

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

**SERVICE APPEAL NO. 984/2018**

Date of institution ... 04.08.2018

Date of judgment ... 10.04.2019

Kifayat Ullah S/o Sarfaraz Khan Ex-Constable No. 524  
R/o Khojari Babar Tehsil and District Bannu.

... (Appellant)

**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police Establishment Khyber Pakhtunkhwa.
3. Regional Police Officer Bannu.
4. District Police Officer Bannu.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 29.03.2018 WHEREBY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE AND APPELLATE ORDER DATED 11.05.2018 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED AND ORDER DATED 16.07.2018 WHEREBY REVISION UNDER RULE-11-A OF KHYBER PAKHTUNKHWA POLICE RULE 1975 HAS BEEN REJECTED.

Miss. Naila Jan, Advocate.

.. For appellant.

Mr. Usman Ghani, District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Yaqoob Khan, Head Constable 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. He was imposed major penalty of dismissal

from service vide order dated 29.03.2018 on the allegation that he committed gross misconduct by perpetrating the act under section 420/463/468/471/474/193/211/2019 PPC as evident from case vide FIR No. 183 dated 28.04.2016 PS Kakki. The appellant filed departmental appeal (undated) which was rejected on 11.05.2018 thereafter, the appellant filed revision petition undated which was rejected on 16.07.2018 hence, the present service appeal on 04.08.2018.

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

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service by the competent authority on the allegation that on 12.11.2015 the concerned SHO PS Kakki recovered a Kalashnikov from the brother of the appellant namely Hafizullah and FIR No. 236 dated 12.11.2015 under section 15-A.A Police Station Kakki was registered against the said Hafizullah brother of the appellant but the appellant produced one factious license of Kalashnikov in the name of Samiullah brother of the appellant and also posed himself in the court as Samiullah and on the basis of which the case property i.e Kalashnikov was returned to the appellant after furnishing of surety bond endorsed by two witnesses on the basis of which case vide FIR No. 183 dated 28.04.2016 under sections 420/463/468/470/471/474/193/211/2019 police station Kakki was also registered against Samiullah. Later on appellant and other were also involved in the said criminal case. It was further contended that the appellant was having 10 years service in his credit as reveled from the order of departmental authority but the respondent department has not considered the aforesaid service of the

*M. Amin*  
10.4.2019

appellant while dismissing him from service. It was further contended that the appellant was also hon'ble acquitted in the aforesaid criminal case by the competent court vide judgment dated 15.03.2018 while the other absconding accused were acquitted in <sup>absentia</sup> ~~essential~~ in the said judgment available on the record. It was further contended that departmental inquiry was conducted against the appellant but the inquiry officer has not recorded the statement of any witnesses in the inquiry proceeding to prove that the factious/bogus license was produced by appellant or Samiullah, therefore, inquiry proceeding was also not conducted in accordance with law. It was further contended that the appellant belong to poor family and the punishment awarded to the appellant is very harsh and prayed for lenient view.

5. On the other hand, learned District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service after fulfilling all the codal formalities and the inquiry officer also found the appellant guilty therefore, the competent authority has rightly imposed major penalty and prayed for dismissal of appeal.

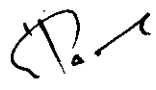
6. Perusal of the record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service by the competent authority on the aforesaid allegation on the basis of which the criminal case vide FIR No. 183 dated 28.04.2016 under sections 420/463/468/470/471/474/193/211/2019 police station Kakki was also registered against Samiullah but later on appellant <sup>and</sup> ~~was~~ others were involved in the said case. The record further reveals that the appellant was acquitted by the competent authority in the aforesaid case vide judgment dated 15.03.2018 while

*M. Amin*  
16.4.2019

the absconding accused were acquitted in absentia in the said judgment. The record further reveals that the appellant was having more than ten years service in his credit at the time of dismissal from service but the competent authority has not taken into consideration the same. Moreover, the appellant also belong to a poor family therefore, penalty imposed by the competent authority appear to be harsh. As such, we partially accept the appeal, modify the impugned order and convert the major penalty of dismissal from service into reduction of pay in three stages for five years. Resultantly the appellant is reinstated in service. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
10.04.2019

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

DFA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 908/2018**

Date of institution ... 22.05.2018

Date of judgment ... 16.10.2019

Mumtaz Mehal, Female Warder, presently attached to Judicial Lock-up  
Nowshera.

... (Appellant)

**VERSUS**

1. The Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar.
2. The Superintendent Circle Head Quarters Prison, Mardan.

... (Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 20.12.2017, whereby the appellant has been awarded the major penalty of "reduction to lowest stage" against which her departmental appeal dated 06.01.2018 has also been rejected vide order dated 02.04.2018 communicated to the appellant on 24.04.2018.

Mr. Yasir Saleem, Advocate.

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

MR. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: Appellant

alongwith her counsel and Mr. Ziaullah, Deputy District Attorney 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 Prison Department. She was imposed major penalty of removal from service on the allegation of absence from duty. After availing departmental remedy she filed service appeal which was partially accepted, the

TS  
BillTemplateBach

**Bach Christian Hospital  
Qalandarabad**

Date: 08 Dec 2017

**Discharge Bill**

Patient No.: 9545  
Name: ASMA  
Father/Husband Name: W/O SALIM  
Address: MNS, MNS.

Admission Date: 04 Dec 2017

Discharge Date: Not Discharged

	Description	Actual Charges	Advance
2017	Advance Deposit		9,500
2017	Advance Deposit		20,000
2017	Register		0
	Lab	750	
	Medicine	1,880	
	Xray	0	
	Ultrasound	0	
	Admission Fees	1,150	
	Room Charges	0	
	Service Charges	3,500	
	Operation	21,933	
		1,780	

Total Advance: 29,500  
Total Charges: 30,993  
Less Refunds: 0  
Less Charity: 8,967  
Refund/Ad.Payment Due: -7,474

Patient/Relative Signature:

Authorized Signature:

SALIM

appellant was reinstated in service and the department was held as liberty to conduct de-novo inquiry proceeding in accordance with law against the appellant vide judgment dated 02.10.2017. The respondent-department again conducted de-novo inquiry and after conducting de-novo inquiry, the appellant was again imposed major penalty of reduction to lower stage up to one year vide order dated 20.12.2017. The appellant filed departmental appeal on 06.01.2018 which was rejected on 02.04.2018 hence, the present service appeal on 22.05.2018.

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

4. Learned counsel for the appellant contended that the appellant was not treated in accordance with law. It was further contended that no proper procedure was followed before awarding major penalty upon the appellant. It was further contended that the appellant was not provided opportunity of personal hearing therefore, she was condemned unheard, therefore, it was

vehemently contended that the impugned order is illegal and liable to be set-aside.

5. On the other hand, Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was imposed major penalty of removal from service on the allegation of absence from duty. It was further contended that after availing departmental remedy, the appellant filed service appeal which was partially accepted, the appellant was reinstated in service and the department was held at liberty to conduct de-novo inquiry. It was further contended that the respondent-department again conducted de-novo inquiry and after fulfilling all the codal formalities the appellant was again imposed major penalty of reduction to lower

*which has rendered the whole proceedings illegal*

14  
~~18~~

CBS

BACH CHRISTIAN HOSPITAL

Miscellaneous Lab Slip

Name: B. Am. Salan  
Ward

MR # 19227  
Bed #

Lab Test	Report	Normal Value
CBC # 241		

Examined By  
Date

7/12/17

07 DEC 17 12:01  
 IO 19227 241  
 MODE (OPEN)  
 SAMPLE TYPE Blood  
 WBC 18.5H 10<sup>3</sup>/uL  
 RBC 4.00 10<sup>6</sup>/uL  
 HGB 14.0 g/dL  
 HCT 41.8 %  
 MCV 105H fL  
 MCH 35.0H pg  
 MCHC 33.5 g/dL  
 PLT 318 10<sup>3</sup>/uL  
 Y 4.5 [27.2 %]  
 MO 1.5H [9.1 %]  
 GR 10.5H [63.7 %]  
 RDWCV 14.4H %  
 RDWSD 60.2H fL  
 PCT 0.24 %  
 MPV 7.6 fL  
 PDW 19.4H %



stage up to one year vide order dated 20.12.2017. It was further contended that the period of reduction to lower stage up to one year has already been expired therefore, it was contended that the appeal in hand has become infructuous and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was imposed major penalty of removal from service on the allegation of absence from duty. The appellant filed service appeal after availing the remedy of departmental appeal. The service appeal of the appellant was partially accepted, the major penalty of removal from service was set-aside, the appellant was reinstated in service however, the respondent-department was held at liberty to conduct de-novo inquiry. The record further reveals that the respondent-department again conducted de-novo inquiry and the appellant has been imposed major penalty of reduction to lower stage up to one year vide order dated 20.12.2017. Admittedly, the punishment/penalty of reduction to lower stage up to one year has already been expired therefore, in our view the appeal has become infructuous hence, stand dismissed being infructuous. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
16.10.2019

(AHMAD HASSAN)  
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

بابت جاب سیکشن (Dec) حکم اذکار شیخ (ملکی) دفتر

Annex A

حاجی عالی

(A)

وہ گزراؤں میں سے ہیں ہسپتال میں

داخل ہوئے ہیں آپریشن کیا گیا ہے

طبیعت خراب ہے سر میں تپت ہر شام

ورنہ آنگو دکھتے جانا۔ لگتا ہرگز

فرماندہ حائل کو آج صبح 07/12/17

کو صبح 08/12/17 کی رضقت بنا پت کر دی

میں نوازش ہوئی۔

الحمد للہ

~~\_\_\_\_\_~~

07/12/2017

آپ کے درخواست پر حکم شام 8/12/17

The application of the applicant is submitted for recommended and I will perform his duty in his absence of go. 024/

07/12/17

Allowed



07/12

10.04.2019

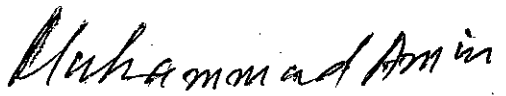
Appellant alongwith counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Yaqoob Khan, Head Constable for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we partially accept the appeal, modify the impugned order and convert the major penalty of dismissal from service into reduction of pay in three stages for five years. Resultantly the appellant is reinstated in service. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
10.04.2019



(MUHAMMAD HAMID MUGHAL)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

05.12.2018

Counsel for the appellant and Addl. AG alongwith Asghar Ali, H.C for the respondents present.

