathem, PS Kalu Khan, District Swabi, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honourable Tribunal.



M. Javed

DEPONENT

Muhammad Javed
(APPELLANT)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

Muhammad Javed

V/S

Police Department

.....
APPLICATION FOR CONDONATION OF DELAY IN THE
INSTANT APPEAL

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honourable Tribunal in which no date is fixed so far.
2. That minor punishment of forfeiture of two (02) years approved has imposed upon the appellant vide order dated 11.03.2019, but he did not file departmental appeal and revision within the stipulated period of time due to some domestic problems due to which the appellant was in mental agony, however, without conducting proper inquiry and without doing FSL about the authenticity of the remarks report on the ACR of the appellant, penalty has imposed upon the appellant and the appellant has been punished for no fault on his part and the interest of justice demands that the appeal of the appellant may kindly be heard on merit to meet the ends of justice.
3. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (PLD-2003(SC)-724).
4. That the instant appeal may kindly be decide on merit as the appellant has good case to be decided on merit.

It is therefore most humbly prayed that on the basis of above submission, the instant appeal may be decided on merit by condoning the delay to meet the ends of justice.



APPELLANT
Muhammad Javed

THROUGH:



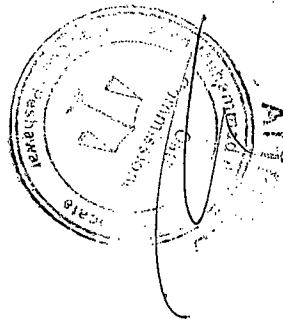
(TAIMUR ALI KHAN)
ADVOCATE PESHAWAR

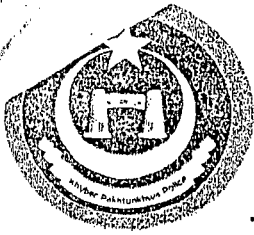
AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief and nothing has been concealed from this august Tribunal.



DEPONENT





A 9

2018

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

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

CHARGE SHEET

I, SAJJAD KHAN (PSP), District Police Officer Mardan, as competent authority, hereby charge ASI Javid Khan, while posted as In-charge PP Hathian, as per attached Statement of Allegations.

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

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

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

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

(SAJJAD KHAN) PSP
District Police Officer,
Mardan.

10
2018

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

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

No. 3241-42 /PA

Dated 1/11/2018

DISCIPLINARY ACTION

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority am of the opinion that ASI Javed Khan, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.


STATEMENT OF ALLEGATIONS

Whereas, ASI Javed Khan, while posted as In-charge PP Hathian, self generated the remark of Mr. Ali Bin Tariq, the then SDPO Takht-Bhai in his ACR for the year 2017 vide Regional Office Mardan endorsement No. 358/PA-ACR dated 05.10.2018.

For the purpose of scrutinizing the conduct of the said accused Official with reference to the above allegations, Mr. Sher Rehman DSP is nominated as E.O.

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

ASI Javed Khan is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.


(SAJJAD KHAN), PSP
District Police Officer,
Mardan.

انکوائری جاوید خان ASI متعینہ تھانہ لونڈ خور ضلع مردان۔

B
71
جناب عالی

بحوالہ چارج شیٹ نمبری PA/42-8241 مورخہ 01.11.2018 ازان جاوید خان ASI معروض خدمت ہو۔
جاوید خان ASI نے ACR بابت سال 2017 افسران بالا سے حاصل کر کے جناب DIG صاحب ہزارہ کے پاس معروض کاڈسٹریکشن
بجھوایا۔ جناب DIG صاحب ہزارہ نے ASP صاحب تخت بھائی کا دستخط مشکوک جان کر جناب DIG صاحب ہزارہ نے انہیں
انگریزی نمبری PA/4711 مورخہ 24.09.2018 واپس DIG صاحب مردان کو بجھوایا جو جناب DIG صاحب نے معروض پر ڈسٹریکشن
جناب ASP صاحب کو بحوالہ چھٹی انگریزی نمبری PA/ACR/326 مورخہ 25.09.2018 کو معروض تصدیق دستخط بجھوایا جا کر جس پر
جناب ASP صاحب نے دستخط کو بحوالہ چھٹی انگریزی نمبری 5166/ACCTT/FC/OGHI/2018 مورخہ 02.10.2018
بوغس تحریر کیا جس پر افسران بالا نے جاوید خان ASI کو چارج شیٹ بمعہ شیڈول آف ایلگیشن معروض جواب ملے دے کر سن DSP کو معروض
انکوائری حوالہ ہوئی۔

