

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 196/2018

Date of Institution ... 25.01.2018

Date of Decision ... 11.06.2019

Shabeh-ul-Hassan Ex-Constable R/O village Lodhi Khel, Tehsil and District Hangu.
... (Appellant)

VERSUS

District Police Officer, Hangu and two others. ... (Respondents)

Present.

Mr. Muhammad Yousaf Orakzi,
Advocate. ... For appellant

Mr. Kabirullah Khattak,
Addl. Advocate General ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 25.05.2017 passed by the District Police Officer Hangu, whereby, he was "discharged from service from the date of his suspension i.e. 27.01.2017, with immediate effect". The appellant is also aggrieved of order dated 21.08.2017 and 22.1.2018 through which his departmental appeal and petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975 were respectively rejected.

2. The facts, as noted in the memorandum of appeal, are in terms that the appellant joined Police Department as Constable on 01.03.2007. At the relevant time he was posted in Rescue 15 Hangu when got implicated in offence under



Section 9 © CNSA through FIR No. 90 dated 26.01.2017, reported at Police Station Hangu. The appellant was suspended from service on 27.01.2017 and was issued charge sheet and statement of allegations on 31.01.2017 while the final show cause notice was served upon him on 20.02.2017. After submission of enquiry report against the appellant the impugned order dated 24.05.2017 was passed. The appellant submitted departmental appeal against the impugned order which was rejected and similarly a petition to the Provincial Police Officer/Inspector General of Police Khyber Pakhtunkhwa was also dismissed, hence the appeal in hand.

3. We have heard learned counsel for the appellant, learned Addl. AG on behalf of the respondents and have also gone through the available record.

It was the argument of learned counsel that the appellant was acquitted from the case, registered against him, by a court of competent jurisdiction on 12.05.2017, therefore, the basis of allegations against him became non-existent. He was not to be awarded the impugned penalty in the facts and circumstances of the case. It was further argued that the punishment "discharge from service" was nowhere provided in the Khyber Pakhtunkhwa Police Rules, 1975 under which the departmental proceedings were purportedly undertaken against the appellant. The impugned punishment was liable for setting aside on that score alone.

On the other hand, learned Addl. AG argued that the appellant did not submit a review petition under Rule 11-A of the rules *ibid* and instead preferred a second appeal to the Inspector General of Police which was not competent, hence the appeal in hand was delayed having been submitted on 25.01.2018 against the order in departmental appeal passed on 21.08.2017. It was also the argument of learned Addl. AG that Section 7 of Khyber Pakhtunkhwa Service Tribunal Act,

1974 provided for the powers of this Tribunal, inter-alia, for modification of order passed by departmental authority and in view of such provisions the penalty of "discharge from service" could be modified to appropriate penalty under the rules. It was added that the mentioning of "discharge from service" was only a clerical mistake.

4. Before proceeding further in the matter we consider it appropriate to attend to the argument of learned Addl. AG regarding submission of second appeal by the appellant. The record suggests that on 28.08.2017, the appellant submitted petition to the Inspector General of Police Khyber Pakhtunkhwa, wherein, it was clearly noted that the appellant had not committed any act of misconduct while he stood acquitted from the charge under Section 9(c) CNSA from the court of Addl. Sessions Judge-I, Hangu on 12.05.2017. A request for reinstatement in service was also made in the petition. The petition was treated as appeal under Rule 11-A of the Rules ibid by respondent No. 3 and was decided on 22.01.2018. It is, therefore, held that the appeal in hand is competent requiring decision on merits.

5. Adverting to the merits of the case of appellant, it shall be useful to reproduce hereunder the allegations levelled against him in the charge sheet as well as statement of allegations dated 31.01.2017:-

"You are directly charged/arrested in case FIR No. 90 dated 26.01.2017 u/s 9©CNSA, P.S City Hangu. Being a police official your this act is bad name for Police department which shows your negligence, disinterest and also amounts to great gross misconduct on your part."

The allegations clearly suggest that the basis of departmental proceedings was involvement/arrest of appellant in case FIR No. 90 dated 26.01.2017. Examining the impugned order dated 24.05.2017 in juxtaposition to the allegations, it becomes sufficiently comprehensible that the penalty awarded to the appellant was

solely on account of criminal case against him. It is also an undeniable fact that the appellant, in his departmental appeal dated 16.06.2017, had clearly submitted that he stood acquitted from the criminal charge by a court of competent jurisdiction. This fact was, however, not attended by the Regional Police Officer, Kohat/departamental appellate authority. Similarly, the ground of his acquittal was duly taken in his petition before respondent No. 3 under Section 11-A of Rules ibid which was dealt with in the order passed on 22.01.2018, in the following terms:-

"Perusal of record revealed that petitioner was discharged from service on the allegation of involvement in criminal case FIR No. 90, dated 26.01.2017 u/s 9 (c) CNSA, Police Station City, Hangu. He was acquitted from the charges u/s 265-K Cr.P.C by the court of Addl. Sessions Judge-I, Hangu vide judgment dated 12.05.2017.

Petitioner service dossier contains 22 bad entries. He was involved in narcotics case and he has admitted his involvement during departmental proceedings. Therefore, acquittal from criminal charge is no ground for absolving from departmental charge. Therefore, the Board decided that his petition is hereby rejected."

It is clear from the entire record that the substratum of allegations and departmental proceedings against the appellant was no more in existence at the time of recording of impugned order dated 24.05.2017. Pertinently, the fact of acquittal of appellant was brought into the notice of respondents firstly through departmental appeal preferred on 16.06.2017 and secondly, through petition before respondent No. 3 on 28.08.2017. We are of the view that the acquittal of appellant warranted the consideration that he had committed no offence because the competent criminal court had cleared him from accusation or charge of crime. Reliance is placed on 1998-SCMR-1993.



6. We consider it worth-noting that the rejection of petition of appellant under Rule 11-A of the Rules ibid was also on the count of previous bad entries in the dossier of appellant. The said ground was not available to the respondents while proceeding against the appellant as his previous omissions could not be made the justification for subsequent penalty. Attending to the other ground prevailing with the respondent No. 3 in terms of admission of involvement of appellant in the criminal case during departmental proceedings, it is sufficient to note that there was no such admission on the part of appellant in the entire record. We have been provided a copy of statement of appellant wherein, during cross examination by the enquiry officer, it was admitted that the narcotics were recovered from his possession, however, in response to another question it was duly stated that the appellant was not in the knowledge of contents of the bag containing narcotics which was handed over to him by one Nishat Ali for delivering the same to Mir Akbar. In the said context, we are of the view that the statement/cross-examination of the appellant was to be read and interpreted as a whole and not in piecemeal. In the part of statement, tagged as admission by the respondents, the appellant had clearly indicated his lack of knowledge regarding the possession of narcotics.

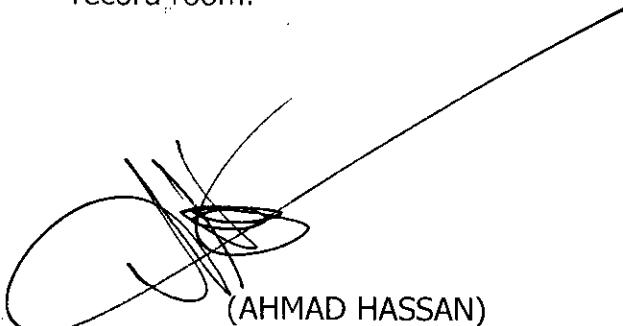
7. The argument of learned counsel for the appellant regarding misapplication of law/rules to the case of appellant also has much force. The Khyber Pakhtunkhwa Police Rules, 1975 provide for punishment to be awarded to an official in case of misconduct. Rule 4 specifies both minor and major punishments wherein "discharge from service" finds no mention. On the other hand, under the Police Rules 1934 an official can be discharged from service, while still on probation, on account of reasons provided therein.



8. The record is also suggestive of the fact that, on 20.02.2017, the enquiry against the appellant was entrusted to Mr. Umar Hayat DSP H.Qs while in the final show cause notice of even date it was noted that Mr. Zulfiqar Ahmad Tanoli, S.P Investigation, Hangu was appointed as enquiry officer who submitted his findings on 16.03.2017, in which the appellant was held guilty. The vital discrepancy between the date of final show cause notice and of submission of enquiry report also speaks volumes about the slackness in proceedings against the appellant.

9. For what has been discussed above, we allow the appeal in hand. Impugned orders dated 24.05.2017, 21.08.2017 and 22.1.2018 passed by respondents are hereby set aside and the appellant is reinstated in service. The period he remained out of service shall be treated as leave of the kind due.

Parties are left to bear their respective costs. File be consigned to the record room.



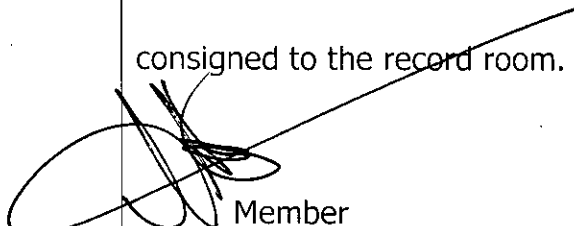

(AHMAD HASSAN)
MEMBER



(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
11.06.2019

196/2018

S.No.	Date of order/ proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	11.06.2019	<p><u>Present.</u></p> <p>Mr. Muhammad Yousaf Orakzai, ... For appellant Advocate</p> <p>Mr. Kabirullah Khattak, ... For respondents Addl. Advocate General</p> <p>Vide detailed judgment, we allow the appeal in hand. Impugned orders dated 24.05.2017, 21.08.2017 and 22.1.2018 passed by respondents are hereby set aside and the appellant is reinstated in service. The period he remained out of service shall be treated as leave of the kind due.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <p> Member</p> <p> Chairman</p> <p><u>ANNOUNCED</u> 11.06.2019</p>

25.03.2019


None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zahid-ur-Rehman, Inspector (Legal) for the respondents present. Notice be issued to appellant for attendance and arguments for 11.06.2019 before D.B.

