

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1234 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/08/2022	<p>The appeal of Mr. Ameer Nazar presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;">REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 1234 /2022

**Mr Ameer Nazar
VERSUS
The Regional Police Officer & others**

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-3
2.	Affidavit		4
3.	Copies of the orders	A	5-9
4.	Copy of the Judgment	B	10-14
5.	Copy of Order	D	15
6.	Copies of the Judgment and Order	E & F	16-24
7.	Copies of Departmental Appeal and rejection order	G & H	25-26
8.	Wakalat Nama		27

Appellant
Through

NOOR MUHAMMAD KHATTAK
Advocate, Supreme Court
Add: Off TF-291, 292
Deans Trade Centre
Peshawar Cantt

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2022

Mr. Ameer Nazar, Head Constable No. **426**
Police Line Haripur, District Haripur.....**Appellant**

VERSUS

- 1- The Regional Police Officer/ Deputy Inspector General of Police, Hazara region at Abbottabad.
- 2- The District Police Officer, District Haripur.
.....**Respondents**

APPEAL UNDER SECTION- 4 OF THE KHYBER
PAHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED APPELLATE ORDER DATED
20.7.2022 WHEREBY THE DEPARTMENTAL APPEAL
OF THE APPELLANT FOR PROMOTION TO THE RANK
OF DRIVER ASI HAS BEEN REJECTED ON NO GOOD
GROUND

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 20.7.2022 may very kindly be set aside and the respondents may kindly be directed to consider the appellant for promotion to the Rank of Driver ASI i.e. w.e.f. due date (in the year 2019) with all back benefits including seniority. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was appointed as Constable in the respondent Department and later on the appellant was promoted to the rank of Head Constable on seniority-cum-fitness basis. That during service the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors. Copies of the orders are attached as an annexure **A.**
- 2- That during service the appellant was dismissed from service by the respondents against which the appellant preferred service appeal before this august Tribunal. That this august Tribunal accepted the appeal of the appellant vide judgment dated 18.2.2019 with the direction to conduct denovo inquiry. Copy of the judgment is attached as annexure **B.**

- 3- That after denovo inquiry the respondents issued another order dated 18.6.2019 whereby the penalty of dismissal from service was converted to forfeiture of approved service for three years. Copy of the order is attached as annexure **C.**
- 4- That feeling aggrieved the appellant filed service appeal No.1502/2019 before this august Tribunal which was accepted in favour of the appellant vide Judgment dated 11.1.2022. That during the pendency of the ibid appeal the colleagues and junior colleagues of the appellant has been promoted to the next Rank of ASI while the appellant was ignored on the reason that the case of the appellant is pending before this august Tribunal. Copies of the judgment and order are attached as annexure **D & E.**
- 5- That despite of the fact that the forfeited service of the appellant has been restored and the intervening period of the appellant has been treated as period spent on duty the respondents are not willing to promote the appellant ot he Rank of ASI. That feeling aggrieved the appellant filed Departmental appeal but the same was rejected on 20.7.2022 on o good grounds. Copies of the Departmental appeal and rejection order are attached as annexure **F & G.**
- 6- Hence the present appeal on the following grounds amongst the others

GROUND:

- A- That the impugned order dated 20.7.2022 issued by the respondent No1 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the inaction and action of the respondents is based on discrimination, favoritism and nepotism, hence not tenable in the eye of law.
- D- That the despite the facts the appellant is senior in age and service and also high qualified person, even then the

respondent department is acting in arbitrary and mala fide manner by issuing the impugned order dated 20.7.2022, therefore the ibid order not tenable and liable to be set aside.

E- That promoting the colleagues of the appellant and not promoting the appellant the respondents violated section 9 of the civil servant Act, 1973 read with rule 7 of the APT rules, 1989.

F- That the impugned appellate order dated 20.7.2022 is tantamount to disparity and discrimination under the Constitution of the Islamic Republic of Pakistan, 1973.

G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 17.8.2022

APPELLANT

AMEER NAZAR

THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

**Mr Ameer Nazar
V E R S U S
The Regional Police Officer & others**

AFFIDAVIT

I, Mr Ameer Nazar, Head Constable No 417 Police Line Haripur, District Haripur, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

D E P O N E N T

From: The District Police Officer
Haripur.

To: The Dy: Inspector General of Police
Hazara Range Abbottabad.

No. 7791 /dated Haripur the, 2/12 /2007.