بدوران انکوائری مذکورہ ASI کی کارکردگی کو چیک کیا جوتلی بخش ہے جسکی کارکردگی سال 2017 کی تفصیل ذیل ہے۔

PO,s	پستول	رائفل	بندوق	کارٹوس	جرس	شراب	دیگر چیزیں
11 نفر	28	01	07	431	13422 گرام	01 بوتل	111 نفر

اس طرح مذکورہ ASI کے اخلاق اور چال چلن کے متعلق اعلانیہ اور خفیہ طور پر معلوم کیا گیا۔ چال چلن اور پبلک ہیڈنگ درست
معلوم ہوا۔ اور کارسروکار میں دلچسپی لے رہا ہے۔ اور کسی قسم کی کرپشن کی شکایت بھی نہیں ہے۔ اس طرح مذکورہ ASI کارسروکار کا ریکارڈ بھی چیک
کیا جس میں کوئی خاص سزا کی انٹری موجود نہیں ہے۔

بدوران انکوائری معلوم ہوا کہ جاوید خان ASI نے اپنے ACR پر ASP صاحب کا دستخط بوگس طریقے سے ثبت کیا جو
ACR پر واضح نظر آتا۔ ASI کی کارکردگی اور زیادہ نوکری کو مد نظر رکھتے ہوئے اگر یہ ACR جناب ASF صاحب سے کرنا تو ہو سکتا ہے۔
ACR پر جناب ASP صاحب نے بہتر ریماکس ثبت کرنا۔ انکوائری سے ثابت ہو کہ ASI مذکورہ نے جلد بازی سے کام لیتے
ہوئے دستخط خود کسی طریقے سے حاصل کیا ہے۔ جسکو بطور سزا پر موشن سٹاف کرنے کی سفارش کی جاتی ہے۔

شیر رحمان خان

ڈپٹی ایس پی سکیورٹی مردان

1126/5

12-12-17

OFFICE OF THE
SUPERINTENDENT OF POLICE
OPERATIONS & HEADQUARTERS
MARDAN

Tell: 0937-9230117
Fax: 0937-9230111
E-Mail: Spops1506@gmail.com

/PA,(Ops)

Dated 22 / 01 / 2019.

The District Police Officer
Mardan.

Subject: DENOVO DEPARTMENTAL ENQUIRY AGAINST ASI
JAVID KHAN.

Kindly find enclosed the complete enquiry file vide disciplinary
Gen Memo: No. 8241-42/PA dated 01.11.2018 on the subject noted above.

ALLEGATIONS:

The subject enquiry proceeding against ASI Javid Khan, was
initiated under the allegations that he while posted as In-charge PP Hatyan, self
generated the remarks of Mr. Ali Bin Tariq then SDPO Takh Bhai in his ACR for
the year 2017 vide regional office Mardan endorsement No. 358 dated /PA-ACR
dated 05.10.2018.

PROCEEDING:

During course of enquiry, ASI Javid Khan was called in the office.
He was heard at length and examined his flow of conversation. His statement
reflecting his progress made in the year 2107 is placed on the file. The already
conducted enquiry file and correspondence made in this regard was thoroughly
perused. ASI Javid Khan stated that on transfer of Ali Bin Tariq then SPDO Takht
Bhai to FC headquarter he himself proceeded to FC Headquarters, for getting his
ACR report, whereby due to unavailability of the officer, he handed over the ACR
to on duty FC personnel deputed on security duty at bungalow and relieved him to
put up the ACR before the officer for getting comments/report. After three days he
was informed to receive his ACR.

The defaulter officer pleaded that regarding the signature /remarks of
ASP Ali Bin Tariq he had no knowledge that either officer/ASP TBI has get signed
the ACR or the F.C official whom the ACR was relieved has signed the same by
himself. During cross questioning the defaulter officer was asked to provide the
Name & Mobile No. of the mentioned F.C officials but he did not provide any
information regarding the said FC official.