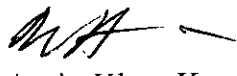

(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

09.10.2018

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant submitted rejoinder which is placed on file. Case to come up for arguments on 23.11.2018 before D.B.


(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

23.11.2018

Counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present.


Former requests for adjournment as he is over occupied today in different courts. Adjourned to 21.01.2019 for arguments before D.B.


Member


Chairman

21.01.2019

Appellant in person present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today due to strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 25.03.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Service Appeal No. 196/2018

02.05.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zahid-ur-Rehman, Inspector (legal) for the respondents present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 25.06.2018.


Reader


25.06.2018

Appellant Mr. Shahab Ul Hassan in person present. Mr. Muhammad Jan, DDA alongwith Zahid Ur Rehman Inspector for the respondents present. Written reply submitted on behalf of respondents which are placed on file. To come for rejoinder, if any and arguments on 15.08.2018 before D.B.


Chairman

15.08.2018

Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present: Due to general strike of the bar, the case is adjourned. To come up on 09.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

26.02.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that he was charged in FIR no. 90 dated 16.01.2017 under Section-9 (CNSA) P.S Hangu and was placed under suspension. Disciplinary proceedings were initiated and upon conclusion penalty of discharge from service w.e.f 27.01.2017 was imposed on him. He filed departmental appeal on 16.06.2017 which was rejected on 21.08.2017. Thereafter he filed review petition before IGP, Khyber Pakhtunkhwa on 28.08.2017 which was rejected on 22.01.2018, hence, the instant service appeal. Learned counsel for the appellant further argued that he was acquitted by the Addl: Sessions and District Judge, Hangu vide judgment dated 12.05.2017. Learned counsel for the appellant when confronted on the point of limitation/successive departmental appeals was unable to give a satisfactory reply. He has not been treated according to law and rules. Present appeal is time barred.


Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit subject to limitation. Appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 16.04.2018 before S.B.


(AHMAD HASSAN)
MEMBER

16.04.2018



Counsel for the appellant and Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 02.05.2018 before S.B.


Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 196/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12/02/2018	<p>The appeal of Mr. Shabeh-ul-Hassan resubmitted today by Mr. Muhammad Younas Orakzai Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	13/02/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/02/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Shabeh ul Hassan Ex-Constable r/o village Lodhi Khel Hango received today i.e. on 25.01.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- ① Annexure-B of the appeal is illegible which may be replaced by legible/better one.
- 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of second departmental appeal mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 200 /S.T,

Dt. 26/01 /2018


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M. Yousaf Orakzai Adv. Pesh..

Resubmitted after necessary addition


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

Appeal no. 145/2018

Shabeh ul Hassan

Versus

DPO Hangu and Others

INDEX

S#	Description of the Documents	Annex	Pages
1	Grounds		01-04
2	Affidavit		05
3	Addresses of the parties		06
4	Copy of FIR No.90/2017 P.S. Hangu	"A"	07
5	Charge Sheet/Statement of Allegations and reply thereto	"B" & "C"	08-10
6	Final Show Cause Notice and reply thereto	"D" & "E"	11-12
7	Enquiry Report	"F"	13-14
8	Copy of acquittal order of ASJ-I Hangu	"G"	15-18
9	Copy of discharge order	"H"	19
10	Copies of 1 st departmental appeal Dt: 16-06-2017 and appeal rejection order dated 08-08-2017	"I" & "J"	20-21
11	Copies of 2 nd departmental appeal Dt: 28-08-2017 and appeal rejection order 22-01-2018	"K" & "L"	22-23
12	Wakalatnama		24
Total Pages			(24)

Shabeh
Shabeh ul Hassan (Appellant)

Through

MU
Mohammad Yousaf Orakzai

GA
Ghulam Ali Bangash

Advocates

Office: FF 8, 5th Floor Bilour Plaza,
Saddar Road Peshawar Cantt
0301-8808685

①

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 196/2018

Shabeh ul Hassan Ex-Constable
R/O Village Lodhi Khel, Tehsil & District Hangu

----- Appellant

Khyber Pakhtunkhwa
Service Tribunal

Versus

Diary No. 142

Dated 25-1-2018

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

----- Respondents

**SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974; AGAINST THE ORDER
DATED 25-05-2017 OF RESPONDENT NO.1, WHEREIN THE
APPELLANT WAS DISCHARGED FROM SERVICE.**

PRAYER-IN-APPEAL:

By accepting this appeal, the impugned order of the Respondent No.1 may graciously be set-aside and the appellant may kindly be re-instated in his service with all back benefits alongwith grant of any other remedy deemed fit by this Hon'ble Tribunal.

Filed to-day

Registrar

25/1/18
Respectively Sheweth:

Facts leading the institution of the instant appeal are;

BRIEF FACTS:

- a) That the appellant has joined Police Department as Constable on 01-03-2007 and served in Police department for ten years and remained posted at different points/posts of Police Stations of District Hangu during the days of militancy, when the militancy was in peak and an urgent action was required to cope with, moreso, where no one was ready and willing to serve but despite such unsecured and havoc situation the appellant worked there for his department and state.

- b) That the appellant was charged and shown arrested in case FIR No. 90 dated 26-01-2017 U/S 9 (c) CNSA P.S. Hangu. Due to the said false case the appellant was suspended from service on 27-01-2017.

(The copy of FIR is annexed as "A")

Re-submitted to -day
and filed.
Registrar
12/2/18
Rasool Hangu

- c) That the appellant was issued charge sheet together with statement of allegations on 31-01-2017, on the basis of allegation that he was directly charged in the aforementioned criminal case to which he replied.

(The copies of Charge Sheet/Statement of Allegations and reply thereto are annexed as "B" & "C")

- d) That on 20-03-2017, the appellant was served with Final Show Cause Notice to which he replied on 27-03-2017.

(The copies of Final Show Cause Notice and reply thereto are annexed as "D" & "E")

- e) That on 10-03-2017, the Enquiry Officer Mr. Zulfiqar Ahmad Tanoli submitted enquiry report against the appellant vide his office No.440/SDPO.

(The copy of Enquiry Report is annexed as "F")

- f) That on 12-05-2017, the learned Additional Sessions Judge-I, Hangu honourably acquitted the appellant from the charges leveled against him U/S 265-K CrPC due to insufficient and weak evidence.

(The copy of Acquittal Order is annexed as "G")

- g) That on 24-05-2017 Respondent No.1 (DPO Hangu) without heading to the law and rules, awarded major punishment of discharged from service to the appellant vide OB No. 312.

(The copy of Discharge Order is annexed as "H")

- h) That on 16-06-2017, the appellant filed a departmental appeal against the impugned order of Respondent No.1 vide OB No.312 dated 24-05-2017 to the Respondent No.2, which was rejected on 08-08-2017.

(The copies of 1st appeal and appeal's dismissal order are annexed as "I" & "J")

- i) That thereafter the appellant filed second appeal before the Respondent No.3 (IGP) on 28-08-2017 which was also turned down by respondent No.3 on 22-01-2018.

(The copies of 2nd appeal and appeal's dismissal order are annexed as "K" & "L")

4 GROUNDS:

1. That the appellant served Police Department for 10 years especially from 2006 to 2010 when militancy was in its peak due to which most of the employees of District Police Hangu left their jobs while the appellant remained posted on hard, hilly and Taliban occupied areas.

2. That the appellant during his entire service always devoted to his official work and department and not a single complaint is available on the service record of the appellant, which shows that he has no nexus with any sort of illegal activities of whatsoever nature it may be.

3. That the appellant is innocent and did not involve in the said occurrence that's why he was honourably acquitted in the criminal case U/S 265-K CrPC as the prosecution had nothing against the appellant rather bare allegations, which has been acknowledged by the competent court in annexure "B".

4. That the impugned order of Respondent No.1 is unlawful which is controversial to the Constitution, law and rules as the appellant was discharged from service on the basis of allegation of having contraband "Charas" in which the appellant has honourably acquitted from the trial court U/S 265-K CrPC.

5. That the appellant has a fundamental right under Article 10-A of the Constitution of Pakistan to fair trial and due process of law, which has been deflowered by Respondent No.1 as no personal hearing of any nature whatsoever before the discharge order which has been declared mandatory by law and rules.

6. That the appellant being the citizen of Pakistan has inalienable right to be treated in accordance with law under Article 4 of the Constitution of Pakistan and equal protection under Article 25 of the Constitution which has been deflowered by the respondents.

7. That the entire act, action and the impugned order of the respondents were passed against the principle of natural justice and fair trial but found biased.

- 8. That the act of the inquiry officer and Respondent No.1 is based on mala fide and ulterior motive which has been cleared in para "4".
- 9. That no opportunity of cross-examination has been afforded to the appellant during departmental inquiry proceedings.
- 10. That the entire act, action and the impugned order of the respondent were passed against the principle of natural justice and fair trial but found biased.
- 11. That the allegations leveled against the appellant are false, fabricated and concocted and no evidence whatsoever is available with the respondents.

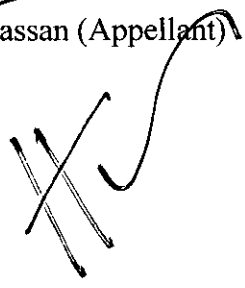
PRAYER:

It is, therefore, most humbly prayed that on acceptance of this service appeal, the Hon'ble Bench may graciously be pleased to declare the impugned order of Respondent No.1 as void-ab-initio and the appellant may kindly be re-instate in service with all back benefits alongwith grant of any other remedy deemed fit by this Hon'ble Bench.