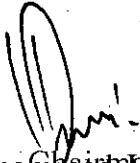
Parawise comments/reply on behalf of respondents No. 1 to 4 received. Learned counsel for appellant requests for adjournment to furnish rejoinder.

Adjourned to 29.01.2019 for hearing before a D.B. The requisite rejoinder shall be submitted within fortnight.

29.01.2019

Counsel for the appellant present. Mr. Muhammad Jan, DDA alongwith Mr. Sajid, H.C for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 14.03.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Hamid Mughal)  
Member

14.03.2019

Appellant alongwith her counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Yaqoob Khan, Head Constable for the respondents present. Arguments heard. To come up for order on 10.04.2019 before D.B.

  
(M. AMIN KHAN KUNDI)  
MEMBER

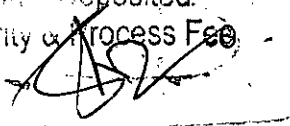
  
(M. HAMID MUGHAL)  
MEMBER

28.08.2018

Learned counsel for the appellant present. Learned counsel for the appellant argued that that disciplinary proceedings were initiated against him and upon conclusion major penalty of dismissal from service was imposed on him vide impugned order dated 29.03.2018. He filed an undated departmental appeal, which was dismissed on 11.05.2018. Thereafter, he filed review petition and the same was rejected on 16.07.2018, hence, the instant service appeal. The appellant has not been treated in accordance with law and rules.

Points urged need consideration. The appeal is admitted for regular hearing subject to limitation and 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 22.10.2018 before S.B.

Appellant Deposited  
Security & Process Fee



  
(Ahmad Hassan)  
Member

22-10-18

*Due to Retirement of Honorable Chairman  
The Tribunal is non functional therefore  
The case is adjourned to come up for the  
same on 14-11-2018*

*Yousuf  
Reddy*

14-11-2018

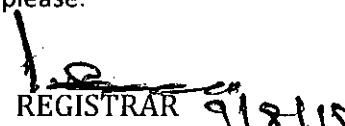

*Due to Retirement of Honorable Chairman  
The Tribunal is non functional therefore  
The case is adjourned to come up for the  
same on 5-12-2018*

*Yousuf  
Reddy*

Form- A  
FORM OF ORDER SHEET

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

Case No. 984/2018

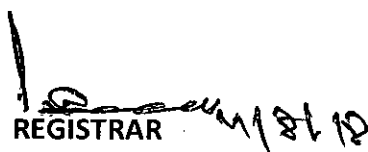
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/08/2018  10-8-2018	The appeal of Mr. Kifayat Ullah resubmitted today by Naila Jan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.   REGISTRAR 9/8/18
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28-8-2018</u> .   CHAIRMAN

The appeal of Mr. Kifayatullah son of Sarfaraz Khan r/o Khojari Babar District Bannu Ex-Constable no 254 received today i.e. on 04.08.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- Annexure-H of the appeal is illegible which may be replaced by legible/better one.
- ✓ 2- Memorandum of appeal may be got signed by the appellant.
- ✓ 3- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1533 /S.T,

Dt. 4/8 /2018.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Naila Jan Adv. Pesh.

*Remove  
all the objection  
Resubmitted  
Naila Jan  
9/8/2018*

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A. 984 /2018

Kifayat Ullah

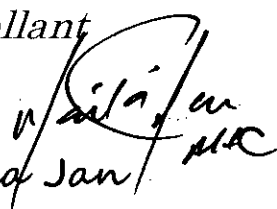
**VERSUS**

The Inspector General of Police Khyber Pakhtunkhwa  
Peshawar and others

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Dated: 04/08//2018

Appellant  
Through   
Naila Jan  
Advocate High Court  
Peshawar.



1

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1726

Dated 04-08-2018

In Re S.A. 984 /2018

Kifayat Ullah S/O Sarfaraz Khan R/O Khojari Babar Tehsil  
and District Bannu Ex-Constable NO.524.

-----*(Appellant)*

**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Police establishment Khyber Pakhtunkhwa.
3. Regional Police Officer Bannu.
4. District Police Officer Bannu.

-----*(Respondents)*

**APPEAL U/S 4 OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT 974 AGAINST THE  
IMPUGNED ORDER DATED 29/03/2018 WHEREBY  
THE APPELLANT WAS AWARDED MAJOR  
PUNISHMENT OF DISMISSAL FROM SERVICE AND  
APPELLATE ORDER DATED 11/05/2018 WHEREBY  
DEPARTMENT APPEAL OF THE APPELLANT WAS  
REJECTED AND ORDER DATED 16/07/2018  
WHEREBY REVISION UNDER RULE 11A OF  
KHYBER PAKHTUNKHWA POLICE RULE 1975 HAS  
BEEN REJECTED**

**PRAYER:**

**ON ACCEPTANCE OF THIS APPEAL THE  
IMPUGNED ORDERS DATED 29/03/2018, ORDER**

Filed to-day  
Registrar

11/8/18  
Re-submitted to-day  
and filed.  
Registrar  
6/8/18

2

DATED 11/05/2018 AND ORDER DATED  
16/07/2018 MAY KINDLY BE SET ASIDE AND  
THE APPELLANT MAY KINDLY BE  
REINSTATED INTO SERVICE WITH ALL BACK  
BENEFITS

Respectfully Sheweth

*The appellant submits as under:-*

1. That the appellant was serving in the Police department as Constable and rendered eleven years service with great zeal, zeast, honesty and to the entire satisfaction of the Respondents.
2. That the appellant had unblemished service record with no adverce entry throughout his service career.
3. That while serving the appellant was malafidely involved in a false case FIR No. 183 dated 28/04/2016 P/S Lakki U/S 420/463/488/471/474 /193/211/209 PPC and consequently the appellant was served with charge sheet along with statement of allegations, which was dully replied by the appellant refutting all the allegations. (Copy of the FIR and charge sheet statement of allegation and reply is annexed as annexure "A, B and C").

4. That a fact finding inquiry was conducted against the appellant in which neither statement of any witness has been recorded nor did opportunity of cross examination has been provided to the appellant even the appellant was not associated with the proceeding but the inquiry officer he inquiry officer without any recommendation submitted his report. (Copy of inquiry report is annexed as annexure "D")
5. That in the meanwhile the appellant was Hon'bly acquitted by the Additional Session Judge V Bannu vide Judgment dated 15/03/2018. (Copy of the judgment is annexed as annexure "E")
6. That the appellant was issued a final show cause notice dated 22/3/2018 which was replied by the appellant and provided copy of the judgment of Additional Session judge. (Copy of the show cause notice and reply are annexed as annexure "F & G")
7. That without going through the judgment in the Criminal case as well as plea of the appellant the appellant was awarded major punishment of dismissal from service vide order dated 29/03/2018 of Respondent NO.4 which was challenge before Respondent No.3 vide

order dated 11/05/2018 rejected the same. (Copy of the original order and Departmental appeal and appellant order are annexed as annexure "H, I & J")

8. That feeling aggrieved from the order of the Respondent No.2 and 3 the appellant filed an appeal/revision under rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 before Respondent No.1 which was rejected by Respondent No.2 vide order dated 16/07/2018 (Copy of the revision petition and order are annexed as annexure "K & L")
9. That feeling aggrieved from the above impugned orders the appellant having no other adequate remedy now filing this appeal on the following grounds inter alia:-

***GROUND:***

- A. That the impugned orders are against law, rules and principle of Natural justice, not tenable in the eye of law are liable to be set aside.
- B. That the appellant has been condemned unheard as the inquiry was conducted at the back of the appellant in a slip shod mod.

- C. That the inquiry officer failed to bring an iota of evidence against the appellant, hence the impugned order are liable to be set aside.
- D. That neither statement of any witnesses including the Magistrate in whose Court the bogus license was presented, were examined by the inquiry officer nor did opportunity of cross examination has been provided which is mandatory under the Police rules 1975.
- E. That even the appellant was not charge in the FIR who was later on charged in the Zimmies on the basis of here say evidence, which have no value in the eye of law.
- F. That the appellant was Hon'bly acquitted by the Court of competent Jurisdiction from the charges then there charge is no more existed in the field against the appellant hence the appellant is entitled for re-instatement.
- G. That the appellant is innocent neither the appellant apply for Superdari nor did provided the bogus license, even the same has not been recovered from my possession so the whole proceedings are the result of malafide and conspiracy, and concocted.

6

- H. That the appellant has not been provided the opportunity of fair Trial which has been guaranteed by Article 10-A of the constitution of Islamic Republic of Pakistan 1973.
- I. That the appellant has not been treated under Article 4 and 25 of the constitution of the Islamic Republic of Pakistan 1973.
- J. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, requested that the appeal may kindly be accepted as prayed for.

Dated: 04/08/2018

Appellant  
Through *Naila Jan* *AKC*  
*Naila Jan*  
Advocate High Court  
Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

*Naila Jan*  
Advocate.

2

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA**  
**SERVICES TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2018

Kifayat Ullah

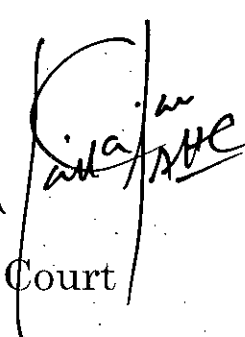
**VERSUS**

The Inspector General of Police Khyber Pakhtunkhwa  
Peshawar and others

**AFFIDAVIT**

I, Kifayat Ullah S/O Sarfaraz Khan R/O Khojari Babar Tehsil and District Bannu Ex-Constable NO.524 , do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

  
**DEPONENT**

Identified By :   
**Naila Jan**  
Advocate High Court  
Peshawar.

