

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT ABBOTTABAD

SERVICE APPEAL NO. 940/2018

Date of institution ... 17.07.2018

Date of judgment ... 18.12.2019

Muhammad Iqbal S/O Muhammad Yunas R/O Badial Kothiala, Tehsil and District
Abbottabad, Presently Constable No. 616 posted at Security staff Abbottabad.

... (Appellant)

VERSUS

1. Deputy Inspector General of Police/RPO Hazara Division Abbottabad.
2. District Police Officer, Abbottabad.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST IMPUGNED ORDER DATED VIDE LETTER
NO.2765/PA, DATED 21.06.2018 OF RESPONDENT NO. 1 VIDE WHICH
THE APPELLANT WAS NOT HELD ENTITLED FOR ANY FURTHER
RELIEF/BACK BENEFITS ALONGWITH THE IMPUGNED ORDER OB NO. 70,
DATED 06.03.2018 OF RESPONDENT NO. 2 AND COMMENT LETTER NO.
1722, DATED 15.05.2018 VIDE WHICH THE PERIOD DURING WHICH THE
APPELLANT REMAINED OUT OF SERVICE HAS BEEN TREATED AS LEAVE
WITHOUT PAY.

Mr. Sardar Shahzad Akbar, Advocate

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the
appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Shamraiz
Khan, ASI for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the
appellant was serving in Police Department as Constable. He was involved in

M. Amin
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case FIR No. 594 dated 11.08.2010 under sections 379, 337-J/411 PPC Police Station Cantt, Abbottabad. He was imposed major penalty of dismissal from service on the allegation of being involvement in the aforesaid criminal case. After availing the departmental remedy, he filed service appeal, the service appeal of the appellant was accepted, the impugned order was set-aside, the appellant was reinstated in service however, the respondent-department was held at liberty to initiate disciplinary proceeding in accordance with the rules vide detailed judgment dated 21.11.2017. Again the respondent-department conducted departmental proceeding against the appellant and after fulfilling all the codal formalities, the competent authority hold that as per inquiry report, the allegation leveled against the appellant could not be proved therefore, he being agree with the findings of inquiry officer by warning him to remain careful in future vide order dated 06.03.2018. Feeling aggrieved from the said order, the appellant filed departmental appeal (undated) for arrears/back benefits but the same was rejected with the observation that his period during which he remained out of service shall be treated as leave without pay and he is not entitled for any further relief vide order dated 21.06.2018 hence, the present service appeal on 17.07.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department as Constable. It was further contended that he was involved in the aforesaid criminal case. It was further contended that the appellant was honorable acquitted by the competent court vide order/judgment dated 18.10.2010. It was further contended that the

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respondent-department initiated departmental proceeding against the appellant and ultimately he was dismissed from service. It was further contended that after availing the departmental remedy, the appellant filed service appeal which was accepted, the impugned order was set-aside, the appellant was reinstated in service however, the respondent-department was held at liberty to initiate disciplinary proceeding in accordance with the rules vide detailed judgment dated 21.11.2017. It was further contended that again a departmental proceeding was initiated against the appellant and the inquiry officer found not guilty the appellant for the allegation mentioned in the charge sheet and summery of allegation and on the basis of inquiry report, the competent authority agree with the findings of the inquiry report warned the appellant to be careful in future vide order dated 06.03.2018. It was further contended that sine the appellant was not found guilty by the inquiry officer during the de-novo inquiry proceeding, therefore, he filed departmental appeal for arrears/back benefits but the same was also rejected and the period he remained out of service was treated as leave without pay vide order dated 21.06.2018. It was further contended that as the appellant was not proved guilty during the de-novo departmental proceedings and the competent court also acquitted him from the charge leveled against him vide judgment dated 18.10.2010. It was further contended that since there was no fault for his dismissal from service by the respondent-department, therefore, the appellant was entitled for back benefits but the respondent-department has reinstated the appellant without back benefits and treated his out of service period as leave without pay, therefore, prayed for acceptance of appeal.

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5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was dismissed from service by the respondent-department on the aforesaid allegation. It was further contended that after availing the departmental remedy, the appellant filed service appeal which was accepted, the impugned order was set-aside, the appellant was reinstated in service, however, the respondent-department was held at liberty to initiate departmental proceeding in accordance with rules. It was further contended that again de-novo inquiry was conducted and the inquiry officer came to the conclusion that the appellant has not been proved guilty for the allegation mentioned in the charge sheet and summery of allegation. It was further contended that the competent authority agree with the said inquiry report and given warning to him to remain careful in future vide order dated 06.03.2018. It was further contended that the appellant filed departmental appeal for arrear/back benefits but the same was also rejected by the departmental authority. It was further contended that since the appellant has not performed duty during out of service period, therefore, he is not entitled for arrears/back benefits on the principal of no work no pay and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department. He was involved in the aforesaid criminal case. After registration of the aforesaid criminal case, the respondent-department also initiated departmental proceeding against him. The appellant was acquitted by the competent court alongwith other co-accused mainly on the ground of compromise vide detailed judgment dated 18.10.2010. The record further reveals that after conclusion of departmental proceeding conducted by the

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respondent-department, he was proved guilty and ultimately he was dismissed from service, therefore, the appellant after availing departmental remedy, filed service appeal which was accepted, the impugned order of his dismissal was set-aside, the appellant was reinstated in service, however, the department was held at liberty to initiate departmental proceeding in accordance with the rules vide judgment dated 21.11.2017. The record further reveals that again the respondent-department initiated de-novo departmental proceeding against the appellant and the inquiry officer submitted his inquiry report wherein the appellant was found not proved guilty and the competent authority agreed with the inquiry report give warning to the appellant vide order dated 06.03.2018. The record further reveals that feeling aggrieved from the said order, the appellant filed departmental appeal for arrears/back benefits for the period during which he remained out of service but the departmental authority also rejected his appeal vide order dated 21.06.2018. No doubt, the appellant was found not guilty by the inquiry officer in his inquiry report and the competent authority also agreed with the findings of the inquiry report and the appellant was not imposed any major penalty and his reinstatement order passed by the Service Tribunal was kept intact, however, the competent authority issued warning to him to be careful in future and he was also acquitted from the charge by the competent court but it is an admitted facts that the appellant did not perform any duty for period during which he remained out of service after registration of the aforesaid criminal case, therefore, in our view he is not entitled for back benefits/arrears on the basis of principal of no work no pay and the competent authority as well as departmental authority has rightly held his period during which he

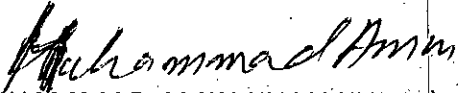
M. Anwar
18.12.2019

remained out of service as leave without pay. Therefore, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
18.12.2019



(HUSSAIN SHAH)
MEMBER
CAMP COURT ABBOTTABAD




(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT ABBOTTABAD

18.11.2019

Appellant in person present. Mr. Usman Ghani learned District Attorney alongwith Shamrez ASI present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for further proceedings/arguments on 18.12.2019 before D.B at Camp Court, Abbottabad.


Member


Member
Camp Court, A/Abad


18.12.2019


Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of six pages placed on file, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED


18.12.2019


(Hussain Shah)
Member
Camp Court Abbottabad


(M. Amin Khan Kundi)
Member
Camp Court Abbottabad


21.05.2019

Clerk of 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

Appellant in person and Mr. Shamraiz Khan, ASI alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further adjournment. Adjourned to 16.09.2019 for written reply/comments before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

16.09.2019

Counsel for the appellant and Mr. Shamraiz Khan, ASI alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Representative of respondents No. 1 & 2 submitted written reply which is placed on record. Case to come up for rejoinder and arguments on 18.11.2019 before D.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

16.01.2019

Appellant in person present and seeks adjournment as his counsel is not in attendance. Adjourn. To come up for preliminary hearing on 22.02.2019 before S.B at Camp Court Abbottabad.



Member


Camp Court Abbottabad

22.02.2019

Counsel for the appellant Muhammad Iqbal present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was dismissed from service on the allegation of his involvement in criminal case. It was further contended that the appellant filed service appeal which was partially accepted and the respondent department was directed to conduct de-novo inquiry, after conducting de-novo inquiry, the appellant was reinstated in service however, back benefits were not granted to the appellant despite the fact that it was mentioned in the impugned order 03.02.2018 that inquiry officer submitted his inquiry report wherein the allegation leveled against the appellant was not proved. It was further contended that the appellant filed departmental appeal for back benefits but the same was rejected vide order dated 21.06.2018 hence, the present service appeal on 17.07.2018. Learned counsel for the appellant further contended that as per impugned order since the allegation was not proved against the appellant therefore, the appellant was entitled for back benefits.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 21.05.2019 before S.B at Camp Court Abbottabad.

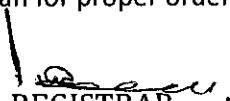

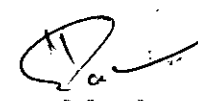
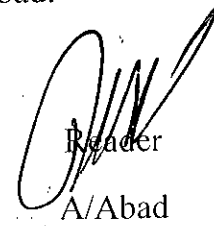

(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad


Security & Process Fee

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 940 /2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/07/2018	<p>The appeal of Mr. Muhammad Iqbal resubmitted today by Mr. Sardar Shahzad Akbar 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 30/7/18</p>
2-	2-8-2019	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>17-09-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
17.09.2018		<p>No one present on behalf of appellant. Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 13.11.2018 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Member Camp Court, A/Abad</p>
13.11.2018		<p>Appellant in person present. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 16.01.2019 at camp-court Abbottabad.</p> <p style="text-align: right;"> Reader A/Abad</p>

The appeal of Mr. Muhammad Iqbal son of Muhammad Yonas Constable No.66 Security Staff Abbottabad Police received today i.e. on 17.07.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies ^{of} order dated 06.03.2018 and 15.05.2018 mentioned in the heading of the appeal are not attached with the appeal which may be placed on it.
- 2- One more copy/set of the memo of appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1443 /S.T,

Dt. 17/7 /2018.

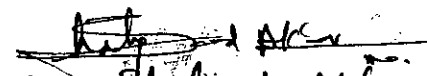

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Sardar Shahzad Akbar Adv. A.Abad.

