

## KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2018 / ST Ь Dated: /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281 Fax:- 091-9213262

То

The District Education Officer, Government of Khyber Pakhtunkhwa, Peshawar.

Subject: JUDGMENT IN APPEAL NO. 1379/2018, MR. IMDAD ULLAH

£

I am directed to forward herewith a certified copy of Judgement dated 23.09.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

## BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.

3 . Sec. 25

Service Appeal	No. 1379/2018
Date of Institution	on 08.11.2018
Date of Decision	23.09.2021
Imdadullah S/O Mian Jamal Caste A R/O Kuza Banda, Tehsil and District <u>VERSUS</u> District Police Officer, Battagram ar	t Battagram. (Appellant)
Mr. SHAD MUHAMMAD KHAN, Advocate	For appellant.
MR. RIAZ AHMED PAINDAKHEL, Assistant Advocate General	For respondents.
MR. SALAH-UD-DIN MR. ATIQ-UR-REHMAN WAZIR	MEMBER (JUDICIAL) MEMBER (EXECUTIVE)
JUDGMENT:	· · ·

#### SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant while serving as LHC, was proceeded against departmentally on the allegations of his involvement in case FIR No. 116 dated 14.05.2018 under section 9CNSA registered at Police Station Phulra District Mansehra. On completion of the inquiry, the appellant was dismissed from service vide order dated 17.07.2018. That the departmental appeal of the appellant remained unsuccessful, therefore, the appellant has now approached this Tribunal through filing of the instant service appeal for redressal of his grievance.

2. Notice was issued to the respondents, who submitted their written reply.

3. Learned counsel for the appellant has contended that the inquiry proceedings were conducted in a slipshod manner without observing the relevant provisions of Khyber Pakhtunkhwa Police Rules, 1975; that the statement of the witnesses were recorded in the absence of the appellant and no opportunity of cross examination was provided to him; that the appellant was falsely involved in a fake criminal case and he has been ultimately acquitted in the said criminal case; that after acquittal of the appellant in the criminal case, the very ground, on the basis of which the appellant was proceeded against departmentally, has vanished away, therefore, the impugned orders are liable to be set-aside.

4. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellant was arrested on the spot and recovery of contraband Charas was effected from the vehicle in which the appellant alongwith other persons was travelling; that august Supreme Court of Pakistan has held that departmental proceedings are different from criminal proceedings, therefore, mere acquittal of the appellant in the criminal case would not make him entitled to his exoneration in the departmental proceedings; that all legal and codal formalities were complied with in the inquiry proceedings and charge against the appellant stood proved, therefore, he has been rightly dismissed from service. Reliance was placed on 2021 PLC (C.S) 587.

5. Arguments heard and record perused.

6. A perusal of the record would show that disciplinary action was taken against the appellant on the ground that he was involved in case FIR No. 116 dated 14.05.2018 under section 9CNSA registered at Police Station Phulra Mansehra. Mr. Farman Akhtar DSP Headquarter Battagram was appointed as Inquiry Officer in the matter against the appellant. During the inquiry, statements of Shafique Khan ASI and Faisal Rafique LHC No. 721 were recorded, however no opportunity of cross examination was provided to the appellant, therefore, the testimony of the aforementioned witnesses could not be legally taken into consideration against the appellant. Moreover, inquiry was conducted against the appellant by appointing inquiry officer, however perusal of copy of final show-cause notice would show that it is mentioned in para-2 that the competent Authority had decided to proceed against the appellant in general police proceedings without aid of inquiry officer. The aforementioned material dents in the disciplinary proceedings have rendered the inquiry proceedings as nullity in the eye of law.

Disciplinary action was taken against the appellant on the ground 7. of his involvement in criminal case, however the appellant has been acquitted in the said criminal case by learned trial court vide judgment dated 13,12,2018. The learned trial court, while considering the facts and circumstances of the case had came to the conclusion that the recovery was not affected on the spot as disclosed in the FIR. The appellant was proceeded against on the ground of his involvement in the criminal case, however after his acquittal in the criminal case, the very charge, on the basis of which the appellant was proceeded against has vanished away. Nothing is available on the record, which could show that the acquittal of the appellant has been challenged by the department through filing of appeal before the higher forum. In this situation, the acquittal order of the appellant has attained finality. It is settled law that acquittal of an accused in a criminal case even if based on benefit of doubt would be considered as honourable.

8. In view of the above discussion, the appeal in hand is accepted by setting aside the impugned order and the appellant is reinstated in service with all back benefit. Parties are left to bear their won costs. File be consigned to the record room.

ANNOUNCED 23.09.2021

(SALAH-UD-DIN) MEMBER (JUDICIAL) CAMP COURT ABBOTTABAD

(ATIQ-UR-REHMAN WAZIR)

MEMBER (EXECUTIVE) CAMP COURT ABBOTTABAD S.A No. 1379/2018

<u>O R D E R</u> 23.09.2021 Appellant alongwith his counsel Mr. Shad Muhammad Khan, Advocate, present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is accepted by setting aside the impugned order and the appellant is reinstated in service with all back benefit. Parties are left to bear their won costs. File be consigned to the record room.

ANNOUNCED 23.09.2021

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) CAMP COURT ABBOTTABAD

(SALAH-UD-DIN) MEMBER (JUDICIAL) CAMP COURT ABBOTTABAD

1 Que to covid 14, case is adjourned To 23.9. - 2021 for The Game. 22. 4.2021 ١X

20.10.2020

Representative of appellant on behalf of appellant present.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Muhammad Asif Inspector for respondents present.

Due to general strike of the bar, case case is adjourned to 15.12.2020 for arguments, before D.B at Camp Court, Abbottabad.

(Atiq ur Rehman Wazir)

Member (E) Camp Court, A/Abad

(Rozina Rehman) Member (J)

Camp Court, A/Abad

Due to courd-19 case is adjourned to 16-03,2021

16.03.2021

Appellant with counsel present.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Muhammad Asif Inspector for respondents present.

Former made request for adjournment. Adjourned. To come up for arguments on  $22/\sigma_1/2021$  before D.B at Camp Court Abbottabad.

(Atiq ur Rehman Wazir) Member (E) Camp Court, A/Abad

(Rozina Rehman) Member (J) Camp Court, A/Abad 17.12.2019

Junior counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Muhammad Asif, Inspector (legal) for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned to 22.01.2020 for arguments before D.B at Camp Court Abbottabad.

HAT A LANG

(Hussain Shah)

Member Camp Court Abbottabad

(M. Amin<sup>K</sup>han Kundi) Member Camp Court Abbottabad

22.01.2020

Appellant in person present. Mr. Ziaullah, DDA for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 18.02.2020 before D.B at camp court Abbottabad.

Menhber

lember

Camp Court A/Abad

18.2.20

Due to covid ,19 case to come up for the same on  $\frac{14}{4}$  (  $\frac{4}{2}$  ) at camp court abbottabad.

Rea

14.4.20

Due to summer vacation case to come up for the same on  $2o/10/2o_{20}$  at camp court abbottabad.

21.08.2019

Appellant in person present. Mr. Muhammad Bilal learned Deputy District Attorney alongwith Muhammad Asif Inspector present and submitted written reply/comments. Adjourn. To come up for rejoinder if any, and arguments on 23.10.2019 before D.B at Camp Court, Abbottabad.

[ember] Camp Court A/Abad

23.10.2019

Appellant in person present. Mr. Usman Ghani, District Attorney for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourn. To come up for arguments on 17.12.2019 before D.B at Camp Court, Abbottabad.

Member

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Member Camp Court Abbottabad

#### 19.04.2019

Counsel for the appellant present.

الحالي الرابع

Contends that the impugned order dated 17.07.2018 was passed against the appellant upon allegation in terms that he was involved and was under trial in a case registered under Section 9 CNSA. The departmental appeal of appellant was rejected on 10.10.2018 while, on 13.12.2018 he was acquitted from the charge by a court of competent jurisdiction.

As the appellant has been imposed upon major penalty of dismissal from service and the basis of proceedings has culminated into his acquittal, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 20.06.2019 before S.B at Camp Court Abbottabad.

### Chairman Camp court, A/Abad

20.06.2019

Appellant in person and Mr. Muhammad Bilal, DDA alongwith Mr. Muhammad Asif, Inspector for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 21.08.2019 before S.B at camp court Abbottabad.

> (Ahmad Hassan) Member Camp Court A/Abad

# Form- A

# FORM OF ORDER SHEET

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

# Case No.\_\_\_\_\_\_1379/2018

S.No.	Date of order	Order or other procee	or other proceedings with signature of judge			
	proceedings	·	×			
1	2	· · · · · · · · · · · · · · · · · · ·	3			
,	08/11/2018	The appeal of	of Mar (peeple at 11)			
1-	00/11/2010		The appeal of Mr. Imdad Ullah received today by post through Mr. Shad Muhammad Khan Advocate may be entered in th			
		Institution Register and put up to the Worthy Chairman for prop				
		order please.		1.1.1 1	· ·	
ĺ				0		
2-	19-11-18			REGISTRA	R 2/11/10	
	1 1 11 1 0	This case is	entrusted to tou	uring S. Bench	at A.Abad for	
•	2	preliminary hearing to	· · · ·			
.						
÷	•			CHAIRI	MAN	
				UTIAIR	MAIN	
10 0	2010				•	
19.02	2.2019		None present on behalf of the appellant. Notice be issued			
	t	to appellant and his	s counsel for	attendance	and prelimina	
			a. a. ' = =	Come Court	Abbottabad	
	ł	earing for 19.04.201	9 before S.B at	Camp Court	Abbollabad.	
	ł	hearing for 19.04.201	9 before S.B at		Abbollabad.	
	ł	hearing for 19.04.201	,	hh	•	
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	1	hearing for 19.04.201	,	uhammad Am Mem	in Khan Kuno ber	

## BEFORE THE SERVICE TRIBUNAL, KPK PESHAWAR

Service Appeal No. 1379 of 2018

Imdadullah .....Appellant

### VERSUS

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### SERVICE APPEAL

INDEA					
S#	Particulars of documents	Annexure	Pages		
1	Memo of Service appeal alongwith affidavit.		1 +06		
2	Correct addresses of the parties.	• • • • • •	7		
3	Copy of charge sheet.	"A"	8		
4	Copy of statement of allegations.	"B"	9.		
5	Copy of reply.	"C"	10 1012		
6	Copy of statements of appellant.	"D"	13214		
7	Copy of statement of Faisal Rafique.	"E"	15		
8	Copy of the statement of Shafique Khan ASI.	"F"	16		
9	Copy of the findings of inquiry officer.	"G"	17,18		
10	Copy of show cause notice.	"H"	19		
11	Copy of reply.	"I"	201023		
12	Copy of the impugned order dated 17.07.2018.	"J"	24		
13	Copy of memo of appeal.	"K"	25%28		
14	Copy of the order dated 10.10.2018.	"Ľ"	29		
15	Wakalat Nama.		130		

### **INDEX**

Dated 05.11.2018

Imdadullah ...Appellant

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SHAD MUHAMMAD KHAN, Advocate Supreme Court, Of Pakistan.

