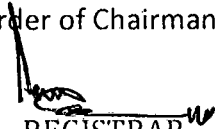


FORM OF ORDER SHEET

Court of _____


C.O.C application No. 508/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25/08/2022	<p>The C.O.C application of Mr. Hamid Khan submitted today by Mr. Muhammad Yousaf Orakzai Advocate. Original file be requisitioned. It is fixed for hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and her counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR.</p>


The COC petition of Mr. Hamid Khan received to-day i.e. on 18-08-2022 is returned to the counsel for the petitioner with the direction to submit two more copies/sets of the petition along with annexures i.e. complete in all respect within 15 days in file covers.

No. 2420 /S.T,

Dt. 18/8 /2022


Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mr. Muhammad Yousaf Orakzai Adv.

Note: Summary of objection
and case is submitted
on 25/8/22


**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

C.O.C No: 508 /2022 in Appeal No. 555/19

Hamid Khan S/o Muhammad Norani

R/O Near police line H#16 Sector Ghari Atta Khan, Kohat

..... Petitioner

**Khyber Pakhtunkhwa
Service Tribunal**

Versus

Docket No. 1017

Dated 18/8/2022

1. Muhammad Suleman DPO , Kohat
2. Tahir Ayub DIG police , Kohat
3. Moazzam Jah Ansari Inspector General of Police, KPK

..... Respondents

PETITION U/S 3 OF THE CONTEMPT OF COURT ORDINANCE

RESPECTFULLY SHEWETH:

- A. That the petitioner filed service appeal before this honorable service Tribunal, Peshawar against the order dated 09/11/2018.

The Copy of order dated 09/11/2018 is annexed "A"

- B. That this honorable service Tribunal, Peshawar accepted the service appeal and set-aside the dismissal order of the petitioner dated 09/11/2018 with direction to the respondents to reinstate the petitioner in service with all back benefits on 21/06/2022

The Copy of Oder dated 21/06/2022 is annexed "B"

- C. That the petitioner thereafter has visited to the offices of the respondents but the official taunts and reluctant to obey the order of this honorable service Tribunal, Peshawar.

Now the petitioner has no other remedy except to knock the door of this honorable service Tribunal, Peshawar through instant petition inter alia on the following grounds;

GROUND:

1. That the act and omission of the respondent No.1 to 3 are clearly falls within the ambit of the section 3 of Contempt of Court Ordinance, 2003.

2. That the petitioner has inalienable right to be treated in accordance with law by virtue of Article 4 of the Constitution of Pakistan, which has infringed the act or omission of the respondent No.1 to 3.
3. That the act of the respondent No.1 to 3 are totally disregard of the law of land and liable to punished thereof.
- D. That the respondents are guilty of willful breach of the order of this honorable service Tribunal, Peshawar which they are bound to obey, hence, they may be proceeded U/S 118 (C) of Khyber Pakhtunkhwa police Act 2017.
4. That other ground will be urged at the time of arguments.

It is, therefore, humbly prayed that on acceptance of this application the respondent No.1 to 3 may graciously be punished under section 3 of the Contempt of Court Ordinance and strict order may kindly be passed to against the respondents to reinstate in service the petitioner alongwith all back benefits.

Hamid Khan (Petitioner)

Through

1. Muhammad Yousaf Orakzai

2. Muhammad Yaseen Orakzai

3. Zubair Nawaz Salarzai

4. Imran Khan Orakzai
Advocates, Peshawar

Dated: 17-08-2022

AFFIDAVIT

I, petitioner, do hereby affirmed on oath that the contents of the petition is true and correct and nothing has been concealed therein.

Deponent

Identified by:

Muhammad Yousaf Orakzai,
Advocate.





"A" "D" (8)

**OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT**
Tel: 0922-9260116 Fax 9260125

ORDER

This order is passed on the departmental proceedings against Constable Hameed Khan No. 606, hereinafter called accused official under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amended 2014).

Facts are that Constable Hameed Khan No. 606, posted at Lachi Tool Plaza Nakabandi was found guilty for getting illegal gratification from the General Public, hence a case vide FIR No. 338 dated 18.08.2018 U/Ss 161,162,165,384 PPC, 118 (d) Police Act 2017 has been registered against him. His this act shows gross misconduct on his part.

He was served with Charge Sheet & Statement of Allegations DSP Legal, Kohat was appointed as enquiry officer to proceed against him departmentally. Enquiry officer submitted his finding report and found him guilty of the charges leveled against him. The accused official was called in OR and heard in person on 07.11.2018, but failed to explain his position.

In view of above and available record, I reached to the conclusion that the allegations of taking bribe money on road and become demoralization for good image of Police have been proved without any shadow of doubt.

Therefore, I, Capt @ Wahid Mehmood, District Police Officer, Kohat in exercise of the powers conferred upon me, imposed a major punishment of dismissal from service with immediate effect.

DISTRICT POLICE OFFICER,
KOHAT 09/11/18

OB No. 1187
Date 09-11 /2018

No. 10795-98 PA dated Kohat the 09-11-2018.