Shabeh

Shabeh ul Hassan (Appellant)

Through



1. Mohammad Yousaf Orakzai



2. Ghulam Ali Bangash
Advocates

Dated: 12-02-2018

NOTE:

- Appeal in hand is 1st one on the subject issue before the competent authority.

5

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

Shabeh ul Hassan

Versus

DPO Hangu & Others.

AFFIDAVIT

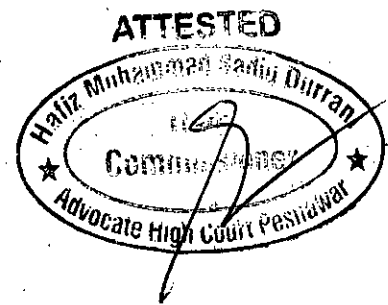
I, Shabeh ul Hassan Ex-Constable Belt No.819 R/O Village Lodhi Khel, Tehsil and District Hangu do hereby solemnly affirm and declare on oath that contents of the accompanying service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Shabeh
DEPONENT

Identified

~~Mohammad Yousaf Orakzai
Advocate~~

25 JAN 2018



6

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

Shabeh ul Hassan

Versus

DPO Hangu & Others.

ADDRESSES OF THE PARTIES

Address of the appellant:

Shabeh ul Hassan Ex-Constable Belt No.819

R/O Village Lodhi Khel, Tehsil & District Hangu.

Addresses of the Respondents:

1. Inspector General Police, KPK, Central Police Office, Peshawar.
2. Deputy Inspector General of Police, Kohat Region, Kohat.
3. District Police Officer, Hangu.

Shabeh

Shabeh ul Hassan (Appellant)

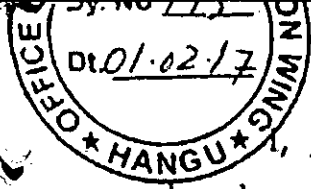
Through

Mohammad Yousaf Orakzai

Mohammad Yousaf Orakzai

Ghulam Ali Bangash

Ghulam Ali Bangash
Advocates



CHARGE SHEET

'B' (8)

Mr. **IHSAN ULLAH KHAN, D.P.O. HANGU** as competent authority, hereby charge you Constable Shabiyul Hassan No. 819 while posted at Rescue-15 Hangu committed the following irregularities:-

You are directly charged/arrested in case FIR No. 90 dated 26.01.2017 u/s 9 (c) CNSA, PS City Hangu. Being a Police official your this act is bad name for Police department which shows your negligence, disinterest and also amounts to great gross misconduct on your part.

2. By reasons of the above, 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 above rules.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.
4. Your written defence, if any, should reach to the Enquiry Officer/Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.

**DISTRICT POLICE OFFICER,
HANGU**

No. 647 /PA,

Dated 31/01/2017.

To be done

9

DISCIPLINARY ACTION.

I, Mr. IHSAN ULLAH KHAN, D.P.O. HANGU as competent authority, am of the opinion that Constable Shabi ul Hassan No. 819 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975:

STATEMENT OF ALLEGATIONS.

You are directly charged/arrested in case FIR No. 90 dated 26.01.2017 u/s 9 (c) CNSA, PS City Hangu. Being a Police official your this act is bad name for Police department which shows your negligence, disinterest and also amounts to great gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

i. Zulfiqar Ahmad Tanoli S.P Investigation Hangu.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

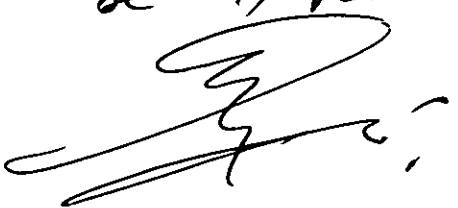
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


**DISTRICT POLICE OFFICER,
HANGU**

A copy of the above is forwarded to: -

1. Zulfiqar Ahmad Tanoli S.P Investigation Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.

2. Constable Shabi ul Hassan No. 819. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

To be done


Atty

جناب عالی

حوالہ خارج شدہ PA/1315 مورخہ 27/03/17 قاریم دستر DPO صاحب کو

معرضہ فرمائیں کہ حوالہ FIR نمبر 90 مورخہ 26/07/17 جس کا NSA (C) 9 کا نام ہے جس میں سائل کے حوالہ کے عائد کیا ہے۔ سہ ماہی غلط اور جھوٹا ہے۔
اس میں 26/07/17 کو لکھنؤ پولیس کے گورنر جنرل نے خود سے ہنگو
میں آ رہا تھا۔ کہ اس میں ایسا کوئی سائل آ رہا ہے کہ جانے کی اطلاع
ہوئی ہے اس کے ساتھ ساتھ بھارتی پولیس کے پاس بھی روانہ ہوئی۔ اس میں
پولیس نے بڑی اور شخص مذکورہ سے گفتگو کر کے برادر کے من سائل کو بھی
شخص مذکورہ کی اس کے ساتھ ساتھ FIR کو بھی۔ جو عدالت سے ضمانت
حاصل کر کے ناٹال صدر وزیر سامنے ہے۔

عالی جاہ:

سائل سال 2007ء کو بھی شدہ ہے۔ پولیس کی فوری خدمت
ملنے کے لیے سہ ماہی کے سرانجام دینا چاہیے اور اس کے
حوالہ خارج شدہ میں عائد کردہ الزامات سے بڑی ذمہ داروں کے
سائل کے سبب کو تیار کیا جوسے چاہیں

Keep pending till the further

مخبرہ 27/03/17

الصارفی

DPO (H)

27-3-17

To be done by the concerned authorities

[Signature]

DPO (H)

Shabih

Rs. [Signature] 27/3

(11) 0 D

FINAL SHOW CAUSE NOTICE

WHEREAS, you Constable Sh. beeh-ul-Hassan No. 819 who is posted at Rescue-15 Hangu proceeded against departmentally on the basis of allegations that you are directly charged arrested in case FIR No. 10 dated 26.01.2017 u/s 9 (c) CNSA, PS City Hangu. Being a Police official your this act is bad name for Police department which shows your negligence, disloyalty and also amounts to great gross misconduct on your part.

Therefore, you were served with Charge Sheet together with statement of allegations under Police Disciplinary Rules 1975 vide charge No. 647 PA, dated 31.01.2017 to which you submitted your reply. Mr. Zulfiqar Ahmad Tanoli, SP Inv: Hangu was appointed as Enquiry Officer to conduct departmental enquiry against you. After completion of enquiry, the enquiry officer submitted his findings on 16.03.2017 in which held you guilty from the charges leveled against him and recommended you for Major Punishment.

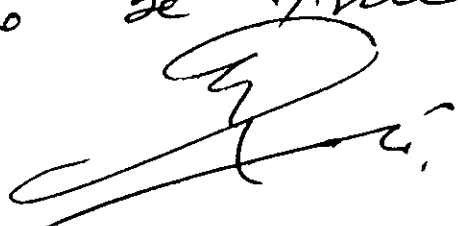
Now, therefore, I, IHSAN ULLAH KHAN, District Police Officer, Hangu have vested the power under Police Disciplinary Rules, 1975 liable to take action against you, which will render you.

Your reply to this Final Show Cause Notice must reach to the office of the undersigned within **7 days** of the receipt of Final Show Cause Notice. In case your reply is not received within the stipulated period, it shall be presumed that you have no defence and ex-parte action will be taken against you. Also state, whether you desire to be heard in person?

No. 1315 /PA,

Dt: 20/02/2017.


**DISTRICT POLICE OFFICER,
HANGU**

To be true


پورہ کنشیل کا یہ فعل نہ صرف خلاف قانون بلکہ محکمہ پولیس کے لئے بھی بدنامی کا باعث ہے۔ اس لئے مستقبل میں بھی مذکورہ کنشیل کو کھینچنے سے خالی نہیں۔ کیونکہ مذکورہ کنشیل اپنے ذاتی لالچ اور مفاد کما طر تمام فورس کو بدنام کر چکا ہے۔ اس سے ثابت ہوتا ہے کہ مذکورہ کنشیل بس اس لئے مذکور کنشیل کیلئے Major Punishment کی سفارش کی جاتی ہے۔

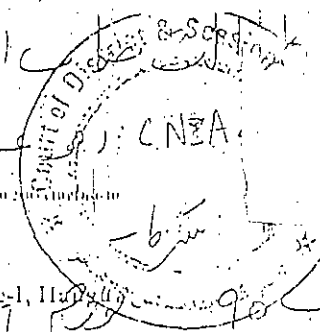
1

سب ڈویژنل پولیس آفیسر

To be done
Ravi

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Contd. 12.05.17
15
"G"



FORM "A"
FORM OF ORDER SHEET

In the Court of Amjad Zia Siddique, Additional Sessions Judge-I, Haryana
Case No. 9/NSA/CO/26-1-17

Serial No. of Order Proceedings: 03
Date of Order or Proceedings: 12.05.2017

Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.

Accused present on bail alongwith their counsel, APP for the State also present, PW Bher Zaiman examined. Application u/s 265-K Cr.Pc. submitted. Arguments heard and record perused.

During arguments learned defense counsel contended that accused Shabih-ul-Hassan is charged for possessing and transporting 02 Kg chars; however, there are major contradictions in between statement of seizing officer and FSL report, which sufficiently makes recovery in question highly doubtful. Therefore, there is no such possibility of conviction of accused facing trial in the present case, even if further evidence is recorded.

Learned APP for the State contended that there are no contradictions in between statement of seizing officer and expert report regarding case property. Therefore, present application is liable to be dismissed.