28 ⁰⁷/₂₀₁₈

that it is submitted with respect that the objections raised by the worthy Registrar about the non-annexation of orders dated 06 ⁰³/₂₀₁₈ + 15 ⁰⁵/₂₀₁₈ are complied with in the manner that Order OB NO: 70 dated 06 ⁰³/₂₀₁₈ has been annexed as annexure - K while the copy of application duly attested submitted to the Respondent NO: 2 in respect of letter NO: 1722 (Command) dated 15 ⁰⁵/₂₀₁₈ is annexed as annexure - L and initial Remistatmat order NO:- 10612-14 dated 27 ¹²/₂₀₁₇ is annexed as annexure - M. Furthermore One more copy/set of the memo of appeal along with annexures is also submitted. So, the appeal is resubmitted after complying with the direction.

SARDAR SHAHZAD AKBAR
ADVOCATE HIGH COURT
ABBOTTABAD


Sardar Shahzad Akbar
Advocate H.C
Counsel for
Muhammad Iqbal
No:- 616 appellant.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Muhammad Iqbal

Appeal No-940/201

...APPELLANT

V E R S U S

DIG of Police and another

... RESPONDENTS

APPEAL

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M. Q. Akbar
...APPELLANT

Through:

Shahzad Akbar
/s/ *Shahzad Akbar*
(SARDAR SHAHZAD AKBAR)

Dated:- 14/07/2018

&
Babar Shah Tirmizi
(BABAR SHAH TIRMIZI)
Advocates High Court, Abbottabad

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

Appeal No. 940/2018

Muhammad Iqbal S/o Muhammad Yunas R/o Badial Kothiala, Tehsil and District
Abbottabad, presently constable No. ⁶¹⁶ posted at Security staff Abbottabad.

...APPELLANT

Khyber Pakhtunkhwa
Service Tribunal

Diary No. *1167*

Dated *17-7-2018*

V E R S U S

- 1) Deputy Inspector General of Police / RPO Hazara Division Abbottabad.
- 2) District Police Officer, Abbottabad.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER VIDE LETTER
NO.2765/PA, DATED 21.06.2018 OF RESPONDENT
NO.1 VIDE WHICH THE APPELLANT WAS NOT
HELD ENTITLED FOR ANY FURTHER RELIEF /
BACK BENEFITS ALONGWITH THE IMPUGNED
ORDER OB NO.70, DATED 06.03.2018 OF
RESPONDENT NO.2 AND COMMENT LETTER
NO.1722, DATED 15.05.2018 VIDE WHICH THE
PERIOD DURING WHICH THE APPELLANT
REMAINED OUT OF SERVICE HAS BEEN
TREATED AS LEAVE WITHOUT PAY.

Filed on day
07/7/18
Registrar

Re-submitted to -day
and filed.

Registrar
30/7/18

PRAYER:-

ON ACCEPTANCE OF INSTANT APPEAL, THE IMPUGNED ORDER OF RESPONDENT NO.1 VIDE LETTER NO.2765/PA, DATED 21.06.2018 AND OB NO.70, DATED 06.03.2018 AND COMMENTS LETTER NO.1722, DATED 15.05.2018 OF RESPONDENTS NO.2 VIDE WHICH THE APPELLANT IS NOT HELD ENTITLED FOR ANY FURTHER RELIEF / BACK BENEFITS BY TREATING THE PERIOD DURING WHICH THE APPELLANT REMAINED OUT OF SERVICE AS LEAVE WITHOUT PAY, MAY PLEASE BE DECLARED TO BE ILLEGAL WITHOUT ANY PLAUSIBLE REASONS / JUSTIFICATION, VIDE AB-INITIO, WITHOUT LAWFUL AUTHORITY AND JURISDICTION, MISUSE OF POWERS, CORAM NON-JUDICE, SELF MANEUVERED, AND HENCE LIABLE TO BE SET ASIDE AND THE APPELLANT MAY GRACIOUSLY BE HELD ENTITLED FOR BACK BENEFITS FOR THE PERIOD DURING WHICH THE APPELLANT REMAINED OUT OF SERVICE (DUE TO ILLEGAL DISMISSAL FROM SERVICE BY THE RESPONDENT NO.2) WITH ANY OTHER RELIEF WHICHEVER IS DEEMED

APPROPRIATE FAVORING THE RIGHTS OF THE
APPELLANT.

Respectfully Sheweth,

1. That, the appellant was appointed as constable in the police department on 11.01.1994, however, during the year 2010 while performing his duties at Security staff Abbottabad was implicated in case FIR No.594, dated 11.08.2010 Under Section 379, 337-J/411 P.P.C of Police Station Cantt, Abbottabad. Alongwith the criminal proceedings, the respondent No.2 has also initiated the departmental inquiry proceedings against the appellant. *(Copy of FIR is annexed as Annexure "A")*
2. That, the challan in criminal case was put in Court against the appellant, however, the Court has ultimately acquitted the appellant alongwith the other accused on the statement of the complainant vide order dated 18.10.2010. *(Copy of the acquittal order dated 18.10.2010 of SCJ/JM is annexed as Annexure "B")*

3. That, however, the appellant was illegally dismissed from the service by the Respondent No.2 on the basis of inquiry findings vide order dated 13.12.2010. *(Copy of the order dated 13.12.2010 alongwith charge sheet and statement of the allegations is annexed as Annexure "C")*
4. That, the appellant feeling highly aggrieved from the said order of Respondent No.2, has submitted Departmental Representation before Respondent No.1, however, the same was also filed without giving cogent reasons by maintaining the order of the Respondent No.2. *(Copy of the departmental representation alongwith order of the Respondent No.1 is annexed as Annexure "D")*
5. That the appellant further feeling dissatisfied had preferred a Service appeal No.539/2012 on 14.05.2012 before the Worthy Khyber Pakhtunkhwa Service Tribunal Peshawar. As a result the appeal of the appellant was accepted by the Worthy Khyber Pakhtunkhwa Service Tribunal camp at Abbottabad vide its judgment, order and decision dated 21.11.2017 by re-instating the appellant in service, however, the department was allowed to initiate

departmental proceeding in accordance with the rules if so desires. *(Copies of the appeal, order and decision 21.11.2017 are annexed as Annexure "E")*

6. That, thereafter, de-novo inquiry was initiated against the appellant on the basis of the judgment of the Honourable Service Tribunal Camp Court at Abbottabad by respondent No.2 as a result new charge sheet and statement of the allegations was prepared and SP investigation was appointed as Inquiry Officer. *(Copies of charge sheet and statement of allegations are annexed as Annexure "F")*
7. That the appellant has submitted detailed reply for the purpose of presenting his claim. *(Copy of the detail reply is annexed as Annexure "G")*
8. That as the Inquiry Officer concluded his inquiry proceedings by writing that the allegation leveled against the appellant could not be proved so the respondent No.2 agreed with the said findings of Inquiry Officer by warning him to remain careful in future vide order dated 05.03.2018 through letter No.658-59 / PA, however has not given the relief of

back benefits. *(Copy of the letter No.658-59/PA dated 05.03.2018 is annexed as Annexure "H")*

9. That the appellant thereafter has submitted a Departmental Appeal to the respondent No.1 for the purpose of getting back benefit from 13.12.2010 to 21.11.2017 (The period during which the appellant was remained illegally dismissed from the service). However, the respondent No.1 after obtaining comments from respondent No.2 has filed the departmental appeal by holding that the appellant is not entitled for any further relief / back benefits period because the period during which the appellant had remained out of service shall be treated as leave without pay. *(Copy of Departmental Appeal & order dated 21.06.2018 vide letter No.2765 / PA, Abbottabad are annexed as Annexures "I" & "J" respectively)*
10. That once again the appellant feeling highly aggrieved challenged the impugned order vide letter No.2765/PA dated 21.06.2018 of respondent No.1 alongwith the letter of the respondent No.2 vide OB No.70 dated 06.03.2018, inter-alia, on the following amongst other grounds:-

GROUND:-

- a. That, impugned orders of respondents are against the law, illegal, without lawful authority and legal justification, void ab-initio, arbitrary, fanciful, based on surmises and conjectures, without jurisdiction, the result of non-application of judicial mind and conscious, misuse and excessive use of power / authority and hence are liable to be set aside.
- b. That the respondents while passing their impugned orders have miserably failed to considered this novel aspect of the case that the appellant has not only acquitted in the criminal case by the competent Court but also the departmental inquiry proceedings against the appellant have also been disproved which factum clearly highlighted the innocence of the appellant, however the respondents erred by not extending the relief of back benefits to the appellant.
- c. That the respondents generally and respondent No.1 specially in his impugned order has given the reference of the judgment of Honourable Service Tribunal by mentioning that in the said judgment it

has not been mentioned regarding entitlement of back benefits but on the other side ignored the fact that firstly the Honourable Service Tribunal has set aside the dismissal order and secondly given the department liberty to initiate denovo inquiry and as a result the respondent reinstated the appellant in service but after conducting denovo inquiry, the inquiry officer submitted his findings by mentioning that the allegations against appellant could not be proved and when the allegations due to which the appellant was dismissed from service remained disproved then in that situation the appellant has an inalienable right to be compensated for the wrong dismissal by extending the relief of back benefits.

- d. That it is also pertinent to mention here that when the major penalty of dismissal of service imposed upon the appellant was set aside then it entails that the appellant should have been given the concession of back benefits for the period during which he remained illegally dismissed but, however, the respondents have not exercised their authority and power fairly, impartially and independently which needs to be set at naught.

- e. That it is also of utmost importance that neither the Worthy Service Tribunal nor the inquiry officer during the denovo enquiry and even not the respondents held the appellant responsible for the allegations and charges leveled against him then it put a question mark upon the propriety of the impugned orders of respondents vide which appellant has declined the relief of back benefits.
- f. That it is also sacred command of law that when the law requires an act to be done in a particular manner then it should have been done in that very manners and not otherwise, but respondents have failed to pass / render their impugned orders on the basis of said principle.
- g. That it is also important to note here that the acquittal order, reinstatement judgment / order and order in consequence of denovo inquiry suggest that the appellant has not committed any offence or for that matter professional misconduct rather a concocted and a self fabricated story was planted against the appellant not only for damaging his personality in society but also putting professional future career of the appellant at stake and after

success in criminal as well as departmental proceedings the 'appellant deserves to be held entitled for the payment of his due amount / back benefits.

