

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	19.11.2019	<p style="text-align: center;"><b><u>BEFORE THE YBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b><u>At Camp Court, Abbottabad.</u></b>  <b>Service Appeal No. 1054/2018</b></p> <p style="text-align: center;">Date of Institution ..... 06.08.2018  Date of Decision ..... 19.11.2019</p> <p>Inam-ul-Haq Sub-Inspector No.73/H, posted at Police Station Nara (Investigation Wing) Havalian, Abbottabad.</p> <p style="text-align: right;"><b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <p>1. Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.  2. Regional Police Officer, Hazara Region, Abbottabad.  3. District Police Officer, Abbottabad.</p> <p style="text-align: right;"><b>Respondents</b></p> <p>Mr. Muhammad Hamid Mughal -----Member(J)  Mr. Ahmad Hassan-----Member(E)</p> <p style="text-align: center;"><b><u>JUDGMENT</u></b>  <b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> Appellant</p> <p>with counsel present. Mr. Usman Ghani learned District Attorney present.</p> <p>2. The appellant (Sub Inspector) has filed the present service appeal against the order dated 28.07.2017 of awarding him penalty of forfeiture of 02 years approved service and against the order dated 27.03.2018 whereby his departmental appeal was</p>

*Handwritten signature and date:*  
19.11.2019

rejected/filed.

3. Learned counsel for the appellant argued that the appellant was proceeded departmentally and was issued Show Cause Notice for committing misconduct to the effect that he was required to complete the postmortem of the deceased but he failed to do so; that the appellant submitted reply to the Show Cause Notice and denied the allegation while explaining all the facts and circumstances, however the respondent No.3 awarded him punishment of forfeiture of 02 years approved service; that the departmental appeal filed by the appellant was also rejected on no good grounds. Further argued that the appellant tried his best to get conducted postmortem examination of the dead body but the legal heirs of the deceased did not allow the same; that punishment was awarded to the appellant without observing legal requirements.

4. As against that learned District Attorney argued that the appellant was the Investigation Officer of the murder case but he failed to conduct postmortem examination of the deceased victim; that the postmortem examination is an important piece of evidence; that prior to the imposition of penalty, proper Show Cause Notice was served upon the appellant and the appellant also furnished reply of the same; that the appellate authority also heard the appellant in person.

5. Arguments heard. File perused.

6. The appellant was proceeded under the Police Rules, 1975 and was issued Show Cause Notice due to misconduct in relation to

19.11.2019

failure on his part to get conducted the postmortem examination of the dead body of a deceased of the murder case. The appellant also submitted detailed reply of the Show Cause Notice and thereafter the authority imposed the penalty of forfeiture of 02 years approved service upon the appellant.

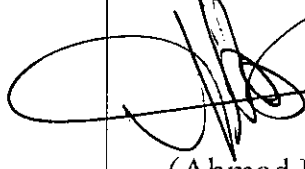
7. Admittedly the appellant was the Investigation Officer of the murder case and legal heirs of the deceased victim buried the dead body without having done its postmortem examination by the Medical Doctor concerned. The victim was in the hospital when he succumbed to his injuries.

8. Needless to mention that the learned Sessions Judge Abbottabad while disposing of Revision Petition No.02/2012 decided on 12.07.2017 in relation to the issue exhumation of dead body of deceased, observed that when the dead body was in the custody of the local police, they failed to conduct postmortem examination of the deceased and handed over the dead body to the legal heirs for burial and after lapse of some days, they submitted application for exhumation and postmortem examination, which is a big question on the ability of I.O and the local police to cope with the situation when arises.

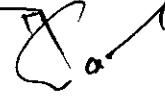
9. In view of above, the appellant has not been able to show that the impugned orders are perverse. However in the view of the circumstances of the case, for the purpose of safe administration of justice, the punishment of forfeiture of 02 years approved service imposed upon the appellant is modified and reduced to forfeiture of

19.11.2019

01 year approved service. The present service appeal is partially accepted in the above noted terms. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)  
Member



(Muhammad Hamid Mughal)  
Member  
Camp Court, A/Abad

ANNOUNCED  
19.11.2019

16.09.2019

Counsel for the appellant and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Adjourned to 19.11.2019 for arguments before D.B at Camp Court Abbottabad.

  
(Hussain Shah)

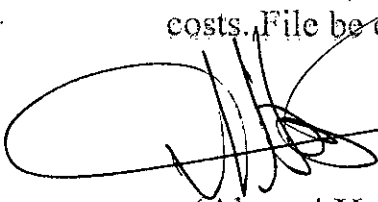
Member  
Camp Court Abbottabad

  
(Muhammad Amin Khan Kundi)

Member  
Camp Court Abbottabad

19.11.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney present. Vide our separate judgment of today of this Tribunal, placed on file, in view of the circumstances of the case, for the purpose of safe administration of justice, the punishment of forfeiture of 02 years approved service imposed upon the appellant is modified and reduced to forfeiture of 01 year approved service. The present service appeal is partially accepted in the above noted terms. Parties are left to bear their own costs. File be consigned to the record room.

  
(Ahmad Hassan)

Member

  
(Muhammad Hamid Mughal)

Member  
Camp Court, A/Abad

ANNOUNCED.

19.11.2019

19.03.2019

Counsel for the appellant present. Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present. Written reply on behalf of respondents not submitted. Learned Deputy District Attorney requested for further adjournment. Adjourned. To come for written reply/comments on 21.05.2019 before S.B at Camp Court Abbottabad.



(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

21.05.2019

Counsel for the appellant and Mr. Shamraiz Khan, ASI alongwith Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for adjournment. Adjourned to 09.07.2019 for written reply/comments before S.B at Camp Court Abbottabad.



(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

09.07.2019

Counsel for the appellant and Mr. Shamraiz Khan, ASI alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Representative of the department submitted written reply on behalf of respondents No. 1 to 3. Case to come up for rejoinder and arguments on 16.09.2019 before D.B at Camp Court Abbottabad.



(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad


19.10.2018

Counsel for the appellant Mr. Muhammad Aslam Tanoli,  
Advocate present and heard in limine.

Contends that the appellant was awarded with punishment of  
forfeiture of two years approved service but without regular enquiry  
and issuance of show cause notice.

The points raised need consideration. The appeal is admitted  
to regular hearing, subject to all legal objections, if raised by the  
respondents. The appellant is directed to deposit security and process  
fee within 10 days. Thereafter, notices be issued to the respondents.  
To come up for written reply/comments on 15.01.2019 before S.B  
at Camp Court Abbottabad.

Appellant Deposited  
Security & Process Fee

  
Chairman  
Camp court, A/Abad

15.01.2019

Learned counsel for the appellant and Mr. Muhammad Bilal  
learned Deputy District Attorney alongwith Shamrez Khan ASI  
present. Written reply not submitted. Representative of the  
respondent department seeks time to furnish written  
reply/comments. Granted. To come up for written  
reply/comments on 19.03.2019 before S.B at camp court  
Abbottabad.



  
Member

Camp Court Abbottabad

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1054/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/08/2018	<p>The appeal of Mr. Inam-ul-Haq resubmitted today by Mr. Muhammad Aslam Khan Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	10-9-18	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>19-10-18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

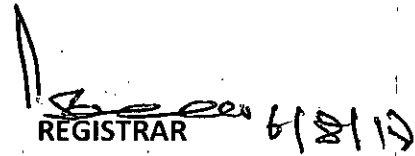


The appeal of Mr. Inam-ul-Haq Sub-Inspector no. 73/H posted at Police Station Nara Abbottabad received today i.e. on 06.08.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of proper impugned order dated 28.07.2017 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.

