


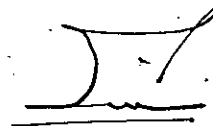
ORDER
17.09.2021

Appellant alongwith his counsel Mr. Yasir Saleem, Advocate, present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file of Service Appeal bearing No. 70/2017 titled "Amjid Khan Versus The provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and three others", the instant appeal is allowed by setting-aside the impugned orders and the appellant is held entitled to all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.09.2021


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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

30.06.2021

Nemo for the appellant. Muhammad Sheraz H.C alongwith Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Previous date was changed on the basis of Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B. on 17.09.2021.

M. Adeel Butt
30/6/21



(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

03.11.2020

Junior to counsel for the appellant and Usman Ghani,
District Attorney for the respondents present.

The Bar is observing general strike, therefore, the
matter is adjourned to 12.1.2021 for hearing before the
D.B.


(Mian Muhammad)
Member


Chairman

12.01.2021

Nemo for appellant. Addl: AG for respondents present.
Due to pandemic of Covid-19, the case is adjourned to
31.03.2021 for the same.


Reader


31.03.2021

Due to non-availability of concerned
D.B. The case is adjourned to 30.06.2021 for
The same as before.


Reader

07.02.2020

Counsel for appellant and Mr. Riaz Ahmad Pindakheil, Assistant AG alongwith Mr. Sheraz, Head Constable for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 03.03.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

03.03.2020

Appellant with counsel present. Mr. Ziuallah, DDA alongwith Mr. M. Naeem, Naib court for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 02.04.2020 before D.B.


Member


Member

Due to Public Holiday Management of COVID-19 the case is adjourned. To come up for the case on 3.7.20.

03.07.2020

Due to COVID-19, the case is adjourned to 28.08.2020 for the same.


Reader

28.08.2020

Due to summer vacation, the case is adjourned to 03.11.2020 for the same as before.


Reader

07.10.2019

Mr. Zia Ullah learned Deputy District Attorney present. Application for adjournment of the present service appeal received which is placed on file of connected service appeal No.70/2018 filed by Amjad Ali. Adjourn. To come up for arguments on 12.11.2019 before D.B.


Member


Member

12.11.2019

Counsel for the appellant present. Asst: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 10.12.2019 before D.B.

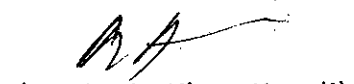

Member


Member

10.12.2019

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Adjourned to 07.02.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

17.06.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourn. To come up for arguments on 05.08.2019 before D.B.



Member



Member

05.08.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Muhammad Jan learned Deputy District Attorney present. Adjourn. To come up for arguments on 22.08.2019 before D.B.



Member



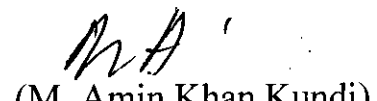
Member

22.08.2019

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment. Adjourned. To come up for arguments on 07.10.2019 before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

W3/K1

Service Appeal No. 71/2018

10.12.2018

Counsel for the appellant present. Mr. Muhammad Sheraz, Head Constable alongwith Mr. Kabirullah Khattak, Additional AG on behalf of the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments on 17.01.2019 before S.B.



**Muhammad Amin Khan Kundi
Member**

17.1.2019

Counsel for the appellant and Addl. AG alongwith Sheraz H.S for the respondents present.

Written reply has been submitted on behalf of the respondents. To come up for arguments before D.B on 28.03.2019. The appellant may submit rejoinder, if so desires, within a fortnight.



Chairman

28.03.2019

Due to general strike of the bar, the case is adjourn. To come up for rejoinder/arguments on 17.06.2019 before D.B.



Member



Member

13.07.2018

Neither appellant nor his counsel present. Sardar Shaukat Hayat, Addl. Advocate General on behalf of the respondents present and made a request for adjournment. Granted. To come up for written reply/comments on 27.08.2018 before S.B.


Chairman

27.08.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present and made a request for adjournment. Granted. To come up for written reply/comments on 24.10.2018 before S.B.


(Ahmad Hassan)
Member

23-10-18

Due to retirement of Honorable Chairman the Tribunal is now functional therefore the case is adjourned to come up for the same on 10-12-2018


Redder

19.04.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued he was appointed as constable in the Police Department in 2002. Disciplinary proceedings were initiated and upon conclusion major penalty of compulsory retirement was imposed on him vide impugned order dated 20.6.2014. The same was challenged in this Tribunal through appeal no. 1065/14 and accepted vide judgment dated 13.10.2016. As a sequel to the judgment of this Tribunal dated 13.10.2016, he was reinstated in service and de-novo proceedings were initiated against him. After conducting de-novo enquiry he was awarded minor penalty of stoppage of one increment without accumulative effect for three years, while the period he remained out of service was treated as leave of the kind due vide order dated 03.03.2017. He filed departmental appeal on 21.09.2017 which was rejected on 31.10.2017, hence, the instant service appeal. The appellant has not been treated according to law and rules.

Points urged need consideration. Admit, subject to limitation. Appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 07.06.2018 before S.B.


(AHMAD HASSAN)
MEMBER

07.06.2018

Clerk of the counsel for appellant and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 13.07.2018 before S.B.


Member

Appellant Deposited
Security Process Fee

01.03.2018

Clerk of the counsel for appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 29.03.2018 before S.B.



(Muhammad Amin Khan Kundi)
Member

29.03.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 19.04.2018 before S.B.



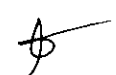


(Ahmad Hassan)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 71/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/1/2018	<p>The appeal of Mr. Maqbool Khan resubmitted today by Mr. Yasir Saleem Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	23/01/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>06/02/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	06.02.2018	<p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 01.03.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member(E)</p>


The appeal of Mr. Maqbool Khan Ex- Head Constable No. 4757 Platoon No. 87 Elite Force Bannu received today i.e. on 14.12.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Affidavit may be got attested by the Oath Commissioner.
- 5- Copies of orders/Judgment mentioned in para-7 of the memo of appeal (Annexures-FGH) are not attached with the appeal which may be placed on it.
- 6- Copies of enquiry report, reinstatement order, orders dated 3.3.2017 and 6.4.2017 mentioned in para-8,9,10 & 11 of the memo of appeal (Annexures-I,G,K & L) are not attached with the appeal which may be placed
- 7- Copy of departmental appeal and its rejection order mentioned in para-12 of the memo of appeal are not attached with the appeal which may be placed on it.
- 8- Annexure-O of the appeal is missing.
- 9- Wakalat nama in favour of appellant be placed on file.
- 10- Six more copes/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2686 /S.T,

Dt. 15/12 /2017

Yasir Saleem Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Sis

Re: Submission of Memorandum

Placed with the Court


Yasir Saleem

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 71 /2017

Maqbool Khan Ex-Head Constable No. 4757 Elite Force Bannu
R/O Purana Azim Killa Tehsil Domail & District Bannu

(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and
others.

(Respondents)

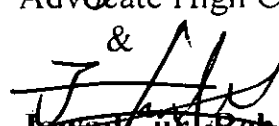
INDEX

S. NO	Description of documents	Annexure	Page No
1	Memo of Appeal & Affidavit		1-5
2	Copies of charge sheet and statement of allegations dated 28.11.13	A	6-7
	Copy of inquiry report dated 18.03.2014	B	8
3	Copy of final show cause notice dated 30.05.2014 and reply dated 10.06.2014	C & D	9-10
4	Copy of the order dated 20.06.2014	E	11
	Copies of the Order and judgment in service appeal 1065/2014 of the appellant and connected Service Appeal No. 425/2014 dated 20.09.2016 and detail judgment in Service Appeal No. 498/2014.	F, G & H	12-18
	Copy of the order dated 20.09.2016	I	19
	Copy of the enquiry report	J	20-25
5	Copy of the Order dated 03.03.2017	K	26
	Copy of order dated 06.04.2017	L	27
	Copies of Departmental Appeal 21.09.2017 and rejection order dated 31.10.2017	M, N	28-29
	Copy of the order dated 16.02.2017	O	30
	Vakalatnama		31

Appellant

Through


YASIR SALEEM
Advocate High Court

&

Jawad ur Rehman

Advocate Peshawar
FR-3,4 fourth floor Bilour Plaza
Saddar road Peshawar Cantt

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 71 /2017

Diary No. 1421

Dated 14-12-2017

Maqbool Khan Ex-Head Constable No. 4757 Elite Force Bannu
R/O Purana Azim Killa Tehsil Domail & District Bannu.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer Bannu Region Bannu.
3. The Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar.
4. The Additional Inspector General of Police Elite Force Khyber Pakhtunkhwa Peshawar

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Order dated 03.03.2017, whereby the appellant, in the light of post reinstatement de-novo inquiry report, has been awarded the minor penalty of stoppage of one increment without accumulative effect and the period during which the appellant remained out of service has been treated as a leave of the kind due, against which his departmental dated 21.09.2017, has also been rejected vide order dated 31.10.2017, communicated to the appellant on 14.11.2017.

Filed to-day

Registrar

14/12/17

Prayer in Appeal: -

Re-submitted to -day
and filed.

Registrar

19/11/18

On acceptance of this appeal both the Impugned Orders dated 03.03.2017 and 31.10.2017, may please be set-aside and the appellant be allowed all back and consequential benefits of service.