SUBJECT: PROMOTION ON LIST C-II
MEMORANDUM.

The following Police Officials have been promoted as Officiating Head Constable on Promotion List C-II vide OB.No.450 dated 22.10.2007 and OB.No.452 dated 23.10.2007: (Orders attached herewith).

1. LHC.Bashir Shah No.153.
2. Constable Amir Nazar No.417.

Necessary approval may kindly be accorded please.

Submitted please.

M. M. M.
District Police Officer
Haripur.

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From:

The Dy. Inspector General of Police,
Hazara Region, Abbottabad.

To:

The District Police Officer,
Haripur.

No.

1396/2

/E, dated Abbottabad, the 11/12/07.

Subject:

PROMOTION ON LIST C-II.

Memo:

Please refer to your Memo. No. 77

dated 2-12-2007.

The Region Chief has recorded the

following remarks

on your above quoted reference.

"Have they done something extra or any?"

Dy. Inspector General of Police,
Hazara Region, Abbottabad.

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From: The Dy: Inspector general of Police
Hazara region, Abbottabad

To: The District Police Officer
Haripur

No. 13962/E, Dated Abbottabad the 11.12.2007

Subject: **PROMOTION ON LIST C-II**

Memo:

Please refer to your Memo No 778, Dated
02.12.2007.

The region Chief has recorded the following remarks as
your above quoted reference.

“Have they done something extra Ordinary”

**Dy: Inspector General of Police
Hazara Region, Abbottabad**



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ORDER

Constable Amir Nazir No 417 of this district is hereby prompted as Offg: Head Constable on promotion list C-II with immediate effect against the existing vacancy of Head Constable.

M. Gupta
District Police Officer,
Haripur.

• CB No 452
23-10-07

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ORDER

Constable Amir Nazir No 417 of this district is hereby promoted as Offg: Head Constable on promotion list C-II with immediate effect against the existing vacancy of Head Constable.

**District Police Officer
Haripur**



From: The Dy: Inspector General of Police,
Hazara Region, Abbottabad.

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To: The District Police Officer,
Haripur.

No. 2518 /E, dated Abbottabad, the 6/3/2008.

Subject: PROMOTION LIST C-II.

MEMO:

Please refer to your Memo: No. 1165 -
dated 16-2-2008.

The following two Constables of your District
are hereby approved for promotion as Offg: Head Constable
on list C-II in the light of Police Rules 13-8 (2).

1. Driver/Constable Amir Nazar No. 447
2. Constable Muhammad Yaqoob No. 150.

Their Service Rolls are returned herewith
for record in your office.

S: Rolls = 2

By: Inspector General of Police,
Hazara Region, Abbottabad.

H/SRC
for m/a h

[Handwritten Signature]
DPR
7/3/



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2518

(8)

From: The Dy: Inspector general of Police
Hazara region, Abbottabad

To: The District Police Officer
Haripur

No. 2518/E, Dated Abbottabad the 06.03.2008

Subject: PROMOTION ON LIST C-II

Memo:

Please refer to your Memo No 1166, Dated 16.02.2008.

The following two Constables of your District are hereby approved for promotion as Offg: Head Constables on list C-II in the light of Police Rules 13-8 (2).

1. Driver / Constable Amir Nazar No 417
2. Constable Muhammad YAqoob No. 130.

Their Service rolls are returned herewith for record in your office

**Dy: Inspector General of Police
Hazara Region, Abbottabad**

A

ORDER.

Driver Constable Amir Nazar No.417 of this Distt: is hereby promoted as driver Head Constable against the existing vacancy of Head Constable with immediate effect.

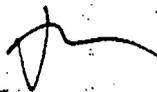

District Police Officer,
Haripur.

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DB/OTC/SRC

OB NO. $\frac{141}{7-4-08}$

11/5/08





ORDER

Driver Constable Amir Nazir No 417 of this district is hereby promoted as Driver Head Constable against the existing vacancy of Head Constable with immediate effect.

**District Police Officer
Haripur**

A

Service Appeal No. 1308/2014

Date of Institution ... 07.11.2014

Date of Decision ... 18.03.2019

Mr. Ameer Pazar, Ex-Head Constable no. 417, Police Line Bahpur, District Bahpur, (Appellant)

VERBIS

The Deputy Inspector General of Police Hazara region at Abotabad and other (Respondents)

MR. HOOR MUHAMMAD ELIYAK

Advocate

MR. MUHAMMAD BH AL

Deputy District Attorney

MR. AHMAD HASSAN

MR. MUHAMMAD ASHFAQ KHAN KHURDI

MR. HASSAN (Executive)
MR. HASSAN (Individual)

JUDGMENT

AHMAD HASSAN, MEMBER: Arguments of the learned counsel for the

parties heard and record perused.