- h. That the instant appeal is well within time and the other points will be raised by seeking prior permission during the course of arguments.
- i. That, addresses of the parties have correctly and detailed mentioned in the heading of the appeal.

It is, therefore, humbly prayed that on acceptance of the instant appeal, the impugned order of respondent No.1 vide letter No.2765/PA, dated 21.06.2018 and OB No.70, dated 06.03.2018 and comments letter No.1722, dated 15.05.2018 of respondents No.2 vide which the appellant is not held entitled for any further relief / back benefits by treating the period during which the appellant remained out of service as leave without pay, may please be declared to be illegal without any plausible reasons / justification, vide ab-initio, without lawful authority and jurisdiction, misuse of powers, coram non-judice, self maneuvered, and hence liable to be set aside and the appellant may

graciously be held entitled for back benefits for the period during which the appellant remained out of service (due to illegal dismissal from service by the respondent No.2) with any other relief whichever is deemed appropriate favoring the rights of the appellant.

m Qadri
...APPELLANT

Through:

Dated:- 14/7 /2018

Shahzad Akbar
(SARDAR SHAHZAD AKBAR)

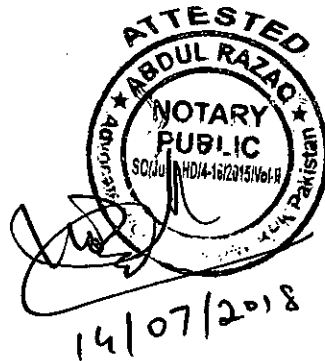
& *Babar Shah Tirmizi*
(BABAR SHAH TIRMIZI)
Advocates High Court, Abbottabad

VERIFICATION:-

Verified that the contents of the instant Appeal are true and correct to the best of my knowledge and belief and that nothing material has been suppressed from this Honorable Court.

Dated:- 14/7 /2018

m Qadri
...APPELLANT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Muhammad Iqbal

...APPELLANT

V E R S U S

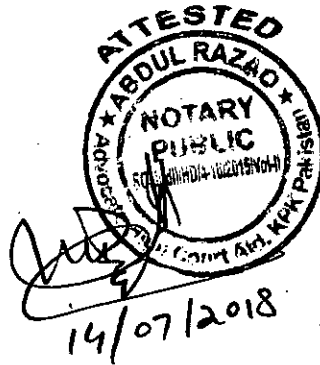
DIG of Police and another

... RESPONDENTS

APPEAL
AFFIDAVIT

I, Muhammad Iqbal S/o Muhammad Yunas R/o Badial Kothiala, Tehsil and District Abbottabad, presently constable No. ⁶¹⁶ posted at Security staff Abbottabad *appellant*, do hereby solemnly affirm and declare on Oath that the contents of instant *Appeal* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated:- 14/7 /2018



M. Iqbal
 ...APPELLANT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Muhammad Iqbal

...APPELLANT

V E R S U S

DIG of Police and another

... RESPONDENTS

APPEAL
CERTIFICATE

*Certified that no such like Appeal has earlier been filed
before this Hon'ble Court.*

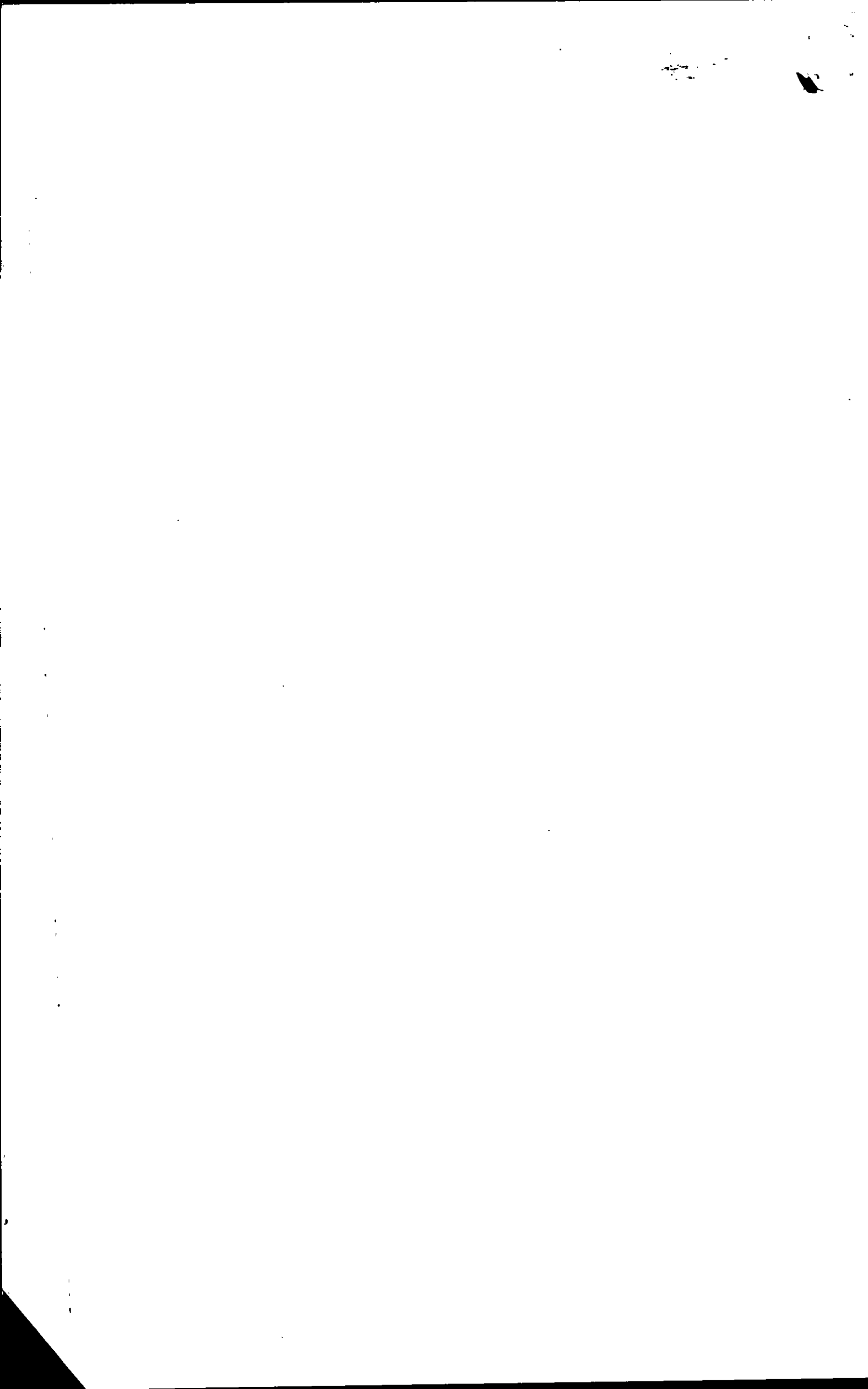
m@ul
...APPELLANT

Through:

Dated:- 14/7 /2018


(SARDAR SHAHZAD AKBAR)

& 
(BABAR SHAH TIRMIZI)
Advocates High Court, Abbottabad



IN THE COURT OF SENIOR CIVIL JUDGE/JUDICIAL MAGISTRATE, ABBOTTABAD.

Order No. 01.
14.10.2010.

Complete challan received from prosecution. Be entered into relevant register. APP for the state present. As the accused are on bail, hence accused be called/summoned for 18.10.2010

Senior Civil Judge/JM,
Abbottabad.



Order No. 02.
18.10.2010.

APP for state, all the accused and complainant present on file. Wakalatnama on behalf of accused submitted, placed

Today the case was fixed for the attendance of the accused, but complainant/Noor Mohammad Khan s/o Pam Jan present and stated before the Court that he has patched up the matter with all the accused. That he does not want to proceed with the instant case further. That he has no objection if all the accused are acquitted from the charges leveled against them. In this respect statement of the complainant also recorded and placed on file. He also produced compromise deed EX PA and copy of his ID card EX PB.

It is evident from the file that the complainant has patched up the matter with all the accused and voluntarily forgotten and forgiven the accused and has entered into an outside court settlement, the complainant party is no longer willing to prosecute the matter any further, therefore, in view of the statement of the complainant recorded today in the court, all the accused are acquitted from the charges leveled against them. Sureties of the accused are discharged from the liability of bail bonds.

SHO PS concerned is directed to hand over the case property 850 Dhrum to the complainant/lawful owner immediately. File be consigned to record room after its necessary completion.

Announced.
18.10.2010.

Attested to be True Copy
Examiner
District & Sessions Judge
Abbottabad

BABAR SHAH
ADVOCATE HIGH COURT
ABBOTTABAD

Senior Civil Judge/JM,
Abbottabad.

No. 5473
D. of ...
No. of ...
Copying Fee
Urgent Fee
Total
Name of ...
Date of ...
Date of Delivery of Copy

B

28/2

14/10

10

18/10

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308
330

12

Arrested
[Signature]
ADW

ORDER

This order would dispose off departmental enquiry conducted against Constable Muhammad Iqbal No.1056.-

Brief of allegation, is that on 10-08-2010, Constable Muhammad Iqbal No. 1056 of District Security Branch having intimation about a stranger who was lying at general bus stand in unconscious condition where another person namely Mustafa was already hauled up by the people. The said Constable recovered Brief case, violet, NIC, and passport from him.

Similarly he also conducted body search of unconscious person and extracted 850 Dirham from his pocket and kept with him. He wanted to usurp this foreign currency having dishonest intention. The victim when came in to senses he claimed this currency and the spot evidence revealed that this currency was recovered by Constable Muhammad Iqbal and retained with him. He kept on denying.

He was suspended and arrested. During interrogation he confessed the guilt and returned 850 Dirham to the I.O. A case vide FIR No.594 dated 11-08-2010 U/S 379/337-J/411 PPC PS Cantt was registered against him.

During Investigation of case as well as departmental enquiry the allegations which are of serious nature have been proved.

He was issued F.S.C.N to which he responded un-satisfactory. He was summoned in OR and was gave ample opportunity for personal defense, but he could not.

Therefore, in exercise of power vested in me under relevant rules, he is awarded major punishment of dismissal from service with immediate effect.

Order announced.

Arrested

[Signature]

OB No 368
13.12.2010

[Signature]
District Police Officer,
Abbottabad.