No. 1537 /S.T,

Dt. 06/8 /2018.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Muhammad Aslam Tanoli Adv. Haripur.

سید محمد اسلم تانولی  
ہریپور

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1054/2018

Inam-ul-Haq, Sub. Inspector No.73/H, posted at Police Station Nara (Investigation Wing) Havalian, Abbottabad.

**(Appellant)**

**VERSUS**

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad
3. District Police Officer, Abbottabad.

**(Respondents)**

**SERVICE APPEAL**

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THROUGH

APPELLANT

*M. Aslam*

(MOHAMMAD ASLAM TANOLI)  
ADVOCATE HIGH COURT  
AT HARIPUR

Dated: 6-08-2018

①

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No... 1054/2018

Inam-ul-Haq, Sub. Inspector No.73/H, posted at Police Station Nara (Investigation Wing) Havalian, Abbottabad.

Khyber Pakhtukhwa  
Service Tribunal

(Appellant)

Diary No. 1230

**VERSUS**

Dated 06-8-2018

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad
3. District Police Officer, Abbottabad.

(Respondents)

**SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER OB NO.175 DATED 28-07-2017 PASSED BY THE DISTRICT POLICE OFFICER ABBOTTABAD WHEREBY APPELLANT HAS BEEN AWARDED WITH PUNISHMENT OF "FORFEITURE OF 02 YEARS APPROVED SERVICE" AND ORDER NO. 1309/PA DATED 27-03-2018 OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN REJECTED.**

**PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH THE ORDERS DATED 28-07-2017 AND 27-03-2018 MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE RESTORED HIS 02 YEARS FORFEITED APPROVED SERVICE WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.**

Respectfully Sheweth:

1. That appellant while posted as Sub. Inspector (Investigation) at Police Station Mirpur District Abbottabad was served with a Show Cause Notice alongwith Grounds of Action under No. 223/PA dated 07-06-2017 by the District Police Officer Abbottabad alleging therein that:

Filed to-day  
Registrar  
6/8/18

Re-submitted  
and filed.  
Registrar  
24/8/18

2

*"In the light of Court Order dated 03-06-2017 you submitted an application for exhumation of the dead body of the deceased Razwan Gul S/O Khan Gul while learned JM-III Abbottabad refused application for exemption from Postmortem submitted by father and brother of the deceased. You being IO were required to complete the postmortem of deceased but you failed to do so. It shows your laxe of interest in official duties".* **(Copy of Show Cause Notice dated 07-06-2017 is attached herewith as annex-"A").**

2. That the appellant in response to the Show Cause Notice and Ground of Action submitted a detail reply dated 09-06-2017 explaining all facts and circumstances of the matter and denied the allegations vehemently. Appellant's reply to the Show Cause Notice may be considered as a part of this appeal. **(Copy of reply dated 09-06-2017 to Show Cause Notice is attached herewith as annex-"B").**
  
3. That no proper departmental enquiry was conducted. Appellant was not issued with the Charge Sheet. However, without considering the appellant's detailed reply to the Show Cause Notice as well as providing the opportunity of personal hearing the District Police Officer Abbottabad through his short order dated 27-07-2017 in the shape of "Forfeiture of two years approved service" recorded on the front of very Show Cause Notice which was given OB No.175 dated 28-07-2017 awarded the appellant with aforementioned punishment and no separate detailed order was ever issued. Copy of the same is already placed at Annex "A" of this service appeal.

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4. That aforementioned order of the District Police Officer Abbottabad was appealed against by the appellant before the Regional Police Officer Hazara Region Abbottabad. **(Copy of departmental appeal is attached as annex-"C")**.
5. That departmental appeal of the appellant was filed by the Regional Police Officer, Hazara Region, Abbottabad vide his order dated 27-03-2018 without giving any consideration. **(Copy of order dated 27-03-2017 of the Regional Police Officer, Hazara Region, Abbottabad is attached as annex-"D")**.
6. That though the Regional Police Officer, Hazara Region, Abbottabad had filed the appellant's departmental appeal on 27-03-2018 but appellant was not provided with the order. But on a specific written request dated 05-07-2018 of appellant the same was delivered to him on 10-07-2018. **(Copy of application dated 05-07-2018 is attached as Annex-"E")**.
7. That in fact, on transfer of Khursheed Khan SI (Investigation), the case FIR No. 311 was entrusted to the appellant on 01-06-2017 and the appellant obtained arrest warrant of accused Irfanullah. On 01-06-2017 at 1400 hours appellant reached the Ayub Medical Hospital and requested the Doctor on duty for recording statement of injured Razwan Gul who informed him that injured was not in a position to give

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statement. Then appellant proceeded to Bilal Town for arresting the accused Irfanullah where he was informed that inured Rizwan Gul had expired. Then appellant rushed to the Hospital but legal heirs of deceased had taken away the dead body deceased to home and had fixed time and buried the dead body at 23:15 hours on 01-06-2017. **(Daily Diary dated 01-06-2017 showing appellant's arrival in PS is attached as Annex-"F").**

8. That it is incorrect that appellant ever made any request for exemption of dead body from its postmortem rather his legal heirs "Khan Gul S/O Ali Asghar and Faizan Gul S/O Khan Gul (real father and brother of the deceased) had submitted written application to the Judicial Magistrate-III Abbottabad in this respect. **(Copy of the application dated 01-06-2017 for exemption of dead body from postmortem is attached as Annex- "G").**
9. That aforementioned application of the father and brother of deceased Razwan Gul for exemption of the dead body from postmortem was rejected by the Judicial Magistrate-III Abbottabad vide order dated 01-06-2017. **(Copy of the order dated 01-06-2017 is attached as Annex-"H").**
10. That the appellant contacted his SHO and DSP Circle in this respect and apprised them of the situation. Upon

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the advice of his officers appellant filed application before the Judicial Magistrate (MOD) for exhumation and conduction of postmortem who forwarded the same to the Ilaqa Magistrate (JM-III) Abbottabad. **(Copy of the application dated 03-06-2017 is attached as Annex-"I").**

11. That Judicial Magistrate-III Abbottabad allowed the application and order carrying out the exhumation and postmortem vide his order dated 03-06-2018. **(Copy of order dated 03-06-2018 is attached as Annex-"J").**
12. That the legal heirs of the deceased opposed the exhumation and postmortem and filed a Revision Petition dated 05-06-2016 before the Honourable Session Judge Abbottabad. **(Copy of the petition is attached as Annex-"K").**
13. That on acceptance of Revision petition the order dated 05-06-2017 passed by the Judicial Magistrate-III Abbottabad was set aside by the Honourable Session Judge Abbottabad vide order dated 12-07-2017. **(Copy of the order dated 12-07-2017 is attached as Annex-"L").**
14. That appellant had tried his best to get the postmortem conducted upon the dead body of the deceased Razwarn but his legal heirs (father and

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brother) did not want the same and they remained adamant to their stance till the last through filing application as well as revision petition etc. The allegations incorporated in the Show Cause Notice against the appellant are incorrect, baseless and seem to be the result of misunderstandings. Hence instant service appeal, inter alia, on the following:-

### **GROUNDS**

- a) That both the impugned orders dated 28-07-2017 and 27-03-2018 of the authorities are void-ab-initio, illegal, unlawful, non-speaking without lawful authority and have been passed perfunctorily, arbitrarily, whimsical and slipshod in manner, against the facts and circumstances of the case, without any reason and proof, hence are liable to be set aside.
- b) That respondents have not treated the appellant in accordance with law, departmental rules & regulations and policy on the subject and have acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- c) That no proper departmental inquiry was conducted before awarding the appellant with penalties of "forfeiture of 02 years approved service" which



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conduction was mandatory under the law for dispersion of justice at preliminary stages during the course of departmental inquiries.