**ATTESTED**  
IRFAN ULLAH ADVOCATE  
NOTARY PUBLIC  




**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2018

Kifayat Ullah

**VERSUS**

The Inspector General of Police Khyber Pakhtunkhwa  
Peshawar and others

**ADDRESSES OF PARTIES**

**APPELLANT.**

Kifayat Ullah S/O Sarfaraz Khan R/O Khojari Babar Tehsil  
and District Bannu Ex-Constable NO.524.

**RESPONDENTS:**

1. The Inspector General of Police Khyber  
Pakhtunkhwa Peshawar.
2. The Deputy Inspector General of Police Kohat Region  
Kohat.
3. The District Police Officer District Kohat.

Dated: 04/08/2018

Through

*Appellant*

*Naila Jan*

Advocate High Court  
Peshawar.



# ابتدائی اطلاعی رپورٹ

(فائل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

ضلع بنوں

تکلی

تاریخ و وقت وقوعہ ۱۱/۱۱/۱۸

183 41

تاریخ و وقت رپورٹ	دستوری اوقات جاہلدی 25/11/18
نام و سکونت اطلاع دہندہ و مستغیت	محمد آریں خان SH10 لکی
مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔	۱۲۰-۱۶۳-۱۶۵-۱۶۷-۱۶۸-۱۶۹-۱۷۰-۱۷۱-۱۷۲-۱۷۳-۲۱۱-۲۵۹ PPC لکی
جائے وقوعہ فاصلہ تھانہ سے اور سمت	احاطہ نظامہ
نام و سکونت ملزم	سیخ اللہ خاں ولد سید نیر احمد خان سیکہ قوسری یا نیر
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج DPo صواب ہے S64 27.11.18 مختصری آف انٹر ٹرا آرمز FNO-10.3.16 سے ڈوگس جعلی وصول ہوئے ہیں	
تھانہ سے روانگی کی تاریخ و وقت	بہ سبیل ڈاک

بالم سے ایک صورت ملا ہے جو کہ ابتدائی اطلاع کے درجے میں ہے۔ اس کے ساتھ ساتھ ایک اور صورت بھی ملے گی جو کہ ایک اور شخص کے پاس ہے۔ اس کے ساتھ ساتھ ایک اور صورت بھی ملے گی جو کہ ایک اور شخص کے پاس ہے۔ اس کے ساتھ ساتھ ایک اور صورت بھی ملے گی جو کہ ایک اور شخص کے پاس ہے۔

۶.۱۲.۱۸ کو ایک دفعہ ڈوگس لکے کے پاس سے ایک دفعہ دست 236 کو جس کے ساتھ 158A لکی تمام سیکرے کے متعلق ملے ہیں۔

اللہ خان ولد سید نیر احمد خان سیکہ قوسری یا نیر کا پتہ لاہور میں ہے۔ اس کے ساتھ ساتھ ایک اور صورت بھی ملے گی جو کہ ایک اور شخص کے پاس ہے۔ اس کے ساتھ ساتھ ایک اور صورت بھی ملے گی جو کہ ایک اور شخص کے پاس ہے۔

کاڈر دیا نیر ڈوگس، جعلی جعلی سیکرے کے ساتھ ایک دفعہ دست 236 کو جس کے ساتھ 158A لکی تمام سیکرے کے متعلق ملے ہیں۔

آف انٹر ٹرا آرمز اسلام آباد سے اطلاع آئی ہے کہ ایک دفعہ دست 236 کو جس کے ساتھ 158A لکی تمام سیکرے کے متعلق ملے ہیں۔

اسلام آباد کے ایک شخص نے ایک دفعہ دست 236 کو جس کے ساتھ 158A لکی تمام سیکرے کے متعلق ملے ہیں۔

درجہ اول سیکرے کے ساتھ ایک دفعہ دست 236 کو جس کے ساتھ 158A لکی تمام سیکرے کے متعلق ملے ہیں۔

اسلام آباد کے ایک شخص نے ایک دفعہ دست 236 کو جس کے ساتھ 158A لکی تمام سیکرے کے متعلق ملے ہیں۔

درجہ اول سیکرے کے ساتھ ایک دفعہ دست 236 کو جس کے ساتھ 158A لکی تمام سیکرے کے متعلق ملے ہیں۔


گزارش سے  
SH10/18/18  
28.11.18

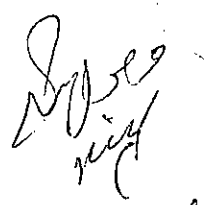
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(25)  
(10) Amteat "B"  
CHARGE SHEET:

I, QASIM ALI KHAN, District Police Officer, Bannu, as competent authority, hereby charge you, Constable Kifayat ullah No. 524 as follows:-

- That you have committed gross misconduct by perpetrating the act under section 420/463/468/471/474/193/211/209 PPC as evident from case vide FIR No. 183 dated 28-04-2016 PS Kakki.
2. By reason of the above you appear to be guilty of misconduct under the police Rules 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.
4. Your written defense, if any, should reach to the Enquiry Officer within the specified period; failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. You are directed to intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.

  
(QASIM ALI KHAN)PSP  
District Police Officer,  
Bannu.

  
13-7-16



(24)

11

Amir B

STATEMENT OF ALLEGATIONS:

I, QASIM ALI KHAN, District Police Officer, Bannu as competent authority, am of the opinion that Constable Kifayat Ullah No. 524 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014).

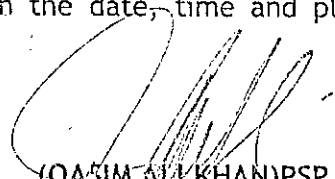
SUMMARY OF ALLEGATIONS:

➤ That he has committed gross misconduct by perpetrating the act under section 420/463/468/471/474/193/211/209 PPC as evident from case vide FIR No. 183 dated 28-04-2016 PS Kakki.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations MR. Falak Naz Khan DSP/Saddar is appointed as Enquiry Officer.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (17 days) after the receipt of this order.

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


  
(QASIM ALI KHAN)PSP  
District Police Officer,  
Bannu No.

No. 139-40SR0

Dt: 11-7-2016

Copies to :-

- 1. The Enquiry Officer
- 2. The Accused Officers/Officials.

  
13-7-16



13 باب 7 میں مسند احمد - مسند احمد - مسند احمد 139-40/82  
جامع منہاج نسیم لکھنؤ، لاہور، 2016ء سال موعظ الہدیٰ - 1

النہج - مسند احمد (النہج) باب 7 - مسند احمد (النہج) باب 7 - مسند احمد (النہج) باب 7  
420-463-468-471 (P) باب 7 میں مسند احمد (النہج) باب 7 - مسند احمد (النہج) باب 7  
474-193-211-209

حاشیہ

مسند احمد (النہج) کی تردید کرتے ہوئے خود بیان، بالخصوص موعظ الہدیٰ

اس میں اس قسم میں لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں  
مذکورہ بالا اور لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں  
اس سے عدالت سے لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں

3 ذیل میں مسند احمد (النہج) میں لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں  
اس میں مسند احمد (النہج) میں لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں

عدالت زنگنه کی نالی لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں

انہی کا حوالہ دیتے ہوئے لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں  
زنگنه کی نالی لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں  
عدالت زنگنه کی نالی لکھی گئی ہے کہ مسند احمد (النہج) اور مسند احمد (النہج) میں

پرنسپل لکھنؤ، لاہور، 2016ء سال موعظ الہدیٰ

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ضلع بنوں

(13)

Amara

از دفتر DSP صدر سرکل

نمبر:- 134/ک مورخہ:- 05/8/16

انکوائری رپورٹ

از ان کنسٹیبل کفایت اللہ نمبر 524 متعینہ حال معطل پولیس لائن بنوں۔

جناب عالی!

بحوالہ مشمولہ چارج شیٹ نمبر SRC/40-139 مورخہ 11.07.2016 تباریہ جناب ڈسٹرکٹ پولیس آفیسر صاحب بنوں معروض خدمت ہوں۔ کہ الزام علیہ کنسٹیبل مقدمہ علت 183 مورخہ 28.04.2016 جرم 28042016 PPC420-463-468-470-471-474-193-211-209 تھانہ لکھی ملزم نامزد ہو کر جسکو معطل کیا جا کر چارج شیٹ کیا گیا۔ اور اس بارے میں جناب ڈسٹرکٹ پولیس آفیسر صاحب نے انکوائری مقرر کر کے جو الزام علیہ کنسٹیبل نے چارج شیٹ کاپی وصول کر کے دوران انکوائری اپنا تحریری بیان پیش کیا۔ جو شامل انکوائری ہے۔ اصل حقائق یوں پائے گئے۔ کہ مورخہ 12.11.2015 کو SHO تھانہ لکھی نے ملزم حفیظ اللہ سے ایک کلاشنکوف برآمد کر کے جسکے خلاف مقدمہ علت 236 مورخہ 12.11.2015 جرم 15AA تھانہ لکھی قائم کیا۔ کلاشنکوف متذکرہ کی نسبت الزام علیہ کنسٹیبل نے عدالت میں ایک جعلی لائسنس پیش کر کے جو کہ سمیع اللہ کے نام پر تھا۔ اور سمیع اللہ الزام علیہ کنسٹیبل کا بھائی اور ہم شکل ہے۔ خود کو سمیع اللہ ظاہر کیا گیا۔ عدالت نے دو ضمانت ناموں کا بھی حکم کر کے مال مقدمہ کی خواہگی کا حکم صادر فرمایا۔ عدالتی آرڈر الزام علیہ کنسٹیبل نے تھانہ لیجا کر خورشاد خالد کو حوالہ کر کے جبکہ دو گواہان نور محمد، بہادر نواز نے بھی تصدیق و بیان کیا۔ کہ الزام علیہ کنسٹیبل سمیع اللہ ہے۔ کلاشنکوف چونکہ FSL پشاور گیا تھا۔ بتایا میگزین، کارتوس درست طور پر حوالہ الزام علیہ کنسٹیبل کفایت اللہ ہوئی۔ جملہ حقائق کا پتہ چل جانے پر مورخہ 08.05.2016 SHO نے بعرض قانونی رائے ایک تفصیلی درخواست لکھی ہے۔ اور DPP رائے کے مطابق الزام علیہ کنسٹیبل کفایت اللہ اور مال مقدمہ خواہگی کے دو گواہان نور محمد، بہادر نواز کو بھی مقدمہ ہذا میں ملزمان نامزد کرنے کا حکم صادر فرمایا گیا۔ اور یوں مورخہ 26.05.2016 جناب SP صاحب انوسٹی گیشن کے حکم کے مطابق DPP کے رائے پر الزام علیہ کنسٹیبل بشمول اسکے ضمانت ناموں کو بھی مقدمہ ہذا میں ملزمان نامزد کیئے ہیں۔ جسکے خلاف حسب ضابطہ کاروائی عمل میں لائی گئی ہے۔ مقدمہ ہذا میں الزام علیہ کنسٹیبل کا بھائی سمیع اللہ ولد سرفراز سکنہ خوجڑی بابر جو کہ بیرون ملک ہے کے خلاف کاروائی روپوشی مکمل ہو کر چالان زیر دفعہ 512 ض ف دیا گیا ہے۔