BABAR SHAH TIRMAL
ADVOCATE HIGH COURT
ABBOTTABAD

10

P-17
No. 56 - OHC
18.8.10

CHARGE SHEET

I, Imran Shahid District Police Officer Abbottabad, as

Competent authority, hereby charge you Constable Muhammad Iqbal No.1056 as follows :-

That you while posted at Security Staff Abbottabad was found involved in Case FIR No.594 dated 11-08-10 U/S 379/337-J PPC PS Cantt. This amounts to gross misconduct.

By the reasons of above, you appear to be guilty of misconduct under section-3 of the Khyber Pakhtunkhwa (Removal from Service) Special Powers 2000, and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance. You are therefore directed to submit your written defense within seven days of the receipt of the Charge Sheet in the Enquiry Officer/ Committee, as the case may be.

Your written defense, if any should reach the enquiry officer/ Committee with in the specified report, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed

Altered
Imran Shahid

BABAR SHAIKH
ADVOCATE HIGH COURT
ABBOTTABAD

9-1-10
District Police Officer,
Abbottabad.

C
Advocate

(11)

P-18

No 56-0112
18.8.10

DISCIPLINARY ACTION

I, Imran Shahid District Police Officer Abbottabad,, as
Competent authority charge you Constable Muhammad Iqbal No.1056 from
cretin-omissions and commission as elaborated below which render you liable to
be proceeded against departmentally with in the meaning of Section-3 of Khyber
Pakhtunkhwa, Removal from Service (Special Power Ordinance 2000).



Attacked
Advocate

STATEMENT OF THE ALLEGATION

That you while posted at Security Staff Abbottabad was found
involved in Case FIR No.594 dated 11-08-10 U/S 379/337-J PPC PS Cantt.
This amounts to gross misconduct.

For the purpose of scrutinizing the behavior/ conduct of said accused
official with reference to the above allegations, DSP Havelian
is appointed as Enquiry Officer who shall in accordance with the provision of
ordinance, provide reasonable opportunity of hearing to the defaulter, record his
findings and make within 07 days of the receipt of this order recommendation of
the punishment or other appropriate action against the defaulter officials.

Attacked
Imran
BABAR SHAN TIRNIZI
ADVOCATE HIGH COURT
ABBOTTABAD

Imran
District Police Officer,
Abbottabad.

Attended
 [Signature]
 [Signature]

BEFORE THE DUPTY INSPECTOR GENERAL OF
 POLICE HAZARA REGION ABBOTTABAD.

Subject: Representation against the punishment order by DPO
Abbottabad void OB No.368, dated: 13-12-2010,
whereby the rep: was awarded the major punishment
of dismissal from service.

Prayer: That on acceptance of the representation the subject
 mentioned punishment order may be set aside and the
 rep: be reinstated in service from the date of dismissal.

Respected Sir,

With due respect it is submitted that I was awarded
 major punishment of dismissal from service by DPO
 Abbottabad vide OB No.268, dated 13-12-10.
 (Annexure "A").

1. That the charges against me were that while posted at
 security staff Abbottabad, I was found involved case FIR
 No. 594, dated:11/08/10, 379/JPPC PS Cantt. That I was
 charge sheeted and DSP Havelian was appointed as inquiry
 officer, I submitted the detailed and rebuttal explanation
 attached at (annexure "B") against the charges which was
 not considered and the EO proceeded further and conducted
 regular departmental inquiry against me. During inquiry not
 a single evidence was brought forward against me and the
 charges were allegedly proved only on supplementary
statement of the complainant vide annexure "C".

2. That the case was challaned to court against me and three other accused. In court the complainant had given a written statement as per annexure "D", that no amount was extracted from his pocket by me and he was innocently involved of taking my signature on plain paper by the IO as supplementary statement of the complainant. The court has ultimately acquitted me and other accused who had settled/patched up the matter with the complaint, copy of the judgment is attached as annexure "E".

3. That the affects are that while I was on duty of security in plain clothes in bus stand Abbottabad, I noticed an unconscious person lying on the ground with a big crowd around the said person who also captured the accused with a briefcase who accompanied the complainant from Rawalpindi in the wagon for the purpose of robbing him. On their way the accused served the complainant with some type of intoxicated food due to which he becomes unconscious and he then snatched the briefcase and some amount from his pocket. The brother of the victim was also present on the spot who took into custody all the things of his brother for being unconscious, I called the cantt staff who was present nearby who took the accused and the complainant to PS Cantt where the above case was registered on the report of the brother of the victim. In the first FIR there was nothing against me and the next day on recording of fake supplementary statement I was innocently implicated in the case. *By The I.O.*

Attested

[Signature]

BABAR SHARIF
ADVOCATE HIGH COURT
ABBOTTABAD

4. That I had under got 17 years service with untarnished service record. I have a large family and six minor children

to support. I have no other source of income to support my large family except service. The punishment is harsh, wrong, arbitrary and without any evidence it has been inflicted on me which is against the cannons of law and justice.

In view of about facts and circumstance it is most earnestly prayed that I may kindly be reinstated in service from the date of dismissal.

I shall be thankful for this act of kindness and pray for long life and prosperity.

Muhammad

Babar Shah

**BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD**

Yours Obediently.

**Muhammad Iqbal
Ex. Constable No. 1056
District Police Abbottabad.**

16

P-22



*Muhammad
Adnan*

ORDER

This is an order on the representation of Ex-Constable *Muhammad* No.1056 of Abbottabad District against the order of major punishment i.e. dismissal from service issued by the District Police Officer, Abbottabad vide his OB No. 368 dated 13-12-2010.

Facts leading to his punishment are that while he was posted at Security Staff Abbottabad, involved in Case FIR No.594 dated 11-08-2010, U/S 379/337-J/411 PPC PS Cantt: Abbottabad. He has always displayed lack of interest and devotion towards his official duties.

Proper departmental enquiry was conducted by EO DSP Havelian Abbottabad. After conducting a detailed enquiry, the EO proved him guilty. On the recommendation of EO, the District Police Officer Abbottabad awarded him major punishment of dismissal from service.

After receiving the appeal, the comments of DPO Abbottabad were obtained. The enquiry file, appeal & the comments of the DPO were perused. The appellant was also heard in person in the orderly room.

Muhammad Keeping in view all the records, the appeal is rejected being grave allegations.

Muhammad
BABAR SHAH TIBETI
ADVOCATE HIGH COURT
ABBOTTABAD

allan
Deputy Inspector General of Police
Hazara Region Abbottabad

No. *2456* /PA Dated Abbottabad the *24-4-* /2012.

Copy of above is forwarded to the District Police Officer, Abbottabad for information and necessary action with reference to his Memo: No. 377 dated 26-01-2011. The Service Roll and Fauji Missal containing Enquiry File of the appellant are returned herewith.

Encl: (as above)

SR/01/01
Rejection

4585
27-4-012

[Signature]
26/4/12

allan
Deputy Inspector General of Police
Hazara Region Abbottabad
(CO Khurram Hussain)

BEFORE THE SERVICES TRIBUNAL KHYBER PUKHTUN KHWA
PESHAWAR

Appeal No. 539/12

Muhammad Iqbal s/o Mohammad Younas r/o Badial Kothiala Abbottabad E.E.

Constable # 1056 District Police Abbottabad.

... APPELLANT

VERSUS

1 Deputy Inspector General of Police Hazara Division Abbottabad.

2 District Police Officer Abbottabad.

...RESPONDENTS

=====

APPEAL UNDER SECTION 4 OF NWFP SERVICE TRIBUNAL ACT
1974 AGAINST THE ORDER OF RESPONDENT # 1 DATED 24/ 04/
2012 WHEREBY THE PETITIONER WAS DISMISSED FROM THE
SERVICE ON 13/12/2010 AND THE ORDER PASSED ON
REPRESENTATION AGAINST THE ORDER OF RESPONDENT # 2
REJECTING THE SAME IS WITHOUT ANY PLAUSABLE
EXPLANATION ILLEGAL, VOID WITHOUT LAWFUL
AUTHORITY, WITHOUT JURISDICTION AND SAME IS NOT
TENABLE IN THE EYES OF LAW AND ARE LIABLE TO BE SET
ASIDE.

Alleged

Signature

BABAR SHAH TIRAZI
ADVOCATE HIGH COURT
ABBOTTABAD

PRAYER:- ON ACCEPTANCE OF INSTANT APPEAL, THE
ORDERS OF RESPONDENTS NO 1 AND 2 MAY KINDLY BE SET
ASIDE AND THE PENALTY IMPOSED UPON THE APPELLANT
MAY ALSO BE SET ASIDE AND ANY FURTHER PROCEEDINGS
IN CONSEQUENCE OF IMPUGNED ORDERS MAY ALSO BE SET
ASIDE BEING UNLAWFUL AND AGAINST THE SETTLED
NORMS OF JUSTICE.

Respectfully Sheweth; -

The facts giving rise to the instant appeal are arranged as under.

FACTS:-

1. That the appellant was appointed in the police department as constable on 11/ 1/ 1994 and during the year 2010 when performing his duties at Security staff Abbottabad, was implicated in case FIR # 594 dated 11/08/2010 under section 379, 337-J/411 PPC of P.S Cantt Abbottabad (Copy of FIR is attached as annex 'A'.)
2. That the appellant was charged sheeted and DSP Havelian was appointed as inquiry officer. The appellant was submitted detailed and rebuttal explanation against the charges which was not considered without any reason and the EO proceeded further and conducted regular departmental inquiry against the appellant. During inquiry not single evidence was brought forwarded against appellant and the charges were allegedly proved only on supplementary statement of the complainant.
3. That the case was challaned to court against appellant and three other accused including one Mustafa s/o Nazir r/o Muree Chowk Abbottabad. That in court the complainant had given a written statement that no amount was extracted from his pocket by appellant and he was innocently involved on the basis of self fabricated supplementary statement of the complainant. The court has ultimately acquitted appellant and other accused on the statement of the complainant before the impugned order was passed. (Copy of order of the court is attached as annexure "B")
4. That prior to the above impugned order of Respondent # 2, departmental inquiry was initiated against the appellant during

M. H. H. H.

M. H. H. H.

**BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD**

the course charged sheet and statement of allegation were served. (Copy of charge sheet and statement of allegation are attached as annexure "C" & "D")

5. That on the basis of the inquiry findings the impugned order dated 13/ 12/ 2010 was passed by the respondent # 2 vide OB # 362 by respondent # 2 whereby the appellant was dismissed from service. (Attested Copy of impugned order is attached as annexure "E")

5. That feeling aggrieved the appellant submitted representation before the D.I.G respondent # 1 which was also filed without giving any reasons and the letter issued to the DPO Abbottabad in this respect is also devoid of any material or cogent grounds. (Copy of the representation is annex 'F' while order of respondent # 1 is attached as annexure "G")

6. That the appellant tried to get attested copies of the inquiry report and impugned orders but was not allowed access to the said documents which are in the possession of police department.