ARGUMENTS

2. Learned counsel for the appellant argued that departmental proceedings were initiated against the appellant and upon submission paper penalty of dismissal from service was imposed on him vide impugned order dated 25.06.2014. He submitted departmental appeal on 19.07.2014, which remained unanswered, hence, the instant service appeal. On the basis of a concise report of Special Branch serious charges of relations with a lady having immoral character were leveled against him. Enquiry was not conducted in the mode and manner prescribed in the rules. No show cause notice was

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT ABBOTTABAD
Service Appeal No 1308/2014**

Date of Institution: 07.11.2014
Date of Decision: 18.02.2019

Mr Ameer Nazar, Ex-Head Constable No 417, Police Line Haripur,
District Haripur **Appellant**

VERSUS

The Deputy Inspector General of Police Hazara Region at
Abbottabad and others **Respondents**

MR. NOOR MUHAMMAD KHATTAK
Advocate

For Appellant

MR MUHAMMAD BILAL
DEPUTY DISTRICT ATTORNEY

For Respondents

MR AHMAD HASSAN
MR MUHAMMAD AMIN KHAN KUNDI

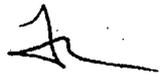
MEMBER (Executive)
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN MEMBER:- Arguments of the learned
counsel for the parties head and record perused.

ARGUMENTS:

2. Learned counsel for the Appellant argued that departmental proceedings were initiated against the Appellant and upon culmination major penalty of dismissal from service was imposed on him vide impugned order dated 25.06.2014. he submitted departmental appeal on 19.07.2014, which remained unanswered, hence, the instant service appeal. On the basis of a source report of Special Branch serious charges of relations with a lady having immoral character were leveled against him. Enquiry was not conducted in the mode and manner prescribed in the rules. No show cause notice was



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT ABBOTTABAD
Service Appeal No 1308/2014

Date of Institution: 07.11.2014
Date of Decision: 18.02.2019

Mr Ameer NAzar, Ex-Head Constable No 417, Police Line Haripur,
District Haripur Appellant

VERSUS

The Deputy Inspector General of Police Hazara Region at
Abbottabad and others Respondents

MR. NOOR MUHAMMAD KHATTAK
Advocate

For Appellant

MR MUHAMMAD BILAL
DEPUTY DISTRICT ATTORNEY

For Respondents

MR AHMAD HASSAN
MR MUHAMMAD AMIN KHAN KUNDI

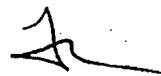
MEMBER (Executive)
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN MEMBER:- Arguments of the learned
counsel for the parties head and record perused.

ARGUMENTS:

2. Learned counsel for the Appellant argued that departmental proceedings were initiated against the Appellant and upon culmination major penalty of dismissal from service was imposed on him vide impugned order dated 25.06.2014. he submitted departmental appeal on 19.07.2014, which remained unanswered, hence, the instant service appeal. On the basis of a source report of Special Branch serious charges of relations with a lady having immoral character were leveled against him. Enquiry was not conducted in the mode and manner prescribed in the rules. No show cause notice was



above stated facts.

process being his basic financial right was denied hence, same.

meet the ends of justice there is enough justification to conduct de-novo enquiry strictly in accordance with the law and rules and providing full opportunity of defense to the appellant.

5. As a sequel to above, the appeal is accepted, the impugned order dated 25.06.2014 is set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

WAHID HUSSAIN
Member
Camp Court Abbottabad.

Muhammad Anwar
(MUHAMMAD ANWAR KUNDI)
Member

ANNOUNCED
18.02.2019

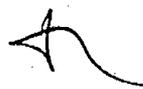
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served on the Appellant before awarding major penalty, nor opportunity of personal hearing was extended to him. Perusal of enquiry report revealed that statements of concerned were not recorded in presence of the Appellant nor he was afforded the opportunity of cross examination. In short he was condemned unheard. Reliance was placed on case law reported as 2014 PLC (CS) 1111, PLD 2008 (SC) 65 and 2007 SCMR 1860.