جناب والا!

الزام علیہ کنسٹیبل تفتیش و انکوائری سے قصور وار پایا جاتا ہے۔ جو کہ معطل ہے۔ اور مقدمہ میں چالان دیا گیا ہے۔ اور ٹرائل کے بعد فیصلہ ہوگا۔ انکوائری رپورٹ، بمراہ مناسب حکم صادر فرما ہے۔

فلک نواز بگٹش

ڈی ایس پی صدر سرکل بنوں

Reinstated  
in suspension  
out some  
engines  
in case

(14)

*Arbab E*

IN THE COURT OF  
ARBAB MUHAMMAD KASHIF  
ADDITIONAL SESSIONS JUDGE-V, BANNU.

Seccession Case No. 94 of 2017

Date of Institution..... 30-11-2017

Date of Decision..... 15-03-2018

State -----Versus ----- Kifayatullah  
S/o Sarfaraz Khan  
R/o Khojari Babar Tehsil & District  
Bannu .....(Accused facing trial)

FIR #183 DATED 28/4/2016  
UNDER SECTIONS 420/463/468/470/471/474/193 PPC  
POLICE STATION KAKKI, BANNU.

JUDGMENT

The accused Kifayatullah faced trial in this court in the above cited case.

2- Concisely facts as per FIR are that on 12/11/2015 at about 09.30 hours, from the house proclaimed offender (PO) Hafiz Khan situated at village Khujari Babar, falling within the jurisdiction of Police Station Kakki, Muhammad Riaz Khan arrested PO Hafiz Khan and from his personal possession recovered one Kalashnikov #IDT 161-03257 with fit and three spare magazines containing 58 rounds of 7.62 bore as such case vide FIR #236 dated 12/11/2015 u/s 15-A.A Police Station Kakki was registered. After registration of case, Samiullah Khan S/o Sarfaraz Khan submitted Cr.MA #258 of 2016 before the court of learned Judicial Magistrate-VI, Bannu and the accused facing trial Kifayatullah who is brother of accused Samiullah allegedly produced license copy #AA99996984940 of the

*Kashif*  
Arbab Muhammad Kashif  
Additional Session Judge - V

ATTESTED  
District & Sessions Judge  
Bannu  
21-3-18

*Kashif*

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Kalashnikov before the court which was accepted and vide order dated 06/4/2016, the Kalashnikov in question was released in favour of Samiullah and license copy so produced was ordered to be verified from concerned quarter. Therefore, vide letter #1326 dated 11/4/2016, the license copy of Kalashnikov was verified from the Ministry of Interior Islamabad whereby the same was declared forged and bogus. Since the accused facing trial has allegedly committed fraud and forgery with court by presenting bogus and fake license in respect of Kalashnikov as such the instant case vide FIR # #183 dated 28/4/2016 u/s 420/463/468/470/471/474/193 PPC Police Station Kakki, Bannu was registered.

3- On completion of investigation, complete challan against accused facing trial Kifayatullah and absconding co-accused Noor Muhammad and Samiullah was submitted before this court.

4- The prosecution produced six (06) witnesses in support of its case against the accused. The resume of the prosecution evidence is as under:

5- PW-1 Muhammad Amin SI stated that he was posted at P.S Kakki at the time of occurrence. His predecessor SHO has taken into possession a Kalashnikov from one accused Hafeezullah and registered a case against him vide case FIR #236 dated 12/11/2015 U/S 15 AA PS Kakki; that one Samiullah submitted *Superdri* application in the court of Judicial Magistrate VI, Bannu on the basis of bogus licensed card wherein Kifayatullah impersonated himself as Samiullah. The constable Kifayatullah brought *Superdari* order.

*Kashif*  
Arbab Muhammad Kashif  
Additional Session Judge - V

*21-3-18*  
District & Sessions Judge  
Bannu

*N. H. Khan*

licensed card alongwith sureties. The sureties identified the person as Samiullah, inspite of the fact that the sureties were well aware that one Samiullah is abroad from the last 6/7 months. He had applied for the verification of license which was received bogus, therefore, in light of report, he sought the opinion of the prosecution branch vide my application Exh.PW-1/1 and accordingly the opinion was given by the learned DPP Bannu who also issued directions to make the persons as accused mentioned in the application Exh.PW-.PW 1/1. He registered case vide FIR #183 dated 28/4/2016 Under sections 420/ 453/ 468/ 470/ 471/ 474/193/2011/209 PPC PS Kakki against the accused. Copy of FIR is Exh.PW-1/2. After completion of inquiry and legal formalities, he handed over the FIR alongwith inquiry papers to the IO for further investigation in the instant case. He submitted complete challan against the accused Noor Muhammad, Samiullah, Bahadur Nawaz, Kifayatullah and also supplementary challan against accused Kifayatullah on 12/6/2016. He also prepared recovery memo Exh.PW1/3, vide which he took into possession license card No.999 96984940 in the name of Samiullah Khan. The memo is correctly signed by him. His statement was also recorded by the IO U/S 161 Cr.P.C.

6- PW-2 Naemullah FC No.53 stated that warrants U/S 204 Cr.P.C issued against accused Noor Muhammad and Bahadur Nawaz (Exh.PW-.2/1 to Exh.PW-.2/2) respectively), were entrusted to him. He went to their village, searched them in their village but they were not available and it was told by people of the Illaqa that they had gone

*Walid*  
Arbab Muhammad Keshtif  
Additional Sessions Judge - V

*Kifayatullah*

ATTESTED  
District & Sessions Judge  
Bannu  
21.3.18



(D)

into hide after commission of offence. So in this respect statements of notables of the Illaqa have been recorded overleaf of the warrants and returned to the court with his reports. There after proclamation notices were also entrusted to me. After fulfillment of codel formalities, he returned one copy each of the same to the court with his reports, which are Exh.PW-.2/3 and Exh.PW-.2/4).

7- PW-3 Murad Ali DFC No.47 stated that warrant u/s 204 Cr.P.C was marked against accused Samiullah. He went to his village, searched him in his village and in the surrounding area but he was not available and it was told by people of Illaqa that he had gone abroad, so in this respect he recorded statement of people of the Illaqa overleaf of the warrant and returned with my report which is Exh.PW-.3/2. Thereafter proclamation U/S 87 Cr.P.C was also handed over to him. After fulfillment of codel formalities, he returned one copy each of the same to the court with his reports, which is Exh.PW-3/3.

8- PW-4 Imran Aslam DSP. stated that a copy of FIR alongwith inquiry papers and the license Card regarding Kalashnikov in the name of Samiullah Khan son of Sarfaraz Khan were handed over to him, which were also taken into possession by the Inquiry officer vide recovery memo Exh.PW1/3. He conducted house of accused Samiullah in the presence of witnesses for arrest of accused but in vain. He prepared the House Search memo Exh.PW4/1. He recorded the statements of the PWs U/S 161 Cr.P.C. As the accused Samiullah was absconding, therefore he initiated proceedings U/S 204/87 Cr.P.C, vide applications Exh.PW-.4/2 and Exh.PW-.4/3. During

*Arbab*  
Arbab Hashim Khan Kashif  
Additional Session Judge - V

ATTESTED  
District & Sessions Judge  
Bannu  
21-3-18

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course of investigation of the instant case, he also sought opinion of DPP in respect of Kifayatullah, Noor Muhammad and Bahadur Nawaz, who are identifiers and sureties of the accused Samiullah on the surety bonds, submitted by accused Samiullah to the SHO for the return of Kalashnikov as to whether the persons mentioned in the application may be made as an accused or not. The application is Exh.PW4/4, vide which the DPP wrote on the said application that the opinion has already been given on 20-5/2016 in respect of the same matter. He recorded statement of Muharir Shah Khalid MHC PS Kakki who stated that the copy in respect of Kalashnikov in question was produced to him by accused Kifayatullah facing trial, whereas the NIC was in the name of accused Samiullah, which is available on file. He initiated proceedings u/s 204/87 Cr.P.C against Kifayatullah, Noor Muhammad, Bahadur Nawaz vide application Exh.PW4/5. In the meanwhile Kifayatullah produced BBA order, therefore, he formally arrested him in the instant case and issued his card of arrest, which is available on file. Proceedings were initiated against accused Noor Muhammad and Bahadur Nawaz U/S 87 Cr.P.C, vide application Exh.PW-4/6. On 20-6-2016 BBA application of the accused Kifayatullah was rejected, therefore, he arrested him in the instant case and issued his card of arrest. He conducted house search of accused Kifayatullah, Noor Muhammad and Bahadur Nawaz vide house search memo is Exh.PW-4/7. All the above documents correctly bear his signatures.