CON:

Vide letter No. 326/PA/ACR dated 25.09.2018, the comments/ recorded on the annual confidential report in r/o of ASI Javid No. 661/MR period from 01.01.2017 to 31.12.2017 was send /routed to the reporting ASP Ali Bin Tariq) for verification, whether these were given by him or se. In response, vide letter Memo: No. 5166 /ACCTT/FC/OGHI/2018 the reporting officer, reported that 'he (ASI Javid) never got his ACR signed from him and the signature /remarks are self generated'. Furthermore, the impression of signature/remarks itself reveals the facts that the same is self generated. Besides, giving him ample opportunity for his defense he has nothing to offer except evidence from his side. However, progress made by the defaulter officer in the year 2017 was verified and found satisfactory, but in the instant matter he acted with mala-fide intention and he himself managed/self generated signature/remarks of the reporting officer.

Keeping in view of the above, the allegations mentioned in the charge sheet and statement of allegations leveled against ASI Javid Khan, stands proved, he is found guilty of gross misconduct which tantamount to sever breach of trust.

Submitted please

Superintendent of Police
Operations & Headquarters
Mardan

Signature
OR
DP Mardan



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



D. 14

No. 45 /PA

Dated 13/12/2019

FINAL SHOW CAUSE NOTICE

Whereas, ASI Javed Khan, while posted at PS Lund Khwar, self generated the remarks of Mr. Ali Bin Tariq, the then SDPO Takht Bhai in your ACR for the year 2017 vide Regional Office Mardan endorsement No.358/PA-ACR dated 05-10-2018.

In this connection, during the course of departmental enquiry conducted by Mr. Sher Rehman DSP/Security Mardan vide his office letter No.1128/Security dated 17-12-2018, in pursuance of this office Disciplinary Action No.8241-42/PA dated 01-11-2018, recommending you for with-holding promotion, to which, your reply was received & were heard in OR on 15.01.2019, but you have failed to submit any plausible reasons in your defense, therefore, the enquiry papers were marked to SP/Operation Mardan for De-novo Proceedings into the matter, who after fulfilling De-novo Proceedings, submitted his Finding Report to this office vide his office letter No.5743/PA, (Ops) dated 22.01.2019, holding responsible you of gross misconduct by proving the allegations mentioned in the Statement of Allegations/Charge Sheet against you.

Therefore, it is proposed, to impose Major/Minor penalty including dismissal as envisaged under Rules 4 (b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I Sajjad Khan (PSP) District Police Officer Mardan, in exercise of the powers vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of receipt of this notice, failing which it will be presumed that you have no explanation to offer.

You are liberty to appear for personal hearing before the undersigned.

Received by _____

Dated: ___/___/2019

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy to SHO Lund Khwar to deliver this Notice upon the alleged official & the receipt thereof shall be returned to this office within (05) days positively for onward necessary action.

حفاظت

خطاب نامہ شریک کارزنریس 9756/149/19 جاریہ خط 31-12-2018

مندان شریک جنہوں فریڈے ہوئے۔
سہائیں اپنی ڈیڑیوں میں۔ دیا تہذیب سے سہرا نظام ڈیڑیوں

خطاب آکر ACR پر خط ASP کے دستخط کا تصدیق
کئے۔ تفہیم سہا میں مدھی سے آئے۔

خط ASP کے سہاں تک تہذیب سے الٹی سہی ضمیر فریڈے
کشتادہ تہذیب سے کر خط سے ACR حاصل کر کے ایک روئے

کی اجازت حاصل کیا اور سہرا۔ F.C ضمیر کو آکر لہتیا
خطب خط ASP کے ضمیر کو آکر سہاں سے خطب نامہ آئے

سہاں سے آکر ACR خط کے سہاں سے خطب نامہ لہتیا کر کے خطب
کر کے خطب سے فریڈے حاصل کر کے فریڈے کی اور سہاں

R
Sahar
Signature
Date
FSA for
of

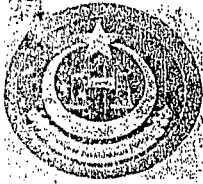
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03-1-2019



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



No. 1685-88 /PA

Dated 12/3/2019

ORDER ON ENQUIRY OF ASI JAVED KHAN

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at PS Lund Khwar, Proceeded against departmentally through Mr. Sher Rehman DSP/Security Mardan vide this Office Disciplinary Action/Charge Sheet No.8241-42/PA dated 01-11-2018 on account of self generating the remarks of Mr. Ali Bin Tariq, the then SDPO Takht-Bhai in his ACR for the year 2017 vide Regional Office Mardan endorsement No. 358/PA-ACR dated 05.10.2018; who (E.O) after fulfilling necessary process, submitted his Finding Report to this Office vide his Office letter No.1128/Security dated 17-12-2018; holding responsible the alleged official of misconduct & recommended for minor punishment of withholding his promotion.