Record shows that in the present case, prosecution has challaned two persons; however, neither any recovery was affected from possession of accused Mir Akbar nor he was present on spot at the time of alleged recovery. Apart from this, contents of recovery memo Ex PW 1/1 and Murasila Ex PW 1/2 shows that at the relevant time, seizing officer recovered two packets of 1000/1000 grams from the possession of accused Shabih-ul-Hassan, which were neither concealed in any secret cavity of motorcycle in question nor anywhere else. Thus, it is not appealing to a prudent mind as to how the accused was allegedly transporting chars in question so openly. Apart from this, during evidence, PW-1

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To be True

Cont:
12.05.2017

disclosed that char was of yellow in color; however, when the parcel was de-sealed before this Court, it was of brown color and in powder form. This also contradicts the FSL report, wherein it is mentioned that the char, which was referred to FSL was "brown solid." This sufficiently establishes that neither any char was recovered from the possession of accused Shabih-ul-Hassan nor it was ever send to FSL.

Thus, in the prevailing circumstances, there are no such possibilities of conviction of accused facing trial in the present case, even if further evidence is recorded. Accordingly, on acceptance of present application, accused facing trial stands acquitted u/s 265-K Cr.P.C. Their sureties relieved from liabilities of bail bonds. Motorcycle be returned to its lawful owner, while remaining case property be destroyed after expiry of period of appeal. File be consigned to Record Room after its completion.

Announced.
12.05.2017.

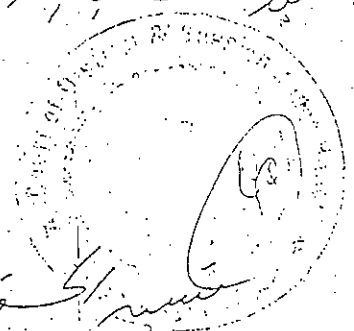
(Amjad Zia Siddique)
Additional Sessions Judge-1
Hangu.

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(40)



سید احمد علی شاہ

26 1/17
کتاب

[Signature]

12/5/17

Amjad Zib Siddiqueo
Additional District & Sessions Judge
Hydrabad

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11/11/17

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COPYING AGENCY HANG

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ORDER.

This order will dispose of Constable Shabet-ur-Hassan No. S19 while posted at Rescue-15 Hangu on the basis of allegations that he was directly charged/arrested in case FIR No. 90 dated 26.01.2017 u/s 9 (c) CNSA, PS City Hangu. Being a Police official his act is bad name for Police department which shows his negligence, disinterest and also amounts to great gross misconduct on his part.

He was served with Charge Sheet and Statement of Allegations vide No. 647/PA, dated 31.01.2017 under Police Disciplinary Rules, 1975 to which he submit his reply. Mr. Zulfiqar Ahrnad Tanoly, SP Investigation Hangu was appointed as Enquiry Officer to conduct departmental enquiry against him. Consequent upon the request of SP Inv. Hangu, the enquiry was entrusted to Mr. Umar Hayat SDPO HQrs Hangu to conduct departmental enquiry against the aforesaid defaulter constable. After the completion of enquiry, the Enquiry Officer submitted his findings on 16.03.2016 and recommended him for major punishment.

Thereafter, Final Show Cause Notice under Police Disciplinary Rules, 1975 vide this office Endst. No. 1315/PA, dated 20.03.2017 to which he submitted his reply on 27.03.2017, which was found unsatisfactory thus held him guilty from the charges leveled against him.

Keeping in view of above, having gone through available record, the undersigned come to the conclusion that, he being a member of disciplined force, had acted criminal gross misconduct, indisciplined and irresponsible manner. Therefore, I, Ihsan Ullah Khan, District Police Officer, Hangu in exercise of the powers conferred upon me, the defaulter Constable is hereby Discharge from service from the date of his suspension i.e 27.01.2017 with immediate effect.

Order Announced.

OB No. 312

Dated 25/05/2017

24

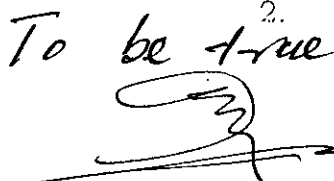
DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 4056 /PA, dated Hangu, the 25/05/2017

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OJHC for necessary action.

To be true


DISTRICT POLICE OFFICER,

20/11/17 B.I.

To, *Inspector General of Police KP Page*
The Deputy Inspector General of Police,
Kohat Region, Kohat.

part up

Subject: Re-instatement in service

Respected Sir,

With great reverence and humble submission, the appellant puts forth the following points.

1. That the appellant was appointed as constable in district Hangu Police department on 01.03.2007.
2. That the appellant thus has an unblemished 10 years service on record.
3. That the appellant vides DPO Hangu impugned Order No. 312 dated 24.05.2017 was discharged from service after allegedly being charged in Case FIR No. 90 dated 26.01.2017 U/S 9CNSA(C) PS City Hangu(copy enclosed).
4. That the applicant, in confirmation of the contention forwarded above, however, was acquitted from the charges U/S 265-K CrPC, on the basis insufficient evidence, vides Additional Session Judge-I, Hangu Order dated 12.05.2017(copy enclosed).
5. That the applicant has never made any such misconduct; always performed official duty with honesty, good spirit.
6. That the appellant belongs to poor family and has rendered laudable services for the department and has similar enthusiasm in future.
7. The appellant also requests to be heard in person.

It is, therefore, requested to kindly reinstate the appellant.

Yours obediently,

Shabeh

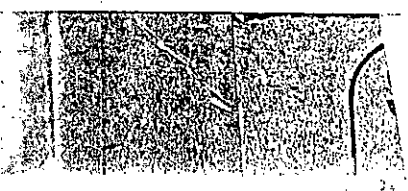
SHABEH UL HASSAN
(Ex-Constable),
District HANGU
Cell no: 03329519535

Dated: *06*
16/11/17

To be true

[Signature]

37.66 2017
20.8



DISTRICT COURTS HANGU

24 "5" 14

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Shabeeh-ul-Hasssan No. 819 of Hangu district Police against the major punishment order passed by DPO Hangu vide OB No. 312, dated 24.05.2017, whereby he was awarded major punishment of discharge from service for the allegations of being involved in a criminal case vide FIR No. 90, dated 26.01.2017 u/s 9-CNSA, PS City Hangu.

He preferred appeal to the undersigned, upon which comments were obtained from DPO Hangu and his service record was perused. He was also heard in person in Orderly Room, held in this office on 08.08.2017.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved and the punishment order passed by DPO Hangu is correct. Hence, his appeal being devoid of merits is hereby rejected.

Order Announced,
08.08.2017

Awal Khan

(AWAL KHAN)
Regional Police Officer,
Kohat Region.

No. 7650 / EC, dated Kohat the 24/08 /2017.

Copy to the District Police Officer, Hangu for information w/r to his office Memo: No. 3667/LB, dated 06.07.2017. His service record is enclosed herewith.

Awal Khan

(AWAL KHAN)
Regional Police Officer,
Kohat Region

To be true

[Signature]

To

The Inspector General of Police KPK
Peshawar


Subject **RE-INSTATEMENT IN SERVICE**

Respected Sir,

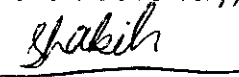
With great reverence and humble submission , the appellant puts forth the following points.

1. That the appellant was appointed as constable in district Hangu Police department on 01/03/2007.
2. That the appellant thus has an unblemished 10 years' service on record.
3. That the appellant vides DPO Hangu Impugned Order No 312 dated 24/05/2017 was discharged from service after allegedly being charged in case FIR No 90 dated 26/01/2017 U/S 9CNSA @ PS City Hangu (copy enclosed) .
4. That the applicant in confirmation of the contention forwarded above, however, was acquitted from the charges U/S 265-K CRPC, on the basis insufficient evidence, vides Additional Session Judge-I Hangu Order dated 12/05/2017 (Copy enclosed).
5. That the applicant has never made any such misconduct; always performed official duty with honesty, good spirit.
6. That the appellant belongs to poor family and has rendered laudable services for the department and has similar enthusiasm in future.
7. The appellant also requests to be heard in person

It is , therefore, requested to kindly reinstate the appellant.

To be true


Dated 28-08-2017

Yours Obediently,

SHABEH UL Hassan
(Ex- Constable),
District Hangu
Cell NO: 03329519535



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 413 /18, dated Peshawar the 22/01/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-FC Shabech-ul-Hassan No. 819**. The petitioner was discharged from service by DPO Hangu vide OB No. 312, dated 24.05.2017 on the allegation that he while posted at Rescue-15 Hangu was directly charged/arrested in case FIR No. 90, dated 26.01.2017 u/s 9 (C) CNSA, Police Station City, Hangu

His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 7650/EC, dated 21.08.2017.

Meeting of Appellate Board was held on 17.01.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him and contended that he has been acquitted from the charges by the court of Addl: Session Judge-I, Hangu vide judgment dated 12.05.2017.

Perusal of record revealed that petitioner was discharged from service on the allegation of involvement in criminal case FIR No. 90, dated 26.01.2017 u/s 9 (C) CNSA, Police Station City, Hangu. He was acquitted from the charges u/s 265-K CrPc by the court of Addl: Session Judge-I, Hangu vide judgment dated 12.05.2017.

Petitioner service dossier contains 22 bad entries. He was involved in narcotics case and he has admitted his involvement during departmental proceedings. Therefore, acquittal from criminal charge is no ground for absolving from departmental charge. Therefore, the Board decided that his petition is hereby rejected.

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

(AHSAN SAIFULLAH)
AIG/Establishment



For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 414-20 /18,

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat.
2. District Police Officer, Hangu.
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.