Respectfully Submitted:

1. That the appellant was initially enlisted as Constable in the Respondent Department in the year 2002, during the course of his service the appellant also got promotion to the Rank of Head Constable. Ever since his appointment, the appellant has performed his duties with zeal and devotion and there was no complaint whatsoever regarding his performance.
2. That the appellant has long standing service at his credit with unblemished and clean sheeted conduct record. The appellant has excellent performance beyond the call of his duty and the appellant remain in those police stations and check Posts at Bannu where the militant attacks were occurred in routine, the appellant.
3. That while serving in the said capacity, the appellant was proceeded departmentally on certain false, baseless and unproved allegations. He was served with charge sheet and statement of allegations dated 28.11.2013 which was duly replied by him. *(Copies of charge sheet and statement of allegations dated 28.11.13 are attached as Annexure A).*
4. That thereafter inquiry was conducted and the enquiry officer submitted his report wherein he completely exonerated the appellant from the charges leveled against him. *(Copy of inquiry report dated 18.03.2014 is attached as Annexure B)*
5. That although the inquiry officer in his inquiry report, completely exonerated the appellant from charges, astonishingly the respondent No. 3 issued Final Show cause notice dated 30.05.2014, wherein the major penalty was proposed to be imposed upon him. The appellant duly replied the show cause notice and clear his position vide his reply dated 10.06.2014. *(Copy of final show cause notice dated 30.05.2014 and reply dated 10.06.2014 is attached as Annexure C & D)*
6. That thereafter the respondent No. 4, without considering his defense reply, awarded the major penalty of Compulsory retirement from service to the appellant vide order dated 20.06.2014. *(Copy of the order dated 20.06.2014 is attached as Annexure E)*
7. That the appellant challenged the same before this Honorable Tribunal in service appeal No 1065/2014, which was accepted vide Order dated 20.09.2016 in the following words. *“This appeal is also decided as per our detailed Order of today in connected Service Appeal No. 425/2014 tilted “ Jamshed Vs. the Provincial Police Officer & others”. Parties are, however,*

left to bear their own costs. It is pertinent to mention here that the detail judgment was given in Service Appeal No. 498/2014 titled "Jamshed Ali Shah Vs. the Provincial Police Officer and others".

(Copies of the Order and judgment in service appeal 1065/2014 of the appellant and connected Service Appeal No. 425/2014 dated 20.09.2016 and detail judgment in Service Appeal No. 498/2014 are attached as Annexure F, G & H).

8. That in the light of the order and judgment dated 20.09.2016 of this Honorable Tribunal, the appellant was reinstated in service vide order dated 13.10.2016 and the de-novo proceedings were directed to be initiated against the appellant. *(Copy of the order dated 20.09.2016 is attached as Annexure I)*
9. That it is pertinent to mention here that the de-novo inquiry proceedings never initiated and completed with stipulated timeframe given by this Honorable Tribunal. However, later on, without serving any charge sheet a partial enquiry was conducted and the enquiry officer recommended the appellant for minor penalty. *(Copy of the enquiry report is attached as Annexure J).*
10. That the Respondent No. 3 without applying his prudent mind, while agreeing with the recommendation of the enquiry officer, awarded the appellant the minor penalty of stoppage of one increment without accumulative effect for three years and the period during which he remained out of service was treated as leave of the kind due vide Order dated 03.03.2017. *(Copy of the Order dated 03.03.2017 is attached as Annexure K).*
11. That in the light of the order dated 03.03.2017, out of total period 703 days were treated as earned leave however on half pay vide order dated 06.04.2017. *(Copy of order dated 06.04.2017 is attached as Annexure L)*
12. That the appellant was busy in his intermediated course, so was unaware about the order dated 03.03.2017. It was when he came back after completion of his training, he came to know about the order thereafter he applied for the provision of the order 03.03.2017, however the copy of the said order was provided to the appellant on 22.08.2017 where after the appellant submitted his department appeal within thirty days i.e., 21.09.2017. However the said appeal has been rejected vide order dated 31.10.2017 communicated to the appellant on 14.11.2017. *(Copies of Departmental Appeal 21.09.2017 and rejection order dated 31.10.2017 are attached as Annexure M & N)*

13. That the impugned orders are illegal, unlawful and against the law and facts hence liable to be set aside inter alia on the following grounds:-

Grounds of Appeal:


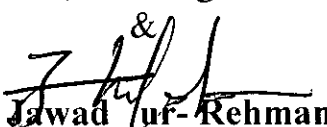
- A. That the appellant has not been treated in accordance with law thus his right secured and guaranteed by law are badly violated.
- B. That this Honourable Tribunal while remanding the case to the Respondents directed to conduct proper departmental enquiry strictly in accordance with rules and law, however the Respondents while ignoring the direction of the Honourable Tribunal, again conducted the proceedings in haste manner.
- C. That the appellant has not been provided proper opportunity of hearing, thus condemned unheard.
- D. That while conducting de-novo proceedings against the appellant, no fresh charge sheet statement of allegations were served upon him nor any show cause notice has been issued to him.
- E. That the enquiry report is in its self contradictory as at the one hand the enquiry officer himself admitted that ***“during the enquiry proceedings, no evidence was found in support of the charges”***, while on the other hand he recommended the appellant for minor penalty.
- F. That the charges leveled against the appellant were never proved during the enquiry, the enquiry officer gave his findings on surmises and conjunctures.
- G. That during the enquiry statement of witnesses were never examined in presence of the appellant nor he has been allowed the opportunity of cross examination.
- H. That it is pertinent to mention here that one of the similarly placed employee Constable namely Halimullah charged for the same charges has been reinstated with all back benefits vide order dated 16.02.2017. ***(Copy of the order dated 16.02.2017 is attached as Annexure O)***
- I. That the appellant has not been served with show cause notice neither he has been provided the copy of the enquiry report before the imposition of penalty upon him.

- J. That the appellant has a long and spotless service at his credit thus if the penalty in tact remains it would be a stigma to the spotless carried of appellant.
- K. That the appellant seeks the permission of this Honorable Tribunal to rely on additional grounds at the hearing of this appeal.

It is, therefore, humbly stated that on acceptance of this appeal both the Impugned Orders dated 03.03.2017 and 31.10.2017, may please be set-aside and the appellant be allowed all back and consequential benefits of service.



Appellant

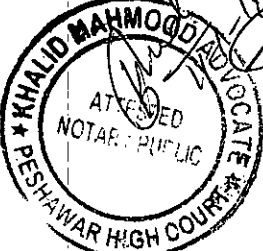
Through


YASIR SALEEM
Advocate High Court
&

Jawad Irfan Rehman
Advocate Peshawar

AFFIDAVIT

I, **Maqbool Khan Ex-Head Constable No. 4757 Elite Force Bannu R/O Purana Azim Killa Tehsil Domail & District Bannu.** do hereby solemnly affirm and declare that the contents of the above appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.


Deponent



Ann: A

6

9

SUMMARY OF ALLEGATIONS

I, Dilawar Khan Bangash, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, am of the opinion that Head Constable Maqbool No. 4757, Platoon No. 89 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette, 27th January 1976).

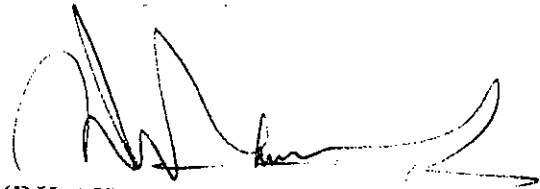
SUMMARY OF ALLEGATIONS

He has got tainted reputation and allegedly involved in anti-social activities as per report of RPO Bannu vide his office letter No. 2659-61/EC, dated 08.11.2013.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Shabir Ahmad ADSP/ Elite Force Bannu, is appointed as Enquiry Officer.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.

4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.



(DILAWAR KHAN BANGASH)

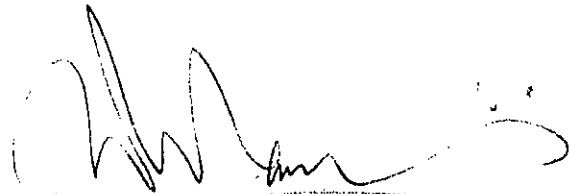
Deputy Commandant,

Elite Force, Khyber Pakhtunkhwa, Peshawar.

No. 16236-4/EF, dated Peshawar the 28 /11/2013.

Copy of the above is forwarded to the;

1. Regional Police Officer, Bannu w/r to his letter No. 2659-61/EC, dated 08.11.2013
2. A/DSP Elite Force Bannu.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.
5. SRC, Elite Force Khyber Pakhtunkhwa Peshawar.
6. HC Maqbool No. 4757 of Elite Force thorough reader DSP/Elite Bannu.



(DILAWAR KHAN BANGASH)

Deputy Commandant,

Elite Force, Khyber Pakhtunkhwa, Peshawar

DRI Elite Force Force Sheet New Charge Sheet have sheet extra files

ATTENDED



7

(10)

CHARGE SHEET

I, Dilawar Khan Bangash, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority hereby charge you Head Constable Maqbool No. 4757, Platoon No. 89 of Elite Force Bannu, as follows;

You have got tainted reputation and allegedly involved in anti-social activities as per report of RPO Bannu vide his office letter No. 2659-61/EC, dated 08.11.2013.