Khalid

Arbab Muhammad Kashif  
Additional Sessions Judge - V

ATTESTED  
Copyist  
District & Sessions Judge  
Bannu  
21-3-18

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9- PW-5 Shah Khalid MHC stated that he was marginal witness to recovery memo, (Exh.PW-1/3), vide which the SHO took into possession one license card No.AA99996984940 in the name of Sami Ullah (Exh.P-1) . The memo is correctly signed by him as marginal witness. The card in question was given to me which he kept the same in Mal Khana and later it was handed over to the IO. His statement u/s 161 Cr.P.C was recorded by the IO.

10- PW-6 Arshadullah SHO stated that he submitted supplementary challan against accused Bahadur Zaman on 13/11/2016 which correctly bears his signature.

11- After conclusion of the prosecution evidence, statement of the accused facing trial was recorded u/s 342 Cr.PC. He denied the allegations leveled against him. However, he neither opted to be examined on oath u/s 340(2) Cr.P.C, nor wished to produce defence evidence.

12- I have heard arguments of learned APP for the state and the learned counsel for the accused facing trial, and gone through the case file.

13- Learned counsel for the accused facing trial argued that the accused facing trial was innocent and has falsely been implicated in the instant case; that the accused facing trial is not directly charged in the FIR; that the accused facing trial has neither submitted *Superdari* application nor forged license of Kalashnikov before the court; that the prosecution story does not appeal to prudent mind; that the statements of PWs are suffering from material contradictions and

*Khalid*  
Arbab Muhammad Kaskas  
Additional Sessions Judge - V

ATTESTED  
District & Sessions Judge  
Bareilly  
21-3-18

discrepancies. He at the end argued that the prosecution has failed to prove its case against the accused facing trial beyond any shadow of doubt and prayed for acquittal of the accused.

14- On the other hand, learned APP for the state argued that the accused facing trial has committed fraud and forgery with court by producing fake and bogus license of Kalashnikov and through cheating obtained Superdari of Kalashnikov; that the statements of PWs are consistent and coherent and there is no glaring contradiction in their statements which may be considered fatal to the prosecution case. He at the end prayed for awarding maximum sentence to the accused facing trial.

15- Allegations against the accused facing trial are that he on the basis of forged license of Kalashnikov submitted an application before the learned Judicial Magistrate Bannu for return of Kalashnikov #56-16103257 on *Superdari* personating himself as Samiullah in whose name the alleged forged license was issued. The learned Judicial Magistrate accepted the *Superdari* application vide order dated 06/4/2016. Later on the alleged produced license copy was found fake and bogus.

16- Perusal of record reveals that the accused facing trial was not directly charged in the FIR rather FIR was lodged against the absconding accused Samiullah who is brother of accused facing trial. The SHO concerned through application Ex.PW1/1 sought opinion of learned District Public Prosecutor, (DPP) Bannu in respect of implication of accused facing trial and sureties Noor Muhammad and

Arbab Muhammad Kamran  
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Bahader Nawaz on 08/5/2016 and on 20/5/2016 it was opined that proceedings be also initiated against the accused facing trial and his sureties. On 06/6/2016, once again the investigating officer sought opinion of learned DPP Bannu whereby it was directed that opinion dated 20/5/2016 may be followed.

17- From perusal of record and statement of PWs it had never been proved by the prosecution that the accused facing trial applied for *Superdari* of Kalashnikoy and produced order of learned Judicial Magistrate Bannu and alleged forged license to the local police. No date and time was mentioned in this respect. The evidence of prosecution witnesses to a great extent is hearsay which is not permissible under the law. Record reveals that complete challan against the accused facing trial was put in court on 09/5/2016 whereas he was nominated/implicated in the instant case after getting opinion from the learned DPP 06/6/2016 which are Ex.PW4/4. Admittedly, the accused facing trial was neither nominated nor implicated before 06/6/2016 and prosecution submitted complete challan on 09/5/2016

which creates dent and serious doubt in prosecution case. It is settled proposition of law that any single infirmity creating reasonable doubt in prosecution case, the accused as a matter of right would be entitled to the benefit of doubt.

18- Another important aspect of the instant case is that the alleged forged license was allegedly produced before the learned Judicial Magistrate Bannu by the accused facing trial for getting Kalashnikov on *Superdari* but record reveals that neither any complaint was made

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Arbab Muhammad Kashif  
Additional Session Judge - V

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by the learned Judicial Magistrate Bannu nor any statement of concerned court official was recorded. FIR could only be lodged in respect of section of law mentioned in the FIR in terms of sec. 195 Cr.PC on the complaint of relevant court for which comprehensive procedure has been provided u/s 476 Cr.PC. Cognizance of offences u/s 193, 209, 211, 463, 471, 486 PPC could only be taken on the complaint of concerned court otherwise no court could take cognizance of the said offence. On this score also proceedings initiated in the instant case are in violation of mandatory law and are *void-ab-initio*. Moreover, till date the case property i.e. alleged license was not produced before the court.

19- It is the prime duty of prosecution to prove its case through independent, trustworthy and confidence inspiring evidence but in the instant case the prosecution has failed to discharge its onus against the accused facing trial beyond any shadow of doubt and a single dent in the prosecution case is sufficient for extending benefit of doubt to the accused facing trial. The accused is not required to bring on record a number of contradictions and dents in the prosecution case and a single reasonable doubt regarding involvement of the accused facing trial may be considered and made basis for the acquittal of accused facing trial.

20- Consequently, the accused facing trial namely Kifayatullah S/o Sarfaraz Khan is acquitted of the charges leveled against him in this case by extending him the benefit of doubt. He is on bail; his bail

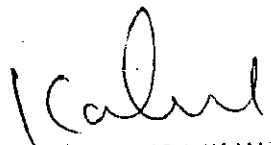
*Kalbi*  
Arbab Muhammad Kadir  
Additional Session Judge

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District Judge  
Bannu  
21.3.18

bonds stand cancelled and his sureties are absolved from the liabilities of bail bonds.

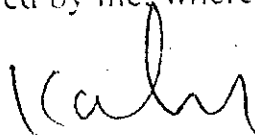
21- So far as case of the absconding co-accused Samiullah S/o Sarafraz, Noor Muhammad and Bahader Nawaz is concerned, as held in para #18 of this judgment that the proceedings in this case are void-ab-initio and the prosecution has filed to prove its case against the accused, therefore, the absconding are also acquitted of the charge in this case their absentia. File be consigned to the record room after completion and compilation.

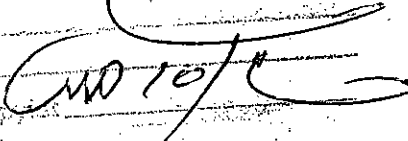
Announced  
15<sup>th</sup> March, 2018

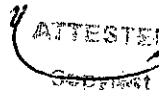
  
(ARBAB MUHAMMAD KASHIF)  
Add: Sessions Judge-V,  
Bannu

CERTIFICATE

Certified that this Judgment consists of ten (10) pages. Each page has been checked, signed, and corrected by me, wherever it was necessary.

  
(ARBAB MUHAMMAD KASHIF)  
Add: Sessions Judge-V,  
Bannu

- 1- Registration No: 1996
- 2- Date of Presentation of Application 21-3-18
- 3- Date of Receipt of the file 21-3-18
- 4- Date of completion of work 21-3-18
- 5- Date of Delivery of copy 21-3-18
- 6- Date of signing of copy 21/3-18
- 7- Ordinary Fee 121/3-18
- 8- Migrated Fee
- 9- Total Fee
- 10- Signature of copyist 

ATTESTED  
  
District & Sessions Judge  
Bannu  
21.3.18

24) Andus F<sup>(4)</sup>

No. 136/SRC

Dated: 22/03/2018

FINAL SHOW CAUSE NOTICE:

I, SADIQ HUSSAIN, District Police officer, Bannu, as competent authority, under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules (As amended vide Khyber Pakhtunkhwa gazette Notification No.27<sup>th</sup> of August 2014) for the following misconduct hereby serve upon you Constable Kifayat Ullah No. 524 this final show cause notice.

- That you Constable Kifayat Ullah No. 524 have committed gross misconduct by perpetrating the act under section 420/463/468/471/474/193/211/209 PPC as evident from case vide FIR No. 183, dated 28.04.2016 PS Kakki.

That consequent upon the completion of enquiry conducted through enquiry officer Mr. Falak Naz Khan DSP Saddar: Bannu for which you were given opportunity of hearing and on going through the findings and recommendations of Enquiry officer, the material on record and other connected papers, I am satisfied that you have committed gross misconduct by proving allegations and you have committed the above commission and omission.

As a result, I, as competent authority, have tentatively decided to impose upon you one or more punishments including dismissal as specified in the rules.

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

If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defence to put in and in that case an exparte action shall be taken against you.

The copy of the findings of the Enquiry Officer is enclosed.

(SADIQ HUSSAIN)PSP  
District Police Officer,  
Bannu.