To be true

قیمت 50 روپے	 	24520
آئیڈو کیٹ:	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
بار کونسل ایسوسی ایشن نمبر:	BC-12-3577	
رابطہ نمبر:	0301-8808685	

بعدالت جناب: سر جسٹس فیروز بخش خان خواہ، سیماء

مخانب: Appellant	دعویٰ: سر جسٹس فیروز بخش خان خواہ
شیخ الحسن	علت نمبر:
بنام	مورخہ:
DPD نیٹو معمر	جرم:
	تھانہ:

بامث تحریر آتکہ

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

آن مقام سیماء کیلئے محمد موسیٰ اور کرنی / کورٹ میں شیخ الحسن اور سر جسٹس فیروز بخش خان خواہ 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 جانبہ 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: 25-1-2018

المقام: سیماء

مقام: سیماء کے لیے منظور ہے۔

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

شہداء

شیخ الحسن وکیل صاحب موصوف اور سر جسٹس فیروز بخش خان خواہ

26.02.2018

D - f - A

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that he was charged in FIR no. 90 dated 16.01.2017 under Section-9 (CNSA) P.S Hangu and was placed under suspension. Disciplinary proceedings were initiated and upon conclusion penalty of discharge from service w.e.f 27.01.2017 was imposed on him. He filed departmental appeal on 16.06.2017 which was rejected on 21.08.2017. Thereafter he filed review petition before IGP, Khyber Pakhtunkhwa on 28.08.2017 which was rejected on 22.01.2018, hence, the instant service appeal. Learned counsel for the appellant further argued that he was acquitted by the Addl: Sessions and District Judge, Hangu vide judgment dated 12.05.2017. Learned counsel for the appellant when confronted on the point of limitation/successive departmental appeals was unable to give a satisfactory reply. He has not been treated according to law and rules.

Points urged need consideration. Admit, subject to limitation. Appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 16.04.2018 before S.B.

(AHMAD HASSAN)
MEMBER

*Process appeal is
time based.*

- e. That punishment of dismissal from service is very harsh in its nature.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 17-07-2009 and 09-03-2017 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

زرین علیہ

Appellant

Through

3/11/17
Saadullah Khan Marwat

Dated.14.04.2017

11/04/17

Arbab Saiful Kamal

Rubina

Miss Rubina Naz
Advocates.

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

Service Appeal No. 196/2018

Shabeh ul Hasan Ex-Constable

..... *Appellant*

VERSUS

District Police Officer,
Hangu & others

..... *Respondents*

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:

Parawise comments on behalf of respondents are submitted as under:-

Preliminary Objections:

1. That the appellant has got no cause of action.
2. That the appellant has got no locus standi.
3. That the appellant is estopped to file the instant appeal due to his own act.
4. That the appeal is not maintainable in its present form.
5. That the appeal is not maintainable due to misjoinder and non-joinder of necessary parties.

Facts:

- a. Correct to the extent of enrollment of appellant as constable on 01.03.2007. The appellant while undergoing training at RTC Kohat was returned unqualified due to absence. The appellant was inefficient and qualified basic recruit course after 09 years i.e ending term 20.06.2016, furthermore, the appellant was willful / habitual absentee, remained absent on different occasions and awarded different kinds of punishments but did not improve himself. The appellant was previously dismissed from service due to his willful absence vide OB No. 291 dated 18.04.2009. List of his previous absence / punishment and dismissal order are **annexure A & B**.
- b. The appellant while posted at Rescue-15 Hangu involved himself in narcotics smuggling. On 26.01.2017, the appellant alongwith his companion while travelling on motorcycle were apprehended by local Police at PP Raeesan, Hangu. On search two pickets containing Charas Garda weighing 2 Kgs were recovered from their possession. The appellant alongwith other was booked under the law vide FIR No. 90 dated 26.07.2017 U/S 9 (C) CNSA, PS City Hangu and arrested accordingly.
- c. The appellant had also committed professional misconduct, besides of criminal act, therefore, the appellant was proceeded with departmentally in accordance with law / rules by respondent No. 1.
- d. On receipt of finding in departmental proceedings initiated against the appellant, he was served with final show cause notice by the respondent No. 1.
- e. Pertains to record, hence no comments.

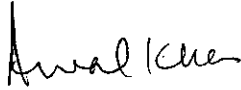
- f. The appellant has been acquitted by the trial court on technical basis which does not amount his acquittal has honorably.
- g. Incorrect, the appellant has been treated in accordance with law & rules.
- h. The appellant was involved / charged in criminal / moral turpitude offence. Furthermore, the reputation of appellant was unsatisfactory as he was awarded different kind punishment including his previous dismissal from service. Furthermore, the departmental appeal of the appellant was without any substance and merit was correctly rejected by the respondent No. 2.
- i. As submitted in the above para, appellant's service dossier contains 22 bad entries. He was involved in narcotics cases. Furthermore, he was also dismissed from service previously. Therefore, due to previous conduct and involvement in narcotics case, his departmental appeal was rejected by respondent No. 3.

Grounds:

- a. Incorrect, during initial stage of appellant service, he was returned unqualified from RTC, Kohat. The appellant was recruited in the year 2007 and qualified basic recruit course in the year 2016, which speaks of his inefficiency and disinterest in discharge of his duty. In addition to this the appellant remained willful absent on about 22 occasions for long period and awarded different kind of punishment including his dismissal from service, but the appellant did not improve himself. The appellant earned bad reputation during his service.
- b. Incorrect, detailed reply has been submitted in para No. 1.
- c. Incorrect, the appellant was arrested red handed by local Police while trafficking narcotics on motorcycle. Furthermore, the appellant was acquitted on technical basis u/s 265 K CrPC, which does not amount to honorably acquittal.
- d. Incorrect, the appellant was proceeded with departmentally in accordance with law & rules.
- e. Incorrect, no fundamental right has been violated by respondent No. 1.
- f. Incorrect, The appellant was proceeded in accordance with law / rules.
- g. Incorrect, the appellant was treated according to law / rules and awarded punishment due to his illegal act and previous conduct.
- h. Incorrect, no malafide has been proved by the appellant during the entire departmental process.
- i. Incorrect, the appellant was afforded defense opportunity during the departmental proceedings but failed to submit any plausible explanation to his misconduct.
- j. Incorrect, all the proceedings conducted by the respondent are in accordance with law & rules.
- k. Incorrect, sufficient material is available on record and established the charge levelled against the appellant.

Prayer:

Keeping in view of the above, it is submitted that the appeal is without merit, substance and against fact, it is, therefore, prayed that the instant appeal of the appellants may kindly be dismissed with cost.



Deputy Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)



Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)



District Police Officer,
Hangu
(Respondent No. 1)

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

Service Appeal No. 196/2018

Shabeh ul Hassan Ex Constable

.....Appellant.

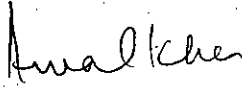
VERSUS

District Police Officer,
Hangu and others

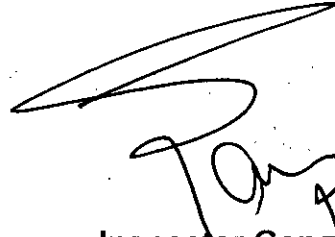
.....Respondents.

COUNTER AFFIDAVIT

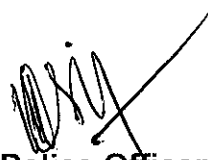
We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



**Deputy Inspector General of Police,
Kohat Region Kohat.
(Respondent No. 2)**



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)**



**District Police Officer,
Hangu
(Respondent No. 1)**

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 196/2018

Shabeh ul Hassan Ex-Constable ----- Appellant

Versus

District Police Officer, Hangu & Others ----- Respondents

REJOINDER ON BEHALF OF APPELLANT

Respectively Sheweth:

Preliminary Objections:

(1 to 5) The objections raised by the respondents are incorrect and baseless; rather the respondents are stopped to raise any objection due to their own conduct.

FACTS:

- a) Incorrect. Neither the appellant has undergone training at RTC Kohat nor returned as unqualified from training center due to absence. Moreover, the appellant has undergone training at Armored Core AC Center Nowshera. So far as qualifying the basic recruit course is concerned, a law paper was failed in recruit course which was later on passed and a qualifying certificate to this effect was issued to the appellant. Furthermore, dismissal order of the appellant vide OB No. 291 dated 18-04-2009 as alleged by the respondents, was set aside by DIG Kohat Region Kohat vide order dated 04-01-2011.

(The copy of order dated 04-01-2011 is annexed "A")

- b) Correct to the extent that the appellant was posted at Rescue-15 Hangu; and humbly submitted that a false case has been registered against him wherein he was after due process of law acquitted on merits by the competent court and his acquittal has not been challenged as yet by the prosecution. (The acquittal order of the appellant is annexed with main appeal as Annexure "G")

- c) The appellant was charge sheeted with the following allegations in the following words:-

"You are directly charged/arrested in case FIR No.90 dated 26-01-2017 U/S 9 (c) CNSA, P.S City Hangu. Being a police official your this act is bad name for police department which shows your

negligence, disinterest and also amounts to great gross misconduct on your part"

So far as the allegations mentioned in the charge sheet as well as para-c of the reply on fact by the respondents, adverting your kind attention that these allegations neither falls within the frontier prescribed by rules nor laws defining misconduct. It is pertinent to mention here that so far as the allegation of involvement of appellant in a criminal case as architected in charge sheet and para-c of the reply, the appellant was honourably acquitted from those allegations by the competent court and the prosecution even did not bother to challenge his acquittal nor the respondents have made any appeal or representation against his acquittal.