### BEFORE THE SERVICE TRIBUNAL, KPK PESHAWAR

Rinyber Pakhtukhw

# Service Appeal No.<u>1379</u> of 2018

#### VERSUS

> SERVICE APPEAL AGAINST THE ORDER OF **RESPONDENT NO.1** DATED 17.07.2018 VIDE WHICH RESPONDENT NO.1 DISMISSED THE APPELLANT FROM SERVICE AND HIS APPEAL WAS ALSO DISMISSED **<u>BY THE RESPONDENT NO.2 VIDE</u> ORDER DATED 10.10.2018.**

### <u> PRAYER: -</u>



On acceptance of the instant appeal, the impugned order dated 17.07.2018 passed by respondent No.1 be set aside alongwith the order of respondent No.2 and the appellant may please be reinstated in service with all back benefits.

### Respectfully Sheweth!

- That, the appellant was serving in the police department in District Battagram.
- 2. That, the appellant was served with a charge sheet alongwith statement of allegation stating therein that the appellant got himself involved in a criminal case. The appellant submitted a reply to the charge sheet which was found not satisfactory and an inquiry was initiated against the appellant.

(Copies of charge sheet, statement of allegations and the reply are attached as annexure "A", "B" and "C" respectively).

3. That, DSP Headquarter Battagram was appointed as an Inquiry Officer who recorded the statements of the appellant, Faisal Rafique and Shafique Khan ASI and gave his findings.

> (Copies of statements of appellant, Faisal Rafique, Shafique Khan ASI and the findings of inquiry Officer are attached as annexure "D", "E", "F" and "G" respectively).

4. That, the respondent No.1 issued a show cause notice to the appellant and the appellant submitted a detailed reply and the respondent No.1 was not satisfied with the reply, passed the impugned order dated 17.07.2018 whereby the appellant was dismissed from service.

> (Copies of show cause notice, reply alongwith impugned order dated 17.07.2018 are annexed as annexure "H", "I" & "J" respectively).

5. That, the appellant submitted an appeal before respondent No.2 but the respondent No.2 also dismissed the appeal of the appellant vide its order dated 10.10.2018.

(Copies of the appeal alongwith order dated 10.10.2018 are annexed as annexure "K" & "L").

That, the appellant being aggrieved from the orders of respondents No.1 and 2 assails the same on the following amongst the other grounds:

6.

#### GROUNDS

 a. That, the orders of respondents are against the facts and law and hence not maintainable in the eye of law.

- b. That, respondent No.1 and respondent No.2 while passing the impugned orders have violated the mandatory and salutary provisions of police rule 1975 and as such the orders are not maintainable.
- c. That, the inquiry officer has violated the mandatory provisions of law and as such the order passed by the respondent No.1 is also not maintainable.
- d. That, the inquiry officer has recorded the statements of witnesses without administering them the oath and as such the statements so recorded are nullity in the eye of law.
- e. That, inquiry officer has not afforded the opportunity of cross examination and as such the findings so recorded and the order passed thereon are liable to be set aside.

That, all the constitutional guarantee laid down by law and all the procedure stipulating mandatory provisions have been violated by the inquiry officer which led to the dismissal of the appellant and as such the orders are absolutely not maintainable.

f.

## .....PRAYER.....

It is, therefore, most humbly requested that on acceptance of the instant appeal, the impugned order dated 17.07.2018 passed by No.1 respondent be set aside alongwith the order of respondent No.2 and the appellant may please be reinstated in service with all back benefits.

### Dated 05.11.2018

Imdadullah ...App#lant

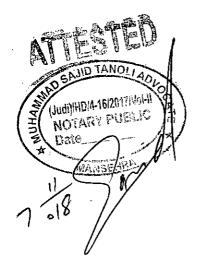
Through /

SHAD MUHAMMAD KHAN, Advocate Supreme Court, Of Pakistan.

# AFFIDAVIT.

I, Imdadullah son of Mian Jamal caste Akhun Khel resident of Kuza Banda, Tehsil and District Battagram, Appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing service appeal are true and correct and nothing has been concealed from this Honourable Court.

### Dated 05.11.2018



Imdadu (DEPONENT)

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## **BEFORE THE SERVICE TRIBUNAL, KPK PESHAWAR**

Service Appeal No.\_\_\_\_ of 2018

Imdadullah .....Appellant

#### VERSUS

### SERVICE APPEAL

#### CORRECT ADDRESSES OF THE PARTIES

#### APPELLANT

Imdadullah son of Mian Jamal caste Akhun Khel resident of Kuza Banda, Tehsil and District Battagram.

#### **RESPONDENTS**

- 1. District Police Officer, Battagram.
- 2. Deputy Inspector General of Police, Hazara Range, Abbottabad.

Dated 05.11.2018

**l**mdadúllah

...Appellant Through

SHAD MUHAMMAD KHAN, Advocate Supreme Court, Of Pakistan. authority hereby charge you LHC Imdadullah No. 105 working in Police Department Battagram as Incharge BDS Staff Chinese Camps Kuzabanda, as per the enclosed statement of Allegation.

**CHARGE SHEET** 

1) By reason of the statement of allegation, you appear to be guilty of misconduct and have rendered yourself liable to all or any of the penalty specified under the relevant rules.

2) You are therefore, required to submit your written defense within
(7) seven days of the receipt of this charge sheet to the enquiry Officer.

3) Your written defence, if any should reach the enquiry Officer 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 follow against you.

Intimate whether you desire to be heard in person.

4)

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District Police Officer, Battagram. A

Attai

DSP/HQ Battagram

# DISCIPLINARY ACTION.

INEX z

I, Rasool Shah, District Police Officer Battagram, as competent authority, am of the opinion that you LHC Imdadullah No. 105 rendered himself liable to be proceeded against, as he has committed the following acts/omissions.

#### - STATEMENT OF ALLEGATIONS.

That you were posted as I/C BDS Staff Chinese Camps Kuzabanda, committed the following misconduct.

While you were posted as I/C BDS Staff Chinese Camps Kuzabanda, involved in case vide FIR No. 116 dated: 14.05.2018 U/S 9CNSA PS Phulra District Battagram. Moreover, instead of performing your official duties you were found smuggling Charas from Manshera. Your this act is gross misconduct and liable to be punished.

2. For the purpose of scrutinizing the conduct of the said accused with the reference of the above allegations, Mr. Farman Akhtar DSP HQrs: Battagram is appointed as enquiry officer.

3. The enquiry shall in accordance with the provision under the relevant rules, provide reasonable opportunity of hearing to the accused, record its findings and make within 25- days of the receipt of this order recommendation as to punishment or propose an appropriate action against the defaulter LHC.

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

District Police Officer Battagram.

No. 746-48 /PA, dated Battagram the, 15-05 /2018.

Copy of above with the copy of Charge sheet to the:-

Regional Police Officer, Hazara Region Abbottabad for favour of information.

Mr. Farman Akhtar DSP HQrs: Battagram, for initiating proceedings against the defaulter LHC under the relevant rules.

LHC Imdadullah No. 105 to appear before the Enquiry officer on the date. time and place fixed for the purpose of the enquiry proceedings.

Attest

1.

2.

3.

1.

DSP/HQ Battagram District Police Officer, Battagram.