In this connection, the alleged official was served with a Final Show Cause Notice, under K.P.K Police Rules-1975, issued vide this office No.9796/PA dated 31-12-2018, to which, his reply was received & was heard in OR on 15-01-2019, but failed to submit any plausible reasons in his defense, therefore, a De-novo Enquiry was conducted through Mr. Mushtaq Ahmad SP/Operations Mardan, who in Finding Report vide his office letter No.5743/PA (Ops) dated 22-01-2019, concluded that the allegations leveled against the alleged official stands proved, so another Final Show Cause Notice was also issued to the alleged official vide this office No.45/PA dated 13-02-2019, to which, his reply was received.

Final Order

ASI Javed Khan was heard in OR on 26-02-2019 & in the light of his misconduct & suggestions of Enquiry Officers, he is deserve to be punished exemplary, but keeping in view his family back-ground & long service, a lenient view is taken against him by awarding a Minor Punishment of forfeiture his (02)-years approved service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 551

Dated 11/10/2019.

(Sajjad Khan) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The Regional Police Officer Mardan, please.
- 2) The SDPO Takht-Bhai.
- 3) The P.O + E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with (7) Sheets.

4 (17)

ORDER.

This order will dispose-off the departmental appeal preferred by ASI Javed Khan No. 661/MR of Swabi District against the order of District Police Officer, Mardan, whereby he was awarded minor punishment of forfeiture of two years approved service vide District Police Officer, Mardan OB: No. 55 dated 11.03.2019. The appellant was proceeded against departmentally, on the allegations that he while posted at Police Station Lund Khwar, wrote down self generated remarks as well as forged the signature of Mr. Ali Bin Tariq, the then ASP/City, Mardan in his ACR for the year 2017 vide endorsement No. 358/PA-ACR dated 05.10.2019 being his reporting Officer.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and the then Deputy Superintendent of Police Security, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he recommended the delinquent Officer for minor punishment of withholding his promotion.

He was issued Final Show Cause Notice to which, his reply was received and found unsatisfactory. He was also provided opportunity of self defence by summoning him in the orderly Room held in the office of District Police Officer, Mardan on 15.01.2019. The appellant failed to justify his innocence. However, the competent authority did not agree with the recommendations of Enquiry Officer. Hence, de-novo enquiry was initiated which was entrusted to Superintendent of Police Operation, Mardan. The Enquiry Officer after fulfilling codal formalities, concluded that the allegations leveled against the appellant stood proved, so another Final Show Cause Notice was also issued to the delinquent Officer to which his reply was received and found unsatisfactory.

The delinquent Officer was again provided opportunity of self defense by summoning him in the Orderly Room held in the office of District Police Officer, Mardan on 26.02.2019. But he failed to produce any evidence in his defense. Hence, he was awarded Minor Punishment of forfeiture of his two years approved service by the District Police Officer, Mardan vide his office OB: No. 55 dated 11.03.2019.

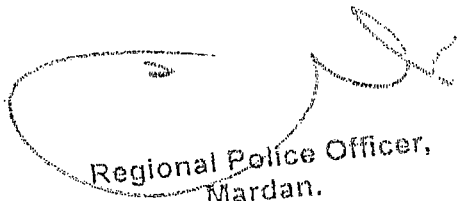
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Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 25.02.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt and the competent authority has already treated him leniently although the misconduct of appellant deserved a harsher punishment. Besides, the appellant approached this forum at a belated stage without advancing any cogent reason regarding such delay. Hence, order passed by the competent authority does not warrant any interference.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed, being time barred.

Order Announced.


Regional Police Officer,
Mardan.

No. 2297-98 IES, Dated Mardan the 03 - 03 - 2020.

1. Copy forwarded for information and necessary action to the:-
District Police Officer, Swabi w/r to his office Memo: No. 30/Insp:
Legal dated 13.02.2020. His Service Record is returned
herewith.
2. District Police Officer, Mardan. His Fauji Missal is returned
herewith.

H (19)

To,

The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

Subject:

APPEAL AGAINST THE ORDER OF DPO MARDAN ISSUE VIDE HIS OFFICE O.B NO. 551 DATED 11/03/2019 WHEREBY, THE APPELLANT WAS AWARDED MINOR PUNISHMENT OF "FOREFEITURE OF 02 YEARS APPROVED SERVICE".

Respected Sir,

The DPO Mardan had issued charge sheet + Summary of allegations No. 8241-42/PA dated 01/11/2018 to the appellant with the following allegations.