*(Handwritten signature)*



جواب عداد  
سائلین

حوالہ نمائش شوکار نمبر 136/SPC حورم 22/03/18 حساب DPo صہا بیوں

عروض بیوں

کہ تھانہ لگی میں سیرکھائی خلاف مقدم 183 حورم 28/4/19 etc 19/463  
درج رضیر ہوگا۔ سائل ایک اعدادار، عرض شناس گولیں افرے ہے۔ گورنریا ڈیوٹی ہیئت سید  
اعدادریں لکھی سرعام دی ہے۔ گورنریاں سروں اور ان بالاد کو کسی قسم کی شکایت کا حورم  
ہیں دیا ہے جس کی واقع ثبوت سائل سروں دکھاؤ ہے۔ یکن ہمارے فاعین کی ملی لکھایت  
سے فیے کھی شل مقدم کے صحتی میں ذکر کرنے سیر خلاف کھی مقدم بالہ مقدم درج رضیر کیا حالانکہ  
اس مقدم میں سائل نے تباہ کھا جس پر حساب DPo صہا ہے جو جاری شد کیا گورنریا DSP/  
صہا کو رٹو آفری افرے ہو گیا۔ سائل اس دوران چونکہ گورنریوں کو کئی سائل کی سید سید  
ہوا تھا۔ تو حساب DPo صہا 3 ایک حورری اجازت نامہ گورنریوں کو کئی دیا۔  
سے پر حساب DPo صہا ہے جس کے بارے میں ہے۔  
۴۴ جس کے اور رٹو آفری کا معاملہ ختم ہو جائیگا تب حورنریوں کو اس پر حورری  
نقل کا پی حورم ہے۔

سے پر حساب رٹو آفری افرے DSP صہا ہے تا مفید عدالت رٹو آفری

پید سب لکھا جائے گا کہ صادر فرماویں جو کہ کیں عدالت رٹو آفری سیشن جی ۱۷  
سے زیر مہمات کھا۔ جو کہ عدولت عدالت سے سائل کو مقدم ہوا ہے مابعد طور پر ہری  
کرتے کے اعداداں صادر فرمائے جس کا پی حورم ہے۔

سائل صاحبان صہا بیوں فرما کر سائل کا نمائش شوکار نمبر ۱۷/۱۸ حورنریوں  
کو رہیں ہر جا کا کہ صادر فرماویں۔

سائل نامہ دعا گو ہے گا  
حورم 27/03/18

الفاضل

سائل نمائش اللہ نمبر 524 مقدمہ سیشن ہسٹری بیوں  
گورنریا

26

Amdar H

ORDER

This order of the undersigned will dispose of the departmental proceedings against accused **Constable Kifayat Ullah No. 524** under Police Rule 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27<sup>th</sup> of August 2014) by **issuing charge sheet** and statement of allegation **to him** for committing the following commissions/omissions.

That Constable Kifayat Ullah No. 524 have committed gross misconduct by perpetrating the act under section 420/463/468/471/474/493/211/209 PPC as evident from case vide FIR No. 183, dated 28.04.2018 PS Kakki.

Charge sheet and statement of allegation were issued to him and DSP/ Saddar, Bannu was appointed as Enquiry Officer to scrutinize the conduct of the officer. The Enquiry Officer submitted finding report and reported that the allegations leveled against Constable Kifayat Ullah No. 524 have been proved and the enquiry was kept pending by then DPO Bannu till the decision of the Court, placed on file.


Now, the Learned Court of Addl: Session Judge-V, Bannu has decided the under trial case vide Court order dated 15.03.2018 and the accused constable Kifayat Ullah No. 524 has been acquitted from the charges, placed on file.

Final Show Cause Notice was issued to the accused official. In response of the final show cause Notice, the accused official submitted un-satisfactory reply, placed on file.

He was heard in person in orderly room dated 27.03.2018.

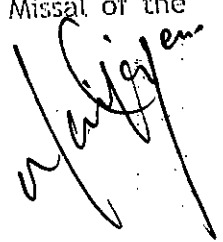
Keeping in view the position explained above, Record perused. In the light of the departmental proceeding, proved allegations against him by E.O and being member of Police Force, his act comes under category of gross misconduct. Hence, I, **SADIQ HUSSAIN, District Police Officer Bannu**, in exercise of the power vested in me under Police Rule 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27<sup>th</sup> of August 2014), he is awarded Major punishment of "Dismissed from Service" with immediate effect.

OB No. 336  
Dated: 27-08 /2018.

  
(SADIQ HUSSAIN) PSP  
District Police Officer,  
Bannu.

No. 3942-46/SRC dated Bannu, the 29/3 /2018.

1. Reader, Pay officer, SRC, OAS: for compliance.
2. Fauji Misal Clerk along with enquiry file for placing it in the Fauji Missal of the concerned official.



27  
خدمت جناب ریجنل پولیس آفیسر صاحب ریجن بنوں  
Amir

عنوان: اپنا برخلاف آرڈر DPO صاحب بنوں نمبر 336 مورخہ 27-03-2018 جس کے ذریعے مجھ کو سروس

سے برخاست کیا گیا۔

جناب عالی!

میں  
مختصر اخالات یوں کہے کہ SHO تھانہ لکی نے ملزم حفیظ اللہ جو مقدمہ PPC-506 میں روپوش تھا کو  
معہ کلاشنکوف گرفتار کر کے مقدمہ علت نمبر 226 مورخہ 12-11-2015 جرم 15AA تھانہ لکی درج کیا گیا۔  
اس مقدمہ کی تفتیش کے دوران مقامی پولیس کو کلاشنکوف کا لائسنس پیش کیا گیا۔ اس لائسنس کی مقامی پولیس نے  
انکوائری کی جو بوگس اور جعلی نکلا۔ مقامی پولیس نے علیحدہ مقدمہ نمبر 183 مورخہ 28-04-2016 جرم  
209-211-193-474-471-470-468-463-420 تھانہ لکی درج کیا گیا اور اس مقدمہ میں سمج اللہ نقوی  
بے نامزد کیا گیا۔

SHO تھانہ نے مجھے بھی اس مقدمہ میں گرفتار کیا۔ حالانکہ میرا کلاشنکوف لائسنس سے کوئی تعلق نہیں تھا اور نہ ہی  
میں نے عدالت میں اس کو پیش کیا۔ مجھے پولیس سروس سے معطل کیا گیا اور بعد میں ضمانت پر عدالت سے رہا ہوا۔

بحوالہ سیشن کیس نمبر 94 سال 2017 بحوالہ آرڈر مورخہ 15-03-2018 کو میں عدالت سے بری ہوا۔  
فیصلہ کی کاپی ہمراہ لف ہے۔ DPO صاحب نے مجھ کو مورخہ 27-03-2018 کو ملازمت سے برخاست کیا۔  
فیصلہ کی کاپی بروقت نہ ملنے پر DPO صاحب کو پیش نہیں کر سکا۔

کلاشنکوف میرے قبضہ سے برآمد نہیں ہوا ہے۔ کلاشنکوف کا لائسنس میرے نام پر نہیں تھا۔ مجھے مقامی پولیس نے  
ناجائز طور پر چالان عدالت کیا گیا۔ جس سے میں بری ہو چکا ہوں۔ میری گیارہ سال سروس ہے۔ مجھے سروس کے  
دوران کوئی سزا نہیں ملی ہے اور اعمال نامہ بالکل صاف ہے۔ اس لئے گزارش ہے کہ مجھے سروس پر بحال کیا جائے۔  
DPO صاحب کے آرڈر کو کالعدم قرار دیا جائے۔ میں ذاتی طور پر بھی عرض و معروض کیلئے پیش ہونا چاہتا ہوں۔

العارض،

کفایت اللہ 524 Constable No. EX

Mob; 0334-8843810

## ORDER

My this order will dispose of departmental appeal, preferred by Ex-Constable Kifayat Ullah No.524 of Bannu District Police, wherein, he has prayed for setting aside the order of major punishment of dismissal from service, imposed upon him by DPO Bannu, vide OB No.336 dated 27.03.2018, for his involvement in criminal case vide FIR No.183 dated 28.04.2017 u/s 420/463/468/471/447/193/211/209PPC PS Kakki.

His service record, inquiry papers and comments, received from DPO Bannu, were perused and it was found that due to involvement in criminal case quoted above, the appellant was placed under suspension and regular departmental proceedings was initiated against him via Mr. Falak Naz Khan, the then DSP/Saddar Circle Bannu. After completion of inquiry, DSP/Saddar Circle Bannu submitted his findings, wherein, the appellant was held guilty of the charges. On the findings of E.O, the then DPO Bannu recorded the remarks "reinstated from suspension. Outcome of inquiry is kept pending till courts order". Resultantly, the appellant was reinstated from suspension, vide OB No.755 dated 19.09.2016 and findings was ordered to be kept pending. On 22.03.2018, the appellant was served with final show cause notice. His reply was found implausible and the competent authority imposed major punishment of dismissal from service upon the appellant.

Aggrieved from the impugned order, the appellant submitted the instant appeal to the undersigned that was sent to DPO Bannu for comments as well as obtaining his service record. DPO Bannu, vide his letter No.4687/EC dated 19.04.2018, submitted para wise comments, wherein, the appeal of the appellant was properly defended on cogent grounds.

During the perusal of his service record, it was found that the appellant has served in Police force for about 10 years & 10 months. During this period, the appellant has earned 03 minor punishments of fines on three different occasions. He has also availed 47 days leave without pay, 60 days earned leave and 04 days medical leave. Inquiry file depicts that the appellant has been awarded opportunity of defense by the Inquiry Officer as well as competent authority but instead, the appellant failed to rebut the allegations. Hence, the competent authority awarded the aforesaid punishment.

The undersigned also provided him opportunity of personal hearing but he failed to substantiate his innocence. Keeping in view the above, I can safely infer from the above that the instant appeal is devoid of merit. Therefore, I, Dar Ali Khan Khattak, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Rule, 11(4) (a) of Khyber Pakhtunkhwa Police Rules, 1975 (amended 2014) hereby reject his appeal and endorse the punishment awarded to him by DPO Bannu.

ORDER ANNOUNCED

No. 1322 /EC, dated Bannu the 11 /05/2018

Copy to the District Police Officer, Bannu for information and n/action w/r to his office letter number quoted above along with the service record containing the inquiry papers of the appellant for record in office which may be acknowledged. The appellant may be informed please.