ANNEX = "C, الرجاج من عرى 40-40 قرر 2018 مرد الم 2018 مال مل صادر وسفرت مترام مروض مو سرار مارس الرسال در مرص برا مر مدى كترسال مرد م ومن والم الى دولي مان بولى حالفتای اس در سردی می مراق د در عدم و ا می دوران سال سرم مسعم في عرب أبد وعار كوديدم ركمان رجى عى السرواي رسم مروى المرجع الحمار من ف ج . اس طرح مرتخرى كوست رج . المر بأفران مايركوشكايت كالوقع بنه مط تمرح مد مركز سال مرص تقريباً ومرج سال وقل ولولى مرافيام وسا عمر مركم. مرو لرسناتي حمروان سكان مرودت كارمسر كارتو اولن مراجع وال ار برو رنی میرسے آھی خواد ستی وتر کا مرسر کامریز الح طرکم مربا تیں ملا مرتابے پی مرمین کر مشتی کی ۔ مرد مر حرستان حالم حود والحم موره كوزه مالمره مع متردس موجر محفا - أن حوان جما أم حمال تح جال حاف سال كرمن فكم بلاك . الد تحرمه . م البر حام عمقام مثل عمد في ما في تحف رقم مبلو ومد المركز وجول مرتق مي من - وروس ، ادر جا داد آم بسر مرام مر مراجع م ورا م مراجع م مل موج - الدر على مرسفه ما رطت من والمرجر مركب مرور فرجر رغ رمس وسفرى م مر مراوم الدمالي في الر د بع مح . ال عديش كم مارور بوس وال في وم توج . الد عس ما - ع م مد بوس ول من - ورعس مرحما مر مما -مراع ، مركرسان لدرج زارة م وران بوس م مراه محان مرد مرد التي - مرامة مں بوس وال بران بر الا ، م من عد الى جوبوس داول حما عرفا ، شمر مس فی اس وزر کا الحی ج . ار اس بر کا فرجوره رقم الله المرفز الله فو د اطار الما المراج المراج المراج المراج الم المراج الم المراج الم المراج الم DSF/HQ

ومن والان تولي من جرار حط . منهن ود مار مراف ما حرف مع و معمر الح مد درجی کام تح - بمین دواند صابر مراج می سر ما بع العج مندم کا کاری م دان والان عرف ورو مر حما مرو لام ما در الم لا الم لا الم لا الم عام and ye all the series of ansa sing and a sing and a duin ومن كالمرواني عن مراكر ومن المريك وعس مر موقت وس و خورم ي المراجع الحار حد حا وفع اولى الد سرركمام و مركام لما ع - مار دورى مین خیاب ماری می . نهری مار) مارسی می وی مرفانی است مرجرس دیم و را در الما م رساح سارما ف سیس بی می وی مرفانی ارسا مر مرا در الما می المرك مد برامي دوم رو بيني خانه عربيز و بر رك مري مريد د ما مرك كفر رك . له مر مرك بي 145 روم معار مريد الروم محل ما كارك مراح . له مر مرك بي 145 رم معار مريد الروم محل كارك فار محل . · 66/1,62806 عرب مراجع عار مائر سائر سات دار المرا المعالى في رسورا عروب المري في ماروان ساير ال محمد فروان ما الم فرا الم م8، مرکز قاری کون نامی نے دستان نے وہ بن کرن اور نے دانزہ میں مورکز کاری تیکر کاری کا کی جراح نہ رہ مالا کے بران کا مجر میں ان کر کار تیک کی بار دولوں دالوں سے ایسنا کی سر مرد د. سر کرمن کو نا برون جرم است استان نج می شان کا بران ا 2010 200 2010 2010 2010 1005 ACTOR حن کا تما را بر نسله رو از مراجع ما تکر مرجع الم ما تک آن از مرکز از مرکز از مرکز از مرکز از مرکز از مرکز از م

6 12 - 2 - y م ٥٠ - مردس سران عدف مادوا واس ماس الموار الد في مد - اس وار أ در ال مايد عرب كور المديا في جو روان . من معجمان رسياهم مار اردواهما = مار بري وس لغ سان عطار جم فرا داد مروى لد خدا ترى يا باعرم آس فير ما دهان مس حارج سب براعان فرما ر عراب فضد أن ما سال توحد، كاروان سى مېر ورا مرست ورو اوس - سال ماحلات دى تر ب ، Inter a sar F inter 28 5 BUR 86 ttes DSP/F Battagram

بان امداد الله 201 ANNEX = (D) P-(13) ا مداد الله غر <u>حوال</u> حال ستينه الا من تشرام ن سان مياكم ورم 20 13 كو بين كو خود مين مو جود تماكم سرے جا بيان مل جال كان - عد رين تو بل ار ار الم ب ج م ر بل ے مام بر شمس الحق ام شخص سع ایک لد تو روح وجول كرك ٢ - ١ مح مد من ا-- جا ذاد عب اللوك زر يع مثل بني حب بم حامان كول بني ترسما التي الحد فون با تم آب لد بن بر اشتطار/ کو جائے جو می ج ے کار ہ رکورتی ایک سری که به آکر به رے کا شرب ، بیجنے عمر ی بری - محدس دوران مران التوكار أكاد ماري كار معاري كار مع التي تقوى بيركى بردة كاريون سے 18/4 انکاص اترے جو کہ سول سروس تع ۔ اترت می باد ہو تھ تروي شروع كيم . اس دور ان أين باورد، بدلين اهلكار موقع ہر میں - امریکا کم نام سے بولیں ور بے بی - اور ہیں تر فتار مردیا -ادر ممان مرتعا مرجلت بان مراسك بعد مذكوره ممان ترسا تو تعام تعلر و ٢ ان سلول مثل سے روا ہو کیا ، ۲ ستم میں ہو لیس ورلوں نے تباد یا کہ میں Attes م بو لیہ کے باتد تعاکیا کہ شمس الحق پالوگوں کا باتنی ہے ، اسے بالا جاتب لود متم آب لو دينا جا مساتا - آب تے کارد با رس تر ي بهو - ۲۱ ندار ۱ - بولیس کونتی میں جواب دیا ۔ دیکن وہ بیمار ایک میں س ے تسبید تیا رہ تھے۔ ہیں ہے کا مر تعانہ تعلی ہے ورالات میں مند کیا۔ Battagran المع المعالم وتر المولية والون ن من بولين وراكل من بنا ر أب قلم لي ال در بار ۷ کار ۷ کو لو لی دا ہے بیے سے اس قبہ لے کی کھے۔ ار میروھا ۷ ، مربع در کار کو مبل سے مرات کو بیا 100 نے ہے تیں۔ اے کرون وقت م جم مرضی کا روز ا، کیلم که به اکو د پر ک

لد السن ور لوں نے بنا ہم سے اسر بن کا ٹری سے کو کہ نسرتا ہوتی چنز رآمہ المع في غرر في 20 13 13 التي الحل دن ته بمين حسب ب حل عن ر اس مورم محم 14 کو سارے خلا ن من کرت ار اس اور د- ج رحشركا - 1 - رور مع من يو س ن دوعدد بملك تما الله الر من لر معر بسن سقير ان بنا تر تعوير نا ٢- ١ در بركا ل کو فرض موقع دیر موقع ہرے جا رکھا موں کا دیر کال ، مرج ك<sup>0</sup> 3/ لو عاام نے قط كہا كم ميں نے اپن كار نم <u>كام الر ميران</u> فروخت مردر أن تيس - ( ن كا بقاع ارتم الرف كبل بعد رما تما . محد جرس اس کا روما ۔ کا کوں علم نہ تھا ۔ تمر فتا رہ کے وقت جو تکہ وطان برقام ، عباما - کا تربون سے سفیر بار جا ت میں آئے تھے ا۔ آتے ہی مارنا پیل شرماع کیا - ہم نے ، عواکا رسمجو سر باتا یا ک روزک ۔ تکر بعر میں ہولیں العلكار با وروى آئا ار حياكم بم بولين والي ار بين أريتار كيا - الركين ، بمار ، ساتديت ذاين م . تام تركرون بي ے خود سافتہ اے فرقی مردان سے شمس الحق کو میں میں جانا تما كم وہ كون ہے . ميں عرف ہے ، چا كے مبتح ہر ابنے ، چا دار كر ا ت - بمراه مل تما تما - بمار - سا تد ست ذادر بوتى ع درج الا جہ جالات پی تعریا تل پر م مرطاط الح ۔ الم ناردہ جر ع. الم كو متدم مين بنسا با تماع. الم ع مال ير - ع فرم ر ما حب برور ما ار قرا ترس م با دبر جار جس هذا منعه مدا آيا ملتوى ركين كارستديا رتاس ما ميرامي بل ف عريب Attested الار الملك <u>كمال متاجع</u> 1 للمذ Battagram لد لين لا من تشري DSP/HQ Battagram

· 65 721 ANNEX = "E P-(15) منعل منين المعربة تعام تعلزه منك ما شمره نا ما نا ما لمورم کن ال لو س. مع شغبت کان An مرده ٥٨٦ لهو مردن کاه ال کردار از ب ے مردہ تھا کر سرہ ساچ سلام تحت، تا ہ سر ب و جرد تھا ، س دوران مل مدس ک حاف سے مرمر کار عرب 145 بر من الم بر ال جنگو رور سرچک کیا گیا- حسل خدر اسو تد اسد ولد مل جال قدم احریل المست كوز ما المرد مررها قوا ، جس فرنت سب مر ا مدر در شر دلر ما را عال قوم افر نخبل کند کوزه ۱ نده شرام ۱ - - کار تای بخطل سب بر سید ا سَوْعَن ن الله المس الحق و لرعمل غرخان قد الجر سالة كورد ما نثر الترال ونتوك مكور مان را كامر سا المج را را را الرا الرا مرد من حد جارا عل س ل ای تی ر دران تل ش تدر شر ا ا س ک بند س ک بند س ا مد تد امان مراحد مرد . شا بند سب کار ار خار جس عرب سب جرس بر آن بدل جس ا د ب ماج شب التي موى عن برا مر س ، سمی فرن سی مر سربر ا مرا د ا شرع سی کے شی سے مدیر ا س بالله جرس مراحد مرت - حو بر حوق مرر مه ، مدر ت ميل ورن ري جرس مدا مد مرت - حو بر حوق مرر مه ، مدر ت ميل ورن ري جر معد (201 لو له 44 له الله مراكل مر مع مدر ان لو بر وقع مر متا رك جل جرس بردے فرد بر فرقع تبق لو میں لیا - میرا س با ن د آر در after i lat 1 He min T21 un - dere DSP"4Q Wested Battagra o in 6 the Me113503-0530228-1 DSP/Horr q Mob = 0345-8001550 Dated = 06-06-018

ter for an and the station of the second sta Dalead = 06-06-06-018 912126-8450= 90W Here Selles 1-1991510-10581= 71N and of mino UNELGETTES W Allested OH/dSO. کاین ان شیر محمد کان کار Le von pero u - mino do a - et com a. White we are the second and the second - in is in the set and - 1 - die with - weil  $\frac{1}{2}$ ر الله الله الله المالية مع المرالية المالية المالية المرالية المرالية المرالية المرالية المرالية الم ور المراج المالية منه ومنه المربع المربع المربع المربع المربع مالة ولا الم و الولاد المعند الم e e the way of the we all a way with a first of the way a first of the second of the s المال في من على 24 ما يد المدريس. ما يو من عرام 20 ب شنین کال احط شخب تاله مولا و مند کا بال کنین (91)-0 1 = X JNINT attain la Agueran o in

ANNEX = "GA

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جناب عالى!