- d) That neither the appellant was provided with the opportunity of cross-examining the witnesses, nor was appellant confronted with any documentary proof against him, if any, nor enquiry findings were issued nor the appellant was served upon with a Charge Sheet even opportunity of personal hearing was not provided to him.
  
- e) That the appellate authority has also failed to abide by the law and even did not look into consideration the grounds taken in the memo of appeal. Thus the impugned order of the appellate authority is contrary to the law as laid down in the KPK Police (Efficiency and Disciplinary) Rules 1975 read with Section 24-A of the General Clauses Act 1897 read with Article 10A of the Constitution of Islamic Republic of Pakistan 1973.
  
- f) That the appellant had tried to get the dead body of deceased Razwan Gul examined by conducting postmortem but father and real brother of the deceased were reluctant and did not want conduction of postmortem and they remand adamant to their stance till the last by filling written application as well as revision petition etc before the courts of law. The appellant is totally innocent and has discharge his

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assigned duties with full sense responsibility and honesty without any omission, commission or fault on his part for which he has been awarded with punishments of forfeiture of 02 years approved service.

**PRAYER:**

It is, therefore, humbly prayed that on acceptance of instant service appeal, the impugned order OB No.175 dated 28-07-2017 and 27-03-2018 passed by the District Police Officer Abbottabad and the Regional Police Officer Hazara Region Abbottabad respectively whereby the appellant has been awarded with the punishment of "**FORFEITURE OF 02 YEARS APPROVED SERVICE**" and his departmental appeal has been filed may graciously be set aside and the appellant be restored his 02 years forfeited approved service with all consequential service back benefits on rendition of account in the interest of justice.

Any other relief which this Honorable Tribunal deems fit may also graciously be awarded.

THROUGH

  
APPELLANT

  
(MOHAMMAD ASLAM TANOLI)  
ADVOCATE HIGH COURT  
AT HARIPUR

Dated: 6 -08-2018

**Verification**

It is verified that the contents of instant appeal are true and correct to the best of my knowledge and nothing has been concealed there from.

Dated: 6 -08-2018

  
Appellant

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**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Inam-ul-Haq, Sub. Inspector No.73/H, posted at Police Station  
Nara (Investigation Wing) Havalian, Abbottabad.

**(Appellant)**

**VERSUS**

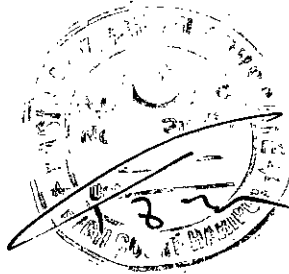
1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad
3. District Police Officer, Abbottabad.

**(Respondents)**

**SERVICE APPEAL**

**AFFIDAVIT**

I, Inam-ul-Haq do hereby solemnly declare and affirm on oath that the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Service Tribunal.



**Deponent/Appellant**

Dated: 6-08-2018

Identified By:

*M. Aslam*

Mohammad Aslam Tanoli  
Advocate High Court  
At Haripur,

**Appellant**



**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Inam-ul-Haq, Sub. Inspector No.73/H, posted at Police Station  
Nara (Investigation Wing) Havalian, Abbottabad.

**(Appellant)**

**VERSUS**

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad
3. District Police Officer, Abbottabad.

**(Respondents)**

**SERVICE APPEAL**

**CERTIFICATE**

It is certified that no such Appeal on the subject has ever  
been filed in this or any other court prior to the instant  
one.

**APPELLANT**

Dated: 6-08-2018



**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Appeal No... ..

Inam-ul-Haq, Sub. Inspector No.73/H, posted at Police Station  
Nara (Investigation Wing) Havalian, Abbottabad.

**(Appellant)**

**VERSUS**

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

**(Respondents)**

**SERVICE APPEAL**

**APPLICATION FOR CONDONATION OF DELAY.**

Respectfully Sheweth:

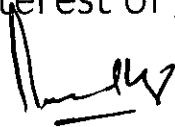

1. That the above captioned appeal is fixed for today for preliminary arguments before this Honourable Tribunal.
2. That the facts and grounds in the accompanying memo of appeal may please be treated as an integral part of this application, so preferred, today.
3. That the appellant is pursuing his grievance with due diligence for no commission or omission on his part towards the performance of his lawful duty with every honesty, sincerity and punctuality with bright previous service record.

(12)

4. That the delay in filing instant appeal (if any) is neither deliberate nor intentional, as the appellant's departmental appeal was decided by appellant authority on 27-03-2018 and then copy of the same was delivered to him on 10-07-2018 as such the instant appeal, so filed is within time. Apart, the valuable rights of the appellant are involved in the matter with far reaching repercussions on his family and children. Otherwise, also the law favors judgments delivered and justice done on the basis of proper adjudication of the issue in question rather than discarding the same on the grounds of technicalities.

It is, therefore, very humbly prayed that the delay (if any) may please be condoned in the high interest of justice.

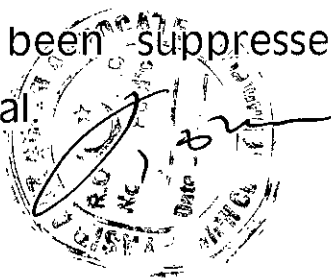
THROUGH

  
APPELLANT  
  
(MOHAMMAD ASLAM TANOLI)  
ADVOCATE HIGH COURT  
AT HARIPUR

Dated: 6-08-2018

**AFFIDAVIT:**

I, Inam-ul-Haq do hereby solemnly declare and affirm on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Service Tribunal.



  
Deponent/Appellant

Dated: 6-08-2018

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Annex-A

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

No. 223 /PA, Dated Abbottabad the 07/06/2017

**SHOW CAUSE NOTICE**  
**(Unit Rule (3) KPK Police Rules, 1975)**

1. That you SI Inham ul Haq Inv: PS Mirpur have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct;
  1. In the light of Court Order dated 03-06-2017 you submitted an application for exhumation of the dead body of the deceased Razwan Gul s/o Khan Gul while learned JM-III Abbottabad refused application for exemption from postmortem submitted by father and brother of the deceased. You being IO were required to complete the postmortem of deceased but you failed to do so. It shows your lack of interest in official duties.
2. That by reason of above, as sufficient material is placed before the undersigned therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the police force will amount to encourage in efficient and unbecoming of good Police officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

*[Handwritten signature]*  
 District Police Officer  
 Abbottabad

Received by [Signature]  
 Dated 7/6/2017

CB- No - 175  
 7-17

Alleged  
*[Handwritten mark]*

*[Handwritten notes]*  
 Cotton  
 IN SE  
 NO 12/17

14

OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD

No. 222/PA Dated Abbottabad, the 27/8/2017

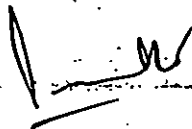
GROUNDS OF ACTION

That you SI Inham ul Haq Inv. PS Mirpur, committed following misconduct:-

In the light of Court Order dated 03-06-2017 you submitted an application for exhumation of the dead body of the deceased Razwan Gul s/o Khan Gul while learned JM-III Abbottabad refused application for exemption from postmortem submitted by father and brother of the deceased. You being IO were required to complete the postmortem of deceased but you failed to do so. It shows your lack of interest in official duties.