"Where is ASI Javed Khan, while posted as Incharge PP Hatiyan, self-generated the remarks of Mr. Ali Bin Tariq the then SDPO Takht Bhai in his ACR for year 2017 vide Regional Office Mardan Endst No. 358/PA dated 05/10/2018".

- 1) It is submitted that in the light of above charge sheet a departmental inquiry was initiated against the appellant. Mr. Sher Rahman DSP Security was nominated as EO. The appellant produced a detailed and comprehensive reply in response to the charge sheet before the E.O regarding his innocence, but his version was not considered. The E.O recommended the appellant for the award of minor punishment. Later on DE novo inquiry was also conducted in to the matter through SP / Operation Mardan. SP / Operation submitted his finding report mentioning therein that the allegations against the appellant stand proved.
- 2) That in the light of the inquiry finding submitted by SP Operation, the DPO Mardan issued final Show Cause Notice No. 45/PA dated 13/02/2019 to the appellant. The appellant again submitted his reply in response to the FSCN but the request for filing of FSCN was not attended.
- 3) That on 26/02/2019 the appellant was heard in person. The appellant explained his position before the DPO Mardan but the DPO Mardan awarded minor punishment of forfeiture of 02 years approved service to the appellant vide OB No. 551 dated 11/03/2019. HENCE

Forwarded
S.H.O. Risalpur
31-01-22

Sir, Forwarded Please
SDPO Nowshera Cantt.

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THE PRESENT APPEAL. (Copy of OB No. 551 dated 11/03/2019 is enclosed)

BRIEF FACTS

During the year 2017 Mr. Ali Bin Tariq was the SDPO of Takht Bhai Sub Division. Later on he was transferred to FC Headquarter Peshawar. The appellant proceeded to Peshawar in order to get signed his ACR for the year 2017 from him. On reaching of the FC Headquarter Peshawar Mr. Ali Bin Tariq was not available. The appellant handed over the original copy of the ACR to the on duty FC official, deputed on Security Duty at his Bungalow and relieved him to put up the ACR before the officer for getting his comments / report. After 03 days the appellant was informed to receive his ACR. The appellant again went to FC Headquarter Peshawar and collected his ACR. The appellant had no knowledge that either ASP Ali Bin Tariq has got signed the ACR or some FC Official has signed the same by himself. Later on the appellant was blamed that remarks / signature in the ACR are self-generated.

DELAY IN FILING OF APPEAL

There is no denying that the appeal is time barred but this was not intentional. The appellant faced to some domestic problems, on account of which the appellant was in mental agony. The appellant would like to state that it is well settled principle of law that procedural technicalities should not be allowed to prevail on dispensation of substantial justice. Procedure laws are meant to advance the cause of justice and not to thwart it. The SUPREME COURT OF PAKISTAN in criminal original petition No.

(21)

90/2009 has further emphasized that while deciding a case, principles of natural justice "audi altream partem" and other fundamental rights should be observed which guarantee the right of the appellant.

GROUND OF APPEAL

1. The appellant is innocent and has not generated him-self any remarks / signature in his ACR of 2017. The appellant can never imagine to involve himself in such like mal practices.
2. From the inquiry finding submitted by SP operation Mardan, it is crystal clear that no any kind of evidence in support of the allegation mentioned in the charge sheet was brought on inquiry file during the course of inquiry. Hence sub-standard inquiry.
3. Beside the statement of the appellant no other independent witness was examined by the E.O during the course of inquiry. Hence an incomplete inquiry.
4. The E.O has expressed his opinion only on imagination and not on the availability of any proof / evidence which is against the norm of justice.
5. The E.O has described in the inquiry finding that the progress made by the appellant during the year 2017 was verified and found satisfactory but even then the appellant was not granted any relief.
6. That in the seniority list the name of the appellant falls after ASI Jamshed and before ASI Ghazanfar. Both ASIs Jamsheed and Ghazanfar were promoted to the Rank of Sub-Inspectors but the name of the appellant was dropped from the promotion in the

(22)


rank of Sub-Inspector for the reason that a departmental inquiry is pending against the appellant.

7. The appellant was enlisted in Police Department as Constable on 15/03/1992 and since then the appellant was not dealt departmentally.
8. That the appellant is qualified and wishes to get further promotion. The instant punishment so awarded to the appellant had certainly ruined the service carrier of the appellant and was dropped from the promotion.
9. The appellant on account of his lengthy period of service and poor family background deserve for lenient view.