د مرّ ب يوليس آ فيسر بكرام-

د بی سیر شد<sup>ن</sup>ه اف یولیس ہیژکوارٹر بطگ

بحوالدجارج شيث نمبر 48-746 مورخه 15/05/2018 مجاربيدى بي ادصاحب بكرام معرّوض مول كديش ميد كتسميل الداداللد 105 جوكدانيارج بي ذي الس سناف كوزه باعثره لكايا كيا تحامور خد 2018-05-14 كوبحوالد مقد مدعلت 9CNSA جرم 9CNSA تعاند بھلوہ نے چرس اسمگنگ کرتے ہوئے پکڑا گیا۔ جس کو معل ایارج شیٹ کیا جا کرا کوائری بچھے مارك بهوتى\_

بددران انكوائرى مذكوره ف اين بيان مس كها كدم شرخود مس موجود تعامير ، يجاميان كل جمال ف سائل كوكهر بلايا ادركها كه يل ي مش الحق ما م شخص سے ايك لا كھر و بِ ليكر آؤ - بعدة ميں ادر چاز اد نجيب الله بذريعه كاڑى ذاتى بل پنچ و ہاں پر 9/8 افرادموجود تے بنچ بی ہم پر بلاوجہ گزارات شروع کیاس کے بعد باوردی تین اہلکارموقع بنچ اور ہمیں کہا کہ ہم پولیس والے ہیں سائل كومعد بچازاد فعاند يحلوه كے لئے رواند كيا۔ راستہ من بوليس نے بتلايا كم ش الحق جو بوليس كرساتھ تما آ بكاساتھى باوراس ك پاس موجود ہ رقم جود ہ ہ کودینا چا ہتا ہے آپکااور اس کا کار دبارشریک ہے۔ ہم نے پولیس دالوں کوہیں میں جواب دیادہ ہماری نہیں س ر ب ت بلکدوہ اپنی بٹ دھری پر قائم تھاور جمیں حوالات تھانہ میں بند کیا الطےروز پولیس نے گاڑی کو پھلوہ روڈ پر لے جا کرتھ ورکھینچی اور پھر ہمارے خلاف 12:40 مورخہ 14/05/2018 کو بجرم 9CNSA مقدمہ درج رجس کیا جملہ کاروائی فرضی تھی ایک تو ہمیں تھانہ بل کی حدود میں پکڑا تھا جبکہ جائے دقوعہ اوگی روڈ ٹھا کرہ میر اہتلایا گیا۔ ہاری موجودگی میں پولیس نے گاڑی سے کوئی چز بر آ منہیں کی ۔ پولیس فے تعانہ کے اندر جمیں جھکڑی لگا کر شیل پر دوعد دیکٹ ر کھ کر تصوریں بنوا سی ۔ اور پھر کاڑی نمبر ABG-145 کوموقع پر لےجا کرتصوریں بنوائیں۔ پولیس نے ان کے ساتھ زیادتی کی ہے جو کہ ایک خود ساختہ سو چی تجھی کاردائی ہے۔

ای طرح گواہان فردشفق خان ASI دفیصل دفت 721/IHC تھاند محلوہ منلع ماسم ہ کے بیانات بھی قلمبند کے گئے - بیانی ہوئے کمور خد 2018-14 کوہمراہ تنور حسین شاہ SHO ود یکرنفری شاکرہ میرہ سٹاپ بسلسلہ کشت ونا کہ بندی موجود تے کہای دوران گلی بدرال کیجانب سے موٹر کارنمبری 145/ABG برنگ سز آئی جسکوردک کر چیک کیا گیاجسکی ڈرائیونگ نجيب الله ولدكل جمال قوم اخوندخيل سكنه كوزهبا عثره يتكرام كرر باتحا يجسكى فرنث سيث برامداد الله ولدميان جمال قوم اخوندخيل سكنه كوزهبا عثره بظرام ادرگاڑی کی پیچلی سیٹ پر بیٹھے ہوئے شخص نے اپنانا مٹمس الحق ولد کل ثمر خان قوم تجرسکنہ کوز دہا نڈ ہ ہتلایا۔جن کو مشکوک جان کر گاڑی سے نیچا تارکرگاڑی کی تلاشی حب ضابط مل میں لائی گئی دوران تلاشی ڈرائیور کی سیٹ کے نیچے ایک شاہر برنگ آسانی برآ مد ہوئی۔ شاپنگ بیک کی پڑتال کرنے پراس میں ایک پیکٹ چرس برنگ پیلاجس کے او پر سکاج شیب کپٹی ہوئی برآ مدہوئی۔ ای طرح Attested

> DSP/HQ Battagram

فرنٹ سیٹ پر موارا دادانلڈ کی سیٹ کے پنچ سے مزیدایک پیکٹ چرس برآ مدہوتی ۔جو برموقع بذریعہ الیکٹرک سکیل دون کرنے پر 1220/1220 گرام ٹوٹل 2440 گرام تکل ۔ ہر سہ ملز مان کو برموقع گرفتار کرے جملہ چرس بروئے فرد برموقع قبضۂ پولیس کی ب او

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مسمر مسلم د می ایس یی میڈ کوارٹر بلکرام

Attesto

DSP/HQ4

Battagram

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### **ÖFFICE OF THE DISTRICT POLICE OFFICER, BATTAGRAM**

/PA. dated :

## Final Show Cause Notice

(Under Rule 5 (3) KPK Police Rules, 1975)

1. That you <u>LHC Imda Ullah No. 105</u> while posted as <u>Police Lines Battagram</u>, have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules-1975 for the following misconduct:

I. \_\_\_\_While you were posted as I/C BDS staff Chinese Camps Kuza Banda, involved in case vide FIR No 116 dated: 14.05.2018 U/S 9CCNSA PS Phulra District Mansehra. Moreover, instead of performing your official duties you were found smuggling Charras from Mansehra. Your this act is gross misconduct and liable to be punished.

2. That by reason of above, as material is placed before the undersigned, therefore it is decided to proceed against you in general police proceeding without aid of enquiry officer;

3. That the misconduct on your part is prejudicial to good order of discipline in the police force;

4. That your retention in the police force will amount to encourage in efficient and unbecoming of good police officers;

5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules,

6. You are therefore, called upon to show cause as to why you should not be dealt strictly in <sup>-</sup> accordance with the Khyber Pakhtunkhwa police Rules, 1975 for the misconduct referred to above.

7. You should submit reply to this show cause notice within 07 days of the receipt of the notice falling which an ex prate action shall be taken against you.

8. You are further directed to inform the undersigned that you wish to be heard in person or not.

(ABDUR RAUF BABAR). District Police Officer, Battagram.(Authority) Dated:

DSP/HQ Battagram

Received by LHC Imdad Ullah No. 105

Dated: 09 107/2018.

41

 $A_{NNEX} = ", P - 20$   $E_{V} = 10, P - 20$ . كادر در مرابع مروض ور اندر الدري اده سامل زيل عرض (ارج غد مر مسامل تفريه 17/18 سال سے تحکی لولیں من والب بر 2. سامل ف عمد الن خرافی ایا مداری راسی اور در انداری س مرافع دی و . برط س ان تحک کی وخار، عزت اور سرملندی کر تفریم الکا و کچی بھی لا چروایی (در حکم عرولی نَسَى في في اور مرطرح توسنُسَ في في السون بالاتو سنكاني كما هرفخ مرحل -مُلاد يركم وهرم من روز سأمل ( بن كاول دن اور فرود هر ورفا - مثلم من حق وقت جالم حان مماجل كن الحروة ف في الي تحريلايا اور تيام تم بيل تحم المر كالر تعنين في الى تشخص على حل الحق أس ف ومر ميرى إلك لا تحد وريس چ وصول نہ ہے لے آؤ- اور اپنے میں مسی جن لائم ولد حیاں کا چال کو بھا تر مَر شَمَل كمل موام بوآ . غد مربع ورجاب رقيم اور مراج المعن مركة وتامري كمام ( دران مادل المام ورت كالمفي حكى بها يارفم مسى رحيم ف تحسُّ الذي ما في منهم تحق ف يقول المر حر بحال وهوى كيل في اللي يلي تساعد روان كيا كما نراب مرفع مين بتراك نيردي لولي - جايان كول في خريب تما جون ميري في في التعليم المان المان المراك ميردي لولي - جايان كول في خريب تما عرف مري في في طر اوم وما مثل پررابط مونيني وج قص سول ف ساحة كاري كهوا كرمزكوكها. کی الکی میں نے کول سے مساحظ کا دلی کو میں نو وہاں مر مراج لغر سفیر والخ Battagrar میں نے سول سے ساحظ کا دلی کو کا کو کو کا نو کو کا نو کو کا کور جار ما بين اطرافي سروم مولكي · (مدى وشاحين لو لي فور د) في حلوس مين لو لي ی روں پر اسلم رکھ کر جنر (رکیا کے سم او سیں والے حین - حزید حراجت فت مرور بع كولا ماريل كي -مرح و لو سالفرى تو د تلجو تربيم ف مزاع ف شم ردى ، من ف بولا في حين بحالي لي وارم يون، بطارت وروا ها مع ير بلاوج جمع بر صريو كورن لوكون ف نیا کی حکاف میں جائد آز هر هی بات مربع کے بی قرر میں میں کان کان کان کا اس لیے ہم آن کے معاکد کا دی میں الدھ کر رول موجی لیکن وہ لوگ میں کان کان کے سالنے