By reasons of above you have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules, 1975 hence these grounds of action.

  
District Police Officer  
Abbottabad

Attested  






To,

The DIG,  
Hazara Region,  
Abbottabad.

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Annex-C

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED PUNISHMENT OF FORFEITURE OF TWO YEARS APPROVED SERVICE VIDE IMPUGNED ORDER OF NO.175 DATED 28/07/2017 COMMUNICATED TO THE APPELLANT ON 09/08/2017.


Sir,

1. Reference is made to your letter No.6931 dated 09/08/2017. Copy of impugned letter dated 09/08/2017 is attached.
2. It is submitted that the appellant is serving as S.I Police Station Mirpur. That on transfer of Khursheed Khan S.I investigation in case FIR No.311 was entrusted to the appellant on 01/06/2017 and the appellant obtained warrant of arrest of nominated accused namely Irfanullah under Section 204 Cr.PC.
3. That the appellant on the same date at 14:00 PM reached at Ayub Medical Hospital for recording of statement of injured Rizwan Gul son of Khan Gul and requested to the doctors on duty for getting the needful but the doctor said that the injured Rizwan was not in a position to record his statement. Thereafter, on the same day, the appellant came to Bilal Town for searching and arrest of accused Irfanullah.
4. That in the Bilal Town, the appellant was informed that injured Rizwan Gul had died. Therefore, the appellant rushed towards ATH immediately, but the dead body was not found available in the hospital.

Attested  
—u

(17)

5. That the appellant informed the SHO Police Station Mirpur and other higher officers of the department. Thereafter, the appellant alongwith SHO and other higher officers went to house of the deceased. The legal heirs refused to carrying out postmortem of the deceased and also filed an application before MOD for getting exemption which was dismissed by the Judicial Magistrate at 22:10 PM on 01/06/2017. The appellant again informed DSP Circle Mirpur as well as other highups, because the funeral prayer was to be scheduled to be held on 23:15 PM.
6. That it is worth to mention here that there were more than 20 thousand people who were present in and around the house of the deceased for mourning rituals, and law & order situation was also there. Hence, on the advice of DSP Circle Mirpur, the appellant did not handle the matter at the spot and after discussing the matter with DPO Abbottabad and other higher officers and on the next date, the appellant filed an application before Judicial Magistrate for exumation for the purpose of postmortem of the deceased. The Worthy Judicial Magistrate allowed exumation of the dead body of the deceased Rizwan on 03/06/2017. But on the application of the legal heirs of the deceased filed application against the order of Judicial Magistrate before the Session Judge, Abbottabad.
7. That legal heirs of the deceased filed an application before the District & Sessions Judge, Abbottabad against the order of Judicial Magistrate dated 03/06/2017 which was accepted by the District & Sessions Judge, Abbottabad on 12/01/2017. Therefore, the appellant could not arrange exumation and postmortem of dead body of the deceased due to the circumstances which were beyond the control of the appellant.

Attested  


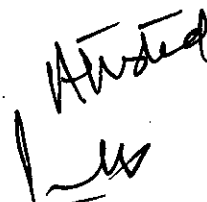
18

8. That, the appellant has not been provided an opportunity of personal hearing and reply of show cause notice has not been considered judiciously. Therefore, punishment of forfeiture of 02 years approved service is against the law and facts and the same is liable to be set aside.

In view of the above, it is prayed that impugned OB No. 175 dated 28/07/2017 and No.6931 dated 09/08/2017 may be set aside.

Dated: \_\_\_\_\_/2017

  
...APPELLANT  
S.I INAM UL HAQ 73/H



(19)

ORDER

*Annex-D*

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by SI Inham-ul-Haq No: 73/H of Abbottabad District against the order of punishment i.e. Forfeiture of 02 Years approved service awarded by the DPO Abbottabad vide his OB No.175 dated 28.07.2017.

Facts leading to punishment are that he while posted Investigation Wing in PS Mirpur where one Rizwan Gul s/o Khan Gul was injured with firearms who later on expired in ATH Abbottabad. Father & brother of the deceased submitted an application to JM-III Abbottabad for the exemption of postmortem but he refused to do so. Therefore IO failed to complete the process of postmortem of the deceased and the heirs of the deceased took the deadbody and buried without postmortem. Again application was submitted by IO to the JM-III for the exhumation of the grave for postmortem purpose. Consequently a case vide FIR No: 311/2017 u/s 302/34 PPC PS Mirpur was registered.

After receiving his appeal, comments of DPO were obtained and examined /perused. The undersigned called him in OR on 21.03.2018 and heard in person where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by the DPO Abbottabad i.e Forfeiture of 02 Years approved service seems to be genuine, hence his appeal is filed.

REGIONAL POLICE OFFICER  
Hazara Region Abbottabad

No. *1309* /PA Dated Abbottabad the *27-3-2018*.

Copy of above is forwarded to the DPO Abbottabad w/r to his Memo: No: 166/ dated 19.01.2018 for information and necessary action.

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

REGIONAL POLICE OFFICER  
Hazara Region Abbottabad

*PA/CASI/PC and EA*

*Fav. N/A*  
*[Signature]*

*DPO/ABD*  
*29/03*

*4023*  
*30.3.18*

*[Signature]*

وزارت حکام اس کو بحال شوکار قریب 223/AA  
7-6-17

نے دو سال منظور شدہ ضبط کرنیکی سزا جو 28 7/17

جو دن اسلئے ہے جی۔ دی۔ جی۔ پر حکم شدہ سزا کے خلاف اسلئے  
ڈائریکٹیو جی۔ جی۔ دی۔ جی۔ سزا کے خلاف اسلئے  
حکم کیا ہے۔

تدریج درخواست اسلئے حکم جی۔ جی۔ دی۔ جی۔ سزا کے خلاف  
نے اسلئے ضبط کرنیکی صورت کا یہ فراہم کیا گیا ہے تاکہ  
دن اسلئے اسلئے کر سکتے۔

07  
298

النظام الجنائي سب ان کے 73  
قیدیوں کی فہرست کے ساتھ

Allowed as  
per rules

DPO/ATD  
5/7/18

MDP/1/1/1  
11/1/18  
11/1/18  
11/1/18  
11/1/18

Allowed / SR / OASi

For necessary action  
as per law

SP/11/1/18  
6-7-18

Allowed

نمبر 34/17

والسی اقسام الحق ذی 6/17 اوجہ 2300 ع میں سے سیراقی کے جو 34/17 اور 34/17 بند شدہ لغتیں ملنی ASI 201 کو اور

حد 302/34 کے بعد از تفتیش حقائق عدلت 7/10 جو 300/411 عدلت 201/17 جو 506/291 عدلت 311/17

تعمار ہندو عدلت سے واپس آیا ہوں تمام سے روزانہ جو کہ حقہ عدلت 7/10 میں مالکیت کی شناخت پر یہ  
کی درخواست ری جو عدلت کی بہت صاحب سے روزانہ 6/17 کی مارچ حقہ عدلت 201/17

جو 506/291 میں انوار دل یا عدلت A7H ضیال بنیا جو حضور جو حقہ عدلت 311/17 میں رضوان