That the impugned order of respondent No 1 and 2 are liable to be set aside inter - alia on the following grounds:-

GROUNDS:-


That the orders of respondent No 1 and 2 are illegal arbitrary, void, without lawful authority and also without jurisdiction and hence liable to be set aside.

Attested

BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

- b. That much importance has been given to the inquiry report which was quite natural under the circumstances and the story of fabricated supplementary statement has been made basis without having been gone the real facts, thus rights of appellant has been ignored. (Copy of supplementary statement is attached as annexure "H")
- c. That patently order of dismissal from service is illegal without lawful authority and result of misreading and non reading and the order of filing the representation of appellant by respondent # 1 is also illegal as no cogent reasons have been advanced for rejecting the same.
- d. That the illegal and without jurisdiction orders of respondent # 1 and 2 have resulted in mis-carriage of justice and amounted to abuse of process of law which has adversely effected the appellant by the un fair partial, un reasonable and discriminatory orders of respondent # 1 and 2 as the valuable right of cross examination of appellant is still not exhausted and a bias departmental inquiry findings have been submitted against the appellant and based for dismissal of the appellant.
- e. That the impugned order of respondent # 2 was passed without waiting for the orders and fate of the criminal case from the trial court and impugned order of dismissal was passed in hurry resulting in mis carriage of justice.

Alleged


BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

- j. That respondent # 1 and 2 did not take into consideration the fact that the allegations leveled in the supplementary statement did not suggest to have been committed any crime which fact further proved when the petitioner was acquitted of the charges from the court of law. (Copies of the affidavit of the complainant is attached as annexure "I" and the order of acquittal is attached as annexure "J".)
- g. That the appeal is within time and this Honorable tribunal has got jurisdiction in the matter.
- h. That further points will be submitted at the time of arguments.

PRAYER: It is therefore most humbly prayed that on acceptance of instant appeal against impugned orders of respondent # 1 and 2, which may kindly be set aside and appellant reinstated in service with all back benefits under the law.

M. Q. I.

...APPELLANT

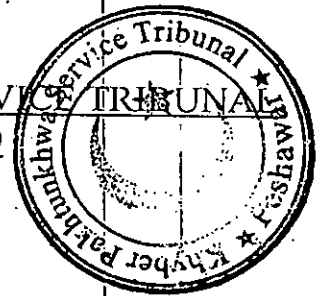
Through

Dated: 12/05/2012

Z. Ahmad
 (ZULFIQAR AHMAD)
 Advocate High Court
 Abbottabad
Attested

B. Tirmizi
BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT ABBOTTABAD



Service Appeal No. 539/2012

Date of Institution... 14.05.2012

Date of decision... 21.11.2017

Muhammad Iqbal s/o Muhammad Younas,
R/o Badial Kothiala Abbottabad Ex. Constable # 1056 District Police Abbottabad.
... (Appellant)

Versus

1. Deputy Inspector General of Police Hazara Division Abbottabad,
and another.
..... (Respondents)

MR. SARDAR SHEHZAD AKBAR,
Advocate ... For appellant.

MR. KABIR ULLAH KHATTAK
Additional Advocate General ... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN, ... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service vide impugned order dated 13.12.2010 against which he filed departmental appeal (undated) and the same was rejected on 24.04.2012 and thereafter the appellant filed the present service appeal on 12.05.2012. The charge against the appellant was his involvement in a criminal case in case FIR No. 594 dated 11.08.2010 under Section-379/337-J PPC.

ALLEGED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Camp Court, Abbottabad

Alleged

BABAR SHAH TRIMZI
ADVOCATE HIGH COURT
ABBOTTABAD

ARGUMENTS

3. The learned counsel for the appellant argued that the inquiry officer has not recorded the statement of the eye witnesses nor any right of cross examination was afforded to the appellant. That the enquiry report submitted by the enquiry officer has not referred to any statements. That the charge has not been proved through the inquiry and that the penalty imposed is illegal. The learned counsel for the appellant next contended that the appellant was acquitted in the criminal case vide order dated 18.10.2010. That in the said compromise the victim had stated that the appellant was not involved in the case.

4. On the other hand, the learned Additional Advocate General argued that the under Section-9 of the RSO-2000 the appellant was to file the departmental appeal within 15 days but no date is mentioned on the departmental appeal which means the departmental appeal was time barred. That when the departmental appeal is time barred then service appeal is also time barred. He further argued that the inquiry officer did record the statements of the appellant as well as the I.O of the criminal case. That the charge sheet and statement of allegations were issued to the appellant. That that final show cause notice was also issued to the appellant. That he was also given personal hearing. That no illegality has been committed in the proceedings.

CONCLUSION.

5. The legal position regarding filing of departmental appeal as explained by the learned AAG is correct but there is no proof of the fact whether the appellant filed the departmental appeal after 15 days or not. The departmental appeal was decided by the authority on 24.04.2012. The authority did not mention the date of filing of the departmental appeal nor did he has pass any comments regarding limitation nor the limitation was taken into consideration. On the basis of such vague scenario the appellant cannot be non suited. Had the departmental appeal been time barred the appellate authority would have rejected it on the basis of limitation. So the presumption is in favour of the appellant.

ATTESTED
 EXAMINER
 Hyber Pakhtunkhwa
 Service Tribunal
 Court, Abbottabad

Attested
[Signature]

BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

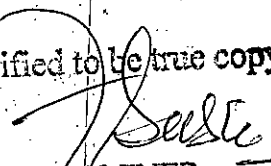
6. Coming to the merits of the appeal the acquittal of the appellant in no way benefits the appellant because the result of the criminal case has got no bearing on the departmental proceedings. We are to see the departmental proceedings independently. The appellant cannot take advantage of any order in the criminal proceedings nor the departmental can take any advantage out of the criminal proceedings. The inquiry officer has recorded the statement of the appellant in which he has denied the allegations. The only statement recorded by the inquiry officer is I.O of the criminal case. The statement of the I.O of the criminal case is not conclusive for the reason that the investigation conducted by the I.O is subject to proof under the law of evidence. Secondly the appellant has not been given the chance of cross examining by I.O by the inquiry officer. Thirdly the inquiry officer has not based his findings on the basis of his independent inquiry but on the basis of statement given by the appellant to the I.O in which he allegedly confessed that he would return 1500/- Dirhams back to the Police. He further referred to the spot inspection of the I.O. Such findings could not be made basis for proof of guilt against the appellant in departmental proceedings.

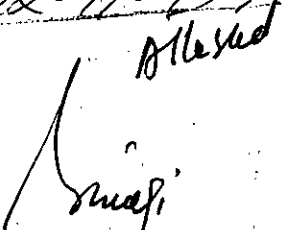
7. As a consequence to the above, the appeal is accepted and the impugned order is set aside. The appellant is reinstated in service. The department is however, at liberty to initiate departmental proceedings in accordance with the rules. Parties are left to bear their own costs. File be consigned to the record room.

Announced
21-11-2017

Sd/- Niaz Muhammad Khan, Chairman
Camp Court, Abbottabad.
Sd/- Ahmad Hassan, Member

Date of Presentation of Application 21-11-17
 Number of Words 1200
 Copying Fee 8-00
 Urges 8-00
 Total 8-00
 Name of Copyist _____
 Date of Copying of Copy 22-11-17
 Date of Delivery of Copy 22-11-17

Certified to be true copy

 Babar Shah Tirmizi
 Khyber Pakhtunkhwa
 Service Tribunal
 Camp Court, Abbottabad


BABAR SHAH TIRMIZI
 ADVOCATE
 COURT

CHARGE SHEET

- 1). I Syed Ashfaq Anwar (PSP) District Police Officer Abbottabad as competent authority hereby charge you Constable Muhammad Iqbal No. 616 as explained in the attached statement of allegations.
- 2). You appear to be guilty of misconduct under Police disciplinary Rules 1975, and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.
- 3). You are therefore, directed to submit your written defense within seven days on the receipt of this Charge Sheet in the Enquiry Officer.
- 4). Your written defense, if any shall reach the Enquiry Officer with in the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
- 5). Intimate whether you desire to be heard in person or otherwise.
- 6). A statement of allegations is enclosed.

Attested

Babari
BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

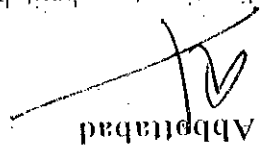
SYED ASHFAQ ANWAR (PSP)
District Police Officer
Abbottabad

[Signature]

proceedings.
the Enquiry Officer of the date, time and place fixed for the purpose of departmental
within 07 days of the receipt of this statement of allegations and also to appear before
Constable Muhammad Iqbal No. 616 with the direction to submit his defense

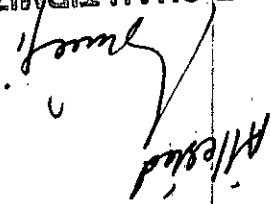
CC:

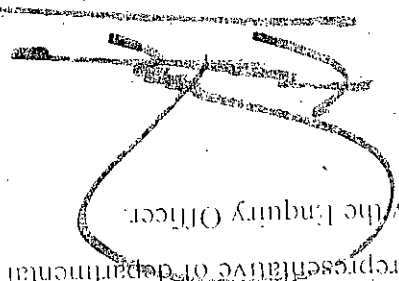
No. 30 / P.A. Dated Abbottabad the 18/01/2018


Abbottabad

SYED ASHAQ ANWAR (PSP)
District Police Officer

BABAR SHAH TRIMIZI
ADVOCATE HIGH COURT
ABBOTTABAD





in the proceedings on the date, time and place fixed by the Enquiry Officer.
4) The accused a well conversant representative of departmental shall
appropriate action the accused
make within 25 days of the receipt of this order, recommendation as to punishment or the
ordinance, provide reasonable opportunity of hearing to the accused, record finding and
3) The Enquiry Officer shall in accordance with the provision of this
Enquiry Officer.

above allegations, Mr. Abdul Aziz Khan Afridi SP Investigation is appointed as
2) For the purpose of scrutinizing your conduct with reference to the
is tantamount to gross misconduct.

involved in case FIR No. 594 dated 11-08-2010 U/S 379/337-1 PPC PS Cantt, which
No. 58/E&I dated 10-01-2018, you while posted at Security Staff were found
Inspector General of Police Enquiry & Inspection Khyber Pakhtunkhwa vide letter
Tribunal Camp Court at Abbottabad appeal No. 539/2012 and Worthy Deputy
In compliance with the judgment of Honorable Service

STATEMENT OF THE ALLEGATIONS

as Competent Authority of the opinion that you Constable Muhammad Iqbal No. 616
rendered yourself liable to be proceeded against as you committed the following
act/omission within the meaning of Police Disciplinary Rules 1975.