3. Learned Deputy District Attorney argued that the Special Branch had submitted the source report through which the relations of the Appellant with a woman involved in immoral activities and running prostitution den in Haripur were established. On the basis of the said charges, disciplinary proceedings were initiated and thereafter major penalty of dismissal from service was awarded to him after observance of all codal formalities.

CONCLUSION

4. It is quite amazing that the police record about Mst Rizwana Shaheen of running prostitution den is silent. No FIT has been lodged against her so far. On the other hand the Appellant candidly admitted that the said lady was living in his neighborhood and they had family terms with her. However, it would be highly unjust to allege that he was hand in glove with the said lady. The enquiry officer was unable to establish with the help of documentary evidence that the Appellant was in league with the aforementioned lady. Enquiry was conducted in a slipshod manner. Neither statements of witnesses were recorded in the presence of the Accused, nor opportunity of cross examination was afforded to him. As show cause notice was not served on the Appellant before awarding major penalty, so the illegality alone was sufficient to vitiate the entire proceedings (2007 SCMR 1860 and PLJ 2008 (SC) 65). Opportunity of personal hearing was also denied to the Appellant. We have every reason to believe that source report of Special Branch was biased, one sided and a deliberate attempt to victimize the Appellant. The



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Branch was biased, one sided and a deliberate attempt to victimize the appellant. The denied to the appellant. We have every reason to believe that source report of Special (2007 SCMR 1860 and P1 J 2008 (S.C.) 65). Opportunity of personal hearing was also major penalty, so this illegally alone was sufficient to vitiate the entire proceedings afforded to him. As show cause notice was not served on the appellant before awarding recorded in the presence of the accused, nor opportunity of cross examination was Enquiry was conducted in a slipshod manner. Neither statements of witnesses were documentary evidence that the appellant was in league with the aforementioned lady, in prove with the said lady. The enquiry officer was unable to establish with the help of had family terms with her. However, it would be highly unjust to allege that he was hard the appellant candidly admitted that the said lady was living in his neighbourhood and they prostitution den is silent. The FIR has been lodged against her so far. On the other hand

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CONCLUSION

It is quite amazing that the police record about Kasi, Rizwana Shahen of running
of dismissal from service was awarded to him after observance of all credit formalities.
of the said charges, disciplinary proceedings were initiated and thereafter major penalty
immoral activities and running prostitution den in Hapur were established. On the basis
the source report through which the relations of the appellant with a woman involved in
Learned Deputy District Attorney argued that the Special Branch had submitted

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placed on case law reported as 2011 P1 C.C. (S) 1111, P1 J 2008 (S.C.) 65 and 2007 SCMR
opportunity of cross examination. In short he was condemned unheard. Reliance was
concerned were not recorded in presence of the appellant nor he was afforded the
hearing was extended to him. Verbal of enquiry report reveal that statements of
served on the appellant before awarding major penalty, nor opportunity of personal

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above stated facts have established that opportunity of fair trial by following the due process being his basic fundamental right was denied hence, condemned unheard. To meet the ends of justice there is enough justification to conduct de-novo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of this Judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The Appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)

Member

Camp Court Abbottabad

(MUHAMMAD AMIN KHAN KUNDI

Member

ANNOUNCED

18.02.2019

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OFFICE OF THE DISTRICT POLICE OFFICER, HARIPUR

Ph. # 0995-614712 / 0995-611291

Fax # 0995-614714

E-Mail: dpo.haripur1@gmail.com

No. 4166 Dated 15-6/2019

ORDER

Head Constable Amcer Nazir No-417, while posted at Police Lines, Haripur, a finding of enquiry report on the application of Mrs. Rizwana Shahreen was received from Regional Police Officer, Hazara Region, Abbottabad, vide his office Memo No. J547/C/CL, dated 02.04.2014, in which Mr. Sajid Khan DSP/ADIC, Hazara Region, Abbottabad mentioned the following irregularities:

Source report unsigned was also obtained from Special Branch in which her ill reputation and prostitution den in her house is again confirmed. Furthermore, it has also been mentioned that this den is under the shelter of a person namely Amcer Nazir, who is stated to be a driver in police Haripur. The involvement of Amcer Nazir a police driver may also not be overlooked so as to stop this menace once forever.