نہ وی ، بلک یمیں ایک نے جانا سروع کیا۔ اُدھر بھا میں نے مَدی تارار لیا ، تو بيجه وأليا ثم أو كون يو في كير فأر خاركياج في فيها ف ال جات بيو : لي لوس ف مرى رك مرمى مع مع وما عمل وز وغير الله مع منط كم عد الدر العار كس في ماحد رابط يونا بي في لام عا . كم مد حالم في ينج مر سار معار معار أي اود محف فوجى متحايا - اور يسام مرعكال ساري شراقي ی بیم بون سے فیض سے و علو حرب سرا در کیا ہے ، تم بھا ان کے بارشر رمو۔ من ف مزار بار الكار في ارس من من الم عن الم عن الم عن من يون - اور مر يد عن ديكي و بكي ع مراکوموف جافور کے بینے پر اس سے رض وجول کر ہے کہ بالی دسی تع سالی ور ج) افرار مردهای بر انجانا بع قص اس مح في فرف كارلا اور و ما بتر ا در کی محصر اسلی نیں 2. تدکیل او مر کا ف جال ایک بات میں نز مرکم)، اور وحال) سے جائر تھان محلاہ کے والدت میں مبر کی . مراجعه بيروافهم يعاد مساقف ورج 2018 لقريبًا واستعمام في من 1 بالحا اور كمان تعارب يسيح لَقُرْبُ إلا في علمام بولا. حرب هرا حرب وي حد ما حب ك نى خاب ميں ب كناه يوں فحص عور ور كبون جبح 100 كنج ميں فرادى در اي دروى مر منیخاط هارون، کیونی اسی فوری سے خبر مردی میں میں دی بی میں دی ہے۔ نے کیانے حین وسی فیکن کر کارون کے خبر لاور دی کی کون کا ورق وال کر ج ، ملکی هراکد شکان حین دیکن کر کارون ، اگر سے گناہ جو سے کو ملیح کی دول کا - لمزارات مُلا 20 الحكر روز قورم كي 44 كو هرر تمان عملوه ف في بتايات عمف عماري عل مع جوان س جی تھا ہے انسر کی ھی اِن سے طرف پر جی دو۔ لیزا اب کھا و تحلرف من مرجر يوكا كمرشا عارً كل من لعد ميكو معاريان الكامر دور 642 عن ما یک لصوری فکالی- أس) ت لعد بعین کادی و با بتل عین انتخار اور فرد او بس انتخاب از ا نوما در وهار) من الله ومراف مين جائز الني هو بالبل في نائ مندى لو فرافي مين في في الما حما) سرا کاڑی Fir کے وطابق روڑ میں کھڑ (کر کے (من کے مسجھوں) کے نسچ ورس رَكَمَى في سلمفَ مُكاف س المركز أسلل بلى في كما تحق وهال مريمين بلى وراسل سے نتیجھ (نار مرابئ گاڑی جس بچھار لھو ہودوں سمیت لقب ہوج تبار کیا جہ ، حالان جن مؤت کھانے سے ہمیں لے جارتھ کھے۔ (من وقت جیرے رولوں عمالی ، میں) حیا ذار اور مسی حیاں واللہ ، فیل عاص میں رولوں عمالی ، مسی

الفرزانة ساتصغاشي باي درايور وسار لوعام عدارة في عاد اور الكم معلاق هوهي عاق طايدارك ساعد كان عواده (المحار في عالا ال مس حكوره بعني ح كم لو من في يعين هوالد عكام من الكاليز الور مد ولي حكاري لوفر در المركب الله فرم) باف وفي مركب على اور فرد ور الري م) جمر خداري منه ٢٦ تحفيظ لعر حرب رتصر ومن ٤ لعوم بن لاعال مر حص مرم - We en ale water by -يزااعه حريع في 15 توعد لتور) حين جام بط ل أمي ون كيلير رط مر المالي الوزوج 2.3 مرجين جيل عالم محود ما جال لومين كو لين جي دارم مو 2.3 ، گھنٹوں سے ربان کی دارم کو دواور سی لکھنے کی اجارت س بے انہ ای ایمار نے متباکھ زاری کی دنیکا و ملحص مے چورج <u>5</u> 31 کو رائ 1/21 سے قریب ہوائی کنیں میں در حراج في دا المرفين لفريما مولي فريد مرام دين ميس لباع. غرفار سب جن عالم على خانت ير (ارم مير) ب ( بن ب كنام ما يك مرف كل (تكوليري) انسر جاب 14 DS DS A بالاليك فر دري ورواس لفرص RD كال كليك وى يلى - مكن المج مد في وه RDD س على الر في وي حورا مل جر (13 مرحم 300 كا مررغ 300 كا مررغ 300 كا كا ما جا في اور ما جين اورى ون وقت لور لوكن المرسط يوكل اور وي با كالمعدي كل ملدى رود لا مدن الحدون تم قیصے تمامیل سلوکار تھی حل گئی ، نسکین ACT قیصے نہ صلی . اور جی مے کنا و نیون مرونيد الوقت وتحويم مين طائس كيمي كورة بالمره مين ليفيات عا- اور فين الجارج Bps مين المحاجلي موز مع معانى بح تيمي مين جائا اور ابنا قلى روانكى برك وركن سائيرون مرافعا اور ساریج سات 30.7 تک بطری والی بیوتی، روز ناچی کمد کھی سرا کی هیک حراج کی 31 کو بوحث جمع 501 کے تیم درائی روانگی اور attagra روفی فی اور اسی حدی فیر را میں مروفی فی اور اس والی کی ج اور جرر خ 14 فر جون حس والد عين نبر عما ، إس لي جراح 14 فر عبد الوزياج س کولی / مر اور روانگی سری . اور کی ۲۹ کو عمادہ کو سب نے کھریکا حدار اکو وقت وقوع ، بہلا یا ہے . ۲۰ ۹

معاد الربين في ال عين بنتجاني موى، حطح المهون في طاف فور عل بوس مجمع جزاري والتي ارك الرحة والح عن عا ما - لو ی حفر ال وقت میر طبیخ و وقت بیری کنا تھا ، کی می حال مرا میرا میں اولی کو ان مار د میں ایجز میں لا گفتی کی حماقت فی میں حرم کے 14 کو حمر ارد مالی حول اور ا اور عالی من سر منکی بینی و حمر حص ان ورکون ف جسے ورج کی 13 وراث 00 ای مع قسب تر شار قبل 6. اور فورج 6. 14 كر امل عرف تعرم جل فل في الم المعل عليميات المربعا كيماني هي طارت و وانطاب بالارت ي ال سائل کے حال درائے ور حاکمت در رور کا اور حرا غرب کے متل ایک ا کی غربت اور جمع میں وقت کے کا کالت کے گت سامل پر تعرباں ایوائر متو کارلوش هلا عبرایی فنصر زند خامل قرحامین ، اور مسامل کو خیلان کارلان مع در افرها مرجل رفر فاقيل الد تمان الكوجران جير دين مسابق المراجع Alles en in halleter 201 crain & we with 16 07 ero Johnd Supported when so los, permet 516 Now manded when in 105 er, 7/7/18 Tenter Orders, Deare Chow Cause. Mr. Present in office U

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OFFICE OF THE DISTRICT POLICE OFFICER BATTAGRAM Ph. # 0997-310036 / 0997-310124 Fax # 0997-311616. E-Mail: batpolice@yahoo.com

# <u>ORDER</u>

LHC Imdad Ullah No. 105 was enlisted in Police Department on 01.07.2000 while he was posted at Chinese Camps Kuza Banda as I/C BDS involved in case vide FIR No. 116 dated: 14.05.2018 U/S 9CCNSA PS Phulra District Mansehra. Instead of performing official duties the said LHC was smuggling Charras form district Mansehra and also brought bad image to Police Department.

Charge sheet was issued to him vide this office Endst: No. 746-48/PA, dated 15.05.2018 inquiry was entrusted to DSP HQrs: Battagram. The enquiry officer in his enquiry found him guilty and recommended him for Major Punishment. Final Show Cause Notice was issued to him vide No. 1141/PA, dated: 09.07.2018 and his reply reached to this office on 16.07.2018 which was found unsatisfactory. Therefore, on 17.07.2018 the undersigned personally heard him but again his statement was found unsatisfactory.

# Brief facts of the Case:

On 14.05.2018 the LHC Imdad Ullah No. 105 was red handedly arrested by the local Police of PS Phulra District Mansehra and recovered 2.440 KG charras from the possession of the said LHC and a case vide FIR No. quoted above has been registered against him. Enquiry officer, in his report also stated that the said official is notorious in such matters.

#### **Final Decision**

Keeping in view I, Abdul Rauf Babar, District Police Officer, Battagram as a competent authority hereby award LHC Imdad Ullah No. 105 Major penalty of Dismissal from Service under Police Rules-1975, as the LHC Imdad Ullah No. 105 is involved in the above cited criminal case and cannot be retained as member of Police Force.

Announced.