1. R.I is hereby directed to collect kit etc from the accused constable & report.
2. Reader/Pay Officer/SRC & OHC for necessary action.

نوٹ
11/18
جیل
ہوسٹل
گنت ریل
وہ

Attached to be seen
#

ATTESTED
to be true copy
Advocate

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL, PESHAWAR.

Hamid Khan S/O Muhammad Norani

APPEAL NO. 555/2019

R/O Near Police Line H#16 Sector Ghari Atta Khan, Kohat.

Appellant

Versus

1. DPO, Kohat.
2. DIG, Kohat
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 683

Dated 30/4/2019

Respondents

SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974; AGAINST THE ORDER
DATED 08-04-2019 OF RESPONDENT NO.3, WHEREIN THE
APPELLANT WAS DISMISSED FROM SERVICE.

PRAYER-IN-APPEAL:

By accepting this appeal, the impugned order of the Respondent No.3 may graciously be set-aside and the appellant may kindly be re-instated in his service with all back benefits alongwith grant of any other remedy deemed fit by this

Filed to-day Hon'ble Tribunal.

Registrar

30/4/19 Respectively Sheweth:

Facts leading the institution of the instant appeal are;

BRIEF FACTS:

- a) That the appellant has joined Police Department as Constable in 2009 in Police department
- b) That, the appellant was charged and shown arrested in case vide FIR No 338 dated 17-08-2018. Due to the said false case the appellant was suspended and served him Charge Sheet together with Statement of Allegation, to which he replied,
Copy of which is annexed-"A".
- c) That the appellant was charge sheeted on 27-08-2018 vide No.7866-67/PA to which he replied,
Copy of which is annexed-"B"&"C".
- d) That the DPO Kohat had issued an impugned dismissal order of the appellant vide OB. No.1187 dated 09-11-2018,
Copy of which is annexed- "D".
- e) That the appellant filed a departmental appeal to worthy DIG Kohat range, Kohat,
The copy of which is annexed-"E".
- f) That the departmental appeal of the petitioner was dismissed on dated 22-01-2019,
Copy of which is annexed- "F".
- g) That the appellant filed a revision application to worthy IGP, KPK which was dismissed on 08-04-2019.
Copy of which is annexed- "G".

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 555/2019

Date of Institution ... 30.04.2019

Date of Decision ... 21.06.2022

Hamid Khan S/O Muhammad Norani. R/O Near Police Line H# 16
Sector Ghari Atta Khan, Kohat.

...(Appellant)

VERSUS

District Police Officer Kohat and two others.

... (Respondents)

MR. MUHAMMAD YOUSAF ORAKZAI,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

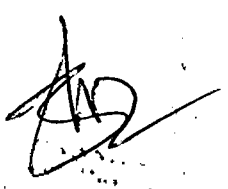
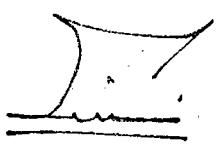
--- For respondents.

MR. SALAH-UD-DIN
MISS. FAREEHA PAUL

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts forming background of the instant service appeal are that the appellant while posted at Lachi Toll Plaza *Nakabandi*, was allegedly found taking illegal gratification from the general public, therefore, case FIR No. 338 dated 18.08.2018 under sections 161/162/165/384 PPC read with Section 118 (d) Police Act, 2017 was registered against him in Police Station Lachi District Kohat. On the same set of allegations, departmental action was also initiated against the appellant and on the conclusion of the inquiry, he was awarded major punishment of dismissal from service vide order dated 09.11.2018 passed by District Police Officer Kohat. The departmental appeal of the appellant was also dismissed vide order dated 24.01.2019, which was challenged by the appellant through filing of revision petition before Inspector General of Police Khyber Pakhtunkhwa Peshawar. The revision petition of the



appellant was rejected vide order dated 08.04.2019, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has argued that no evidence what-so-ever was produced during the inquiry in support of the allegations leveled against the appellant but even then the inquiry officer has wrongly and illegally observed in his report that the allegations against the appellant stood proved; that constables namely Asif and Nawaz were also on duty at relevant time but the inquiry officer has not recorded their statements; that no one had filed any complaint against the appellant regarding the alleged charge but even then departmental action was initiated against the appellant with mala-fide intention; that neither final show-cause notice was issued to the appellant nor was he provided copy of the inquiry report and the appellant was thus deprived of making proper defense in the inquiry proceedings; that the alleged video has not been sent to the office of Forensic Science Laboratory for its authenticity, therefore, the same could not be considered a legal basis for awarding punishment to the appellant; that Muhammad Qias H.C was also proceeded against departmentally on the same allegations but he was awarded minor punishment of censure, while the appellant has been awarded major penalty of dismissal from service; that the appellant has been acquitted in the criminal case, which fact also proves innocence of the appellant. In the last he requested that the impugned orders may be set-aside and the appellant may be reinstated in service with all back benefits. Reliance was placed on 2021 SCMR 1077, 1999 PLC (C.S) 1332, 2001 PLC (C.S) 316, 2009 SCMR 187, 2009 PLC (C.S) 338, 2005 PLC (C.S) 1508, 2005 PLC (C.S) 333, 1997 SCMR 1543 and 2003 SCMR 215.