Keeping in view the above facts and circumstances, it is humbly requested that by the acceptance of the present appeal, the order of DPO Mardan issued vide OB No. 551 dated 11/03/2019 may kindly be set-aside. The appellant be promoted on his own Seniority Number which falls amongst SI Jamsheed Khan & SI Ghazanfar Mehmood.

Dated: 29/01/2022

Yours Obediently,


ASI MUHAMMAD JAVED
No. 661 MR
PP Eathem PS Kalu Khan District
Swabi .
Cell: 0345-9341255



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 361 /22, dated Peshawar the 03/03/2022.

To: The Regional Police Officer,
Mardan.

Subject:- APPEAL.

Memo:

Please refer to your office Memo: No. 1256/ES, dated 15.02.2022.

The Competent Authority has examined and filed the revision petition submitted by ASI Muhammad Javed No. 661/MR against the punishment of forfeiture of two years approved service awarded by District Police Officer, Mardan vide OB No. 55, dated 11.03.2019, being badly time barred.

The applicant may please be informed accordingly.

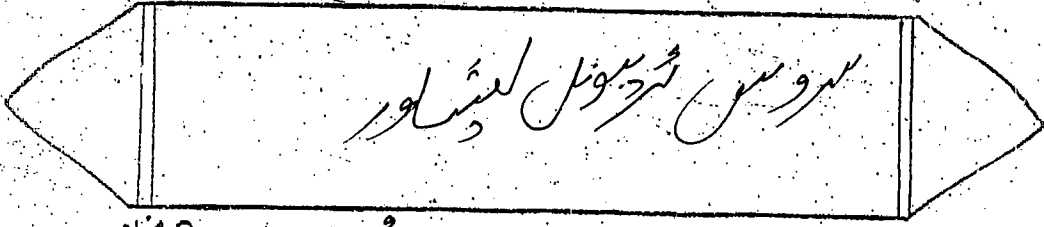

(NOOR AFGHAN)

Registrar,

For Inspector General of Police,

Khyber Pakhtunkhwa, Peshawar.

بعد االت



محمد جاوید 2، مخانبھ
محمد جاوید بنام محکمہ پولیس

---	شورخہ
---	مقدمہ
---	دعویٰ
---	جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی دکن کارروائی متعلقہ
آن مقام لٹشاور کیلئے دھرم علی خان (سروس ٹریڈ ہونٹل)

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت گیری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
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 بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پر و اختیہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائنا التوائے مقدمہ کے سب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اوکالت نامہ لکھ دیا کہ سند ہے۔

Accepted & Allocated
[Signature]

المرقوم _____ ماہ _____ 20 _____

العاب _____ واہ العاب _____

بمقام _____ کے لئے منظور ہے۔

“B”

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

Recd

SB

Appeal No. *461* of 20 *22*

Muhammad Javed Khan Appellant/Petitioner

The Provincial Police Officer KPK Peshawar Respondent

Respondent No. *(2)*

Notice to: — *The RPO Mardan Region*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....*23/06/2022*.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*30th*.....

Day of.....*May*.....20*22*

For Reply

[Signature]

[Signature]

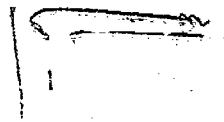
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Appeal No. of 20 ..

Recd

461

Appellant/Petitioner

Muhammad Javed Khan

Versus

Respondent

The Provincial Police Officer Peshawar

Notice to: —

(3)

DPO Mardan

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and seal of this Court, at Peshawar this.....

Day of.....*20th*

May

22

[Signature]

For Reply

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No. SB
Appeal No. 461 of 20 22
Muhammad Javed Khan Appellant/Petitioner
Versus
The Provincial Police Officer KPK Peshawar Respondent
Respondent No. (1)

Notice to: The Provincial Police Officer KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 23/06/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. _____ dated _____

Given under my hand and the seal of this Court, at Peshawar this 30th Day of May 20 22

For Reply

[Signature]
03/06/22

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

Note Case No. While making any correspondence:
of attendance in the court are the same that of the High Court except on public and gazetted holidays.

பெரியார்:

கருள் பாகிசுகர்வா 20/1/1952

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செய்தல்

100/1/1952 கருள் பாகிசுகர்வா 20/1/1952

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100/1/1952 கருள் பாகிசுகர்வா 20/1/1952

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(3)