OB No. <u>48</u> Dated <u>17-07-2018</u>

(ABOUL RAUF BABAR) District Rolice Officer, Battagram

DSP/HQ Battagram

ANNEX="K, بحفور جناب جاد صاحب يوليسس مزاره ريحن ايبسط 25 ابیل بنارای کم مصدره بحواله آر چر بکست 14 مرز خرج بجا ربد از دمتر خباب م جم ملب مرز حرج بحا ربد از دمتر خباب م جم ما حسب شبکر ام حب ا کے ذریعے جناب ح ماحب ک نے بچھے میری جارج شیط کے جواب میں لكبى اصل كبانى جسب كالتصديق بإشرم يير انكواقرى المسسرف بعى سنركى تحصي فامتعل الخطوم انكدائري اور فجس دمائح كما فوقعه وسيصقبنيه بیویں تعانہ بھلاہ کی برنیں اور بریانتی سے محصه با کم دِح گذا ۶ میں ملوث کرکے میری 18 سالدب خدميره ملازمت برياني جعيركري ملازمت مسيني مالونى اور منير آشنى طور يرد المسم من فرط ديا ، Non Goal May استبدا تصبيرا مسل حقائق كوملحة طرخاط خرطا Doled 31.7-18. Commen عصفا كرم كمناه ميں حكى تاجا تزسنا ثر و سمسل مشسوخ و مما لسم فرمانی جا کر *سمبوطله Battagram* محص ملازم - برتار- بخ د مسمسل سے بطسیس معد ا بخالے فرمایا جا کر النقاضہ درا جادے . جناب مالی موجبات اپیل عرض ذیل ہی لى يركد ساك معدد في وي كو تحكم بدليس ضلع شكرم مي لطوركيش موتى میر کمرحوش اسلومی اور دیا تترادی سے خدما شرم نجام دیتے یویے ویکروٹرس کورس پاسی کرنے کے لیدمنلے ٹیگرم میں تختلف بقائد جامد اور جوكم من ، فريفك - بم دسيوز ل معادم ا Attesta SP/HQ attagram

ديكرايم سنعبوب ميس خرش اسلوبى مسيخدمات سرائجام ويتيرد اور مخلصانه اور دیانتدادانه طور برامور ملاز مت سرانجام کی وج س لوم مقلاس كورس باس كرك بم وسيوزل سكواط جا بنا تعیب کوزہ بائدہ منا طبکام میں تعیناتی کے دوران جر نکسای کے بچا زاد **ا**سمی تجعیب انتشہ و لہ میا*ت گمل* جال سکنہ کوڑہ *با نظ*م جس نے شمسس الحق ولہ مکی تخر سکہ کوزہ بائد م مرکار می واجت کی بیج ٹی تھی ۔ کمیے ذہ گا ڈی کی رقم میلخ / دیکے لاکھ رہ بیسے وا الادا سرنے تی وجہ سے مذکورہ شمسی الحق نے اسے کہا کم وہ بخیات کی دخم نیکرخواج گان طالب جرجاں وی تدی کما کا کردا عما ، اینے کما کا کی زیادہ مسطر میات کی دجہ سے وہ بٹل میں آ کرنجیب انٹکہ کم المسكى رهم مبلخ اكيم المحصر ويسير شل ميس آ فرا دا كردينا المخسية محومیں تک۔ اسے ما خون کر کے کیا · جربخیب اللہ کے باسی چونک این مکارمی نه قعی جس نے جسے گھاڑی میں شتل تک ایجیا نے اور مردمیس کوزہ باندس لانے کا کہا - تومیں نجیب اش کر تسکر طبق بسجا امرشل مبى شمس ولمن كوم جود بإكرج البى شكرى كرابيه عرله تحقا - سمیں شہل میں اس نے نا معلق متعام سے فون کر کے کہا کہ گادمی روتسویں آپ سے باس پنچا ہوں جس پر میں نے مبتل متعاشر کے تحسیب مکارض مروکی نبی تھی ۔ کسہ فیصل میں ما !! جسس کا بعدمیں تجنب تام معلق میزا - بعد دوبا وددی بوکسیں والسے ہے بعدمين تتبر حيلاكه تحفائه ميلوس ويسب سب اور ج مزيند بإرجات والمسيحين كمستعلق بعدمين معلوم سجا - مور مسالم بعلام ی یونیس میلازمین میں - نے یمیں کھیر میں لیک ہمیں کھیری د مرس شی کرمیری مورش انسوں نے اپنے آدبی سے چلواتی يمين تما مرجعات بعظرة في محصر مردرات راد ما منهم الزرمين انہوں نے شمس الحق تو محمالیمارے ساتھ متھا یا ۔ اور کہا کہ وس سے بہم نے دو کملوچرس کی کس سے ماہ رتھا مذ بچلاط میں رسی علی معلی معلی والات میں بند کر دیا ۔ (مرم

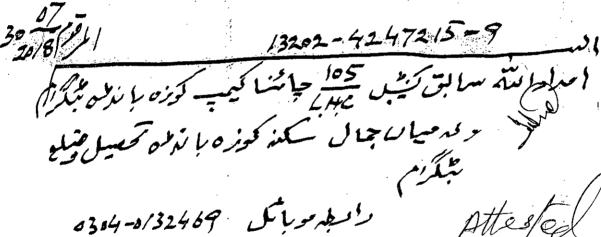
ADSP/MQ Batragram

27 مرجع دارتو بمیں بھیلڑے تعامنہ میں پیچا کر مورخ سمام من خلاف بجرم ، جمع مي معد ورج رحيط جاسیکا کیکر مودخ بچری *زرسی مانشیزه کچری ایج*ا کردیک دن میوبسی مسیق دن میوبسی مسیق می بینے کا کیکر واپس تعا برعیارہ ليجا تسرمود فترجير كانو جود يشل ريماند برجسل مايسير بمجاديا . جماف سے میری برج دن بعد خانت بوری ،جو سرسدولی مبگرم اپنی حاصری تی راپورسٹ کرنے ہے تجسے تیتہ چلا کہ قلبے جناب ۵٬۴۵ صاحب في معطل كرك جارج شيط ويرى جو خرطان احتر حجرهما حب يسطركوا دشر المبكر أتوا نكوا لمرى المسب ما مؤركرديا أمل م جوميں نے جناب مجرع ملحب كو ايك درخ است جسوميں مسررجرل لاجلہ واقعات۔ درج تھے دندی اختیں شیر، تباتل ف استدما مرديم على كترميري درخ است. في قيمون كيني معراكمك بخواشية بمنبس المن 2837431 - 2837431 - 2837431 حقائق جعلم كريس وسيكن جبابت والمجكم مباحلت في والمرى بسيط الوود فحص دخام ما تومع مرتبطة بعيرا قدر دم خرائدات مى تصفيق يا ترديبرى شيدادت المصبغير كمسطرفه ماردانى كرت سوشي تعباب يجعلونى فروساخته بم بركومي قدآت باك كا حضرة تغريتهما ركرك مير بدخلاط متعدية . اس طرح جناب ۵۹۵ میاحب نے میری یہ داستان اعلباً حجم میاحب سے سن کر فیسے معطلی سے بحال کردیا تما - جو بعدازاب موصوف سے تحقیے زبائی سنسے تے باوجود نا السصافي فرية سي سير خلام المجل حلوب في كم طرف نا دیسے می تکی رہچر ہے۔ ہیر سے سوچے اور ڈین میں رکھیے بغير كرميري خلاط سير فجعوثا مغدس ابمى تكسب عدد لستدمي بنجا میں بیے یا نہ ۔ جو اس مقد کے تسعیلہ سے تلے جسومیں انتسار التلہ سیری سزایا ہی کے دیک ونیصدی بحق المقالم شيس مين بخيرينكر نه تو مسر سالا عقر يا تهرن

DSP/HQ Battagram

نه توکولی منشیات مرامر منجمی . نه سی مراصکی میں کوئی المعلق كوام ب - أورندي حفائق ك مطابق في عسوة تعامد بيلطن سے كرمتار كما كيا جو حقاقت تے مطابق قجلے بالم يوليس ف تبل تعانه ك قرميب سب لا ترميري فادى س حدد من طرف مس جرس داند مکر تکریک جاتی قر ترکیکی جس كومين بغضل خدا عدادت مين نمايت كردنسكا ( سشير عما معييك مشصفامتر ( در مميرج الدفسيل، فرجابا جاكريمري بالمستحسل أروح كوتما ضيصله عداللت بيطم ركهاجا كمر فيس ملازمت بركا متصل عدالت بحا ل كم

Leave of the Kind. due me iling of in it مي ستمار كيف جا سُيكا حكم ما در تسرمايا جام .



Attesto

#### ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by Ex-LHC Imdad Ullah No: 105 Battagram District against the order of punishment i.e. Dismissal from service awarded to him by the DPO Battagram vide his OB No: 48 dated 17.07/2018.

Facts leading to punishment awarded to him are that he while posted at Chinese Camps Kuza Banda as I/C BDS involved in case vide FIR No: 116 dated 14.05.2018 u/s 9CCNSA PS Phulra Mansehra. Instead of performing official duties the said LHC was smuggling Charras from district Mansehra and also brought bad image to Police Department.

After receiving his appeal, comments of DPO were obtained and perused. The undersigned called appellant in O.R on 10.10.2018 where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by DPO Battagram i.e Dismissal from service is genuine, hence his appeal is filed.

No. 4912

/PA, dated Abbottabad the

Hazara Rogion Abbottabad /2018.

REGIO

Copy of above is forwarded to the DPO Battagram vide his office Memo: No: 9265/SRC, dated 29.08.2018 for information and necessary action. Service Roll & Fauji Missal are returned herewith for your office record.