The acts and omissions of the police officials were misconduct under the law, therefore, he was dismissed from service by the then District Police Officer, Haripur vide OR No. 375 dated 25.06.2014. He preferred departmental appeal to the Regional Police Officer, Hazara Region Abbottabad, which was also rejected vide his office Order Endst: No.2747/PA dated 06.03.2015. Thereafter, Amcer Nazir filed service appeal No.1308/2014 in Khyber Pakhtunkhwa Service Tribunal (Joint Abbottabad, the Honourable Tribunal vide its judgment dated 18.02.2019, accepted the service appeal of appellant and reinstated him in service, the department was set at liberty to conduct the deprovo proceedings.

In compliance of Honourable Service Tribunal's judgment the defuncter police official was reinstated in service and was served with charge sheet and statement of allegations vide his office Endst: No. 267-69/PA dated 02.05.2019. Additional Superintendent of Police, Haripur, was appointed as Enquiry Officer who conducted proper departmental enquiry and submitted his findings vide his office Memo No. 173 dated 20.05.2019. Consequently, he was called in Orderly Room for personal hearing and was heard in detail.

Having perused the relevant record, enquiry papers and personal hearing of appellant, Head Constable Amcer Nazir No.417, during personal hearing in Orderly Room, He was asked about his relations with had character women named Rizwana Shahreen, He replied in affirmative and informed that she was his neighbor and he knew her for 6/7 years, Keeping in view, the finding of enquiry officer and aforementioned observation, I, Dr. Zahid Iltah (PSP), District Police Officer, being competent authority under Khyber Pakhtunkhwa, police Efficiency and Discipline Rule 1975, HC Amcer Nazir No-417, is awarded minor punishment of forfeiture of approved service for 05 years, the intervening period between his dismissal and reinstatement is treated as leave without pay.

Order Book No. 386 dated 13.06.2019, order announced

No. 4167-6-9

Dated 15.06.2019

District Police Officer
Haripur

Copy of above is submitted to:

1. The Deputy Inspector General of Police, Enquiry & Inspection Internal Accommodation Branch, K.P.K. Peshawar, vide his office Memo No.14574/PA/ABR/ & E dated 15.06.2019
2. The Regional Police Officer, Hazara Region Abbottabad
3. The Assistant Inspector General of Police, Khyber Pakhtunkhwa Peshawar.

Assistant Police Officer
Haripur 2-

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No: 4166 Dated 18.06.2019

ORDER

Head Constable Ameer Nazar No 417, while posted at Police Lines, Haripur, a finding of enquiry report on the Application of Mst Rizwana Shaheen was received from Regional Police Officer, Hazara Region, Abbottabad, vide his office eMemo No 454/C-Cell, dated 02.04.2014, in which Mr Sajid Khan DSP/ADIG, Hazara Region, Abbottabad mentioned the following irregularities.

Source report unsigned was also obtained from Special Branch in which her ill reputation and managing a prostitution den in her house is again confirmed. Furthermore, it has also been mentioned that this den is under the shelter of a person namely Ameer Nazar, who is stated to be a driver in Police Haripur. The involvement of Ameer Nazar a Police driver may also not be overlooked so as to stop this menacc once forever.

The acts and omissions of the police officials were misconducted under the law, therefore, he was dismissed from service by the then District Police Officer, Haripur vide OB No 375 dated 25.6.2014. he preferred departmental appeal to the Regional Police Officer, hazara Region Abbottabad, which was also rejected vide his office Order Endst No 2747/PA dated 06.03.2015. thereafter, Ameer Nazar filed service Appeal No 1308/2014 in Khyber Pakhtunkhwa, Service Tribunal Camp Court Abbottabad, the Hon'ble Tribunal vide its judgment dated 18.02.2019 accepted the service appeal of the Appellant and reinstated him in service, the department was set at liberty to conduct the denovo proceedings.

In compliance of Hon'ble Service Tribunal's Judgment the defaulter police official was reinstated in-service and was served with charge sheet and statement of allegations vide this office Endst No 267-69/PA dated 02.05.2019, Additional Superintendent of Police, Haripur was appointed as Enquiry Officer who conducted proper departmental enquiry and submitted his findings vide his office Memo No 173 dated 20.05.2019. consequently, he was called in Orderly Room for personal hearing and was heard in detail.