DISCIPLINARY ACTION

P-32

میں نے 5140 کو بیکار میں کران پر لکھا دیا ہوں کہ مجھے کوئی علم نہیں ہے
 وہیں میرا چانک 5140 نے مجھے تفتیشی محکمہ کے حوالہ کر دیا میں دوران سرکل
 ریجنل منسٹر جان لی آئے جنہوں نے تاکہ سیکورٹی اڈیکار میرے حلف
 افسر مالہ کو ڈسٹریاں بھی دیتے ہیں اور ٹیسٹ پر چھین بھی کرتے دیتے ہیں جس
 سے آئے دوز افسران مالہ میرے حلف انگین تھے میں اور عمارتی بے عزتی کرتے ہیں
 میں کو حلف میں بلکہ دوران اس کے پاس اس سے کہہ کر کسی دوسرا سیکورٹی حلف
 بھی حلف کر کے آئے کر اس کو بھی 109 میں بلکہ جو اس کے بعد کل دسمبر 114
 مجھے لکھ میں جا کر میری انٹرو ویشن کرنا دیا اور بلکہ آخر وقت 08:00 بجے چھوڑ دیا کہ تم
 1500 ڈی ایم لکھ دو میں ملزم حلفی پر برآمدی ڈال کر اسے جیل بھیج کر عمارتی جان
 حلفی کروں گا۔ اور جو ہے جبراً وہاں مسجد کا مندر پر دستخط لپی لیے اور مجھے چھوڑ دیا۔
 میں شریک اردی 1500 ڈی ایم میں نہیں کر سکتا تھا میں 14-8 کو تقاضا کیا جانا میرے 114
 نے میری لکھا میری کے لیے عدلی نوٹ لکھ اور اس کے مطابق انکو میں کو طلب کیا ہوا تھا جنہوں نے میری
 مخالفت کرنے کی ہے میری کم لور $\frac{DIT}{057}$ لکھی کے ساتھ میں گیا کہ میری ہوا میرا ملزم ہے اور میں
 کا حکم وہاں دعوہ لکھی کرتے ہیں جس پر 10 نے عدلی کو لکھا کہ میں نہیں 182 میں بند حوالہ
 کرتا ہوں 11 کے بار بار اہم پر عدلی نے جو یہ دعوہ لکھی نہیں کی بلکہ آخر میں نے نوٹ میری
 سے عدلی سے سادہ کاغذ پر نشان دیکھا اور دستخط کر دیا کہ میرا ہی نام نہیں ہے
 حوالہ دوران عدلی کے جانے کے بعد میرے حلف میں سادہ کاغذ میں عدلی کے نشان
 لکھ کر دے ہیں سیکورٹی پر تفتیشی جان لکھ دیا میں کاغذ کا جو میرے حلف حوالہ ہے
 میں نے عدلی کے ساتھ میرا دعوہ لکھی ہے اور میری ملزم نے جو کے حلف کر کے نشان

Attested

BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

میں کنفرم ہوئی اور ریکوری کے حکم پر 4 ملین روپے کو حاصل کر کے ریکوری کی
شمارہم حال بہرہ سرائی گورنمنٹ

درمی مقدمہ نے قلم پر کوئی دعویٰ درج نہیں کیا۔ اس کی FIR میں
میں نام درج ہے اور نامی کسی کنٹریکٹ بلڈرز جو موضع پر موجود تھے کہ
مائل لفٹیشن کیا گیا۔ مائل بے گناہ ہے۔

دوران لفٹیشن 140 ٹن پٹرولیم کے مجموعہ مقدمہ میں جو ریکوری ڈالنی
وہ رقم مبلغ 70000/- 100000/- سے لیکر دو دو سو دوکان دار حاجی

ریاضی آگرہ کلر کو اور پٹرولیم کنٹریکٹ شہیر احمد سے نذر نام خون رقم طلب کی
گیا اور رقم میں مقدمہ پر ریکوری ڈالوں گا۔ جو میں چینج سے بدل کر گیا

مجموعہ پر ڈال دیا گیا۔ اس کی قیمت یہ ہے کہ وہ پٹرولیم دار حاجی
ریاضی اور کنٹریکٹ شہیر کو طلب کرے کیونکہ جو کی حاصل ہے اس کی ضمانت

بہرہ لگ رہی ہے۔

Attested
Babbar

BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

صاحب عالی

مائل ٹرمین آرمی کے حکم پر 7 سال بائرنڈ گارڈی میں سروس میں سے لیکر کا
بیش پائلر سال کے 6 چھوٹے چھوٹے ہیں جس کا گزارا ہے سال کی
مزدوری اور کیا دیکھیں وہ کسی کنٹریکٹ بلڈرز سے بہت زیادہ ہے جس سے مقدمہ
مائل پٹرولیم کے حکم پر ریکوری حاصل کی جاوے۔ مائل نامی دعا کرنا ہے گا

ال کبیل نمبر اقبال 2616
M. O. A.

ORDER

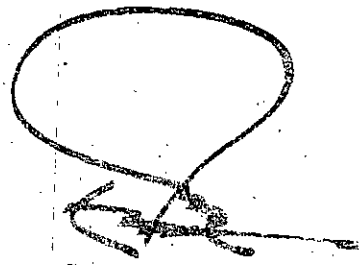
In compliance with the judgment of Honorable Service Tribunal Camp Court at Abbottabad appeal No.539/2012, Constable Muhammad Iqbal No. 616 was reinstated in service and a De-Novo enquiry was initiated on the allegations that he while posted at Security Staff was found involved in case FIR No. 594 dated 11-08-2010 U/S 379/337-J PPC PS Cantt: Abbottabad.

He was issued Charge Sheet along with statement of allegations as per order of Honorable Court Mr. Abdul Aziz Afridi, SP Investigation Abbottabad was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations could not be proved. The undersigned agreed with the findings of Enquiry Officer by warning him to remain careful in future.

Order announced.

Attested

Shahji
BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

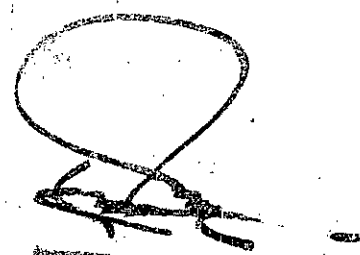


District Police Officer
Abbottabad
Ph No: 0992-9310026
Fx No: 0992-9310025
atdpolice@gmail.com

No. 618-19 PA 5-3-18

CC.

1. Deputy Inspector General of Police Enquiry and Inspections, Khyber Pakhtunkhwa Peshawar (copy of findings report is enclosed for kind perusal) please.
2. Establishment Assistant.
3. Pay Officer, DPO Office Abbottabad.
4. OASI DPO Office alongwith complete Enquiry File containing 5 pages for completion of record.



District Police Officer
Abbottabad

13:00 15-3
2018

M. J. MEDRO PA
Jbr E.

جناب عالی!

۱۔ گزارش ہے کہ من سائل کنسٹیبل محمد اقبال نمبر 616 مورخہ 11-01-1994 کو محکمہ میں بھرتی ہو کر 16/17 سال اپنے فرائض منصبی خوش اسلوبی اور جانفشانی سے سرانجام دیتا رہا۔ بد قسمتی سے مورخہ 10-08-2010 کو ہونے والے ایک واقع میں تفتیشی افسر نے من سائل کو بے جا طور پر زبردستی مقدمہ میں ملوث کر دیا اور ڈیپارٹمنٹل انکوائری جو کہ مقدمہ کی بنیاد پر کی گئی کر کے مجھے نوکری سے برخاست کر دیا۔

۲۔ یہ کہ اس سزا کے خلاف من سائل نے سروس ٹریبونل میں اپیل دائر کی اور بعد سماعت فاضل عدالت نے مورخہ 21-11-2017 کو نوکری پر بحال کر دیا اور محکمانہ انکوائری کو غلط اور خلاف قانون قرار دیا۔ (نقول لف ہیں)

۳۔ یہ کہ فیصلہ عدالت کے بعد من سائل کے خلاف دوبارہ محکمانہ انکوائری بجکم جناب DPO صاحب انکوائری آفیسر SP صاحب انویسٹی گیشن عزیز آفریدی صاحب کو مقرر کیا گیا بعد جملہ کاروائی فاضل انکوائری آفیسر صاحب نے الزامات کو بلا ثبوت قرار دے کر من سائل کو بے گناہ قرار دیا گیا۔ (نقل انکوائری فیصلہ ہمراہ لف ہے)

۴۔ یہ کہ چونکہ من سائل کے خلاف جملہ الزامات ثابت نہ ہو سکے ہیں بدیں طور سائل حقدار ہے کہ گزشتہ عرصہ کے واجبات ادا کیے جانے کا حکم صادر فرما کر من سائل کو مشکور فرمادیں یہ جناب کی طرف سے صدقہ جاریہ ہوگا سائل جناب کی عمر درازی کیلئے دعا گور ہے گا۔

العارض

Attested

کنسٹیبل محمد اقبال نمبر 616
متعینہ پولیس لائنز ایبٹ آباد۔



BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

15-3
2018

DPD MIPA
MIPA

13:00

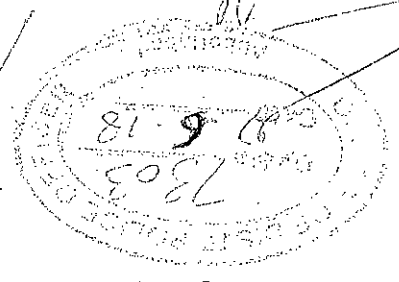
MIPA

REKAM
MIPA
CIABAT

Handwritten notes at the top of the page, including a signature and the date 17/12/16.