- d) Correct to the extent of issuing Final Show Cause Notice but astonishingly the respondent No.1 without waiting to the final order of the competent court issued Final Show Cause Notice to the appellant.
- e) No comments were endorsed by the respondents' department which means that they have admitted para-e of the appeal as correct.
- f) The respondents have admitted the acquittal of the appellant and his acquittal order has neither been challenged by the respondent department nor prosecution.
- g) Incorrect. The appellant was not treated in accordance with law and rules.
- h) Incorrect. The appellant has honourably been acquitted in the criminal case by the competent court. Furthermore, dismissal from service as alleged in para-h was set aside by DIG Kohat Region, Kohat.
- i) Incorrect. A false case was registered against the appellant wherein he was after due process of law acquitted on merits by the competent court and his acquittal has not been challenged as yet by the prosecution. Furthermore, the dismissal order as mentioned in para-i was set aside by DIG Kohat Region, Kohat.

GROUNDS:

1. Incorrect. While para-1 of grounds of the appeal is correct. Moreover, dismissal from service was set aside by DIG Kohat Region, Kohat.
2. Incorrect. While para-2 of grounds of the appeal is correct as mentioned in the main appeal of the appellant.

3. Incorrect. While para-3 of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
4. Incorrect. While para-4 of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
5. Incorrect. While para-5 of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
6. Incorrect. While para-6 of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
7. Incorrect. While para-7 of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
8. Incorrect. Mala fide is floating on the surface of the record.
9. Incorrect. While para-9 of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
10. Incorrect. In fact the respondent had violated the law, rules and principle of natural justice.
11. Incorrect. While para-11 of grounds of the appeal is correct as mentioned in the main appeal of the appellant.

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

Appellant

Through

1. Mohammad Yousaf Orakzai

2. Ghulam Ali Bangash
Advocates

Dated: _____/2018.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

ATTESTED
Azmaz Ali Agha
Notary Public
9-10-21-8

POLICE DEPARTMENT

KOHAT REGION.

ORDER.

This order will dispose of application submitted by Ex-constable Shabih ul Hassan No.478 of Hangu District, requesting therein for reinstatement in service.

Brief facts are that he while posted at Police Lines Hangu absented himself from official duty w.e.from the following period:-

1. 06.01.2008 to 07.01.2008 (01 day)
2. 28.01.2008 to 30.01.2008 (03 days)
3. 30.01.2008 to 02.02.2008 (03 days)
4. 12.02.2008 to 17.02.2008 (05 days)
5. 26.02.2008 to 18.05.2008 (2 months & 22 days)
6. 07.08.2008 to 22.08.2008 (15 days)
7. 29.10.2008 till now

OB No: 24
11-1-11

He was served with charge sheet & statement of allegation to which he failed to submit his reply an enquiry committee comprising of SI Mohibullah and ASI Mehboobullah was constituted to conduct departmental enquiry against him under the Removal from Service (Special Powers), ordinance 2000 consequent upon the transfer of enquiry officer, the enquiry file was entrusted to Inspector Legal Ishaq Gul for further proceeding after completion of enquiry the enquiry officer submitted his finding and recommended him for major punishment. Final show Cause Notice was issued, to him but he failed to submit his reply

Keeping in view of above the DPO Hangu was awarded him a major punishment of dismissal from service vide his OB No.291 dated 18.04.2009.

He was heard in person in Orderly Room held in this office on 04.01.2011. His service record and other connected papers were thoroughly perused.

From the perusal of his Service Record and other relevant papers. Keeping in view his service and family circumstances the undersigned has taken lenient view his mercy petition is accepted and the punishment order of DPO is hereby set-aside and reinstated in service with immediate effect. He is awarded a major punishment a time scale constable for a period of three years. His absence period from mentioned above and period spent out of service is treated as leave without pay.

ORDER ANNOUNCED.

04.01.2011.

(M. MASOOD KHAN AFRIDI)PSP
Dy. Inspector General of Police,
Kohat Region, Kohat.

No. 312-17 /EC, dated Kohat the 4/1 /2011.

Copy of above for information and necessary action to the District Police Officer, Hangu w/r to his Memo: No.4819/Insp. Legal dated 24.12.2010. His service record is also enclosed herewith for record which may please be acknowledged.

2. Ex Constable Shabih ul Hassan No.478 R/o District Hangu.

PC/Reader/PO/OTSI

no. 2/2011

3/1/11

(M. MASOOD KHAN AFRIDI)PSP
Dy. Inspector General of Police,
Kohat Region, Kohat.

Shahid
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Shahid
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نمبر ۲۲

پوری

۲۵۲ سٹارز، گوانا گیا، گواناٹ مرد، دیگر گواناٹ

بیانات قلمند ہوئے، مقدمہ بڑا سے بڑا صحیح

مگر قمار ہوا، حق سزائے عدالت سے حالت

پرست حاصل کر کے دوران انٹروگیشن سزائے قید

۱۱ روز سے افزائی ہوئی سزا میں ایک کھٹ کوٹ

وقفہ — طائر فرد قتل، حکم امتناعیہ سزائے قید

۱۱ روز سے افزائی ہوئی بیانات ۱۶۱ روز سے

قلمند ہوئے، سزائے قید کو وقفہ قلمند بیانات

۱۶۱ روز سے عدالت میں سزا ۱۱ روز سے عمر

سزا ۱۱ روز سے عدالت میں سزا ۱۱ روز سے عمر

مور ۳/۲/۱۶۷ کو ۵۴۵ سے مقدمہ بڑا سے بڑا

حالات میں رہے وہاں رہوئے، عمر ۱۱ روز سے

بیانات
۲۶/۰۳/۱۶۷
۲۶/۰۳/۱۶۷

۱۱۰
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۰۲۳۳۹
۰۲۱۱۰۹۰۵

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صاحب علی

عن ASI حروف 26 ¹/₁₇ کو FIR کو

حرف عدد 90 حروف 26 ¹/₁₇ کو FIR کو

بہ صوفی مکتوبان شہر زمان و مکتوبان شہر زمان کو
فصل مکتوبان شہر زمان و مکتوبان شہر زمان کو

7/17 مکتوبان شہر زمان - مکتوبان شہر زمان کو
مکتوبان شہر زمان

ASI PP Karsun
15-3-017

مکتوبان شہر زمان
دستار شہر زمان

1. That the appellant was initially appointed as Family Welfare Assistant against the vacant post on 25-02-2012. (Copy of advertisement is attached as Annexure A).
2. That the appellant performed his duties up to his utmost abilities and had never given any chance of complaint to his high ups or to the general public community.
3. That the astonishment of the appellant that he was handed over the Show Cause Notice dated 06-06-2017, whereby some vague allegations were leveled against the appellant with regard to documents of the appellant that his secondary school certificate is in fact 2nd division rather than 1st division on the bases of which appellant was appointed. (Copies of said Show Cause Notice dated 06-06-2017 is attached as Annexure B & B-1).
4. That the appellant duly replied to the above said Show Cause Notice within the stipulated time. (Copies of the reply of the Show Cause Notice dated 12-06-2017 is attached herewith Annexure C).
5. The finally the impugned order dated 30-06-2017 was issued whereby the appellant was awarded the major penalty of removal from the service. (Copy of the said letter/order dated 30-06-2017 is attached herewith as Annexure D).
6. That the appellant then submitted a Departmental Appeal before the Appellate Authority dated 19-07-2017 however, no need whatsoever was paid to the appellant till filing of this appeal before Honorable Service Tribunal. (Copy of departmental appeal dated 19-07-2017 is attached as Annexure E).
7. That there is no other adequate/ efficacious remedy available and this Honorable Service Tribunal being a proper forum for the appellant, so is hereby submitting the instant appeal inter-alia on the following.

GROUNDS :

- a) That the order of removal from service dated 30-06-2017 is illegal, unlawful, without lawful authority/ jurisdiction and

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 1122 /ST

Dated 26-6- / 2019

To

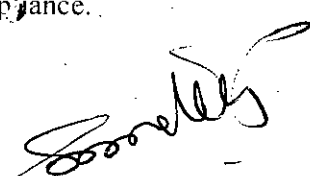
The District Police Officer,
Government of Khyber Pakhtunkhwa,
Hangu.

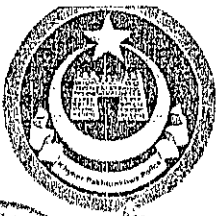
Subject: -

JUDGMENT IN APPEAL NO. 196/2018, MR. SHABEH UL HASSAN.

I am directed to forward herewith a certified copy of Judgement dated 11.06.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/ 413 /18, dated Peshawar the 22/10/2018. (1)

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Shabech-ul-Hassan No. 819. The petitioner was discharged from service by DPO Hangu vide OB No. 312, dated 24.05.2017 on the allegation that he while posted at Rescue-15 Hangu was directly charged/arrested in case FIR No. 90, dated 26.01.2017 u/s 9 (C) CNSA, Police Station City, Hangu

His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 7650/EC, dated 21.08.2017.

Meeting of Appellate Board was held on 17.01.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him and contended that he has been acquitted from the charges by the court of Addl: Session Judge-I, Hangu vide judgment dated 12.05.2017.

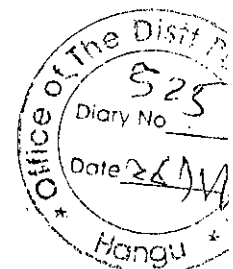
Perusal of record revealed that petitioner was discharged from service on the allegation of involvement in criminal case FIR No. 90, dated 26.01.2017 u/s 9 (C) CNSA, Police Station City, Hangu. He was acquitted from the charges u/s 265-K CrPc by the court of Addl: Session Judge-I, Hangu vide judgment dated 12.05.2017.

Petitioner service dossier contains 22 bad entries. He was involved in narcotics case and he has admitted his involvement during departmental proceedings. Therefore, acquittal from criminal charge is no ground for absolving from departmental charge. Therefore, the Board decided that his petition is hereby rejected.