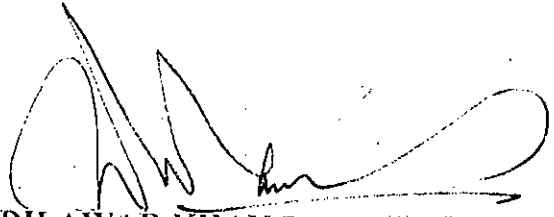
2. By reason of the above, you appear to be guilty of misconduct under the Police Rules (amended vide N.W.F.P. gazette, 27th January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are, therefore, directed to submit your defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.

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

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.



(DILAWAR KHAN BANGASH)
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

D:\Elite Force\Charge Sheet\New Charge Sheet\charge sheet 4510.docx

ATTACHED

فائل رپورٹ

Ann: B (14)

ہیڈ کنسٹیبل محمد مقبول خان نمبر 4757 پلاٹون نمبر 89 ضلع بنوں پر الزام لگایا گیا تھا۔ کہ وہ بدعنوانی میں ملوث ہے۔ اور وہ داغ دار شہرت کا مالک ہے۔ جس پر اس کو چارج شیٹ کیا گیا۔ اور سابقہ ADSP بنوں شبیر حسین صاحب کو انکوآری ایفسر مقرر کیا گیا۔ DSP شبیر حسین صاحب کے معطل ہونے پر تمام انکوآریاں پینڈنگ مجھے مارک ہوئیں۔ جو تمام گواہان کو دوبارہ طلب کیا جا کر بیانات سنے گئے جنہوں نے سابقہ بیان کی تائید کی جو بیانات پر میں نے تصدیق کی۔ بدوران انکوآری گواہان ذیل کے بیانات لئے گئے۔

نمبر 1:- انچارج DSB بنوں

نمبر 2:- ریڈر نو DSP

نمبر 3:- کنسٹیبل وسیم 1065/EF

نمبر 4:- کنسٹیبل سردار داؤد 1066/EF

نمبر 5:- کنسٹیبل یوسف اقبال 1064/EF

نمبر 6:- کنسٹیبل عرفان شاہ 867/EF

E.O.
Re Puts my SB
IB ??
19/3/14

بیانات سے پایا گیا۔ کہ ہیڈ کنسٹیبل محمد مقبول خان 4757/HC کسی قسم کی بدعنوانی میں ملوث نہیں رہا ہے۔ اور نہ وہ داغ دار شہرت رکھتا ہے۔ مزید معلومات کر کے حلقہ پٹواری سے اسکی جائیداد کی تفصیل لی گئی۔ جس میں پایا گیا۔ کہ اس کے نام پر کسی قسم کی جائیداد غیر منقولہ موجود نہیں ہے۔ بنوں کے تمام بنکوں سے اسکے متعلق ریکارڈ لیا گیا۔ مگر اس کے نام پر کسی قسم کا بینک بیلنس نہیں پایا گیا۔ اس کا اعمال نامہ بذریعہ فون SRC پٹاور سے چیک کیا گیا جس میں کسی قسم کی کوئی سابقہ سزایابی نہیں پائی گئی۔

ہیڈ کنسٹیبل محمد مقبول خان 4757/HC مورنہ 02.04.2012 سے ایلٹ فورس میں تعینات ہے وہ مختلف تھانہ جات اور پولیس لائن میں تعینات رہا۔ مگر اس کے خلاف کسی قسم کی شکایات پولیس افسران یا ایلٹ اہلکاران سے موصول نہیں ہوئی۔ OASI سے تعیناتی پیر یڈ لیا گیا ہے کسی ایسی پوسٹ پر تعینات نہیں رہا جس پوسٹ پر کرپشن کی جاسکتی ہو۔

سفارشات:- ہیڈ کنسٹیبل محمد مقبول خان 4757/HC پلاٹون نمبر 89 بدعنوانی اور داغ دار شہرت کے الزامات لگائے گئے

ہیں۔ جس کے خلاف ثابت نہیں ہو سکے۔ انکوآری فائل رپورٹ مرتب ہو کر گزارش ہے۔ مزید حکم افسران بالا افضل ہوگا۔

Ri
A
OS
19/3

محمد باران خان
ڈپٹی سپرنٹنڈنٹ
ایلٹ فورس بنوں
18/3/14

No. 76/EF-Bannu

Date = 18-3-014 Dy. No. 1201

Di. 19/3/14

Encls. 28 Pcs.

Attested

To be true copy
Advocate

ATTESTED

FINAL SHOW CAUSE NOTICE

I, Sajid Khan Mohmand, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority under Police Rules (amended vide NWFP gazette, 27th January 1976), do hereby serve you Head Constable Maqbool No. 4757, Platoon No. 89 of Elite Force as follows;

You have got tainted reputation and allegedly involved in anti-social activities as per report of RPO Bannu vide his office letter No. 2659-61/EC, dated 08.11.2013, which was verified through intelligence agencies.

On going through the finding and recommendation of the enquiry officer, the material available on record and intelligence report, I am satisfied that you have committed the omission/commission specified in Police Rules (amended vide NWFP gazette, 27th January 1976) and charges leveled against you have been established beyond any doubt.

2. As a result therefore, I, Sajid Khan Mohmand, Deputy Commandant Elite Force, Khyber Pakhtunkhwa Peshawar as competent authority have tentatively decided to impose major penalty upon you including dismissal from service, under Police Rules (amended vide NWFP gazette, 27th January 1976) of the said ordinance.

3. You are therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this show cause notice is received within seven days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put and in that case an ex-parte action shall be taken against you.

5. A copy of the finding of the Enquiry Officer is enclosed.

M/S
(SAJID KHAN MOHMAND)
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

No. 7443 /EF, dated Peshawar the 30/05/2014.

IIC Maqbool No. 4757 of Elite Force through Muhammad Elite Headquarters Peshawar.

Attested
[Signature]
To be true copy
Advocate

ATTESTED

Committed 3

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Anx: Q E

(19)



Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



No. 9141-50/EF

Dated 20/06/2014.

ORDER

You Head Constable Maqbool Khan No. 4757, Platoon No. 89 of Elite Force Khyber Pakhtunkhwa were found guilty of gross misconduct on the following grounds.

You have got tainted reputation and allegedly involved in anti social activities as per report of RPO Bannu vide his office letter No. 2659-61/EC, dated 08.11.2013. Charge Sheet & Summary of Allegation was issued to you and Acting DSP/Elite Force Bannu was appointed as Enquiry Officer. The Enquiry Officer exonerated you from the charges but the charges were then re-affirmed through intelligence agencies. The agencies report suggests that you are corrupt and involved in corrupt practices. Your previous service record was also perused, and foundblemished. You were also issued Show Cause Notice vide this office order No. 7908-10/EF, dated 05.06.2014 to appear before the undersigned on 19.06.2014, but you failed to satisfy the undersigned.

Therefore, I, Sajid Khan Mohmand, Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, impose major penalty of compulsory retirement, upon you under Police Rules (NWFP Police Rules 1975, Section 05, subsection 5) with immediate effect.

(SAJID KHAN MOHMAND)
Deputy Commandant

Elite Force Khyber Pakhtunkhwa Peshawar.

Copy of the above is forwarded to the:-

1. Additional IGP, Elite Force Khyber Pakhtunkhwa Peshawar.
2. PSO to IGP, Khyber Pakhtunkhwa Peshawar.
3. Acting Deputy Superintendent of Police, Elite Force Headquarters, / Bannu.
4. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
5. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.
6. Incharge Kot / OASI, Elite Force Khyber Pakhtunkhwa Peshawar
7. SRC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar.

Attested

To be true copy
Advocate

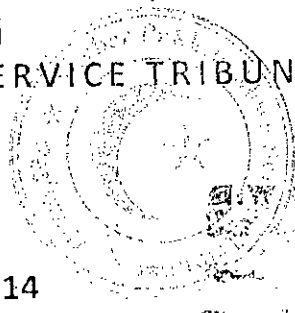
OB 295
28-06-14

12 A

APPEAL F

BEFORE THE KHYBERR PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR



Appeal No. 1065/2014

1072
12/18/2014

Ex HC Maqbool Khan No.4757 Elite Force Bannu R/o Purana Azim Killa Tehsil Domil District, BannuAppellant.

Versus

1. The Provincial Police Officer, Govt: of KPK, Peshawar.
2. The Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commandant Elite Force Khyber Pakhtunkhwa, Peshawar.
4. The Additional Inspector General of Police Elite Force Khyber Pakhtunkhwa, PeshawarRespondents.

Service Appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with section 19 of the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011 against the impugned original order of respondent No.3 dated 20-06-2014 (Annexure-G) and order dated 23-07-2014 (Annexure-J) passed on the departmental appeal of the appellant.

Prayer:-

On acceptance of the instant service appeal this Honorable Court may graciously be pleased to declare the impugned orders dated 20-06-2014 and 23-07-2014 as void ab initio, illegal, unlawful and without lawful authority and set aside the same by re-instating the appellant with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present writ petition are as under:-

submitted & filed

ATTESTED

DQ/HOVS E.F

Rani PD

8734
4-10-16
Commandant

ATTESTED
Khyber Pakhtunkhwa Service Tribunal



5/2014

20.09.2016

Counsel for the appellant and Mr. Usman Ghani, Senior Government Pleader for the respondents present.