Handwritten note: "For Mr. Khan" with a line pointing to the stamp area.

REGIONAL POLICE OFFICER
Hazara Region, Abbottabad



Handwritten initials: "E.A." and "G.M.S.I."

Copy of above is forwarded to the District Police Officer, Abbottabad vide his office Memo: No: 1722, dated 15.05.2018 for information and necessary action. Rajji Missal containing enquiry file is returned herewith for your office record.

/2018

21/6

/PA Dated Abbottabad the

No.

2765

REGIONAL POLICE OFFICER
Hazara Region, Abbottabad

Handwritten signature of the Regional Police Officer.

BABAR SHAH TRIZI
ADVOCATE HIGH COURT
ABBOTTABAD

Handwritten signature of Babar Shah Trizi.

Handwritten signature.

appeal is filed.

The undersigned called appellant in O.R where he failed to explain any plausible reason in his defence. DPO Abbottabad also mentioned in his comments that the directions of Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar have been implemented in its true & spirit however, in the judgment of Honorable Service Tribunal it has not been mentioned regarding entitlement of back benefit which has been corroborated by DPO Abbottabad in his comments, hence his period during which he remained out of service shall be treated as leave without pay and he is not entitled for any further relief. Hence his appeal is filed.

After receiving his appeal, comments of DPO were obtained and perused. Involved in case FIR No: 594 dated 11.08.2010 u/s 379/337-1 PPC PS Cantt. letter No: 58/E& I dated 10.01.2018, he while posted at Security Staff were found 539/2012 and Worthy DIG of Police, Enquiry & Inspections Khyber Pakhtunkhwa vide the judgment of Honorable Service Tribunal Camp Court at Abbottabad appeal No: Facts leading to punishment awarded to him are that in compliance with

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by *Consable Muhammad Iqbal* No: 616 Abbottabad District against the order of DPO Abbottabad in which the i.e. Period during which he remained out of service has been treated as leave without pay awarded to him by the DPO Abbottabad vide his OB No: 70, dated 06.03.2018 and comments letter No: 1722, dated 15.05.2018.

ORDER

ANNEX - 5 P-39

Handwritten number 616 in a circle.

616

P.M. ^{LL}
ANNEX - K P-40

ORDER

In compliance with the judgment of Honorable Service Tribunal Camp Court at Abbottabad appeal No.539/2012, Constable Muhammad Iqbal No. 616 was reinstated in service and a De-Novo enquiry was initiated on the allegations that he while posted at Security Staff was found involved in case FIR No. 594 dated 11-08-2010 U/S 379/337-J PPC PS Cantt: Abbottabad.

He was issued Charge Sheet along with statement of allegations as per order of Honorable Court Mr. Abdul Aziz Afridi, SP Investigation Abbottabad was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations could not be proved. The undersigned agreed with the findings of Enquiry Officer by warning him to remain careful in future.

Order announced.

District Police Officer
Abbottabad
Ph No: 0992-9310026
Fx No: 0992-9310025
atdpolice@gmail.com

OB No. 70

6-3-18

No. 658-17PA 5-3-18

CC.

1. Deputy Inspector General of Police Enquiry and Inspections, Khyber Pakhtunkhwa Peshawar (copy of findings report is enclosed for kind perusal) please.
2. Establishment Assistant.
3. Pay Officer, DPO Office Abbottabad.
4. OASI DPO Office alongwith complete Enquiry File containing 54 pages for completion of record.

Attended

SARDAR SHAHZAD AKBAR
ADVOCATE HIGH COURT
ABBOTTABAD

District Police Officer
Abbottabad

کے منتہی حساب DPO کے حساب سے اسٹیک ایب

بتاریخ

تعداد میں ہند سائل نے سروس ٹرانسپونل میں آپ کے بقایا جات کے لئے آپیل
کی ہے۔ OB نمبر 70 مورخہ 6⁰³/₂₀₁₈ کے کاپی کے بعد کامیشنس لیٹر نمبر 1722
مورخہ 5¹⁵/₂₀₁₈ کے کاپی چاہیے۔ بیرونی فرما کر کاپی دینے
کا حکم صادر فرمایا جا رہے

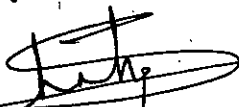
آئیے عین نواز میں ہوگی

الطاف

کنسٹیبل محمد امجد علی 6/6 عین نواز میں اسٹیک ایب ایب
اسٹیک

27⁷/₂₀₁₈

attested

 and Akbar
PA

SARDAR SHAHZAD AKBAR
ADVOCATE HIGH COURT
ABBOTTABAD

1056/616 ANNEX-M P-42
1056/616

ORDER.

With reference to letter No. 2760/ Legal dated 15.12.2017 received from AIG Legal CPO Peshawar.

Muhammad Iqbal Ex- constable No. 1056 of this District Police is hereby reinstated in service with immediate effect in compliance of the order of Honourable Service Tribunal Camp Court at Abbottabad passed in Service Appeal No. 539/2012 on 21.11.2017.

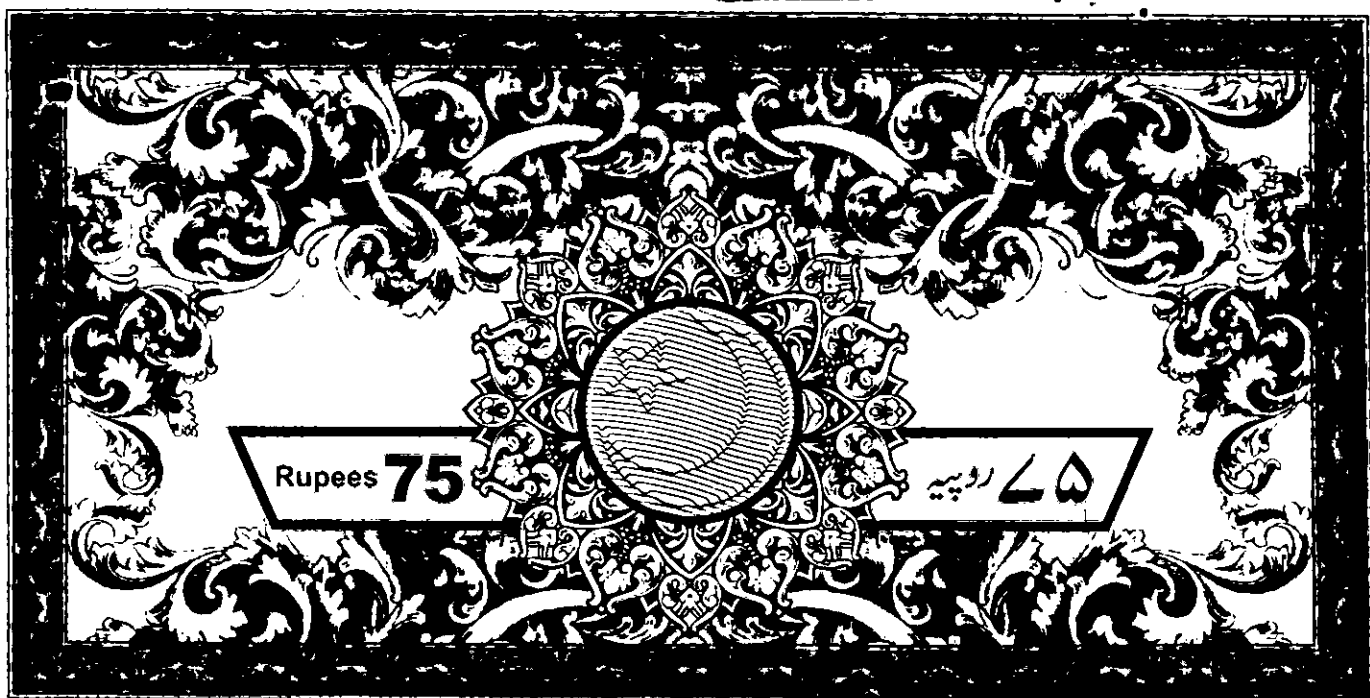
[Signature]
District Police Officer
Abbottabad.

NO 10612-14 date d 27/12/2017
Copy to the;
PO/OASI/SRC for compliance.

Attended
[Signature]
Adv.
dw.

OB- NO 338
29-12-17

**SARDAR SHAHZAD AKBAR
ADVOCATE HIGH COURT
ABBOTTABAD**



بیانِ حلی

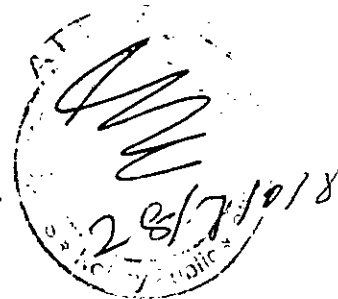
مذکورہ رقم اقبال روڈ محمد یونس سائمن ایجوکیشنل بورڈ پورٹمان نمبر ۷۵ لکھ شملہ
 میں ایسٹ ایجوکیشنل بورڈ حلقہ بیانی کے تحت موقوفہ درج ذیل سے حاصل ہونے پر
 ٹرانزیشن لیٹر نمبر ۱۶۲۲ مورخہ ۱۵/۱۸/۵۷ P.O. کو دی تاہم مذکورہ نقل
 پینے سے اٹھا کر لیا گیا۔ نقل درج ذیل سے اس کے ساتھ منسلک ہے
 مزید حلقہ بیانی میں کہ مذکورہ پینے تاہم علم و یقیناً یہ
 درست ہے اور کوئی اعتراض نہ رکھنا چاہیے۔

المستوفی
 28/18

5-540-1710-13101

کینیڈیل محمد اقبال نمبر ۶۱۶ ایسٹ ایجوکیشنل بورڈ
 حقیقت

M. Qasbi



امریکی ریاستوں کے لیے
مقامی حکومتوں کے لیے

28-7-18

1314-1710540-5



مقامی حکومتوں کے لیے
امریکی ریاستوں کے لیے

M. Imtiaz Awan
Stamp Vender
Distt: Kutchery

DBA number	397-343					
BC No.	1	1	-	3	1	2
Name of Advocate	سید شہزاد اکبر شاہ					

S.No. 78429



HEAD CLERK
District Bar Association
ABBOTTABAD

وکالت نامہ

بعدالت صاحب سرمدی شہزاد اکبر شاہ

عنوان: محمد تقی بیام 014 و عسبرہ

منجانب: ابرہہ نے نوعیت مقدمہ سرمدی ابرہہ

باعث تحریر آنکہ سند ابرہہ نے

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے بیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام ایف ڈی اے شہزاد اکبر شاہ کے لیے سر شہزاد اکبر شاہ ترمیزی و مکہ محمد اللہ رٹوڈیشن اسٹریٹ 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 منظر 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 بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروقت تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ بکھری کے علاوہ کسی اور جگہ ساعت ہونے پر یا بروقت تعطیل یا بکھری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا بخاند کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختمہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کار و پیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات از بکھری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قرق یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ایگی علیحدہ محتاجہ بیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی 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 بیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورخہ: 2018/07/16
دن ماہ سال

لہذا وکالت نامہ لکھ دیا ہے کہ سند ہے۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

SARDAR SHAHZAD AKBAR
ADVOCATE HIGH COURT
ABBOTTABAD

BABAR SHAH TIRMIZI
ADVOCATE HIGH COURT
ABBOTTABAD

MALIK MUHAMMAD ALTAF
ADVOCATE HIGH COURT
ABBOTTABAD.