مل کے پیش میں عدلت ڈاکٹر صاحب سے تحریری رپورٹ حاصل کی گئی ہے بیان دینے کے قابل  
نہ ہے عدلت دیگر کارسزگار میں حضور جو حقہ عدلت 311/17 میں حاضر بلکہ عدلت میں رضوان اللہ ماریٹ

204 صرف حاصل کیا بلکہ عدلت کے قلمبند ٹکٹوں پر عدلت میں سیراقی کی جو عدلت 16/10 عدلت میں  
جو عدلت تمام عدلت ملک حضور جو حقہ عدلت 311/17 رضوان گل زعفرانی تاب نہ لائے ہوئے جاہلی

جو چکا ہے جو اس عدلت پر A7H ضیال بنیا جو عدلت قبول نفس قبول رضوان گل کے جاہلی  
تھے جو چکا ہے A7H جو حق سے دریافت پر عدلت جو حق درزند رضوان گل کو عدلت بار اور شمارم

کی عدلت کی جو عدلت تھے لغتیں ذہنی ضیال سے لائے جو سیراقی SH 00 صاحب سے خانہ  
قبول بنیا جو عدلت قبول کو یہ بلکہ در سبب ایسا گیا کہ اور عدلت حقہ میں نیابت ضروری ہے جو

مرزا عدلت قبول والد قبول خان گل خان ولد علی احمد خان، سفیان گل ولد خان گل خان  
نے اور شمارم سے استثنیٰ لیا درخواستی جو عدلت کو سیراقی رکن عدلت کی بہت صاحب سے پاس

وہ درخواست عدلت کی بہت صاحب کو ری جو ہی بہت صاحب نے درخواست و زیادہ منو کی اور  
و زیادہ قبول کو عدلت کی کہ اور شمارم حقہ میں ضروری ہے جو حالات افسران

بالا اس وقت میں عدلت کے جو اور انڈیا اور اس میں نظر اور شمارم سے زیادہ  
اور اس کے کیا گیا ضروری ہے صورت سیراقی کارروائی ضابطہ جو حقہ میں سیراقی  
324 قلمبند عدلت 302/34 عدلت تفتیش حقائق بند شدہ رپورٹ کثبات  
عدلت میں ضابطہ دیگر ضروری تھی



ملک

استدلال

روزانہ لیسٹ میں شیخ صاحب نے  
لکھا ہے کہ ان کے پاس

قرآن مجید ص 27 5/17 کو لیسٹ میں لکھا ہے کہ  
تاریخ کریمہ صفحہ 27 5/17 سے لے کر  
AH سے وارڈ سرجیکل آئی ہے۔  
انہوں نے کتاب کے لئے  
کی ہے اس کے لئے  
اس کے لئے لیسٹ میں  
کے لئے لیسٹ میں  
کے لئے لیسٹ میں

الحارثی

خانہ دار علی احمد خان  
خانہ دار علی احمد خان

3-0995823-013101-13101

میں والد تم کا متعلقہ دنوں

میں والد تم کا متعلقہ دنوں  
13101-1242947-5  
0333-5052876

order over leaf  
Attested  
La



Recd.  
01-6-17

(23)

Annex - H

I.O Submited this applica  
for grant of exemption from  
Post Mortem of the deceased  
Rizwan Gul. Post Mortem is an  
important piece of evidence and  
is also important for proper investy  
tion. The reasons forwarded  
for exemption Doesn't appeal to  
a prudent mind. Therefore the  
application is dismissed.

*[Signature]*

Junil A.B.T.  
01-6-17

*[Signature]*  
Attestal

قلمی تہذیب اور  
درخواست برائے عدالت کیلئے نمبر کنسائی لکھنؤ میں نمبر شمارہ مقتول

خواجہ مقدم علی 311 روڈ 27/7/2017ء بمقام 303/06/2017ء قلمی تہذیب اور  
پیام: بھائی جان اللہ جل جلالہ اللہ جل جلالہ اللہ جل جلالہ اللہ جل جلالہ اللہ جل جلالہ  
اللہ جل جلالہ اللہ جل جلالہ اللہ جل جلالہ اللہ جل جلالہ اللہ جل جلالہ

عنا عالی  
مقدم عنوان بالا میں مقتول رضوان علی ولد خان علی قوم بھوانی کے لوشر صاحب  
کے فریاد نے مقتول کے لوشر 08/17/17ء کو نمبر پر شمارہ کے متن زد ہے  
جسکا پوسٹاٹم ڈرائنگ ہے

مذکورہ درخواست اس پر غائب مقتول رضوان علی کے نمبر کنسائی کرنے اور (شمارہ  
کوتے کا قلم جاری فرمایا جاوے

1  
SI/PS/MSP/PC  
03/06/2017

Sanamul Pt.  
3.6.17 24/7/17

Legal Magistrate  
For disposal as per  
law

303-06-17

Order is Separately  
attached.

Sub  
303-06-17

Attested  
as

(25)

Annex-J

THE COURT OF OMAR AZMAT KHAN JUDICIAL MAGISTRATE-III,  
ABBOTTABAD.

Order No. 01

06.06.2017

I.O namely Inam Ul Haq SI, P.S Mirpur, submitted this application for exhumation of the dead body of the deceased Razwan Gul s/o Khan Gul. This application is duly forwarded by the Worthy District & Sessions Judge, Abbottabad for disposal as per law.

Before, announcing the order it is important to mentioned that the under signed refused application for exemption from postmortem, submitted by the father and brother of the deceased, on 01.06.2017. The I.O was required to complete the postmortem. However, this application for exhumation is submitted by him with contention that the legal heirs of the deceased took the dead body without conduction the postmortem, I.O was duty bound to conduct the Postmortem after the under signed refused the exemption. D.P.O, Abbottabad is directed to look into the matter at his own end.

As postmortem is an important piece of evidence and is necessary for proper investigation, therefore, by accepting this application, 06.06.2017 at 11:00 AM is fixed for exhumation. Medical Superintendent Ayub Teaching Hospital, Abbottabad is directed to depute a team for the said purpose on the said date, he is further directed to make necessary arrangements for conducting the exhumation. D.P.O , Abbottabad is directed to make necessary arrangements regarding security at the time of exhumation .

T.M.O , Abbottabad is directed to provide workers for the purpose of digging the grave and necessary arrangements in this regards. I.O is directed to be present on spot alongwith record. Copies of this order be sent to the Hon'ble District & Sessions Judge, Abbottabad for information, S.S.P. investigation for necessary arrangements for exhumation on the said date. Copies forwarded to D.P.O, Abbottabad, M.S, ATH, Abbottabad & T.M.A, Abbottabad for compliance



**Omar Azmat Khan**  
JM-III/Section 30 Cr. PC

Abbottabad

Attested  
[Signature]

نمبر الیٰ قضاة سیشن ڈسٹریکٹ آباد

33-5040678

مذکورہ بیان و اس کے حوالہ سے ...

نہ

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ڈسٹریکٹ جج آباد

Superintendent to District & Sessions Judge Abbottabad

Handwritten signature and initials

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مذکورہ بیان ... 17/06/06 ...

مذکورہ بیان ... 17/06/06 ...

جواب عالی ...

مذکورہ بیان ...

مذکورہ بیان ...