This appeal is also decided as per our detailed order of today in connected Service Appeal No. 425/2014 titled "Jamshed-vs-The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc". Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.09.2016

*Mr. Abdul Latif,
Number
Mr. Piro Bakhtish Shah,
Number*

[Signature]

Date of Filing of Copy 30-09-2016
Number of Copies 800
Copying Fee 600
Urgent
Total 1400
Name of Copyist
Date of Completion of Copy 30-9-16
Date of Submission of Copy 30-9-16

ATTESTED
[Signature]

14
Appeal No. 425/2014
Jamshed vs Police Deptt. KPK



2014

20.09.2016

Counsel for the appellant and Mr. Usman Ghani, Senior Government Pleader for respondents present. The instant appeal and other seven identical appeals No. 414/2014 titled "Ex-Driver Constable Khushdil No. 261-vs-Deputy Inspector General of Police/RPO, Bannu Region Bannu etc, 415/2014 titled Ex-Driver Constable Attique-ur-Rehman No. 1609-vs- Deputy Inspector General of Police/RPO, Bannu Region Bannu etc, 424/2014 titled "Azmatullah-vs-The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc" 426/2014 titled "Haleemullah-vs-The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc" 427/2014 titled Shah Fayaz-vs-The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc" 1065/2014 Ex-HC Maqbool Khan No. 4757-vs-The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar etc and 1066/2014 titled Ex HC Amjad Khan No. 4747- vs-The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar etc" are identical to Service Appeal No. 498/2014 titled "Jamshed Ali Shah-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc" decided on 04.05.2015 by this Tribunal. Since the same question of facts and law are involved in these appeals, all these appeals are therefore decided in terms of the aforementioned service appeal No. 498/2014. The respondents shall ascertain as to whether the present appellants are similarly placed persons or otherwise. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.09.2016

Self-Abdul Latif,
Member

Self-Pir Bakht Shah,
Member

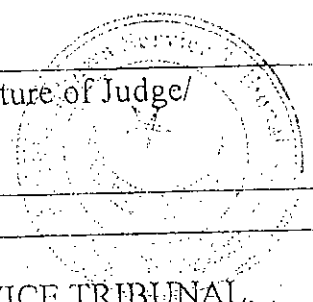
Original to be kept copy
[Signature]

ATTESTED

Date of Presentation of Appeal 30-9-16
Number of Copies 4
Copies of Appeal 4
Original 2
Total 6
Name of Applicant [Signature]
Date of Completion of Appeal 30-9-16
Date of Presentation of Appeal 30-9-16

15
1

Asst. Secy H



Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge/Magistrate
1	2	3
1.	4.05.2015	<p>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p>Service Appeal No. 498/2014, Jamshed Ali Shah Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>ABDUL LATIF, MEMBER.</u>- Counsel for the appellant (Mr. Sajid Amin, Advocate) and Mr. Ziaullah, Government Pleader with Mir Faraz Khan, Inspector (Legal) for the respondents present.</p> <p>2. This appeal has been preferred by appellant Mr. Jamshed Ali Shah, H.C No. 782 District Police, Bannu under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 10.1.2014 whereby the appellant had been awarded major penalty of compulsory retirement from service and against which his departmental appeal dated 15.1.2014 had been rejected vide order dated 10.3.2014.</p> <p>3. Through this single judgment five (5) other identical appeals submitted under Appeals No. 499/2014 Hamdullah Jan, No. 500/2014 Mchboob Khan, No. 501/2014 Abdul Saboor, No. 502/2014 Sifat Ullah, 503/2014 Siraj Khan are also decided in the same terms as the appellants were proceeded and penalized for almost the same nature of charges.</p>

ATTESTED

ATTESTED

4. The appellant was appointed as Constable in Police Department in the year, 1993 and was promoted to the rank of Head Constable in the year, 2005. While serving in the said capacity he amongst others was suspended from service vide order dated 7.11.2013 allegedly on account of having tainted reputation and involvement in anti-social activities. Two enquiries were conducted against him one by Mr. Liaqat Shah, DSP Naurang and the other by two Members Committee i.e. DPO Kohat and D.I.G D.I.Khan. Both the enquiries recommended him for major punishment and accordingly he was compulsorily retired from service by competent authority vide order dated 10.1.2014. He submitted departmental appeal against the said order to the appellate authority (Regional Police Officer) who did not accede to his request and filed the appeal.

5. The learned counsel for the appellant argued that the appellant was not associated with the proceedings in both the enquiries which were conducted at the same time. He submitted that due to the partisan behaviour of the enquiry officer the appellant also submitted application on 10.12.2013 for marking the enquiry to other officer which was not allowed. He stated that the appellant was not charge sheeted for the second enquiry wherein he was recommended for major punishment. He further argued that no specific charge was framed against him and no evidence was produced



ATTESTED

against the appellant, no witnesses were produced nor was he allowed to cross examine any witness against him. Similarly no final show cause notice was issued before imposition of major penalty on him. He further argued that enquiry when proper charge sheet was issued/replied to was submitted on 11.1.2014 whereas penalty was awarded to him on 10.1.2014, thus the whole proceedings as well as order of penalty seemed to be pre-determined which is not maintainable under the law. He also argued that enquiry based its findings on secret probe which is not authentic and dependable in the eyes of law. He relied on 2010-PLC(C.S)724 and PLD 1989-Supreme Court-335.

6. The learned Government Pleader argued that all codal formalities were fulfilled before passing of the final order by the competent authority. He stated that charge sheet and statement of allegations were served upon the appellant and enquiry was conducted where proper opportunity of defence was given to the appellant. Moreover, the appellant was also heard in person before award of the penalty. As far the question of final show cause notice was concerned, he clarified that there was no provision of such notice in the Police Rules, 1975.

7. Arguments of the learned counsel for the parties heard and record perused with their assistance.

ATTESTED

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8. From record it transpired that charges leveled against the appellant were not specific and solid evidence could not be collected to substantiate the charges. The enquiry was rendered ineffective as penalty was imposed a day before its submission. Moreover, the enquiry placed reliance on a secret probe instead of collection of evidence which is bad in the eyes of law. Also the conduct of second enquiry simultaneously rendered the proceedings defective.

9. The impugned order is therefore, set aside. In order to meet the ends of justice and provide opportunity of fair trial, the case is remanded back to the respondent department for denovo enquiry strictly in accordance with law/rules. The appellant is reinstated in service for the purpose of the denovo enquiry proceedings. Back benefits will be subject to outcome of the fresh enquiry which should be completed within thirty days of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

10. connected five service appeals, mentioned in para-3 of the judgment, are also disposed of in the above terms.

ANNOUNCED
04.05.2015.

*Sd/- Abdul Latif,
Member*

*Sd/- P. B. Bakshi,
Member*

Part of Record No. 1688 30-9-16
 Number of Pages 10
 Date 12/11/16
 Name of Officer Smt. [Signature]
 30-8-16
 30-8-16

THE STATE OF [illegible]
 [illegible]
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Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar




No. 1 /EF

Dated 13 / 10 / 2016

ORDER

Consequent upon the judgment of the Khyber Pakhtunkhwa Service Tribunal Peshawar, dated 20.09.2016, in service appeal No. 1065/14, Ex-Head Constable Maqbool Ahmad of Elite Force Khyber Pakhtunkhwa is hereby provisionally re-instated in service. 474

The Superintendent of Police, Elite Force Bannu Region, is hereby directed to initiate denovo enquiry/proceedings against the above named Head Constable.


(MUHAMMAD HUSSAIN) P.S.P.
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

No. 14916-24 /EF

13-10-16

Copy of above is forwarded for information and necessary action to the:-

1. Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar.
2. Superintendent of Police, Elite Force Bannu.
3. Deputy Superintendent of Police, HQrs: Elite Force, Peshawar.
4. Accountant, Elite Force, Pakhtunkhwa, Peshawar.
5. RI/EC, Elite Force, Khyber Pakhtunkhwa, Peshawar.
6. OHC/SRC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar.

~~ATTENDED~~

FINDING

The instant departmental proceedings relates to Constable Maqbool Ahmad who while serving in elite Force KPK under constabulary No. 4757 in Platoon No.89 was proceeded departmentally under police rules 1975 (amended NWP gazette, 27 the January 1976) and as a result of which, he was compulsorily retired from service. On appeal he was reinstated into service for the purpose of Denovo enquiry. Before submitting the minutes of Denovo proceedings, it is imperative to explain cursorily the previous proceedings.

BRIEF DESCRIPTION OF THE PREVIOUS PROCEEDINGS/CASE:

Accused constable Maqbool while serving in platoon No. 89 of Elite Force KPK, Peshawar was served with charge sheet based upon summary of allegations vide Dy; Commandant Elite Force, KPK, Peshawar office endst: No. 16236-41/EF dated 28-11-2013, wherein, the charges of "tainted reputation and allegedly involved in anti social activities" were leveled against him and Mr. Shabir Ahmad the then ADSP/Elite Force Bannu was appointed as enquiry Officer, who (E.O) was subsequently placed under suspension and thus the enquiry papers were entrusted to Mr. Baran Khan, the then Deputy Superintendent of Elite Force, Bannu, who started proper departmental proceedings into the charges. After receiving the reply of accused constable, the then Enquiry Officer recorded the statements of the following:-(1) Incharge DSB (2) Reader to DSP (3) Constable Wasim No. 1065/EF (4)Constable Sardar Daud No. 1066/EF (5)Constable Yousaf Iqbal No. 1064/EF and (6) Constable Irfan Shah No. 867/EF. All these officers, in their statements, had reported the accused officer as good police officer. Moreover, special Branch officials were asked to record their statement regarding the reputation of accused official but they had refused on the ground that without prior permission from their high ups they were unable to do the same.