Having perused the relevant record, enquiry papers and personal hearing of Appellant. Head Constable Ameer Nazar No 417, during personal hearing in Orderly Room. He was asked about his relations with bad character women named Rizwana Shaheen. He replied in affirmative and informed that she was his neighbor and he knew her or 6/7 years. Keeping in view, the finding of enquiry officer and aforementioned observation. I, Zahid Ullah PSP, District Police Officer, being competent authority under Khyber Pakhtunkhwa, Police Efficiency and Discipline Rule 1975. HC Ameer Nazar No 417 is awarded minor punishment of forfeiture of approved service for 03 years. The intervening period between his dismissal and reinstatement is treated as leave without pay.

Order Book No 386 dated 13.06.2019, order announced.

**District Police Officer
Haripur.**

No. 4167-69

Dated 18.06.2019

Copy of above is submitted to:-

1. The Deputy Inspector General of Police, Enquiry & Inspection Internal Accountability Branch, KPK, Peshawar vide his office Memo No 1453/CPO/IAB/C & E dated 15.04.2019.
2. The Regional Police Officer, Hazara Region Abbottabad.
3. The Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa Peshawar.

**District Police Officer
Haripur.**

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

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APPEAL NO. 1502 /2019

Khyber Pakhtunkhwa
Service Tribunal

Entry No. 1530

Date 31-10-2019

Mr. Ameer Nazar, Head Constable No. 417,
Police Line Haripur, District Haripur.....**APPELLANT**

VERSUS

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

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18.06.2019 WHEREBY MINOR PUNISHMENT OF FORFIETURE OF APPROVED SERVICE FOR THREE (03) YEARS AWARDED TO THE APPELLANT AS WELL AS THE INTERVENING PERIOD i.e. 25.06.2014 TILL RE-INSTANTMENT IS TREATED AS LEAVE WITHOUT PAY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 18.06.2019 may very kindly be set aside and the appellant may be allowed/granted of his approved service of three years and the intervening period w.e.f 25.06.2014 till reinstatement may also be allowed/counted for the grant of back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

led to day
Registrar
31/10/19

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That the appellant was appointed as Constable in the respondent Department later on the appellant was promoted to the rank of Head Constable on seniority-cum-fitness basis. That right from the date of 1st appointment the appellant has served the respondent Department quite efficiently and upto the entire satisfaction of his superiors.
- 2- That appellant while working as driver/Head Constable the respondent No.3 issued charge sheet alongwith statement of allegation baseless allegation was leveled against the appellant by

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AND
MAINTAINED
IN
OFFICE
OF
REGISTRAR
PESHAWAR
31/10/19

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1502/2019

Date of Institution ... 31.10.2019

Date of Decision ... 11.01.2022



Mr. Ameer Nazar, Head Constable No. 417, Police Line Haripur, District Haripur.
... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others.
... (Respondents)

Noor Muhammad Khattak,
Advocate ... For Appellant

Javed Ullah,
Assistant Advocate General ... For respondents

AHMAD SULTAN TAREEN ... CHAIRMAN
ATIQ-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE)

ATTESTED

(Signature)
ATTESTED
Secretary
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant was initially appointed as Constable in Police department and was subsequently promoted to the post of Head Constable. During the course of his service, the appellant was proceeded against on the charges of misconduct and was ultimately dismissed from service vide order dated 25-06-2014. Feeling aggrieved, the appellant filed departmental appeal followed by Service Appeal No. 1308/2014, which was decided vide judgment dated 18-02-2019 with direction to the respondents to conduct de-novo inquiry. As a result of de-novo inquiry the impugned order dated 18-06-2019 was issued, whereby major penalty of dismissal was converted into minor penalty of forfeiture of approved service for three years and the intervening period with effect from

(Signature)

25-06-2014 till his re-instatement was treated as leave without pay. Feeling aggrieved, the appellant filed departmental appeal, which was not responded, hence the instant service appeal with prayers that the impugned order dated 18-06-2019 may be set aside and the appellant may be allowed his approved service for three years and the intervening period with effect from 25-06-2014 until his re-instatement may also be counted for the grant of back benefits.

02. Learned counsel for the appellant has contended that the impugned order dated 18-06-2019 is against law, facts and norms of natural justice, hence not tenable and liable to be set aside; that the appellant has not been treated in accordance with law, as such the respondents violated Article-4 and 25 of the Constitution; that the respondents acted in arbitrary and mala fide manner, while issuing the impugned order, which is not tenable in the eye of law and the same are liable to be set aside; that no show cause has been issued to the appellant before issuing the impugned order; that no chance of personal hearing has been afforded to the appellant before issuing the impugned order, which is necessary as per judgment of the apex court before taking any punitive action against a civil servant; that in the de-novo inquiry no charge has been proved against the appellant; therefore the appellant is fully entitled for all back benefits with effect from 25-06-2014 till re-instatement.