Qu :

REGIONA CE OFFICER I. PO Hazara Rogion Abbottabad

PONICE OFFICER

Attester

DSP/HQ Battagram

of the

) قريبونل K.P.K ليشاور بعدالت جنار حسر مسين عاصير 401/2/1 دعوى ياجرم ير مصب ا مندرجہ بالاعنوان میں اپنی طرف سے پیروی وجوابد ہی بمقام / میں حاك شادمجر غان ايرووكيك سيريج كورك آف باكستان بدین شرط و کیل مقرر کیا ہے کہ میں ہر پیشی پرخود بایڈ رامیہ مختیار خاص رو بر وعد الت حاضر موتار ہوں گا۔ادر بوقت پکارے جانے وكيل صاحب موصوف كالطلاع د ي كر حاضر كمد فا اكر كمن يشي يرمظهم حاضر فيهو الدرغير حاضري كي دوبه ي كطور پرمقد مه میر \_ فلاف ہو کیا تو مساحب موصوف اس کے محک طرح ذمہ دار نہ ہول کے ۔ نیز وکیل مساحب موصوف صدر مقام پجہری کے علاوہ کمی اور جگہ یا بچری کے مقررہ ادقات سے پہلے یا پروز تعطیل پروی کرنے کے بجاز نہ ہوں کے اگر مقدمہ مقام کچہری کے کمی ادرجگہ سماعت ہونے پر یا بروز چجبری کے اوقات کے آگے یا پیچھے ہونے پرمظہر کو کوئی نقصان پنیچ تو ذمہ داریا اس کے داسطے کن معاد ضداد اکرنے پختیار نامہ داپس کرنے کے بھی ساحب موصوف ذمہ دارنہ ہوں ہے۔ بچھے کل ساختہ مرداخته مهاحب مك كرده ذات خود منظور وقبول بوكا راورصاحب موصوف كوعرضى دعوى اوردرخواست اجرائ فأكرى ونظر ثاني اپل نگرانی دائر کم بن ، نیز ہوشم کی درخواست پر دشخط تصدیق کم نے کابھی اختیارہ وگااور کمی تھم یا ڈگری کے اجراء کرانے ادر ہر فتم کا روپیدوسول کرنے اور رسیددینے اور داخل کرانے کا ہوتم بیان دینے اور سپرد ثانی وراضی نامہ و فیصلہ برخلاف کرنے و اقبال دعوى كااختيار بوگا در بصورت اييل وبرآ مدگى مقدمه يامنسوخى ذكرى يكطرفه درخواست يحم امتناعى يا ذ<sup>گ</sup>رى تيل از فيصله اجرائ ذكرى بحن صاحب موصوف كوبشرطادا ميكى عليحده بيروى تختيار نامدكرف كالحجاز بوكاادر بصورت ضردرت ابيل ادرابيل ے داسطے می دوسرے دلیل یا بیر شرکو بجائے اپنے ہمراہ مقرر کریں اورا یے مشیر قانونی کو بھی اس امر میں دہی انتقبا رات حاصل ہوں کے جسے صاحب موسوف کو، پوری فیس تاریخ بیش سے ممل ادان کروں گا توصاحب موسوف کو بوراا ختیار ہوگا کہ مقدمہ ک پیردی نہ کریں ادرایسی حالت میں میر امطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔لہذامختیار نامہ ککھ دیا ۔ ہے کہ سندر ہے۔ مضمون تخذيارنا مدين لياب اوراجهي طررح مجع لياب اورمنطور ب-المرتوم.... JI J \_\_\_\_\_\_\_\_ امار آت ولاميان جال اخوزونال ESTED & ACCEPTED ( روما ( ندل) سه موره ما رام مشكر الم D MUHAMMAD KHAN uprovine show ADIOGAT PREME COURT OF PAKISTAN

### BEFORE THE HONOURABLE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL PESHAWAR.

### Appeal No. 1379/2018.

Mr. Imdadullah Son of Mian Jamal cast Akhun Khel R/O Kuzabanda Tehsil and District Battagram.

## Appellant

# **VERSUS**

- 1. The District Police Officer Battagram.
- 2. Deputy Inspector General of Police Hazara Region Abbottabad.

### **REPLY/COMMENTS ON THE BEHALF OF RESPONDENTS**

### **Respectfully Sheweth;**

### Preliminary Objections.

- The appeal is not based on facts and appellant has got no cause of action or locus standi.
- 2. That appeal is not maintainable in the present form.
- 3. The appeal is bad for non-joinder of necessary and misjoinder of unnecessary parties.
- 4. The appellant is estopped by his own conduct to file the appeal.
- 5. The Appeal is barred by the law and limitation.
- 6. The appellant is not come to the Honorable Tribunal with clean hands.

FACTS:-

1. The appellant while posted at Chinese Camp Kuzabanda District Battagram as incharge Bomb Disposal Squade, has involved himself in case FIR No.116 dated 14.05.2018 u/s 9C CNSA PS Phulra District Mansehra. He was arrested red handedly and large quantity of contraband about 2440 Grams Charas was recovered from his possession.

2. Para No.2 is incorrect. The proper departmental enquiry was conducted after fulfilling all codal and legal formalities, he was awarded punishment in accordance with law.

3. Correct.

4. A Show Cause Notice was also issued to the appellant but his reply was found unsatisfactory. The enquiry officer recommended him for major punishment. The appellant was dismissed from service vide Order OB No.48 dated 17.07.2018 after fulfilling all codal and legal formalities.

5. Correct the appellant has preferred an appeal before the worthy Deputy Inspector General of Police Hazara Region Abbottabad but his appeal was rejected by the appellant authority vide order No. 4919/PA, dated: 10.10.2018 in accordance with correct to the extent that appellant has filed departmental appeal to respondent No. 02 which was thoroughly examined and was filed as per law and rule.

6. The appeal is not maintainable on the following grounds: -



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- A. The appellant was found involved in the heinous criminal case due which orders of the respondents are in accordance with law and rules and are maintainable.
- B. The impugned order is legal, correct and in accordance with law and rules.
- C. Incorrect. The appellant was treated in accordance with law and proper opportunities of defense and personal hearing was given to him during the inquiry proceedings.
- D. Incorrect. Proper departmental inquiry was initiated against him.
- E. Incorrect.
- F. Incorrect.

#### PRAYER: -

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

**District** Police Officer Battagram (Respondent No.01)

40000

Regional Police Officer Hazara Region Abbottabad. (Respondent No.02)

## BEFORE THE HONOURABLE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL PESHAWAR.

### Service Appeal No. 1379/2018.

Mr. Imdadullah Son of Mian Jamal cast Akhun Khel R/O Kuzabanda Tehsil and District Battagram.

. Appellant

# VERSUS

- 1. The District Police Officer Battagram.
- 2. Deputy Inspector General of Police Hazara Region Abbottabad.

Respondents

### **AFFIDAVIT**

I do hereby affirm and declare on oath that the contents of written Para-wise comments are true and correct to the best of my knowledge and belief that nothing has been concealed from the Honorable Service Tribunal.

Submitted please.

**District Police Officer** Battagram (Respondent No.01)

23/9/2.21 DB AtD Salah Din Cb. Inndad allah. Acquital: 13.12.18 FIR - 14/572018 charge sheet/statement of allighting 1575/18. Dange sheet/statement of allighting 28/5/18 Inquising - Statement of Three persons-p/13 Faisal Rafig P1.15- Shafing Khan P[16. onging-p117. Final Show cause MuTice. Mo cross-exame in inquiry. DDA/- Arrest m Sport 2 Moopen FIR. later on bail & acquittal. every firmhity Refilled - associated with inquiry proceedings orinal & deptt procedure different witness prodularl 2006 50m R 1876 2021 Plccs 5\$7-

through Secretary, Ministry of Finance, Islamabad and 2 others (1996 SCMR 315), Talib Hussain v. Anar Gul Khan and 4 others (1993 SCMR 2177), Mud Izharul Ahsan Qureshi v. Messrs P.I.A.C. (1994 SCMR 1608), Muhammad Nazir v. The Superintendent of Police, Toba Tek Singh and others (1990 SCMR 1556) Muhammad Tufail v. Assistant Commissioner/Collector (1989 SCMR 316), Muhammad Saleem v. Superintendent of Police, Sialkot and another (PLD 1992 SC 369), Muhammad Ayub v. The Chairman, Electricity Board, WAPDA, Peshawar and another (PLD 1987 SC 195), The Deputy Inspector-General of Police, Lahore and others v. Anis-ur-Rehman Khan (PLD 1985 SC 134) and Begum Shams-un-Nisa v. Said Akbar Abbasi and another (PLD 1982 SC 413). However, while reaffirming the declaration of law referred to above, nonetheless, after hearing the learned Additional Advocate General and examining the record, having regard to the peculiarity of circumstances, we do not feel persuaded to non-suit the respondent, present in person, merely on account of flawed handling of his plea by the Tribunal.

4. It is a common ground that one Ziaullah was done to death on 11.12.2011 within the precincts of Police Station City Mianwali; the occurrence took place in a lane in front of a house where the respondent lived alongside family members that included his brothers as well. According to the prosecution, the deceased was intercepted by the accused named in the crime report while he went past the lane in front of the house; respondent's name is conspicuously missing in the array of the accused nominated in the crime report and it is alleged that he was subsequently nominated through a supplementary statement purportedly recorded the same day, a position that is belied by the site plans including the one with scale drafted as late as on 16.12.2011, irresistibly suggesting that he was taken on board much late in the day. Even otherwise the prosecution witnesses have contradicted each other on respondent's dubious nomination. The learned trial Judge took stock of inherent discrepancies qua the respondent and held the charge against him as preposterous. In the above backdrop, respondent's acquittal from the charge, not only vindicated his claim of being subsequently hounded on a trump up charge but also left nothing in the field to conscionably view in its aftermaths his presence as detrimental or non-conducive to good order in the department wherein he otherwise boosted an unblemished career. The Court may decline in its discretion to interfere with an order, otherwise untenably contoured, nonetheless, found to be within the remit of equity and fairness tending to advance good, therefore, notwithstanding the error of approach by the Service Tribunal, we do not feel inclined to interfere with the impugned judgment in order to avoid futility of an avoidable detour. Civil petition fails. Leave declined.

MWA/D-2/SC

Petition dismissed.

irresistibly suggesting that the accused was taken on board much late in the day---Even otherwise the prosecution witnesses had contradicted each other on dubious nomination of accused---Trial Court took stock of inherent discrepancies qua the accused and held the charge against him as preposterous---In such backdrop, acquittal of accused from the charge, not only vindicated his claim of being subsequently hounded on a trump up charge but also left nothing in the field to conscionably view his presence as detrimental or non-conducive to good order in the police department wherein he otherwise boosted an unblemished career---Notwithstanding the error of approach by the Tribunal, Supreme Court declined to interfere with the impugned judgment---Petition for leave to appeal was dismissed and leave was refused.