The report of halqa patwari was also brought into black & white, wherein, no property, in the name of accused official, was reported. The enquiry officer had also collected the detail of accused's account balance from the banks of (1):UBL Paready Gate Bannu.(2):Allied Bank Paready Gate Bannu (3): Faysal Bank limited Islamic banking Branch Bannu (4):MCB Bank Bannu (5) Meezan Bank limited Bannu (6):Alfalah Bank Bannu. (7) National Bank Bannu (8) Habib Bank Bannu. His only one account bearing No.030601053163 with a balance of Rs 8337/- was found in UBL Parady gate Bannu. There was no other account number and balance in the name of accused official in other banks quoted above. In the light of the above, the enquiry officer submitted his finding report vide letter no76/EF Bannu dated 18-03-2014, wherein, it was recommended "that there is no proof of tainted and corrupt reputation against the accused and the allegations leveled against him are baseless".

Later on, Deputy Commandant Elite Force KPK Peshawar addressed additional IGP/SB, KPK Peshawar, vide letter no 5587/EF dated 06-05-2014 for

obtaining report regarding the accused' reputation. In response, it was reported to the Dy: Commandant Elite Force, KPK that the accused was running business of vehicles bargaining and head constable Imran, who was killed by unknown accused, was his partner. After the death of HC Imran, the accused had left the business. The accused was further reported to be involved in the business of NCP and tempered vehicles. The report further corroborated that HC Amjad no 4747 had also remained with HC Maqbool while committing the crime. He was reportedly a corrupt police official.

Resultantly, the accused was served with FSN vide letter no 7443/EF dated 30-05-2014. After submitting reply to the FSN, the accused official was awarded major punishment of compulsorily retirement from service vide Deputy Commandant Elite Force KPK order no 9141-50/EF dated 20-06-2014. Aggrieved from the order, the accused preferred an appeal to the appellate authority. At last, he knocked at the door of Hounarable service tribunals vide appeal no 1065/2014. Consequently, the impugned order was set a side and the case was remanded back to the department for denovo enquiry strictly in accordance with law/rules. The appellant was ordered to be re-instated into service for the purpose of denovo enquiry. Similarly, Back benefits were subjected to the outcome of the fresh enquiry vide judgment dated 20-9-2016.

In the light of the judgment, ex- head constable Maqbool Ahmad was provisionally re-instated into service vide Deputy commandant Elite Force KPK Peshawar order endst no14916-24/EF dated 13-10-2016. In the said order, the undersigned was directed to initiate denovo enquiry/proceedings against the accused official. Hence denovo proceeding was started by the undersigned.

Supervisor of Police
Peshawar

PROCEEDINGS OF DENOVO ENQUIRY.

After receiving the reply of accused official and recording his statement, the undersigned re- recorded the statements of the following: :- (1) Incharge DSB (2) Reader to DSP (3) Constable Wasim No. 1065/EF (4) Constable Sardar Daud No. 1066/EF (5) Constable Yousaf Iqbal No. 1064/EF and (6) Constable Irfan Shah No. 867/EF. All these officers, in their statements, have reported the accused officer as good police officer. Statement of DSP Baran Khan, the then Enquiry Officer, was also recorded who supported his findings report. Moreover, efforts were made to record the statement of Special Branch official but in vain. In addition to the above, statements of the following additional Police officers and private persons "with whom the accused official had remained as a subordinate OR well familiar to them" were also recorded.

- 1) ASI, Abdur Razaq, SHO of PS Ghori Wala, the then Moharar of PS City.
- 2) ASI, Farid Khan, the then Moharar of Police Station City.
- 3) Mr. Shabir Hussain, DSP/CTD, the then SHO of Police Station City.
- 4) Retired Inspector Saad Ullah Khan, the then SHO of Police Station City.
- 5) F.C, Muthahir, D.F.C of Police Station Domel (home P.S of the accused).
- 6) SHO of Police Station Domel (home P.S of the accused)

TESTED

- 22
- 7) Mr. Fida Mohammad, Tehsil Nazim of Domel.
 - 8) Mr. Nazir Khan S/O Zarin Khan R/O Purana Azim Kala Police Station Domel,
 - 9) Mr. Abdur Rashid S/O Awal Zaman Khan R/O Puran Azim Kala P.S Domel.
 - 10) Mr. Allah Noor Khan S/O Amir Khan R/O Puran Azim Kalal, P.S Domel.

As per the statements of the above officers/private persons, the reputation of the accused has been reported as O.K. likewise, a report was also got from halqa patwari. No property in the name of accused official has been shown in the said report.

Besides the above, account numbers/bank balances of the accused were also re-verified from the banks of (1):UBL Paredy Gate Bannu.(2):Allied Bank Paredy Gate Bannu (3): Faysal Bank limited Islamic banking Branch Bannu (4):MCB Bank Bannu (5) Meezan Bank limited Bannu (6):Alfalah Bank Bannu. (7) National Bank Bannu (8) Habib Bank Bannu. His only one account No 030601053163 was found in UBL Paredy gate Bannu. There was no other account numbers and balance in the name of accused official in other banks quoted above.

CONCLUSION:

- 1) The accused was already declared as innocent in the previous enquiry because the then enquiry officer had found no evidence, on the basis of which, the accused could be held guilty but in the light of Special Branch report, the accused was awarded the punishment of compulsorily retirement by the then competent authority without giving opportunity of cross question the prosecution witness which is the basic right of the accused.
- 2) The undersigned re-verified the previous documents and re-recorded the statements of those whose statements were recorded by the then Enquiry Officer. In addition to this, numbers of supplementary statements of well reputed personalities were also recorded and the undersigned tried his best to find evidence in the support of the charges but none came forward for the same.
- 3) In contrary to that, number of defense witnesses came forward and recorded their statements in favour of the accused official.
- 4) So far the report of special branch is concerned; efforts were made to record the statement of special branch officials but in vain.
- 5) Hence, in the absence of tangible evidence the undersigned has got no other option except to exonerate him from the charges.

RECOMMENDATION:

Though, during the enquiry proceedings, no evidence was found in support of the charges but keeping in view the significance/ esteem of special branch information as reported in the year-2014, the accused official Maqbool Ahmad is recommended for award of one of the minor punishment if deemed appropriate by the competent authority.

ATTESTED


(KIFAYAT ULLAH WAZIR)
SP/ELITE FORCE, BANNU & D.I.KHAN,
REGION

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FINDING

The instant departmental proceedings relates to Constable Amjid Khan who while serving in elite Force KPK under constabulary No. 4747 in Platoon No.87 was proceeded departmentally under police rules 1975 (amended NWP gazette, 27 the January 1976) and as a result of which, he was compulsorily retired from service. On appeal he was reinstated into service for the purpose of Denovo enquiry. Before submitting the minutes of Denovo proceedings, it is imperative to explain cursorily the previous proceedings.

BRIEF DESCRIPTION OF THE PREVIOUS PROCEEDINGS/CASE:

Accused constable Amjid Khan while serving in platoon No. 87 of Elite Force KPK, Peshawar was served with charge sheet based upon summary of allegations vide Dy; Commandant Elite Force, KPK, Peshawar office endst: No. 16230-35/EF dated 28-11-2013, wherein, the charges of "tainted reputation and allegedly involved in anti social activities" were leveled against him and Mr. Shabir Ahmad the then ADSP/Elite Force Bannu was appointed as enquiry Officer, who (E.O) was subsequently placed under suspension and thus the enquiry papers were entrusted to Mr. Baran Khan, the then Deputy Superintendent of Elite Force, Bannu, who started proper departmental proceedings into the charges. After receiving the reply of accused constable, the then Enquiry Officer recorded the statements of the following:-(1) Incharge DSB (2) Reader to DSP (3) Constable Nefat Ullah No.47/EF (4)Constable Mishqat Ullah No. 905/EF (5)Constable Sadiq Kamala Shah No. 4074/EF (6) Constable Latif Ullah No. 980/EF (7) Constable Naveed No.916/EF and (8) constable Rafi Ullah No.918/EF. All these officers, in their statements, had reported the accused officer as good police officer. Moreover, special Branch officials were asked to record their statement regarding the reputation of accused official but they had refused on the ground that without prior permission from their high ups they were unable to do the same.

The report of halqa patwari was also brought into black & white, wherein, no property, in the name of accused official, was reported. The enquiry officer had also collected the detail of accused's account balance from the banks of (1):UBL Paredy Gate Bannu.(2):Allied Bank Paredy Gate Bannu (3): Faysal Bank limited Islamic banking Branch Bannu (4):MCB Bank Bannu (5) Meezan Bank limited Bannu (6):Alfalah Bank Bannu (7) National Bank Bannu (8) Habib Bank Bannu. There was no account number and balance in the name of accused official in the banks quoted above. In the light of the above, the enquiry officer submitted his finding report vide letter no. 75/EF Bannu dated 18-03-2014, wherein, it was recommended "that there is no proof of tainted and corrupt reputation against the accused and the allegations leveled against him are baseless".

Later on, Deputy Commandant Elite Force KPK Peshawar addressed additional IGP/SB, KPK Peshawar vide letter no 5587/EF dated 06-05-2014 for obtaining report regarding the accused' reputation. In response, it was reported to,

ATTESII



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the Dy: Commandant Elite Force, KPK that the accused was close associate of H.C Maqbool No. 4757 and involved in corruption.