Attested



تکلیف

تعمیر

کتاب

مدرسه تبریز Suspended فرستاده کا (دو سال از کلاس)

پروژه عملی و تئوری در باب آلودگی 3/17 و تصدیر کربن

صاحب عالی - در مورد نمره نوبت

1- اگر نمره نوبت نینداخته باشد و نمره کلاس در دسترس نباشد  
نگرانان به قلمرو نمره نوبت

2- اگر نمره نوبت در دسترس نباشد و نمره کلاس در دسترس نباشد  
به نوبت امکان وجود است

3- اگر کاروان و مشق در کلاس در دسترس نباشد و نمره کلاس  
در دسترس نباشد و نمره نوبت در دسترس نباشد

4- اگر نمره نوبت و نمره کلاس در دسترس نباشد و نمره کلاس  
در دسترس نباشد و نمره نوبت در دسترس نباشد

نیز است که در صورتی که نمره نوبت در دسترس نباشد  
نمره کلاس در دسترس نباشد و نمره نوبت در دسترس نباشد

اعرفی 3/17

تعمیر (تعمیر/تعمیر) تبریز

Attentional

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Annex-L

محکمات عدالت  
پتیشن نمبر 203/17  
(میرزا فیضان گول)

No 203  
18/07/17

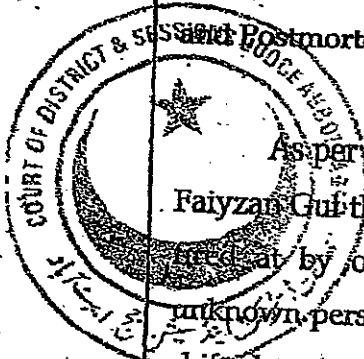
پتیشنر کے وکیل اور ایڈووکیٹ جنرل  
پتیشنر کے وکیل اور ایڈووکیٹ جنرل  
30/3/17

ORDER  
12.7.2017

Petitioner through counsel and DPP for the state present.

Record received and arguments heard.

Petitioner, questioned the order dated 3.6.2017 passed by the learned Judicial Magistrate-III, Abbottabad, through which the learned Magistrate passed order for exhumation and Postmortem of deceased Rizwan Gul.



As per record on 27.5.2017 at 1845 hours, complainant Faiyaz Gul through Murasila reported that his brother was attacked by one Irfanullah s/o Abdur Rehman and one unknown person as a result of which he got injured, he was shifted to Ayub Teaching Hospital where he lodged report. The police present at Ayub Teaching Hospital prepared his injury sheet and he was examined by the doctor and prepared his medico legal report, available on file, the deceased then injured was having 12 injuries upon his person out of 12, 8 injuries were entry wounds and 04 were exit wounds. Record further reveals that on 1.6.2017 at 04.00 PM Rizwan expired in the hospital and in this respect death certificate issued by the Registrar ATH, Abbottabad. The police present in the ATH prepared the inquest report and also requested for Postmortem examination. The record

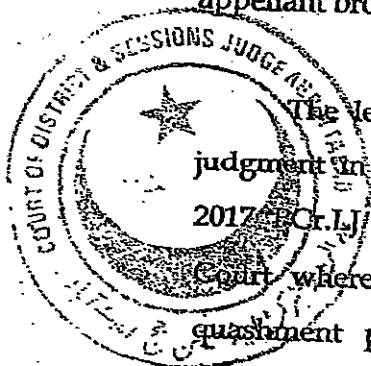
18-7-17

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reveals that the IO drafted an application for exemption of the dead body from the Postmortem examination which was submitted before the Ilaqa Magistrate/JM-III, Abbottabad and vide his order dated 1.6.2017 he refused to exempt the dead body from Postmortem examination, however instead of conducting Postmortem examination, the legal heirs of the deceased took the dead body from the hospital and buried and later on the IO submitted application for exhumation of the dead body and Postmortem examination which was marked to the Ilaqa Magistrate for disposal as per law and the learned Judicial Magistrate-III vide his order dated 3.6.2017 passed the order for exhumation as well as for Postmortem examination, feeling aggrieved from which the appellant brought this appeal.



The learned counsel for the petitioner rely upon a judgment in case "Yar Muhammad Vs State" reported in 2017 Cr.LJ/694 from the jurisdiction of Peshawar High Court wherein the honorable Judge while accepting the quashment petition, quashed the order of the Judicial Magistrate as well as of that of learned ASJ-V Peshawar and held that:

"Petitioner being father of the deceased, was the trustee of the grave of her deceased daughter to keep it maintained, not only the grave, but respect and dignity of the dead body also—Islam accorded great respect to the dead body of a Muslim—Exhumation, without any justification, was a sin in Islam—Order of exhumation, must be based on detailed reasoning, logic and fairness—"

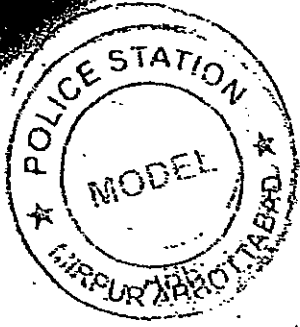
The Postmortem is dealt with by Section 174 Cr.P.C which is reproduced for ready reference:

"The Officer incharge of a police station or some other police officer specially empowered by the Provincial Government in that behalf, on receiving information that a person:

18-7-17

Attested  
—ls

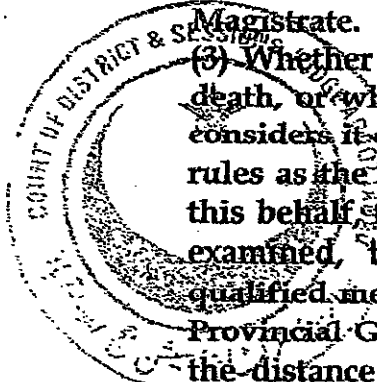




- (a) Has committed suicide, or
- (b) Has been killed by another, or by an animal, or by machinery, or by an accident, or
- (c) Has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

Shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Provincial Government shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighborhood, shall make an investigation, and draw up a report of the apparent cause of death describing such wounds fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument ( if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the concerned Magistrate.



(3) Whether there is any doubt regarding the cause of death, or when for any other reason the police officer considers it expedient so to do, he shall, subject to such rules as the Provincial Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the Provincial Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination unless".

By analyzing Section 174 sub-section 3 Cr.P.C it can be safely held that conduct of Postmortem examination is not mandatory. Particularly, when the cause of death is known or there is apprehension of putrefaction of the dead body in reaching to the Civil Surgeon.

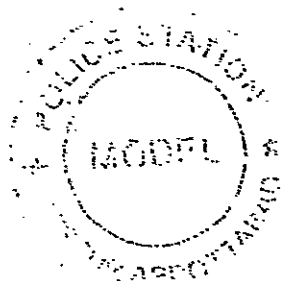
12-7-17

In the present case, the deceased was examined by the doctor in injured condition and a medico legal report in this respect was issued which clearly show that he received multiple fire arm injuries and later on the

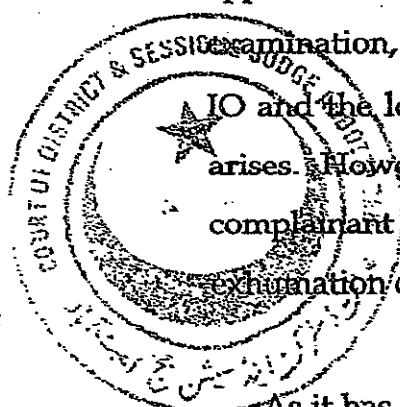
*Alister*  
*File*

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injured died in the hospital and in this respect the death certificate was issued by the Registrar which is sufficient for determination that the deceased died due to receiving multiple fire shots.