محمد تقی
ابراہیم
M. Altaf

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.**

SERVICE APPEAL NO. 940/2018.

Muhammad Iqbal s/o Muhammad Younas r/o Badial Kothiala, Tehsil and District
Abbottabad, presently constable No.66 posted at Security staff Abbottabad.

..... (Appellant)

VERSUS

1. Deputy Inspector General of Police Hazara Region, Abbottabad.
2. District Police Officer, Abbottabad.

..... (Respondents)

RESPECTFULLY SHEWETH!

The Para-wise comments on behalf of respondents are submitted as under:-

PRELIMINARY OBJECTIONS:-

1. That the instant Service Appeal is not maintainable in the present form.
2. That the appellant is estopped by his own conduct to file the present appeal .
3. That the appellant has not come to the Hon'ble Tribunal with clean hands.
4. That the appellant has suppressed material facts from the Hon'ble Tribunal.
5. That the instant Service Appeal is not maintainable for non-joinder/
mis-joinder of unnecessary parties.
6. That the instant Service Appeal is badly time barred.
7. That the appellant has filed the instant service appeal just to pressurize the
respondents.
8. That both the orders passed by the authorities are as per law and rules, after
fulfilling all the codal formalities, hence, the appeal is liable to be dismissed
without any further proceeding.

OBJECTIONS ON FACTS:-

1. In reply to this Para it is submitted that the appellant while posted at District
Security Branch Abbottabad committed an offence vide FIR No.594 dated
11.08.2010. u/s 379/337-J /411 PPC Police Station Cantt District Abbottabad,
the act and omission of the appellant were also misconduct under the law,
therefore, proper departmental enquiry was conducted and being found guilty
of gross misconduct the appellant was dismissed from service by the District
Police Officer, Abbottabad vide OB No. 368 dated 13.12.2010.

2. In reply to this Para it is submitted that the appellant had committed offence as well as misconduct, therefore criminal proceedings and departmental action was initiated against the appellant, consequently he was dismissed from service.
3. Incorrect, the appellant was held guilty of gross misconduct. Hence, he was awarded major punishment as per law.
4. Incorrect, the appellant filed departmental appeal to the competent authority, who considered the same and rejected the departmental appeal on quit legal grounds.
5. In reply to this Para it is submitted that this honorable tribunal vide its judgment dated 21.11.2017 reinstated the appellant in service and department was set at liberty to conduct de-novo enquiry. Consequently, the appellant was reinstated in service and de-novo enquiry was initiated.
6. In reply to this Para, it is submitted that the appellant was served with charge sheet and statement of allegation, SP Investigation Abbottabad was appointed as enquiry officer.
7. Incorrect, the appellant could not give satisfactory reply of charge sheet and enquiry officer recommended him for warning to be careful in future, whereupon the appellant was warned to be careful in future by the then District Police Officer, Abbottabad vide OB No. 70 dated 06.03.2018. (Copy of order is attached as Annexure "A").
8. In reply to this Para it is submitted that the appellant was reinstated in service, and consequent upon de-novo departmental enquiry the appellant was warned to be careful in future, it was the misconduct of the appellant for which he was dismissed from service, so, the appellant is not entitled for back benefits for the period he remained out of service.
9. Incorrect, the appellant had committed misconduct by involving himself in criminal act, therefore, he was dismissed from service as per law, the appellant was reinstated in service following the judgment of this Honorable Tribunal, however, he is not entitled for back benefits, as the period he remained out of service, he did not serve the department. Hence, his departmental appeal was rejected by the competent authority on quit legal grounds.
10. In reply to this Para, it is submitted that the appellant was found not entitled for benefits for the periods he remained dismissed from service, therefore, his departmental appeal was rejected by the competent authority.

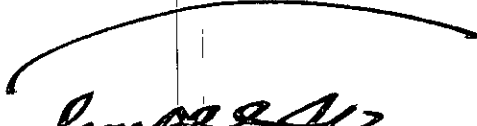
GROUND.

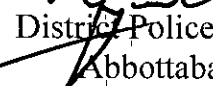
- a. Incorrect, the orders of respondents are quit legal, based on facts and strong evidence. Hence, these are maintainable under the law.
- b. Incorrect, the appellant had committed an offence, therefore, he was proceeded against departmentally on the charges of misconduct, therefore, he was dismissed from service due to his fault, the respondents proceeded under the law and appellant was dealt with as prescribed by the law. Moreover, the appellant was found not entitle for any back benefit.
- c. In reply to this Para it is submitted that the appellant was given benefit of reinstatement in service, by following judgment of this Honorable Tribunal, however, he was not entitled for back benefits, as he was dismissed from service due to his misconduct, and the period he spent out of service cannot be considered as in service period for his back benefits.
- d. Incorrect, the appellant was dismissed from service on quit legal grounds, he was dealt with in accordance with law, fairly, impartially and principles of natural justice, so, the departmental authority exercised their lawful powers and committed no illegality while disposing of application of appellant wherein the claim of appellant for back benefits was rejected.
- e. In reply to this Para it is submitted that the appellant was dealt with in accordance with law and respondents have committed nor illegality, so, the order of departmental authorities are lawful and maintainable, the respondents have complied the judgment of this honorable tribunal, however, the claim of appellant for back benefits was not entertained by the respondents as per law.
- f. Incorrect, the appellant had committed misconduct for which he was dismissed from service, following the judgment of this Honorable Tribunal, de-novo departmental enquiry was conducted and the appellant was reinstated in service however, he was not found eligible for any back benefits. The respondents exercised their lawful powers and passed the orders warranted by law.
- g. Incorrect, it was appellant who indulged in illegal activities and misconduct, against which he had to face criminal proceedings and departmental action, therefore, the appellant cannot hold the respondent for his own offence and misconduct, he was proceeded against under the law.
- h. Legal.

- i. Incorrect, the instant service appeal is devoid of legal force, the appellant is not entitled for any back benefits.

PRAYER.

In view of above, it is most humbly prayed that the instant service appeal does not hold any legal force which may graciously be dismissed with cost.


Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No.1)


District Police Officer,
Abbottabad
(Respondent No.2)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.**

SERVICE APPEAL NO. 940/2018.

Muhammad Iqbal s/o Muhammad Younas r/o Badial, Kothiala, Tehsil and District
Abbottabad, presently constable No.66 posted at Security staff Abbottabad.

..... (Appellant)

VERSUS

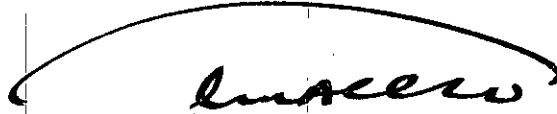
1. Deputy Inspector General of Police Hazara Region, Abbottabad.
2. District Police Officer, Abbottabad.


..... (Respondents)

AFFIDAVIT.

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

Submitted please.


Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No. 1)


District Police Officer,
Abbottabad.
(Respondent No. 2)

616

R M Lh

ORDER

In compliance with the judgment of Honorable Service Tribunal Camp Court at Abbottabad appeal No.539/2012, **Constable Muhammad Iqbal No. 616** was reinstated in service and a De-Novo enquiry was initiated on the allegations that he while posted at Security Staff was found involved in case FIR No. 594 dated 11-08-2010 U/S 379/337-J PPC PS Cantt: Abbottabad.

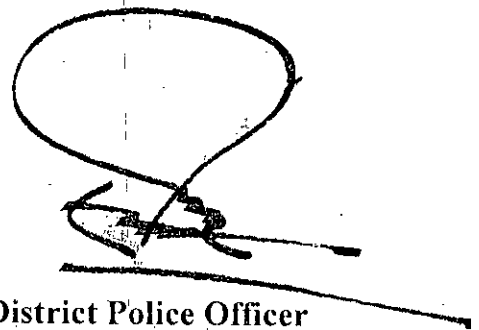
He was issued Charge Sheet along with statement of allegations as per order of Honorable Court **Mr. Abdul Aziz Afridi, SP Investigation Abbottabad** was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations could not be proved. The undersigned agrees with the findings of Enquiry Officer by warning him to remain careful in future.

Order announced.

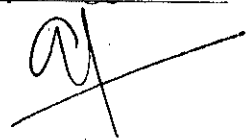
OB No. 70
6-3-18

No. 618-J9PA 5-3-18
CC.

1. Deputy Inspector General of Police Enquiry and Inspections, Khyber Pakhtunkhwa Peshawar (copy of findings report is enclosed for kind perusal) please.
2. Establishment Assistant.
3. Pay Officer, DPO Office Abbottabad.
4. OASI DPO Office alongwith complete Enquiry File containing 51 pages for completion of record.



**District Police Officer
Abbottabad**
Ph No: 0992-9310026
Fx No: 0992-9310025
atdpolice@gmail.com



**District Police Officer
Abbottabad**