Resultantly, the accused was served with FSN vide letter no 7444/EF dated 30-05-2014. After submitting reply to the FSN, the then competent authority quashed the enquiry proceedings being clash between the findings and Special branch report and the accused was served with Show cause Notice u/s 2(2) of PR 1975 vide No.7905-7907/EF. After submitting reply to the said Show cause notice, the accused official was awarded major punishment of compulsorily retirement from service vide Deputy Commandant Elite Force KPK order no 9131-40/EF dated 20-06-2014. Aggrieved from the order, the accused preferred an appeal to the appellate authority. At last, he knocked at the door of Hounarable service tribunals vide appeal no 1064/2014. Consequently, the impugned order was set a side and the case was remanded back to the department for denovo enquiry strictly in accordance with law/rules. The appellant was ordered to be re-instated into service for the purpose of denovo enquiry. Similarly, Back benefits were subjected to the outcome of the fresh enquiry vide judgment dated 20-9-2016.

In the light of the judgment, ex- head constable Maqbool Ahmad was provisionally re-instated into service vide Deputy commandant Elite Force KPK Peshawar order endst no14907-15/EF dated 13-10-2016. In the said order, the undersigned was directed to initiate denovo enquiry/proceedings against the accused official. Hence denovo proceeding was started by the undersigned.

PROCEEDINGS OF DENOVO ENQUIRY.

(Superintendent of Police
KRF / Elite Force Bannu
Region Bannu)

After receiving the reply of accused official and recording his statement, the undersigned re- recorded the statements of the following: :- (1) (1) Incharge DSB (2) Reader to DSP (3) Constable Nefat Ullah No.47/EF (4) Constable Mishqat Ullah No. 905/EF (5) Constable Sadiq Kamala Shah No. 4074/EF (6) Constable Latif Ullah No. 980/EF (7) Constable Naveed No.916/EF and (8) constable Rafi Ullah No.918/EF. All these officers, in their statements, have reported the accused officer as good police officer. Statement of DSP Baran Khan, the then Enquiry Officer, was also recorded who supported his findings report. Moreover, efforts were made to record the statement of Special Branch official but in vain. In addition to the above, statements of the following additional Police officers and private persons "with whom the accused official had remained as a subordinate OR well familiar to them" were also recorded.

- 1) Mr. Mohammad Tariq S/O Fazal Manan, retired chief technical PAF.
- 2) ASI, hidayat Ullah, the then Moharar PS City.
- 3) Mr. Wresham Khan, Councilor of union council Ghori Wala.
- 4) DSP/ Shabir Husain, the then SHO of Police Station City.
- 5) DSP Ghulam Farid Khan, the SHO of Police Station City.
- 6) ASI, Ghulam Razaq, the then SHO of Police Station City.
- 7) Retired Inspector Saad Ullah Khan, the then SHO of Police Station City.

ALIED



- 8) ASI, Farid Khan, the then Moharar of Police Station City.
- 9) DSP Iftikhar Ali Shah, the then SHO of Police Station City.
- 10) Mr.Mazhar , DFC Police Station Ghori Wala.

As per the statements of the above officers/private persons, the reputation of the accused has been reported as O.K. likewise, a report was also got from halqa patwari. No property in the name of accused official has been shown in the said report.

Besides the above, account numbers/bank balances of the accused were also re-verified from the banks of (1):UBL Pareddy Gate Bannu.(2):Allied Bank Pareddy Gate Bannu (3): Faysal Bank limited Islamic banking Branch Bannu (4):MCB Bank Bannu (5) Meezan Bank limited Bannu (6):Alfalah Bank Bannu (7) National Bank Bannu (8) Habib Bank Bannu. His only one account was found existing in UBL Pareddy gate Bannu with meager amount, therein. There was no other account numbers and balance in the name of accused official in other banks quoted above.

CONCLUSION:

- 1) The accused was already declared as innocent in the previous enquiry because the then enquiry officer had found no evidence, on the basis of which, the accused could be held guilty but in the light of Special Branch report, the accused was awarded the punishment of compulsorily retirement by the then competent authority without giving opportunity of cross question the prosecution witness which is the basic right of the accused.
- 2) The undersigned re-verified the previous documents and re-recorded the statements of those whose statements were recorded by the then Enquiry Officer. In addition to this, numbers of supplementary statements of well reputed personalities were also recorded and the undersigned tried his best to find evidence in the support of the charges but none came forward for the same.
- 3) In contrary to that, number of defense witnesses came forward and recorded their statements in favour of the accused official.
- 4) So far the report of special branch is concerned; efforts were made to record the statement of special branch officials but in vain.
- 5) Hence, in the absence of tangible evidence the undersigned has got no other option except to exonerate him from the charges.

RECOMMENDATION:

Though, during the enquiry proceedings, no evidence was found in support of the charges but keeping in view the significance/ esteem of special branch information as reported in the year-2014, the accused official Amjid Khan is recommended for award of one of the minor punishment if deemed appropriate by the competent authority.


(KIFAYAT ULLAH WAZIR)

SP/ELITE FORCE, BANNU & D.I.KHAN,
REGION

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Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar



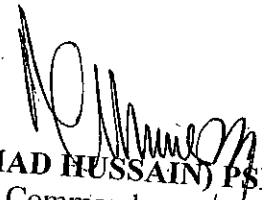
No. _____ /EF

Dated 03/03/2017

ORDER

Maqbool Khan Head Constable No. 1224/4757/EF of this unit was awarded major punishment of compulsory retirement from service by the Deputy Commandant Elite Force Khyber Pakhtunkhwa vide order No. 9141-50/EF, dated 20.06.2014 on charges of possessing tainted reputation and allegedly involved in anti-social activities. His departmental appeal was rejected by the competent authority. He preferred service appeal No. 1065/14 before Khyber Pakhtunkhwa Services Tribunal, which was decided on 20.09.2016 and the case was remanded to the respondent department for conducting De-novo enquiry proceedings. He was re-instated in service vide this office order Endst: No. 14916-24/EF, dated 13.10.2016 in compliance with the judgment of Service Tribunal for the purpose of De-novo enquiry. Mr. Kifayat Ullah SP Elite Force Bannu/D. I. Khan was nominated as Enquiry Officer. He submitted finding report stating therein that in the absence of tangible evidence the above named Head Constable may be exonerated from the charges leveled against him, however, he made recommendations for award of minor punishment to the accused official.

In the view of the findings of the Enquiry Officer, a penalty of stoppage of one increment without accumulative effect for three years is imposed on the above named official. The period he remained out of service is treated as leave of the kind due.


(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

No. 4343-52 /EF

Copy of above is forwarded for information and necessary action to the:-

1. Superintendent of Police, Elite Force Bannu-D . I. Khan.
2. Superintendent of Police, HQrs: Elite Force, Peshawar.
3. Deputy Superintendent of Police, HQrs: Elite Force, Peshawar.
4. Accountant, Elite Force, Pakhtunkhwa, Peshawar.
5. RI/EC, Elite Force, Khyber Pakhtunkhwa, Peshawar.
6. OHC/SRC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar.

ATTES


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Approved: 26/03/2017



Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar



No. /EF


Dated 06/04/2017

ORDER

In continuation of this office order Endst: No. 4343-52/EF, dated 03.03.2017, Head Constable Maqbool Khan No. 1224/EF is sanctioned the following leave as admissible to him under the Revised Leave Rules 1981 as under:-

1. 120 days earned leave w.e.f. 20.06.2014 to 17.10.2014 on full pay
2. 703 days earned leave w.e.f. 18.10.2014 to 20.09.2016 on half pay

On expiry of the said leave, he is already returned to the post carrying usual allowances as admissible to him in this office.


(MUHAMMAD HUSSAIN) PSP
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

No. 6401-6406/EF

Copy of above is forwarded for information and necessary action to the:-

1. Superintendent of Police, Elite Force Bannu-D. I. Khan.
2. Superintendent of Police, HQrs: Elite Force, Peshawar.
3. Accountant, Elite Force, Pakhtunkhwa, Peshawar.
4. RI/EC, Elite Force, Khyber Pakhtunkhwa, Peshawar.
5. SRC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar.