03. Learned Assistant Advocate General for the respondents has contended that the appellant while posted as driver at police lines Haripur, was reported to supervising a prostitution den and the said act was reported being misconduct; that the appellant was proceeded against on such charges and was dismissed from service vide order dated 25-06-2014; that as per judgment dated 18-02-2019 of this tribunal, de-novo inquiry was conducted and being found guilty, the appellant was awarded minor punishment of forfeiture of three years approved service vide order dated 13-06-2019; that the appellant was issued proper charge sheet/statement of allegation and additional SP Haripur was appointed as inquiry

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officer, who conducted inquiry and submitted his findings; that in light of findings of the inquiry report, the appellant was awarded appropriate punishment.

04. We have heard leaned counsel for the parties and have perused the record.

05. Record reveals that upon receipt of an unsigned source report from special branch, the appellant was proceeded against. The source report was basically against a lady Rizwana Shaheen, which was regarding her ill reputation and managing a prostitution den in her house, whereas the appellant is stated to be in relation with the lady. The appellant was served with charge sheet/statement of allegation containing the same allegations, to which the appellant responded and denied the allegations having no facts behind it, rather the appellant opined that the complaint might be due to personal grudge of his fellows employees. An inquiry was conducted on the charges, but the inquiry officer failed to establish the charges leveled against him with documentary evidence. The said inquiry was conducted in a slipshod manner, as neither statement of any witnesses were recorded in presence of the appellant nor opportunity was afforded to the appellant to cross-examine such witnesses. Show cause notice was not served upon the appellant before awarding major penalty, despite he was awarded with major punishment of dismissal from service. Keeping in view such lacunas in the disciplinary proceedings, this tribunal ordered for de-novo inquiry. During the course of de-novo proceedings, the appellant was served with the same charge sheet/statement of allegations and inquiry was conducted. It is very interesting to note that the inquiry officer fully exonerated the appellant of the charges, rather appreciated him for his efficient performance and earning cash prizes and commendation certificates on his best performance, despite he was recommended for minor punishment. In a situation, when the civil servant is exonerated of the charges, he cannot be penalized.

ATTESTED





06. We are of the considered opinion that the appellant has not been treated in accordance with law. The inquiry officer exonerated him of the charges, which means that the appellant was illegally kept away from performance of his duty, even imposition of minor penalty in case of exoneration is illegal and on this score alone, the impugned order is liable to be set at naught. Placed on record is appreciation and commendation certificates, one of which is reproduced as under;

"Ameer Nazar is highly disciplined, well groomed, responsible & reliable police officer. He during his service with me, never disappointed me. I also found him very optimistic; he has the courage and potential to cope with odd situation. I wish and if I could, I would have given him an accelerated promotion to the rank of SI and would have appoint him as SHO, as he has the ability to run the most difficult police station. People like Ameer are rare in police department"

07. Keeping in view the words of a District Police Officer in favor of the appellant would certify that the appellant was handled wrongly. His exoneration from the charges is more than enough to conclude that the appellant was illegally kept away from performance of duty for longer time and again penalizing him despite his exoneration would be un-just and illegal. In view of the foregoing discussion, the instant appeal is accepted. The impugned order is set aside. The forfeited service is restored and intervening period is treated as on duty with all consequential benefits. Parties are left to bear their own costs.. File be consigned to record room.

ANNOUNCED
11.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

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

Verified to be true copy
E. M. WAZIR
Hyderabad
Service Tribunal
Muzaffargarh



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. A34/ST

Dated: 7-3-2022

All communications should be
addressed to the Registrar KPK Service
Tribunal and not any official by name.

Ph: 091-9212281
Fnx: 091-9213262

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To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Haripur.

Subject: JUDGMENT IN APPEAL NO. 1502/2019 MR. AMEER NAZAR.

I am directed to forward herewith a certified copy of Judgement dated
11.01.2022 passed by this Tribunal on the above subject for strict compliance.

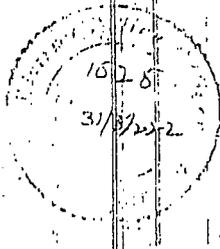
Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

gasp legal

for all ca

*DFO/HR
31/3*



*SRC/SHC
for information
action*

*map legal
31/3/2022*

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SIGNAL

FROM: RPC, HAZARA (.)