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

(AHSAN SAIPULLAH)
AIG/Establishment,

For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.



No. SI/ 414-20 /18.

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat.
2. District Police Officer, Hangu.
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.

SP-1/OTC
D.P.O HANGU
25/11/18

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Shabeeh-ul-Hasssan No. 819 of Hangu district Police against the major punishment order passed by DPO Hangu vide OB No. 312, dated 24.05.2017, whereby he was awarded major punishment of discharge from service for the allegations of being involved in a criminal case vide FIR No. 90, dated 26.01.2017 u/s 9-CNSA, PS City Hangu.

He preferred appeal to the undersigned, upon which comments were obtained from DPO Hangu and his service record was perused. He was also heard in person in Orderly Room, held in this office on 08.08.2017.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved and the punishment order passed by DPO Hangu is correct. Hence, his appeal being devoid of merits is hereby rejected.

Order Announced
08.08.2017

Awal Khan

(AWAL KHAN)
Regional Police Officer,
Kohat Region.

No. 7650 / EC, dated Kohat the 29/08 /2017.

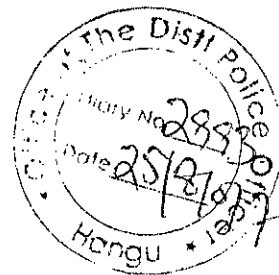
Copy to the District Police Officer, Hangu for information w/r to his office Memo: No. 3667/LB, dated 06.07.2017. His service record is enclosed herewith.

perused.
SRE/office
for record copy

Awal Khan

(AWAL KHAN)
Regional Police Officer,
Kohat Region

District Police Officer
Hangu.
24/8/17



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ORDER.

This order will dispose of Constable Shabeh-ul-Hassan No. 819 while posted at Rescue-15 Hangu on the basis of allegations that he was directly charged/arrested in case FIR No. 90 dated 26.01.2017 u/s 9 (c) CNSA, PS City Hangu. Being a Police official his act is bad name for Police department which shows his negligence, disinterest and also amounts to great gross misconduct on his part.

He was served with Charge Sheet and Statement of Allegations vide No. 647/PA, dated 31.01.2017 under Police Disciplinary Rules, 1975 to which he submit his reply. Mr. Zulfiqar Ahmad Tanoly, SP Investigation Hangu was appointed as Enquiry Officer to conduct departmental enquiry against him. Consequent upon the request of SP Inv: Hangu, the enquiry was entrusted to Mr. Umar Hayat SDPO HQrs Hangu to conduct departmental enquiry against the aforesaid defaulter constable. After the completion of enquiry, the Enquiry Officer submitted his findings on 16.03.2016 and recommended him for major punishment.

Thereafter, Final Show Cause Notice under Police Disciplinary Rules, 1975 vide this office Endst: No. 1315/PA, dated 20.03.2017 to which he submitted his reply on 27.03.2017, which was found unsatisfactory thus held him guilty from the charges leveled against him.

Keeping in view of above, having gone through available record, the undersigned come to the conclusion that, he being a member of disciplined force, had acted criminal gross misconduct, indisciplined and irresponsible manner. Therefore, I, Ihsan Ullah Khan, District Police Officer, Hangu in exercise of the powers conferred upon me, *the defaulter Constable is hereby Discharge from service from the date of his suspension i.e 27.01.2017 with immediate effect.*

Order Announced.

OB No. 312

Dated 27/05/2017.

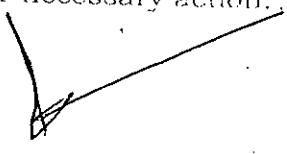

DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 4056 /PA, dated Hangu, the 25/05/2017

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OIHC for necessary action.


DISTRICT POLICE OFFICER,
HANGU

جہاں عالی!

گزارش معکم سائل قبلی پریس سے Discharge ہوا ہے

بدلتا در خواست السزجا معکم سائل کو Discharge کی

ڈیڑ ماہی اور حکیم عدالت کی ڈیڑ ماہی ہے تا حکم ہمارا مرزا فرستادہ فرما سں

عین گزارش ہوئی

تحریر 12-06-2017

سائل شہید الحسن

Offc
Pr m. adnan
District Police Officer
Lilanga. 12/6

دھونند
12-06-2017
Shahid

DISTRICT POLICE OFFICER,

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خواجہ طارق شہزاد / PA / 1315 / 17/03/27 تاریخ دفتر DPO
 صورت میں عرض کیا کہ خواجہ FIR نمبر 90 / 17/03/26 جس میں DCSA
 تمام مسائل میں سے مسائل کے لیے جو الزام عائد کیا گیا ہے۔ سہ ماہی عطا اور جو
 پر مبنی ہے۔ جن مسائل کو 17/03/26 کو لکھنؤ پولیس ڈیوٹی گاؤں خود سے منگ
 میں آ رہا تھا کہ اس سے میں اس وقت مسائل کے لیے اس کے لیے جانے کی اسٹڈی
 ہوئی ہے اس لیے اس کے ساتھ ساتھ کٹر بلن میں لکھی روایت ہوئی۔ اس سے میں
 پولیس نامہ بندی پر شخص مذکورہ سے عیناً برابر کے مسائل کو
 شخص مذکورہ کی اس کے ساتھ ساتھ FIR کوئی۔ جو عدالت سے ضمانت
 حاصل کر کے ناطل صورت میں سامنے ہے۔

عالی جاہ:

مسائل سال 2007ء کا بھی مشورہ ہے۔ پولیس کی فوری خدمت
 ملنے کے ضمن میں سرانجام دینا چاہیے اور اس کے عین پولیس اہلکار
 ہوں، جانچ میں عائد کردہ الزامات سے بڑی ذمہ دار دیگر جن
 مسائل کے متعلق کوئی ایسا جوئی نہیں
 الساری

Keep pending till the further

✓
 DPO (CH)
 27-3-17

ڈی ایچ این نمبر 819 / 17/03/27
 شہزاد طارق

w/ DPO submitted to DCSA
 27/3

ORDER.

On the request of S.P Investigation Hangu, the departmental enquiry of Constable Shabi ul Hassan No. 819 vide Charge Sheet No. 647/PA, dated 31.01.2017 comprising upon 05 pages, is hereby entrusted to Mr. Umar Hayat DSP HQr Hangu with the directions that to complete the enquiry within stipulated period positively.

Order announced.


**DISTRICT POLICE OFFICER,
HANGU.**

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No 854-56 /PA, Dated Hangu the 20 / 02 /2017.

Copy of above is forwarded for information to the: -

1. S. P Investigation Wing, Hangu.
2. DSpHQr, Hangu.
3. Constable Shabi ul Hassan No. 819.



Handwritten notes in Urdu at the bottom of the page, including the name 'Umar Hayat' and other illegible text.

(2)

FINAL SHOW CAUSE NOTICE

WHEREAS, you Constable Shabeeh-ul-Hassan No. 819 while posted at Rescue-15 Hangu proceeded against departmentally on the basis of allegations that you are directly charged/arrested in case FIR No. 90 dated 26.01.2017 u/s 9 (c) CNSA, PS City Hangu. Being a Police official your this act is bad name for Police department which shows your negligence, disinterest and also amounts to great gross misconduct on your part.

Therefore, you were served with Charge Sheet together-with statement of allegations under Police Disciplinary Rules 1975 vide charge No. 647/PA, dated 31.01.2017 to which you submitted your reply. Mr. Zulfiqar Ahmad Tanoli, SP Inv: Hangu was appointed as Enquiry Officer to conduct departmental enquiry against you. After completion of enquiry, the enquiry officer submitted his findings on 16.03.2017 in which held you guilty from the charges leveled against him and recommended you for Major Punishment.

Now, therefore, I, **IHSAN ULLAH KHAN, District Police Officer, Hangu** have vested the power under Police Disciplinary Rules, 1975 liable to take action against you, which will render you.

Your reply to this Final Show Cause Notice must reach to the office of the undersigned within **7 days** of the receipt of Final Show Cause Notice. In case your reply is not received within the stipulated period, it shall be presumed that you have no defence and ex-parte action will be taken against you. Also state, whether you desire to be heard in person?

No. 1315 /PA,

Dt: 20 /02 / 2017.


**DISTRICT POLICE OFFICER,
HANGU**



9

**OFFICE OF THE
DISTRICT POLICE OFFICER
HANGU**

No. 541 /PA, Dated 27-01/2017.

ORDER.

Constable Shabeh Ul Hassn No. 819 while posted at Rescue-15 Hangu is hereby suspended with immediate effect due to his involvement in case FIR No. 90, dated 26.07.2017 u/s 9CNSA (C), PS City Hangu.

OB.No. 66
Dated : 27/1/2017.

DISTRICT POLICE OFFER,
HANGU.

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU

No. 542 /PA, dated Hangu the 27/01/2017

Copy to all concerned for necessary action and information.

صفحہ	تفصیل	نمبر شمار
2	اکوائری فائینڈینگ رپورٹ	1
4	چارج شیٹ اور درخواست / کمپلیٹ	2
1	ڈیٹ شیٹ / انڈیکس	3
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1	بیان ازاں گواہان / انڈیکس	5
1	Asد زمان	6
1	نہ PIR	7
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11 صفحات	تعداد ٹوٹل قطعات	10

by DPO Sir

Issue Final Show
Cause Notice

Submitted DPO

Signature

17/3

DPO Hangu

انکوائری بر خلاف کنسٹیبل شبیر الحسن متھوڑ سکیو 15 ضلع ہنگو

فائل رپورٹ

جناب عالی!