~~ATTESTED~~

R2/1/Enc 8

بخدمت جناب ایڈیشنل انسپکٹر جنرل اف پولیس ایلٹ فورس صوبہ خیبر پختونخواہ پشاور

عنوان:- اپیل بدیں مضمون کہ سائل کو غیر معاشرتی سرگرمیوں کے الزام میں چارج شیٹ کیا جا کر جو انکو آڑی کے بعد سائل کو مکمل بے گناہ قرار دینے کے باوجود جبری ریٹائر کیا۔ جو سائل نے بعد جبری ریٹائر کے خلاف اپیل دائرہ کر کے سروس ٹریبونل نے بحال فرما کر Denove انکو آڑی کا حکم کر کے Denove انکو آڑی میں الزامات ثابت نہ ہونے کے باوجود بھی دوہری سزائیں دیکر جو ہات ذیل Setaside کر نیکی استدعا ہے۔
جناب عالی! گزارش ہے کہ سائل ذیل عرض رسان ہے۔

(1) یہ کہ سائل 2002ء کا بھرتی شدہ ہے۔ سائل بعد کو لیفٹیننٹ کرنے لویئر سکول کورس، انٹرنیڈیٹ کورس بعدہ ہیڈ کانسٹیبل منصبی فرائض آپ صاحبان کے زیر سایہ ایلٹ فورس میں انجام دے رہا ہے۔

(2) یہ کہ جملہ سروس میں سائل نے افسران بالا کو شکایت کا موقع فراہم نہیں کیا ہے۔ اور نہ ہی کسی خلاف ڈسپلن، خلاف رولز، قانون سرگرمی میں ملوث رہا ہے۔ نہ ہی سائل کے سروس ریکارڈ میں ایسی کوئی ثبوت ریکارڈ پر موجود ہے۔

(3) یہ کہ پہلے سائل کو متذکرہ عنوان بالا الزام جو کہ محض مفروضہ تھا کی بنیاد پر چارج شیٹ کر کے جو باقاعدہ محکمہ انکو آڑی کے نتیجے میں انکو آڑی آفیسر نے سائل کو مکمل بے گناہ قرار دیکر الزامات کو بے بنیاد قرار دیا مگر باوجود اس کے بھی سائل کو جبری ریٹائر کیا گیا جو کہ ایک ماتحت کے ساتھ زیادتی ہے۔ اور خلاف قانون، رولز بھی ہے۔

(4) یہ کہ بعدہ سائل نے سروس ٹریبونل میں اپیل دائر کر کے سروس ٹریبونل نے بحال کر کے Denove انکو آڑی کا حکم صادر فرمایا۔ جو اسی حکم کے نتیجے میں سائل کے خلاف دوبارہ انکو آڑی متذکرہ عنوان بالا الزام کی روشنی میں عمل میں لائی جا کر بدوران انکو آڑی سائل کے خلاف کوئی بھی الزام ثابت نہ ہو سکا مگر اس کے باوجود بھی سائل سے انکریمینٹ ضبطگی اور 703 یوم کی آدھی تنخواہ کاٹ کر کے دوہری سزائیں دی گئی۔

(5) یہ کہ جب الزامات کی کوئی بنیاد ہی نہیں اور بدوران انکو آڑی بھی ثابت نہ ہوئی تو ایسے من گھڑت الزامات پر دوہری سزائیں دینا خلاف رولز، قاعدہ ہے۔

عالیجاہ! سائل ایسی سرگرمیوں میں ملوث ہونے کا تصور ہی نہیں کر سکتا۔ اور نہ ہی کبھی ملوث رہا ہے۔ الزامات محض مفروضوں کا مجموعہ ہے۔ سائل کے خلاف دو مرتبہ انکو آڑی میں بھی کوئی ثبوت نہ ملا جو سائل کی بے گناہی کا منہ بولتا ثبوت ہے۔ ایک ناکردہ گناہ کی سزا دی گئی ہے۔ سائل کو مقدمات سروس ٹریبونل اور عرصہ جبری ریٹائر میں معاشی مسائل کی وجہ سے قرضوں کا سامنا ہے۔ سائل کے بچوں کا تعلیمی مستقبل تاریکی کے دہانے پر ہے۔ لہذا ایک ماتحت ہونے کے ناطے ہمدردانہ استدعا ہے کہ سائل کی سزا کو معاف فرمانے اور 703 یوم کی کاٹی ہوئی تنخواہ کو جاری فرمانے کا حکم صادر فرما دیں۔

مورخہ:- 21/09/2017

متعینہ DIK

RRFUNIT22

سائل ہیڈ کانسٹیبل محمد مقبول خان نمبر 1224

ATTESTED

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Approved NI



Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar



No. /EF

Dated 31/10/2017

ORDER

This order will dispose of the appeals submitted by the following Head Constables of this unit for withdrawal of their punishment of stoppage of one increment without accumulative effect for three years and the period they remained out of service treated as kind due awarded to them by the Deputy Commandant Elite Force vide orders No. 4333-42/EF and 4343-52/EF, dated 03.03.2017:-

1. HC Amjid Khan No. 1274
2. HC Muhammad Maqbool No. 1224

Brief facts of the case are that they were awarded major punishment of compulsory retirement from service by the Deputy Commandant Elite Force on 20.06.2014 on charges of possessing tainted reputation and allegedly involved in anti-social activities. Their departmental appeals were rejected by the competent authority. Hence, they preferred appeals for re-instatement in service before the Khyber Pakhtunkhwa Service Tribunal, which were decided on 20.09.2016 with a direction to conduct denovo departmental enquiry proceedings.

Resultantly, in light of the decision of the Tribunal, the SP Elite Force Bannu-D. I. Khan conducted the denovo enquiry against them and exonerated them from the charges leveled against them as no evidence was found in support of the allegations but keeping in view the significance of Special Branch information regarding their dubious reputation, the enquiry officer recommended a minor punishment for them.

In view of the findings of the denovo enquiry, a penalty of stoppage of one increment without accumulative effect for three years was imposed on them by the Deputy Commandant Elite Force and the period they remained out of service was treated as leave of the kind due vide Deputy Commandant's Elite Force orders dated 03.03.2017 quoted above.

Hence, they preferred appeals for withdrawal of their punishment of stoppage of one increment without accumulative effect for three years and the period they remained out of service treated as kind due before the competent authority. The instants appeals are time-barred.

Therefore, the undersigned, being competent authority, uphold the orders passed by Deputy Commandant Elite Force vide No. 4333-42/EF and 4343-52/EF, dated 03.03.2017 and reject their appeals on grounds of limitation (time-barred by 05 months and 23 days).

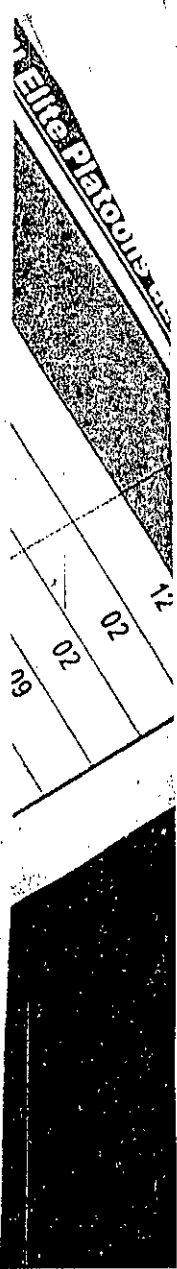
Order announced!

(DR. MUHAMMAD NAEEM KHAN) PSP
Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar

No. 16982-89 /EF

Copy of above is forwarded for information and necessary action to the:-

1. Superintendent of Police, HQrs: Elite Force, Peshawar.
 2. Superintendent of Police, Elite Force Bannu-D. I. Khan.
 3. Accountant/RI, Elite Force, Pakhtunkhwa, Peshawar.
- SRC/OHC/FMC, Elite Force, Khyber Pakhtunkhwa, Peshawar.



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ORDER:

Consequent on his tainted reputation and alleged involvement in anti social activities, which were against the norms of disciplined service, morality and impartialness, Constable Halimullah No.1767 of Bannu District was placed under suspension by the orders of Worthy Regional Police Officer Bannu Region Bannu and was also directed for conducting proper departmental proceedings against him.

During the course of enquiry proceedings the charges were established/proved against him, hence he was dismissed from service by the DPO Bannu.

Later on the said official preferred an appeal before the Regional Police Officer Bannu Region Bannu for re-instatement in Service, which was rejected. Thus the official preferred another departmental appeal before the Honorable Service Tribunal KPK against the order of his dismissal from service, where his dismissal order was set aside conditionally by re-instatement in service with the directions to be conducted a Denovo Enquiry against him vide judgment dated 20.09.2016. The Honorable Tribunal KPK also mentioned in the judgment about back benefits that "Back Benefits will be subject to outcome of the fresh enquiry which should be completed within 30 days of the receipt of this judgment".

Accordingly the official was re-instated into service provisionally for the purpose of Denovo Enquiry vide this office OB No.866 dated 26.10.2016 with appointment of DSP/HQrs: Lakki Marwat as Enquiry Officer who conducted a fair and transparent enquiry and dig out the real facts with exoneration of the accused official from the charges leveled against him. Once again the enquiry proceedings were submitted to DIG Enquiry & Inspection KPK Peshawar for proper appropriate order as per directions of his office vide this office Memo No.688-89 dated 17.01.2017, which were returned back with the directions that this office is agree with recommendation of the Enquiry Officer vide CPO Peshawar's Memo No.126/E&I dated 20.01.2017.

Again the case was marked to RPEO/Inspector Legal Bannu for legal opinion, who also recommended that the official is entitled for all back benefits.

Therefore, in recommendations of the DIG Enquiry and Inspection KPK Peshawar as well legal opinions of the Inspector Legal Bannu, Constable Halimullah No.1767 of Bannu District is properly re-instated in to service also with the grant of all back benefits from the date of dismissal from service and warned to be careful in future.