The IO himself submitted application for exemption of the dead body, might be at the instance of the legal heirs of the deceased and further that when the dead body was in the custody of the local police, they failed to conduct the Postmortem examination of the deceased and handed over the dead body to the legal heirs for burial and after lapse of some days they submitted application for exhumation and Postmortem



examination, which is a big question on the ability of the IO and the local police to cope with the situation when arises. However, the legal heirs of the deceased i.e. complainant who is brother of the deceased do not want exhumation of the dead body now.

As it has earlier been pointed out under sub-section-3 of Section 174 Cr.P.C, the Postmortem is not mandatory when the cause of death is clear, therefore, this Revision petition is allowed and order of the learned Judicial Magistrate-III, Abbottabad dated 3.6.2017 is set aside. File be consigned to Record Room.

Announced  
12.7.2017

19.7.2017

(Muhammad Zubair Khan)  
Sessions Judge Abbottabad.

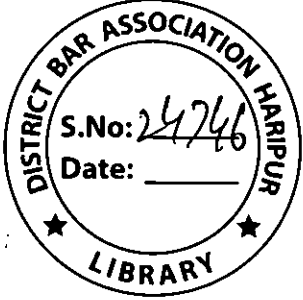
*Muhammad*

DBA No: 206  
BU No: \_\_\_\_\_  
Name of Advocate: محمد اسلم تنری

S.No: 24746



# وکالت نامہ



بعدالت: جناب جیڈی من صاحب جیڈی من ڈیوٹی ایجنٹ اور  
عنوان: لائسنس یافتہ وکیل  
منجانب: انعام الحق ایڈووکیٹ  
نوعیت مقدر: سرکاری ایجنٹ  
باعث تحریر آنکہ:

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصنیفہ مقدمہ بمقام ایڈووکیٹ آبادان پور کے لیے محمد اسلم تنری ایڈووکیٹ کے نام سے

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار حاصل رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ پکھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجرائے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار و پیروی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس کے ثالثی و راضی نامہ و فیصلہ بر حلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات از پکھری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قزقی یا گرفتاری قبل از گرفتاری و اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ مختانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مزکور یا اس کے کسی جزوی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

Acceptance  
M. Aslam

مورخہ: 2018/08/06 دن 6 ماہ 08 سال  
لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔  
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

انعام الحق  
ایڈووکیٹ

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR

**Inam-ul-Haq.....V/S.....PPO KPK & Others**

Service Appeal

To

The Registrar,  
Service Tribunal, Khyber Pakhtunkhwa,  
PESHAWAR

Subject:- **REMOVAL OF OBJECTION.**

It is intimated that I am in receipt of your letter No.1537/ST dated 06-08-2018 whereby the titled case has been returned with the remarks that copy of proper impugned order dated 28-07-2017 has not been annexed with the appeal. In this respect para-3 of the appeal is very much clear wherein it has been mentioned that the competent authority while awarding the appellant with the punishment recorded the word "**Forfeiture of two years approved service**" on the Show Cause Notice dated 07-06-2017 and at the bottom give it OB No.175 dated 28-07-2017. No separate punishment order was ever issued to the appellant.


  
(Mohammad Aslam Tanoli)  
Advocate High Court  
at District Bar Haripur

Dated: -08-2018

**AFFIDVIT**

I, SI Inam-ul-Haq appellant do hereby solemnly declare and affirm on oath that District Police Officer Abbottabad while awarding penalty recorded the words "**Forfeiture of two years approved service**" on the Show Cause Notice dated 07-06-2017 and at the bottom gave it OB No.175 dated 28-07-2017. No Separate punishment order was ever issued to him. Contents of this affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: -08-2018

  
Deponent/Appellant

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2203 /SF

Dated 16-12- / 2019

To


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

Subject: -

JUDGMENT IN APPEAL NO. 1054/2018, MR. INAM UL HAQ.

I am directed to forward herewith a certified copy of Judgement dated 19.11.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

In the matter of  
Appeal No. 967/2018

Inam-ul-Haq .....V/S.....IGP & Others  
(Appellant) (Respondents)

**REJOINDER ON BEHALF OF THE APPELLANT**

Respectfully Sheweth:

The appellant submits his rejoinder as under:-

**Preliminary Objections:**

1. Contents incorrect and misleading, appellant has illegally awarded the penalty of reversion in rank; hence he has got every cause of action and locus standi to file the instant appeal.
2. Contents incorrect & misleading, appellant has come to this Honorable Service Tribunal with clean hands as he has not committed any such act to attribute the allegation of unclean hands.
3. Contents incorrect and misleading, all necessary parties have been arrayed in the instant appeal.
4. Contents incorrect and misleading, no rule of estoppel is applicable in the instant case.
5. Contents incorrect and misleading, appellant has filed instant appeal well within prescribed period of time limitation and in accordance with law.
6. Contents incorrect and misleading, the appellant has mentioned all material facts with proof in his instant appeal and is entitle to every relief the order of authority being illegal, unlawful and against departmental rules/regulations and norms of justice.

**ON FACTS:**

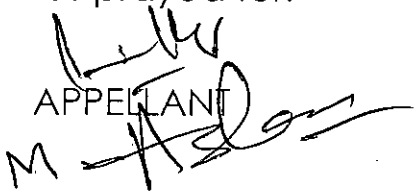
Contents of para No.1 to 14 of the appeal are correct and the reply submitted to these paras by respondents in para-1 to 13 is incorrect and misleading hence denied.

**GROUND:**

All the grounds "A" to "F" taken in the memo of appeal are legal and will be substantiated at the time of hearing of appeal and reply submitted to these paras by respondents from "A" to "F" is incorrect and misleading hence vehemently denied.

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

THROUGH


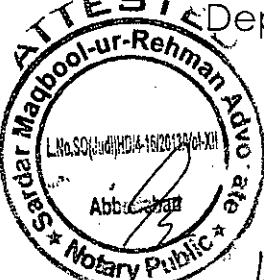
  
APPELLANT  
M. Aslam  
(MOHAMMAD ASLAM TANOLI)  
ADVOCATE HIGH COURT  
AT HARIPUR

Dated: 16-09-2019

**AFFIDAVIT:**

I, Inam-ul-Haq Appellant do hereby solemnly declare that contents of this rejoinder as well as that of titled appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 16-09-2019

  
Deponent/Appellant  
  
16/09/19

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

**Service Appeal No. 1054/2018.**

Inham ul Haq Sub-Inspector No. 73/H, posted at Police Station Nara  
(Investigation wing) Havelian Abbottabad.

(Appellant)

**VERSUS**

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

(Respondents)

**Respectfully Sheweth**

**Parawise Comments on behalf of Respondents are as under:-**

**Preliminary Objections.**

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

**UP ON FACTS:-**

1. Pertains to record. However, appellant while posted with investigation wing in PS Mirpur where one Rizwan Gul s/o Khan Gul was injured with fire arms who later on expired in ATH



Abbottabad. Father and brother of the deceased submitted an application to Judicial Magistrate-III, Abbottabad for the exemption of postmortem but appellant failed to complete the process of postmortem of the deceased and the heirs of the deceased took the dead body and buried without postmortem. This act of appellant shows his incompetency and lack of interest in discharging his official duty, hence he was proceeded departmentally.