TO: (1) DPO ABBOTTABAD (.)
(2) DPO HARIPUR (.)

NO 26659-60 IE DATED 18-10-2019 (.) SUBJECT (.) DPC (.) THE FOLLOWING DRIVER

HEAD CONSTABLES (ON LIST C-II) OF YOUR DISTRICT SHOULD BE DIRECTED TO APPEAR BEFORE THE UNDERSIGNED ON 22-10-2019 AT 11:00 AM IN CONNECTION WITH THEIR PROMOTION AS DRIVER AS IS (.)

#	NAME & No.	PRESENT POSTING
01	HC Muhammad Ismail No.988	Abbottabad District
02	HC Firdous No.495	Abbottabad District
03	HC Muhammad Saddique No.214	Abbottabad District
04	HC Abdul Ghani No.469	Abbottabad District
05	HC Zakirullah Khan No.368	Haripur District
06	HC Amear Nazir No.426	Haripur District
07	HC Khalid Mahmood No.39	Haripur District
08	HC ... No.229	Haripur District
09	HC ... Khan No.184	Haripur District

← Haripur

[Signature]
RPC HAZARA

[Handwritten mark]

From: RPO, Hazara

To: 1) DPO Abbottabad
2) DPO Haripur

NO. 26659-60/E DATED 18-10-2018 (.) SUBJECT (.) DPC (.) THE FOLLOWING DRIVER HEAD CONSTABLES (ON LIST C-II) OF YOUR DISTRICT SHOULD BE DIRECTED TO APPEAR BEFORE THE UNDERSIGNED ON 22.10.2019 AT 11:00 AM IN CONNECTION WITH THEIR PROMOTION AS DRIVER ASIS (.)

S#	Name & No.	Present Posting
01.	HC Muhammad Ismail No 988	Abbottabad District
02.	HC Firdous No 495	Abbottabad District
03.	HC Muhammad Saddique No 214	Abbottabad District
04.	HC Abdul Ghani No 469	Abbottabad District
05.	HC Zakir Rehman No. 368	Abbottabad District
06.	HC Ameer Nazar No 426	Haripur District
07.	HC Khalid Mehmood No 39	Haripur District
08.	HC (sic) No. 229	Haripur District
09.	HC (Sic) Khan No. 194	Haripur District

RPO HAZARA





OFFICE OF THE
SUPERINTENDENT OF POLICE INVESTIGATION,
HARIPUR

Phone # 0995-920033, Fax # 0995-627069
email: ssp_inv_haripur@yahoo.com
No: 2803, dated: 16-07-2020

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To:

The Regional Police Office,
Hazara Region,
Abbottabad

Subject:

APPLICATION

Respected Sir,

Enclosed kindly find herewith an application submitted by
Driver Head Constable Ameer Nazar No.426, serving in this
wing, for your kind perusal and favorable consideration, please.


Superintendent of Police,
Investigation, Haripur



15.3.97
8/11/97
Form attached
Siv

0333-5074687

Handwritten notes in Urdu, including "DHC" and "126".

15/03/2000

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Handwritten Urdu text, possibly a letter or report.

Handwritten Urdu text, possibly a letter or report.

Handwritten signature or name.



OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

☎ 0992-9310021-22

☎ 0992-9310023

✉ r.rpohazara@gmail.com

NO: 18074 IF DATED 20/07/2022

9-26

To: District Police Officer,
Haripur

Subject:- APPLICATION

Memorandum:

With reference to your office letter No.3708 dated 30-06-2022.

Application of Driver Head Constable Ameer Nazar No.426 for promotion to the rank of Driver ASI received vide your above quoted reference has been examined and filed by the competent authority due to non availability of vacancy of driver ASI.

Please inform the applicant accordingly.

m
20/07/22

MUHAMMAD OMER ILYAS
Incharge Establishment,
For Regional Police Officer,
Hazara Region, Abbottabad

SRE / offc
For info comd m l w

f - -
DPO / H02
20/07/2022



f

VAKALATNAMA

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Ameez Nazari

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

RPO & Others

(RESPONDENT)
(DEFENDANT)

I/We Ameez Nazari

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022


CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK


KAMRAN KHAN


UMAR FAROOQ

&

MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:

Flat No.(TF) 291-292 3rd floor
Deans trade centre Peshawar cantt:
Mobile No. 0334-5277323