(DAR ALI KHAN KHATTAK) PSP  
Regional Police Officer,  
Bannu Region, Bannu

(DAR ALI KHAN KHATTAK) PSP  
Regional Police Officer,  
Bannu Region, Bannu

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Amir K

## بخدمت جناب انسپکٹر جنرل اف پولیس KPK پشاور

عنوان: اپیل برخلاف آرڈر DPO صاحب بنوں نمبر 336 مورخہ 27-03-2018 جس کے ذریعے مجھ کو سروس سے

برخواست کیا گیا۔

جناب عالی!

تختصر اخالات یوں ہیں کہ SHO تھانہ لکی نے ملزم حفیظ اللہ جو مقدمہ PPC-506 میں روپوش تھا کو معہ کلاشکوف گرفتار کر کے مقدمہ علت نمبر 226 مورخہ 12-11-2015 جرم 15AA تھانہ لکی درج کیا گیا۔ اس مقدمہ کی تفتیش کے دوران مقامی پولیس کو کلاشکوف کا لائسنس پیش کیا گیا۔ اس لائسنس کی مقامی پولیس نے انکو آری کی جو بوگس اور جعلی نکلا۔ مقامی پولیس نے علیحدہ مقدمہ نمبر 183 مورخہ 28-04-2016 جرم 209-211-193-474-471-470-468-463-420 تھانہ لکی درج کیا گیا اور اس مقدمہ میں سمیع اللہ بھائی نامزد کیا گیا۔

SHO تھانہ نے مجھے بھی اس مقدمہ میں گرفتار کیا۔ حالانکہ میرا کلاشکوف لائسنس سے کوئی تعلق نہیں تھا اور نہ ہی میں نے عدالت میں اس کو پیش کیا۔ مجھے پولیس سروس سے معطل کیا گیا اور بعد میں ضمانت پر عدالت سے رہا ہوا۔

بحوالہ سیشن کیس نمبر 94 سال 2017 بحوالہ آرڈر مورخہ 15-03-2018 عدالت سے بری ہوا۔ فیصلہ کی کاپی ہمراہ لف ہے۔ DPO صاحب نے مجھ کو مورخہ 27-03-2018 کو ملازمت سے برخاست کیا۔ فیصلہ کی کاپی بروقت نہ ملنے پر DPO صاحب کو پیش نہیں کر سکا۔

کلاشکوف میرے قبضہ سے برآمد نہیں ہوا ہے۔ کلاشکوف کا لائسنس میرے نام پر نہیں تھا۔ مجھے مقامی پولیس نے ناجائز طور پر چالان عدالت کیا۔ جس سے میں بری ہو چکا ہوں۔ میری گیارہ سال سروس ہے۔ مجھے سروس کے دوران کوئی سزا نہیں ملی ہے اور اعمال نامہ بالکل صاف ہے۔ اس لئے گزارش ہے کہ مجھے سروس پر بحال کیا جائے۔ DPO صاحب کے آرڈر کو کالعدم قرار دیا جائے۔ میں ذاتی طور پر بھی عرض و معروض کیلئے پیش ہونا چاہتا ہوں۔

العارض،

کفایت اللہ 524 EX Constable No.

Mob; 0334-8843810



*Handwritten mark*

No. S/ 2921 /18, dated Peshawar the 16 /10 /2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Kifayat Ullah No. 524. The petitioner was dismissed from service by DPO Bannu vide OB No. 336, dated 27.03.2018 on the charge that the ex-official has committed gross misconduct by perpetrating the act under section 420/463/468/471/474/193/211/209 PPC as evident from case vide FIR No. 183, dated 28.04.2016 Police Station Kakki.

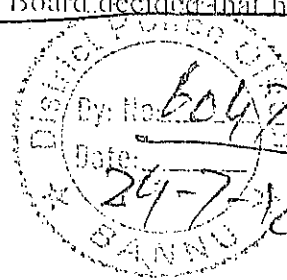
His appeal was rejected by Regional Police Officer Bannu vide order Endst: No. 1322/EC dated 11.05.2018

Meeting of Appellate Board was held on 05.07.2018 wherein petitioner was heard in person. During hearing petitioner contended that he is innocent and he has been acquitted from the charges by the court of Additional Sessions Judge-V, Bannu vide judgment dated 15.03.2018.

Ex-Constable Kifayat Ullah No. 524 was dismissed from service on the charges of involvement in criminal case FIR No. 183, dated 28.04.2016 u/s 420/463/468/471/474/193/211/209 PPC Police Station Kakki vide order dated 27.03.2018 passed by DPO, Bannu and his appeal was rejected by RPO, Bannu vide order dated 11.05.2018.

The acquittal order has been based on benefits of doubt. Therefore, the Board decided that the petition is hereby rejected.

This order is issued with the approval by the Competent Authority.



(IRFAN ULHAH KHAN)  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

No. S/ 2922-28 /18.

Copy of the above is forwarded to the:

1. Regional Police Officer Bannu. Service Roll, Fauji Missal (Containing 148 pages) of the above named Constable received vide your office Memo: No. 3745/13, dated 20.06.2018 is returned herewith for your office record.
2. District Police Officer Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.




No 1906 /EC dt 23/7/18  
DPO/Bannu  
To inform the appellant accordingly  
h/c

*Handwritten signature and initials*

*Handwritten note: S/C For action & inform the appellant accordingly.*

*Handwritten signature and title: District Police Officer*

*Handwritten initials and date: 05/18*

46117			
ایڈووکیٹ: <u>Naila Jan</u>	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر:			
رابطہ نمبر: <u>0312 9215471</u>			

بعدالت جناب: خیبر پختونخواہ سروسز ٹریڈ یونین پشاور

Appellant: <u>نجانب:</u>	Service Appeal: <u>دعویٰ:</u>
<u>Kifayatullah</u>	Appel no. <u>984/18</u> <u>علت نمبر:</u>
بنام	مورخہ:
<u>Police</u>	جرم:
	تھانہ:

**بابت تحریر آگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام Naila Jan and Humaira Peshawar کے لیے پشاور کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 64/58/2018

المواہ شہد

مقام Peshawar کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Naila Jan

Accepted

Accepted

Kifayatullah

Kifayatullah Bar Constable No 529

In Re: SERVICE APPEAL NO: 984/2018

Kifayat Ullah .....v/s.....The I.G.P K.P, Peshawar etc.

I N D E X

<u>S.No.</u>	<u>Particulars</u>	<u>Annexures</u>	<u>Pages</u>
1.	Parawise comments with affidavit	-	1-4
2.	Copy of punishment/FIR	A	5
3.	Allegation/Charge sheet	B	6-7
4.	Photocopy of license	C	
5.	Wakalat Nama	-	

Dated: 05.12.2018



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

**Appeal No.984/2018**

Kifayat Ullah s/o Sarfaraz Khan r/o Khojari Babar Tehsil &

District Bannu, Ex-Constable No.524

..... Appellant

**Versus**

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar,
2. Additional Inspector General of Police Establishment Khyber Pakhtunkhwa,
3. Regional Police Officer, Bannu Region, Bannu.
4. District Police Officer, Bannu

..... Respondents

**PARA WISE COMMENTS/REPLY ON BEHALF OF RESPONDENTS NO.1,2 , 3 & 4.**

Respectfully Sheweth

**Preliminary Objections**

1. That the appeal of the appellant is badly time-barred.
2. That the appeal is not maintainable in its present form.
3. That the appellant has concealed the actual facts from this Honorable Tribunal.
4. That the appeal is bad in law due to mis-joinder and non-joinder of necessary parties.
5. That the appellant has approached the Honourable Tribunal with unclean hands.
6. That the appellant has got no cause of action and locus-standi to file the instant appeal.
7. That the appellant has been estopped by his own conduct.

**OBJECTIONS ON FACTS:**

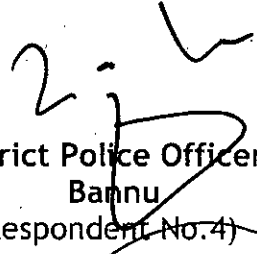
1. Correct to the extent that the appellant was appointed/ enlisted as constable but rest of the para is incorrect. The appellant was a habitual absentee having a colorful service record did not follow the prescribed rule/ law.
2. Incorrect. The appellant is a habitual absentee having blemish service record. He absented himself from Govt. duty for 58 days on different occasions for which he was punished as leave without pay, fined. (Copy of punishment is annexed as annexure "A").
3. Incorrect. The appellant was directly charged in case vide FIR No.183 dated 28.04.2016 u/s 420/463/468/471/474/193/211/209 PPC PS Kakki. He was issued proper charge sheet with summary of allegations. DSP Saddar was appointed as Inquiry Officer. He badly failed to rebut the allegations leveled against him. (Copy annexed as annexure "B").
4. Incorrect. The inquiry officer conducted impartial inquiry against the appellant. After completion of all codal formalities, the appellant was found guilty.
5. Pertains to record, hence needs no comments.
6. Correct to the extent that the appellant was issued final show cause notice but his reply was unsatisfactory.
7. Incorrect. As per rules, the Respondent department is at liberty to conduct parallel inquiry with the judicial proceedings. The orders of Respondents No.3 and 4 are based on facts and according to law.
8. Pertains to record. Hence, needs no comments.
9. The respondent department also submit their reply on the following grounds.