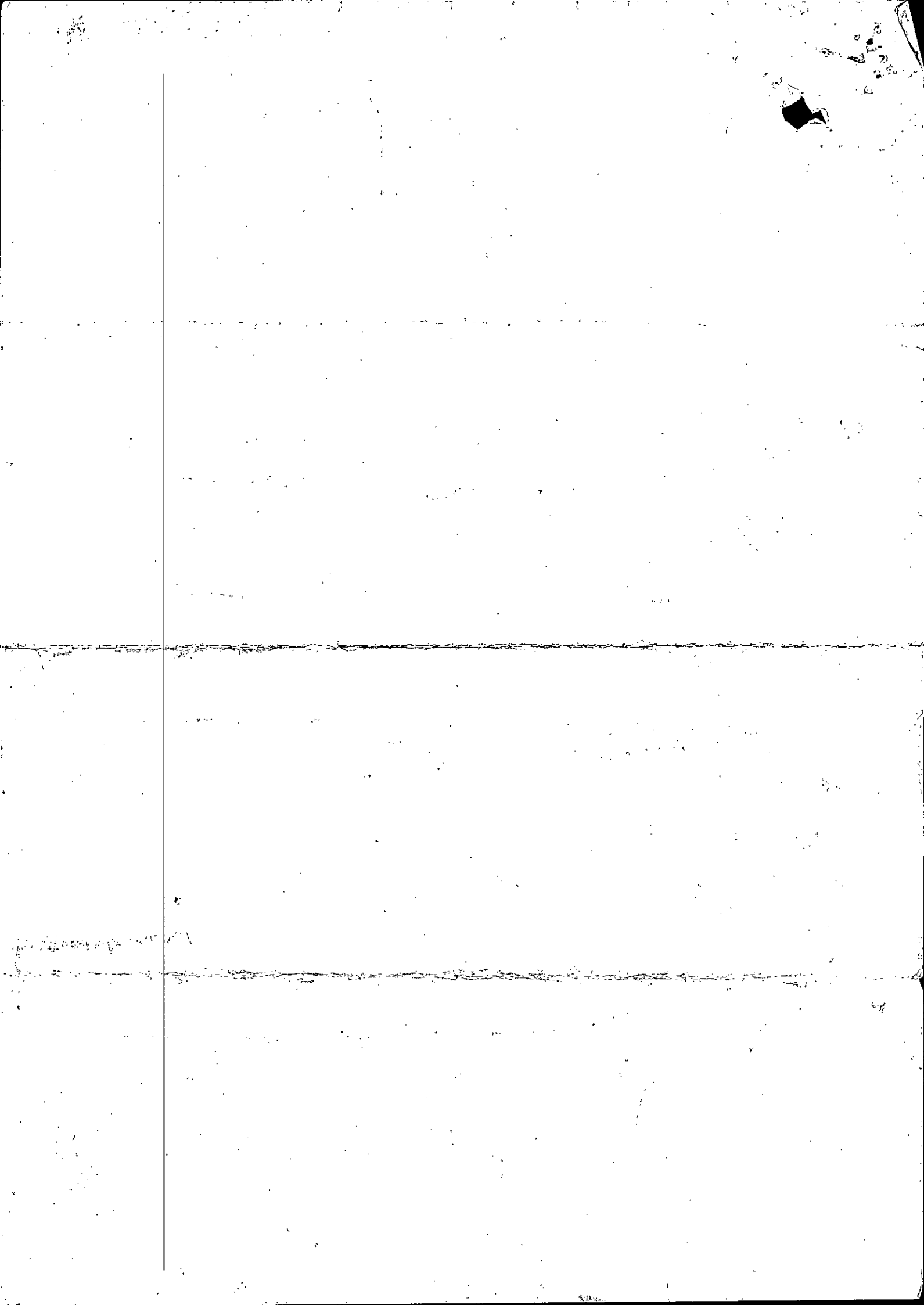
OB No. 132
Dated: 16-02-2017

(FAZL KHAN) PSP
District Police Officer,
Bannu.

No. 2778-82 /SRC dated Bannu, the 16/2 /2017

- Copies for necessary action to:
1. DIG, Enquiry KPK, Peshawar for favour of information w/r to your office Memo: 126/E&I dated 20.01.2017.
 2. DSP/HQrs: Bannu.
 3. The SRC, Pay Officer, OASI, DPO Office, Bannu along with the enquiry file for placing it in the Fuji Missal.

ATTESTED



POWER OF ATTORNEY

In the Court of 1/PC Sirim Tolbul Resha
Maqsood Ullah

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Police

} Defendant
} Respondent
} Accused

Appeal Revision/Suit/Application/Petition/Case No. _____ of _____

Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

YASIR SALEEM ADVOCATE, HIGH COURT

_____ my true and lawful attorney, for me in my name and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions, An appeal, statements, accounts, exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writs or subpoenas and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorize hereby conferred on the Advocate wherever he may think fit to do so. any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____ the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee _____

YASIR SALEEM

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW
CONSULTANT

FR-3 & 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 71/2017.

Maqbool Khan Ex-Head Constable No.4757..... (Appellant)

Versus

Inspector General of Police and one others..... (Respondents)

Subject: - **COMMENTS ON BEHALF OF RESPONDENTS**

Preliminary Objection:

- a) The appellant has no cause of action to file appeal the instant appeal.
- b) The instant appellant is badly time barred.
- c) The appellant did not come to this honor tribunal with clean hands.

FACTS:-

1. Pertain to record.
2. Incorrect, the appellant has tainted reputation and allegedly involved in anti social activities and being a member of discipline force brought bad name for the whole department.
3. Incorrect: he has tainted reputation and involved in anti social activities therefore he was issued charge sheet and statement of allegation on the above mentioned reasons.
4. Pertain to record, However the competent authority was satisfied about his tainted reputation.
5. Incorrect. As stated in para No.04 above.
6. Correct to the extent that the appellant was compulsory retired on the basis of alleged involvement in anti social activities and tainted reputation.
7. No Comments.
8. Pertain to record.
9. Incorrect, all codal formalities were fulfilled by the department as per rules and as per directions of august service tribunal.
10. Incorrect, the competent authority has passed the impugned order of punishment in accordance with law and rules.
11. The competent authority has treated the out of service period as leave of kind due in accordance with law and rules.
12. In correct. The order dated:03.03.2017 was provided to the appellant in time and plea is a lame exercise for time barred appeal.
13. Incorrect. The impugned orders are in accordance with law and rules and is liable to be maintained on the following grounds.

GROUND:-

- A. Incorrect, the appellant has been treated in accordance with law and no right of the appellant was violated.
- B. Incorrect. The respondent department conducted the denovo enquiry according to the laid down procedure as per law and rules and fulfilling all codal formalities.

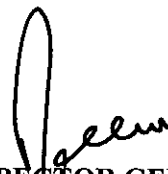
- C. Incorrect, proper opportunity of defense was provided to the appellant.
- D. Incorrect, all codal formalities were fulfilled by the respondent department.
- E. Incorrect, the appellant was involved in anti social activities and has tainted reputation.
- F. Incorrect, as replied in above para.
- G. Incorrect, all codal formalities were fulfilled by the enquiry officer during enquiry proceedings.
- H. Incorrect, the case of the appellant is different from constable Halim Ullah.
- I. Incorrect, all codal formalities were fulfilled by the respondent department before passing the impugned order of punishment.
- J. Incorrect, the appellant has tainted reputation and was involved in anti social activities.
- K. The respondents also seeks the permission of this honorable tribunal to rely on additional grounds at the hearing of this appeal.

It is therefore, humbly prayed that the appeal may kindly be dismissed being meritless and badly time barred.



**INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA, PESHAWAR.**

(RESPONDENT NO. 1)



**ADDLE: INSPECTOR GENERAL OF POLICE,
ELITE FORCE, KHYBER PAKHTUNKHWA,
PESHAWAR.**

(RESPONDENT NO. 4)



**DEPUTY COMMANDANT,
ELITE FORCE, KHYBER PAKHTUNKHWA,
PESHAWAR.**

(RESPONDENT NO. 3)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

In the matter of
Appeal No. 70/2017

Amjid Khan Head Constable No. 4747 Elite Force Bannu R/O
Gori Wala Tehsil & District Bannu... (Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa, Peshawar &
others..... (Respondents)

**REJOINDER TO THE PARA WISE REPLY ON
BEHALF OF THE APPELLANT**

Respectfully submitted:

The appellant submits his rejoinder as under:

ON PRELIMINARY OBJECTIONS:

1. Contents incorrect and misleading, the appellant has illegally been awarded minor penalty, hence he has got the necessary cause of action to file the instant appeal.
2. Contents incorrect and misleading, the instant appeal is filed well within the prescribed period of limitation.
3. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.

ON FACTS

1. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
2. Contents of Para 2 of the appeal are correct the reply submitted to the Para is incorrect and misleading.

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3. Contents of Para 3 of the appeal are correct the reply submitted to the Para is incorrect and misleading. The innocence of the appellant is evident from the fact that his major penalty was later on set aside and was converted into minor penalty.

4. Contents of Para 4 of the appeal are correct the reply submitted to the Para is incorrect and misleading.

5. Contents of Para 5 of the appeal are correct the reply submitted to the Para is incorrect and misleading.

6. Contents of Para 6 of the appeal are correct the reply submitted to the Para is incorrect and misleading.

7. No comments.

8. Contents Para 8 need no reply, however contents of Para-8 of the appeal are true and correct.

9. Contents of Para 9 of the appeal are correct the reply submitted to the Para is incorrect and misleading. No codal formalities were fulfilled before imposing the penalty.

10. Contents of Para 10 of the appeal are correct the reply submitted to the Para is incorrect and misleading.

11. Contents of para 11 of the appeal are correct the reply submitted to the para is incorrect and misleading. The penalty imposed is illegal and liable to be set aside.

12. Contents of para 12 of the appeal are correct the reply submitted to the para is incorrect and misleading.

13. Contents of para 13 of the appeal are correct the reply submitted to the para is incorrect and misleading.


GRUNDS

The Grounds (A to K) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

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

Amjid Khan
Appellant

Through


YASIR SALEEM
Advocate High Court,
Peshawar.

AFFIDAVIT

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.

Deponent