4. On the other hand, learned Additional Advocate General for the respondents has argued that the appellant was found indulged in taking illegal gratification from general public and video in this respect got viral on social media, in which the

appellant could be seen taking money from the conductor of vehicle; that illegal act of the appellant became viral on social media and the same has brought bad name to police force; that a regular inquiry was conducted in the matter by complying all legal and codal formalities; that the allegations against the appellant stood proved in a regular inquiry, therefore, he has rightly been awarded the punishment of dismissal from service.

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that case FIR No. 338 dated 18.08.2018 under sections 161/162/165/384 PPC read with Section 118 (d) Police Act, 2017 was registered against the appellant in Police Station Lachi District Kohat, on the allegations that the appellant, while on duty at Lachi Toll Plaza, was found taking illegal gratification from general public. Departmental action was also initiated against the appellant on the aforementioned allegations and Mr. Ishaq Gul DSP/Legal was appointed as inquiry officer. According to the inquiry report, the inquiry officer has recorded statements of Azmat Khan the then SHO Police Station Lachi, Muhammad Azam Khan SI (Investigating Officer of the concerned criminal case registered against the appellant) and Faheem Ullah ASI the then Incharge DSB. Copies of statements of the aforementioned witnesses are available on the record. Mr. Azmat Khan the then SHO Police Station Lachi is also complainant in the criminal case registered against the appellant and Muhammad Qias H.C. In his statement recorded during the inquiry, Azmat Khan the then SHO Police Station Lachi has just mentioned that in the video received by him through Whatsapp, the appellant was seen shaking hand with a bus conductor. He has not at all mentioned that the appellant was seen receiving any illegal gratification. The aforementioned witness was cross examined by the appellant and he has mentioned in his reply that the presence of the appellant on the spot could not be seen in the concerned video. The other two witnesses namely Muhammad Azam Khan SI and Faheem Ullah ASI have not uttered a single word in support of the allegations

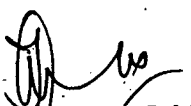
against the appellant. It is not understandable as to how the inquiry officer came to the conclusion that the charge leveled against the appellant stood established during the inquiry. Moreover, the concerned video was not sent to Forensic Science Laboratory for its authenticity, therefore, the same could not be considered a legal basis for taking disciplinary action against the appellant. August Supreme Court of Pakistan in its judgment reported as 2021 SCMR 1077 has graciously observed as below:-

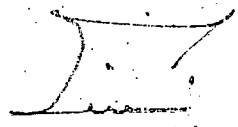
"In the case of Ishtiaq Ahmad Mirza Versus Federation of Pakistan (PLD 2019 S.C 675) this court has held that with the advancement of science and technology it is now possible to get it ascertained as to whether an audio tape or a video is genuine or not and as such examination, audit or test can also reasonable establish if such audio tape or video has been edited, doctored or tampered with or not because advancement of science and technology has also make it very convenient and easy to edit, doctor, superimposed or Photoshop a voice or picture in an audio tape or video, therefore, without a Forensic examination audit or test, it is becoming more and more unsafe to rely upon the same as a piece of evidence in a court of law."

7. On the same set of allegations, case FIR No. 338 dated 18.08.2018 under sections 161/162/165/384 PPC read with Section 118 (d) Police Act, 2017 was registered against the appellant and one Qias Khan H.C in Police Station Lachi District Kohat. Vide judgment dated 17.12.2020 passed by judicial Magistrate Tehsil Lachi District Kohat, the appellant has already been acquitted in the aforementioned criminal case.

8. Consequently, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
21.06.2022



(FAREEHA PAUL)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Date of Presentation of Application 22/7/22
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Total 26/-
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	S No 7775
	BC No - 12-3549
	Sign <i>[Signature]</i>

مورخہ
مقدمہ
دعویٰ
جرم

Loc

حاضرین بنام سرکار
باعث تحرے آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب دہی وکل کاروائی، متعلقہ
آن مقام پشاور کورٹ پشاور کیلئے محمد یونس لودھی۔ پاکستانی ریزرو فنڈ عمران

مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا
نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہو
گا نیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء
تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی
کاروائی یکطرفہ یا ڈگری یکطرفہ کیخلاف درخواست دائر کر سکتا ہے وکیل موصوف میری جانب
سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل
موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا
ہے جس کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں
تمام ساختہ پر داختم منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط / نشان
انگشت ثبت کر دیا ہے تاکہ سند رہے۔

حاضرین
محمد یونس لودھی

0301-8808625

المرقوم 18 ماہ کی مدت کے لئے منظور ہے۔ 2022ء



بمقام پشاور کورٹ پشاور کے لئے منظور ہے۔
ATTESTED
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[Signatures]