بحوالہ چارج شیٹ نمبری 647/PA مورخہ 31.01.2017 مجاریہ جناب DPO صاحب ہنگو بر خلاف کنسٹیبل شبیر الحسن نمبر 819 مورخہ 2017 کے چارج شیٹ ہذا میں مذکورہ کنسٹیبل پر ذیل الزامات لگائے گئے ہیں۔

(1) آپ مقدمہ علت 90 مورخہ 26.01.2017 جرم CNSA 9C تھانہ سٹی ہنگو میں ڈائریکٹ چارج ہو کر گرفتار کئے گئے اور کنسٹیبل پولیس انسپریکٹریہ فضل محکمہ پولیس کیلئے بدنامی ماعت بنا۔

بالا الزامات میں حسب ضابطہ انکوائری شروع کر کے کنسٹیبل شبیر الحسن نمبر 819 دفتر ہذا طلب کر کے اس سے تحریری بیان لیا جا کر جو ہمراہ لف انکوائری ہذا ہے۔

اس سلسلے میں کنسٹیبل شبیر الحسن حسب طلبی آ کر جس نے اپنا تحریری بیان دیکر جو ہمراہ لف انکوائری ہذا ہے۔ مذکورہ کنسٹیبل اپنے بیان میں گویاں ہوا کہ علت نمبر 90 مورخہ 26.01.2017 جرم CNSA 9C تھانہ سٹی میں اس پر جو الزامات عائد کئے گئے ہیں۔ سراسر غلط اور جھوٹا پر مبنی ہیں۔ وہ مورخہ 26.01.2017 کو بغرض دیوٹی گاؤں خود سے ہنگو سٹی آ رہا تھا۔ کہ راستے میں ایک موٹر سائیکل آ کر ساتھ لیجانے کی استدعا کی۔ جس نے اپنے ساتھ بیٹھا کر بطرف ہنگو سٹی روانہ ہوئے۔ راستے میں پولیس ناکہ بندی پر شخص مذکورہ سے منشیات برآمد کر کے اس کو بھی شخص مذکورہ کا ساتھی ظاہر کر کے FIR کو آئی جو عدالت سے ضمانت حاصل کر کے تاحال مقدمہ زیر سماعت ہے۔

IO/IBH خان حسب طلبی آ کر اپنے بیان میں گویاں ہوا کہ حالات مقدمہ یوں ہے کہ جب شیر زمان ASI انچارج چوکی ریسان بموعہ نفری پولیس سیف علی موڑ لودی خیل روڈ پر بغرض چیکنگ مصروف تھے کہ جانب اوڑھی خیل موٹر سائیکل بلا نمبر 70CC زیمکو مارکڈ آ کر کھڑی کر کے موٹر سائیکل پر سوار شخص نے موٹر سائیکل کی ٹینگی پر پاؤں کے درمیان ایک بوری برنگ سفید رکھی تھی، مشکوک جان کر قبضہ کر کے پڑتال کرنے پر 02 پیکٹ برنگ زرد معمول جس گروہ برآمد ہو کر وزن کرنے پر 1000/1000 گرام نکلی فی پیکٹ سے 10/10 گرام بغرض تجزیہ FSL اور بقایا الگ قبضہ پولیس کر کے موٹر سائیکل و جس قبضہ پولیس کر کے دریافت پر ملزم نے اپنا نام شبیر الحسن ولد موسیٰ حسن سکند لوڈھی خیل بتلا کر گرفتار کیا گیا سرسری انٹاروگیشن کر کے جس متذکرہ میرا کبر ولد دل اکبر سکند پشین خاوری کی ملکیت بیان کی جس کی گرفتاری درپیش ہے۔ ملزمان بالا کے خلاف مقدمہ درج رجسٹر ہو کر من SI نے تفتیش شروع کر کے جانے وقوعہ جا کر نقشہ موقع بلا سکیل مرتب کیا مال مقدمہ بغرض تجزیہ FSL پشاور بھجوا یا گیا۔ گواہات فرد دیگر گواہان کے بیانات قلمبند ہوئے، مقدمہ ہذا میں ملزم میرا کبر بھی گرفتار ہوا جن ملزمان عدالت سے حراست پولیس حاصل کر کے دوران انٹاروگیشن ملزمان جرم خود سے اقراری ہو کر بیانات 161 ض ف قلمبند ہوئے، ملزمان کو بغرض قلمبندی بیانات 164/364 ض ف عدالت پیش کر کے جرم خود سے منحرف ہو کر جوڈیشل لاک آپ ہنگو میں بند ہوئے۔ مورخہ 03/02/2017 کو SHO سٹی نے مقدمہ ہذا میں چالان مکمل دے دیا۔

شیر زمان ASI حسب طلبی آ کر اپنے بیان میں گویاں ہوا کہ من ASI نے مورخہ 26/01/2017 کو جو FIR بحوالہ مقدمہ علت 90 مورخہ 26/01/2016 جرم CNSA (C) 9C تھانہ سٹی بر خلاف ملزمان شبیر الحسن ولد موسیٰ خان سکند لوڈھی خیل، میرا کبر ولد دل اکبر سکند پشین خاوری کے خلاف درج کیا ہے۔ وہی میرا بیان ہے۔ FIR لف بیان ہذا ہے۔

اصل حقائق۔۔۔

جہاں تک انکوائری کا تعلق ہے کہ کنسٹیبل شبیر الحسن نمبر 819 مورخہ 15 میں تعینات تھا۔ مورخہ 26.01.207 کو انچارج چوکی ریسان شیر زمان ASI نے تصور وار کنسٹیبل شبیر الحسن نمبر 819 کو بہ مقام سیف علی موڑ لودی خیل رنگے ہاتھ 2000 گرام جس کے ساتھ گرفتار کر کے جس کے خلاف مورخہ 26.01.2017 مقدمہ علت 90 جرم CNSA 9C تھانہ سٹی درج ہو چکا ہے مقدمہ عدالت میں زیر سماعت ہے۔

مذکورہ کنسٹیبل نے اگرچہ اپنے بیان میں لگائے گئے الزامات کی تردید کی تھی لیکن دوران کر اس وہ خود تسلیم کر چکا ہے کہ وہ میرا کبر نامی شخص کیلئے جس نے کر جا رہا تھا۔

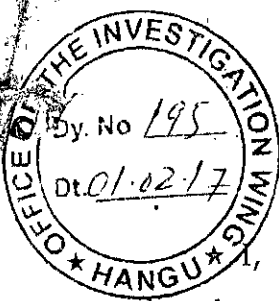
مذکورہ کنٹینیل کا یہ فعل نہ صرف خلاف قانون بلکہ محکمہ پولیس کے لئے بھی بدنامی کا باعث ہے۔ اس لئے مستقبل میں بھی مذکورہ کنٹینیل کو

رکھنا کسی خطرے سے خالی نہیں۔ کیونکہ مذکورہ کنٹینیل اپنے ذاتی لالچ اور مفاد کما خاطر تمام فورس کو بدنام کر چکا ہے۔ اس سے ثابت ہوتا ہے کہ مذکورہ کنٹینیل

کے مفاد میں نہیں اس لئے مذکورہ کنٹینیل کی Major Punishment کی سفارش کی جاتی ہے۔

(12)

سب ڈویژنل پولیس افسر، ٹکو



CHARGE SHEET.

Mr. IHSAN ULLAH KHAN, D.P.O, HANGU as competent authority, hereby charge you Constable Shabiul Hassan No. 819 while posted at Rescue-15 Hangu committed the following irregularities:-

You are directly charged/arrested in case FIR No. 90 dated 26.01.2017 u/s 9 (c) CNSA, PS City Hangu. Being a Police official your this act is bad name for Police department which shows your negligence, disinterest and also amounts to great gross misconduct on your part.

2. By reasons of the above, 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 above rules.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.
4. Your written defence, if any, should reach to the Enquiry Officer/Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.

**DISTRICT POLICE OFFICER,
HANGU**

No. 647 /PA,

Dated 31/01/2017.

17/1

DISCIPLINARY ACTION.

I, **Mr. IHSAN ULLAH KHAN, D.P.O, HANGU** as competent authority, am of the opinion that Constable Shabi ul Hassan No. 819 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975:

STATEMENT OF ALLEGATIONS.

You are directly charged/arrested in case FIR No. 90 dated 26.01.2017 u/s 9 (c) CNSA, PS City Hangu. Being a Police official your this act is bad name for Police department which shows your negligence, disinterest and also amounts to great gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

i. Zulfiqar Ahmad Tanoli S.P Investigation Hangu.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


**DISTRICT POLICE OFFICER,
HANGU**

A copy of the above is forwarded to :-

1. Zulfiqar Ahmad Tanoli S.P Investigation Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.

2. Constable Shabi ul Hassan No. 819. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

From : The Superintendent of Police
Investigation, Hangu.

15

To : The District Police, Officer,
Hangu.

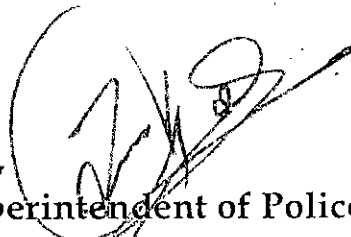
No. 562 /Inv: Dated Hangu the 31/1/2017.

Subject: CASE FIR NO. 90 DATED 26.01.2017 U/S 9(C) CNSA, PPC PS, CITY HANGU.

Memorandum:

It is Submitted that the accused Shabi-ul Hassan s/o Musa Khan r/o Lodi Khel Hangu has been charged/arrested in the above subject case. He is serving as constable and posted Resue-15, under your kind command.

Report is submitted for favor of information and further necessary action, please.


Superintendent of Police,
Investigation, Hangu.

No. _____ /Inv: _____
Copy to I.O PS, City for information.

PA

Fur m a
↓
DPO (H).

Atty