**OBJECTIONS ON GROUNDS**


- A. Incorrect. The impugned orders issued by high ups are quite legal according to law/ rules.
- B. Incorrect. He was treated according to law and rules and was called in orderly room held on 27.03.2018 in light of departmental proceeding, the allegations were proved therefore, awarded punishment of dismissal from service by the competent forum.
- C. Incorrect. The impugned order of dismissal from service was issued after establishment of charges without any shadow of doubt.
- D. Incorrect. The said documents/ license has already been sent to Ministry of Interior for verification which was accordingly verified and found bogus. Furthermore, in such like circumstances there is no need to record statement of the concerned Magistrate. (Photocopy of license is annexed as annexure "C").
- E. Incorrect. The appellant was properly charged in case diary.
- F. Incorrect. As per rules, the Respondent department is at liberty to conduct parallel inquiry as well as judicial proceedings. The orders of Respondent Department based on facts and according to law.
- G. Incorrect. The appellant was charged in case diary by the complainant. The departmental proceedings were conducted by the inquiry officer purely on merit and according to law.
- H. Incorrect. The appellant was provided every opportunity for his self-defense including personal hearing but he badly failed to rebut the allegations.
- I. Incorrect. The appellant has been treated according to law/ rules.
- J. The Respondents department may kindly be allowed to advance any other grounds & material as evidence in time of arguments.

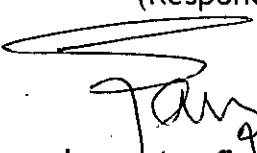
**PRAYER:**

In view of the above replies, it is most humbly prayed that the appeal of the appellant may kindly be dismissed with cost please.

  
District Police Officer,  
Bannu  
(Respondent No.4)

  
Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.3)

  
AIG/Establishment Khyber  
Pakhtunkhwa Peshawar  
(Respondent No.2)

  
Inspector General of Police,  
Pakhtunkhwa Peshawar  
(Respondent No.1)

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

**Appeal No.984/2018**

Kifayat Ullah s/o Sarfaraz Khan r/o Khojari Babar Tehsil &  
District Bannu, Ex-Constable No.524

..... Appellant

**Versus**

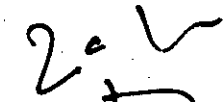
1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar,
2. Additional Inspector General of Police Establishment Khyber Pakhtunkhwa,
3. Regional Police Officer, Bannu Region, Bannu.
4. District Police Officer, Bannu


..... Respondents

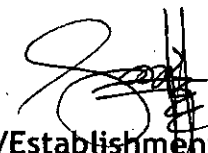
**AUTHORITY LETTER.**

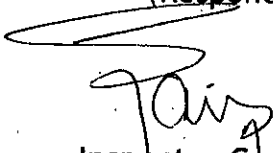
Mr. Muhammad Farooq Khan, Inspector Legal is hereby authorized to appear before The Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited case.

He is authorized to submit and sign all documents pertaining to the present appeal.

  
District Police Officer,  
Bannu  
(Respondent No.4)

  
Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.3)

  
AIG/Establishment Khyber  
Pakhtunkhwa Peshawar  
(Respondent No.2)

  
Inspector General of Police,  
Pakhtunkhwa Peshawar  
(Respondent No.1)

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

**Appeal No.984/2018**

Kifayat Ullah s/o Sarfaraz Khan r/o Khojari Babar Tehsil &

District Bannu, Ex-Constable No.524

.....

**Appellant**

**Versus**

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar,
2. Additional Inspector General of Police Establishment Khyber Pakhtunkhwa,
3. Regional Police Officer, Bannu Region, Bannu.
4. District Police Officer, Bannu

.....

**Respondents**

**AFFIDAVIT**

I, **Muhammad Farooq Khan**, Inspector Legal representative for Respondent Nos. 1, 2, 3 & 4 do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.

  
**DEPONENT**

**11101-1483421-1**




(25)  
(10) Anwar B

CHARGE SHEET:

I, QASIM ALI KHAN, District Police Officer, Bannu, as competent authority, hereby charge you, Constable Kifayat ullah No. 524 as follows:-

1. That you have committed gross misconduct by perpetrating the act under section 420/463/468/471/474/193/211/209 PPC as evident from case vide FIR No. 183 dated 28-04-2016 PS Kakki.
2. By reason of the above you appear to be guilty of misconduct under the police Rules 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.
4. Your written defense, if any, should reach to the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. You are directed to intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.

  
(QASIM ALI KHAN)PSP  
District Police Officer,  
Bannu.

  
13-7-16

(24)

(11)

Amended "B"

STATEMENT OF ALLEGATIONS:

I, QASIM ALI KHAN, District Police Officer, Bannu as competent authority, am of the opinion that Constable Kifayat Ullah No. 524 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014).

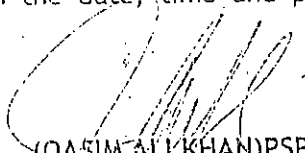
SUMMARY OF ALLEGATIONS:

➤ That he has committed gross misconduct by perpetrating the act under section 420/463/468/471/474/193/211/209 PPC as evident from case vide FIR No. 183 dated 28-04-2016 PS Kakki.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations MR. Falak Naz Khan DSP/Saddar is appointed as Enquiry Officer.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (17 days) after the receipt of this order.


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

  
(QASIM ALI KHAN)PSP  
District Police Officer,  
Bannu No.

No. 139-4dSRC dt. 11-7-2016

Copies to :-

1. The Enquiry Officer
2. The Accused Officers/Officials.

  
15-7-16

13 باب 7/11 - ... اف ... 139-40/32 ... 16/16 ...

الزام - ... 183 ... 28 4/16 ... 420-463-468-471 ... 474-193-211-209

ماتر ... الزام کی تردید کر کے ...

... اس جسم میں ... اور ...

... سے ...

... اور ...

پرنسپل لغات ...



ضلع بنوں

(13)

Amara

از دفتر DSP صدر سرکل

نمبر: 134/ک مورخہ: 05/08/16

انکوائری رپورٹ

ازان کنشیل کفایت اللہ نمبر 524 متعینہ حال معطل پولیس لائن بنوں۔

جناب عالی!

بحوالہ مشمولہ چارج شیٹ نمبر 139-40/SRC مورخہ 11.07.2016 جاریہ جناب ڈسٹرکٹ پولیس آفیسر صاحب بنوں معروض خدمت ہوں۔ کہ الزام علیہ کنشیل مقدمہ علت 183 مورخہ 2016 : 04 : 28 جرم 209-211-193-474-471-468-463-420-PPC تھانہ لکھی ملزم نامزد ہو کر جسکو معطل کیا جا کر چارج شیٹ کیا گیا۔ اور اس بارے میں جناب ڈسٹرکٹ پولیس آفیسر صاحب نے انکوائری مقرر کر کے جو الزام علیہ کنشیل نے چارج شیٹ کا پی وصول کر کے دوران انکوائری اپنا تحریری بیان پیش کیا۔ جو شامل انکوائری ہے۔ اصل حقائق یوں پائے گئے۔ کہ مورخہ 12.11.2015 کو SHO تھانہ لکھی نے ملزم حفیظ اللہ سے ایک کلاشنکوف برآمد کر کے جسکے خلاف مقدمہ علت 236 مورخہ 12.11.2015 جرم 15AA تھانہ لکھی قائم کیا۔ کلاشنکوف متذکرہ کی نسبت الزام علیہ کنشیل نے عدالت میں ایک جعلی لائسنس پیش کر کے جو کہ مسیح اللہ کے نام پر تھا۔ اور مسیح اللہ الزام علیہ کنشیل کا بھائی اور ہم شکل ہے۔ خود کو مسیح اللہ ظاہر کیا گیا۔ عدالت نے دو ضمانت نامہ بھی حکم کر کے مال مقدمہ کی حوالگی کا حکم صادر فرمایا۔ عدالتی آرڈر الزام علیہ کنشیل نے تھانہ لیجا کر خورشاہ خالد کو حوالہ کر کے جبکہ دو گواہان نور محمد، بہادر نواز نے بھی تصدیق و بیان کیا۔ کہ الزام علیہ کنشیل مسیح اللہ ہے۔ کلاشنکوف چونکہ FSL پشاور گیا تھا۔ بقایا میگزین، کارتوس و دست طور پر حوالہ الزام علیہ کنشیل کفایت اللہ ہوئی۔ جملہ حقائق کا پتہ چل جانے پر مورخہ 08.05.2016 SHO نے بعض قانونی رائے ایک تفصیلی درخواست لکھی ہے۔ اور DPP رائے کے مطابق الزام علیہ کنشیل کفایت اللہ اور مال مقدمہ حوالگی کے دو گواہان نور محمد، بہادر نواز کو بھی مقدمہ ہذا میں ملزمان نامزد کرنے کا حکم صادر فرمایا گیا۔ اور یوں مورخہ 26.05.2016 جناب SP صاحب انوشی گیشن کے حکم کے مطابق DPP کے رائے پر الزام علیہ کنشیل بشمول اسکے ضمانت نامہ کو بھی مقدمہ ہذا میں ملزمان نامزد کیئے ہیں۔ جنکے خلاف حسب ضابطہ کاروائی عمل میں لائی گئی ہے۔ مقدمہ ہذا میں الزام علیہ کنشیل کا بھائی مسیح اللہ ولد سر فر از سکند خوجری بابر جو کہ بیرون ملک ہے کے خلاف کاروائی روپوشی مکمل ہو کر چالان زیر دفعہ 512 ض ف دیا گیا ہے۔

جناب والا!

الزام علیہ کنشیل تفتیش و انکوائری سے قصور وار پایا جاتا ہے۔ جو کہ معطل ہے۔ اور مقدمہ میں چالان دیا گیا ہے۔ اور ٹرائل کے بعد

فیصلہ ہوگا۔ انکوائری رپورٹ بمبراد مناسب حکم صادر فرما ہے۔

فلک نواز بگش

ڈی ایس پی صدر سرکل بنوں

reinstated  
in  
out come  
engage  
K.P.  
Commit  
in

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 843 /ST Dated 29-4- / 2019


To

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

Subject: - JUDGMENT IN APPEAL NO. 984/2018 MR. KIFAYAT ULLAH.

I am directed to forward herewith a certified copy of Judgement dated 10.04.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.