2. That the reply furnished by the appellant was not satisfactory, hence he was proceeded against departmentally.
3. In reply to Para No. 3 it is submitted that the appellant was served with Show Cause Notice. He was also heard in person but he could not furnish plausible explanation in his defence. Hence, he was awarded punishment i.e. forfeiture of two years approved service. As per Rule 5 of Police Rules 1975, (amended 2014) the DPO was competent to award minor punishment upon show cause notice.
4. Para No. 4 pertains to record.
5. Incorrect. Application of appellant was properly considered by respondent No. 02 by seeking comments from respondent No. 3 and examined/perused. The appellant was also provided the opportunity of personal hearing, but he failed to explain plausible reasons in his defence.

6. Para No. 6 is incorrect. The order of appellate authority (Respondent No. 2) was communicated to him well in time. The application of the appellant seeking copy of the appellate authority order has been addressed and allowed by respondent No. 3 which shows malafide on the part of appellant because the present appeal of the appellant is badly time barred i.e. one (01) year and one (01) month. The appellant just to cover time limitation make this application with wrong forum.
7. Incorrect. During the course of investigation, the appellant failed to get examined postmortem of deceased, nothing available on case file which shows that request was made to the Doctor for recording the statement of injured person. Similarly, no statement of doctor available on file regarding the position of injured person, which shows professionally incompetency on the part of appellant.
8. Para No. 8 is incorrect, that Judicial Magistrate-III, Abbottabad clearly mentioned in his order dated 01.06.2017 that I.O of the case submitted application for grant of exemption from postmortem of the deceased Rizwan Gul. Postmortem is an important piece of evidence and is also important for proper investigation. The reasons forwarded exemption doesn't appeal to a prudent mind and his application was dismissed. (Copy of the application is annexed as Annexure "A").
9. As explained in Para No. 8 above.

10. Para No. 10 is incorrect. Later, on the direction of appellant's superiors, application was moved for exhumation process.
11. Pertains to record.
12. Pertains to record.
13. Pertains to record.
14. Para No. 14 is incorrect, That the investigating officer was not required to submit exemption application personally before the court. As mention in order of Judicial Magistrate-III Abbottabad dated 01.06.2017.

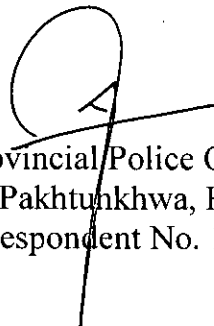
**GROUND:-**


- a. That both the impugned orders were in accordance with law and rules.
- b. That all codal and legal formalities have been observed. No prejudice has been caused to the appellant.
- c. That proper show Cause Notice has been served and proceedings were conducted in accordance with law by deputing an enquiry officer and after giving full opportunity of defending himself, appellant failed to prove his innocence, hence he was properly punished.


- d. That appellant was provided full opportunity of personal hearing, but he failed to explain plausible reasons in his defence.
- e. That the appellate authority also provided personal hearing to the appellant after fulfilling all legal formalities and dismissed the appeal of the appellant being meritless.
- f. That the reply has already been submitted in preceding paras.

**PRAYER.**

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

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.  
( Respondent No. 1)

  
Regional Police Officer,  
Hazara Region, Abbottabad.  
(Respondent No. 2)

  
District Police Officer,  
Abbottabad  
(Respondent No.3)

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

**Service Appeal No. 1054/2018.**

Inham ul Haq Sub-Inspector No. 73/H, posted at Police Station Nara  
(Investigation wing) Havelian Abbottabad.

(Appellant)

**VERSUS**

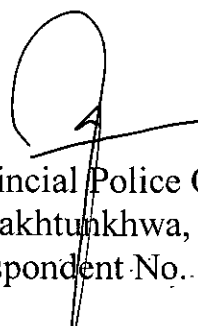
1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.


(Respondents)

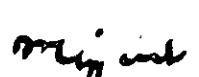
**AFFIDAVIT.**

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

Submitted please.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.  
( Respondent No.1)

  
Regional Police Officer,  
Hazara Region, Abbottabad.  
( Respondent No. 2)

  
District Police Officer,  
Abbottabad  
(Respondent No.3)

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

In the matter of  
Appeal No. 967/2018

Inam-ul-Haq .....V/S.....IGP & Others  
**(Appellant)** **(Respondents)**

**REJOINDER ON BEHALF OF THE APPELLANT**

Respectfully Sheweth:

The appellant submits his rejoinder as under:-

**Preliminary Objections:**

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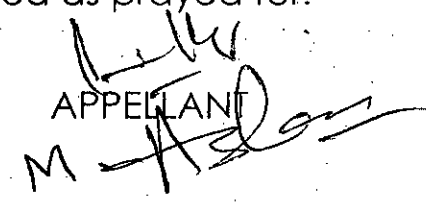
Contents of para No.1 to 14 of the appeal are correct and the reply submitted to these paras by respondents in para-1 to 13 is incorrect and misleading hence denied.

**GROUND:**

All the grounds "A" to "F" taken in the memo of appeal are legal and will be substantiated at the time of hearing of appeal and reply submitted to these paras by respondents from "A" to "F" is incorrect and misleading hence vehemently denied.

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

THROUGH



  
APPELLANT  
(MOHAMMAD ASLAM TANOLI)  
ADVOCATE HIGH COURT  
AT HARIPUR

Dated: 16-09-2019

**AFFIDAVIT:**

I, Inam-ul-Haq Appellant do hereby solemnly declare that contents of this rejoinder as well as that of titled appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 16-09-2019

  
Deponent/Appellant  
  
16/09/19

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

In the matter of  
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**ON FACTS:**

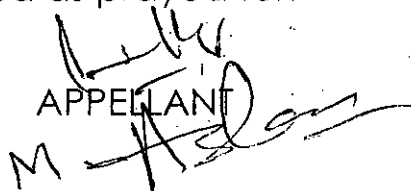
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**GROUND:**

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

THROUGH



  
APPELLANT  
(MOHAMMAD ASLAM TANOLI)  
ADVOCATE HIGH COURT  
AT HARIPUR

Dated: 16-09-2019

**AFFIDAVIT:**

I, Inam-ul-Haq Appellant do hereby solemnly declare that contents of this rejoinder as well as that of titled appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 16-09-2019

  
Deponent/Appellant  
  
16/09/19

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

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THROUGH

  
APPELLANT  
M. Aslam  
(MOHAMMAD ASLAM TANOLI)  
ADVOCATE HIGH COURT  
AT HARIPUR

Dated: 16-09-2019

**AFFIDAVIT:**

I, Inam-ul-Haq Appellant do hereby solemnly declare that contents of this rejoinder as well as that of titled appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 16-09-2019



**BEFORE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

In the matter of  
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**(Appellant)** **(Respondents)**

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**ON FACTS:**

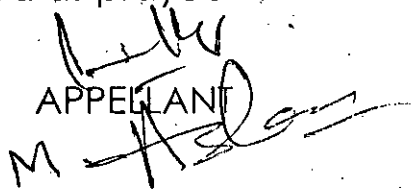
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THROUGH



  
APPELLANT  
(MOHAMMAD ASLAM TANOLI)  
ADVOCATE HIGH COURT  
AT HARIPUR

Dated: 16-09-2019

**AFFIDAVIT:**

I, Inam-ul-Haq Appellant do hereby solemnly declare that contents of this rejoinder as well as that of titled appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 16-09-2019

  
Deponent/Appellant  
  
16/09/19