Zaman Khan Vardag, Additional Advocate General, Punjab for Petitioners.

Kashif Ali Chaudhry, Advocate Supreme Court for Respondent along with Respondent.

Date of hearing: 19th November, 2020.

#### ORDER

QAZI MUHAMMAD AMIN AHMED, J.---In the wake of his nomination as one of the accused in a case of homicide, Amir Abdul Majid, respondent, a police constable, was dismissed from service; his attempts for reinstatement on the departmental side failed, however, the Punjab Service Tribunal, Lahore, vide judgment dated 26.02.2019 set aside the dismissal and re-inducted him in the service. Respondent's acquittal by the trial Court vide judgment dated 30.05.2014 primarily appears to have weighed with the Tribunal, being assailed on the ground that his success in the criminal contest by itself would not furnish him with a ground for reinstatement in a position, meant to enforce and uphold the law. The learned Additional Advocate General Punjab has referred to the law declared by this Court to argue that respondent's acquittal in the criminal trial, received by the Service Tribunal as a justification, for his reinstatement in the disciplined force warranted interference; he has particularly taken exception to the following paragraph in the impugned judgment:

"It is well settled preposition of law that once civil servant is acquitted in criminal case, then on this very charge he cannot be awarded any punishment by the department, because acquittal is for all future purposes."

2. Heard. Record perused.

3. It is by now well settled that a civil servant facing expulsive proceedings on departmental side on account of his indictment on criminal charge may not save his job in the event of acquittal as the department still may have reasons/material, to conscionably consider his stay in the service as inexpedient; there are additional reasons to disregard his acquittal inasmuch as criminal dispensation of justice involving corporeal consequences, comparatively, requires an higher standard of proof so as to drive home the charge beyond doubt, an exercise to be routed through a procedure stringently adversarial, therefore, factuality of the charge notwithstanding, procedural loopholes or absence of evidence, sufficient enough to sustain the charge, at times occasion in failures essentially to maintain safe administration of criminal justice out of abundant caution. Departmental jurisdiction, on the other hand, can assess the suitability of a civil servant, confronted with a charge through a fact finding method, somewhat inquisitorial in nature without heavier procedural riders, otherwise required in criminal jurisdiction to eliminate any potential risk of error, therefore, the Tribunal has undoubtedly misdirected itself in reinstating the respondent, considering his acquittal as the sole criterion in isolation to the totality of circumstances whereunder he had succeeded to vindicate his position. Reference may be made to the cases of Dr. Sohail Hassan Khan and others v. Director General (Research), Livestock and Dairy Development Department, Punjab, Lahore and others (2020 SCMR 1708), Liaqat Ali v. Government of N.W.F.P.; through Secretary Health, Peshawar and others (2011 PLC (C.S.) 990), Chairman Agricultural Development Bank of Pakistan and another v. Mumtaz Khan (PLD 2010 SC 695), Government of Pakistan through Secretary Ministry of Finance and others v. Asif Ali and others (2007 PLC (C.S.) 271), Superintendent of Police, D.I. Khan and others v. Ihsanullah (2007 SCMR 562), Sami Ullah v. Inspector-General of Police and others (2006 SCMR 554), Ractor Comsats v. Ghulam Umar Kazi (2006 SCMR 1894), Executive Engineer and others v. Zahid Sharif (2005 SCMR 824), Khaliq Dad v. Inspector-General of Police and 2 others (2004 SCMR 192), Arif Ghafoor v. Managing Director, H.M.C., Texila and others (PLD 2002 SC 13), Mir Nawaz Khan v. Federal Government

Indidullah

[Supreme Court of Pakistan]

police. Freem: Az

Present: Umar Ata Bandial and Qazi Muhammad Amin Ahmed, JJ The DISTRICT POLICE OFFICER, MIANWALI and 2 others

Versus

#### AMIR ABDUL MAJID

2021 P L C (C.S.) 587

Civil Petition No. 1567-L of 2019, decided on 19th November, 2020.

(Against the judgment dated 26.02.2019 of the Punjab Service Tribunal, Lahore passed in Service Appeal No.3866/2016).

NS

#### (a) Civil service---

----Concurrent disciplinary and criminal proceedings against a civil servant---Acquittal in criminal proceedings---Whether such acquittal could be a ground for reinstatement in service---Civil servant facing expulsive proceedings on departmental side on account of his indictment on criminal charge may not save his job in the event of acquittal as the department still may have reasons/material, to conscionably consider his stay in the service as inexpedient---Additional reasons may exist to disregard such acquittal inasmuch as criminal dispensation of justice involving corporeal consequences, comparatively, required a higher standard of proof so as to drive home the charge beyond doubt---Procedural loopholes or absence of evidence at times resulted in failure to sustain the charge essentially to maintain safe administration of criminal justice out of abundant caution --- Departmental jurisdiction, on the other hand, could assess the suitability of a civil servant, confronted with a charge through a fact finding method, somewhan inquisitorial in nature without heavier procedural riders, otherwise required in criminal jurisdiction to eliminate any potential risk of error.

Dr. Sohail Hassar Khan and others v. Director General (Research), Livestock and Dairy Development Department, Punjab, Lahore and others 2020 SCMR 1708; Liaqat Ali v. Government of N.W.F.P. through Secretary Health, Peshawar and others 2011 PLC (C.S.) 990; Chairman Agricultural Development Bank of Pakistan and another v. Mumtaz Khan PLD 2010 SC 695; Government of Pakistan through Secretary Ministry of Finance and others v. Asif Ali and others 2007 PLC (C.S.) 271; Superintendent of Police, D.I. Khan and others v. Ihsanullah 2007 SCMR 562; Sami Ullah v. Inspector-General of Police and others 2006 SCMR 554; Ractor Comsats v. Ghulam Umar Kazi 2006 SCMR 1894; Executive Engineer and others v. Zahid Sharif 2005 SCMR 824; Khaliq Dad v. Inspector-General of Police and 2 others 2004 SCMR 192; Arif Ghafoor v. Managing Director, H.M.C., Texila and others PLD 2002 SC 13; Mir Nawaz Khan v. Federal Government through Secretary, Ministry of Finance, Islamabad and 2 others 1996 SCMR 315; Talib Hussain v. Anar Gul Khan and 4 others 1993 SCMR 2177; Mud Izharul Ahsan Qureshi v. Messrs P.I.A.C. 1994 SCMR 1608; Muhammad Nazir v. The Superintendent of Police, Toba Tek Singh and others 1990 SCMR 1556; Muhammad Tufail v. Assistant Commissioner/Collector 1989 SCMR 316; Muhammad Saleem v. Superintendent of Police, Sialkot and another PLD 1992 SC 369; Muhammad Ayub v. The Chairman, Electricity Board, WAPDA, Peshawar and another PLD 1987 SC 195; The Deputy Inspector-General of Police, Lahore and others v. Anis-ur-Rehman Khan PLD 1985 SC 134 and Begum Shams-un-Nisa v. Said Akbar Abbasi and another PLD 1982 SC 413 ref.

#### (b) Civil service---

----Police Constable--- Concurrent disciplinary and criminal proceedings----Reinstatement in service after acquittal in criminal proceedings --- Legality --- Service Tribunal had undoubtedly misdirected itself in reinstating the respondent, considering his acquittal in the criminal case as the sole criterion---However, the respondent could not be non-suited merely on the account of flawed handling of his case by the Tribunal---Perusal of the record of the criminal case showed that the respondent's name was conspicuously missing in the array of the persons nominated in the crime report and he was subsequently nominated through a supplementary statement purportedly recorded the same day, a position that was belied ty the site plans including one drafted as late as four days after the occurrence,

For what has been discussed above, prosecution has failed to prove its case against accused facing trial beyond shadow of reasonable doubt. Therefore, by extending benefit of doubt to the accused facing trial namely Najeeb-ul-Ullah, Imdad Ullah and Shams-ul-Haq, they are acquitted of the charges leveled against them. They being on bail stand relieved from the liability of their bail bonds which are cancelled and sureties thereof are discharged.

Case property be kept intact till period of appeal/revision and thereafter be disposed of accordingly.

File be consigned to Record Room after compilation.

<u>Announced</u>. 13.12.2018

ADDITIONAL SESSIONS JUDGE-III, MANSEHRA.

#### CERTIFICATE.

Certified that my this judgment consists of seven (07) pages, every page has been readover, corrected whenever necessary and signed by me.

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the vehicle was conducted by him. He further stated that he affixed seal of C.H on the parcels. Whereas his name is Tasveer Hussain so his seal should be T.H. This implies that parcels of recovered contraband charas were sealed with monogram of another official. No explanation is given by PW-6 that why the parcels did not contain his monogram. The said PW-6 in examination-in-chief has mentioned that he weighed the contraband with an electronic scale, whereas the Daily Diary No.17 available on record revealed that it is silent about carrying of electronic scale by PW-6 with him. The Investigation Officer (PW-4) in crossexamination stated that he conducted investigation in the light of FIR as the search, seizure and arrest of the accused was already done by PW-6. He also stated that recovery was made from secret cavities of the car and on the other hand the car was not produced before the court to strengthen the prosecution version that the cavities were made in the car. The parcels were sent to FSL after one day of the alleged recovery on 15.01.2018. There is no justification on record for the delay in sending the parcel to FSL and the application vide which parcels were sent to FSL does not bear any date. The FSL report was received on  $2\frac{1}{2}$ .05.2018 and it was reported that the samples contained charas, hence the report is incomplete with respect to the fact as to whether the parcels contained Charas Pukhta or Gardah. All these facts and circumstances have led to the conclusion that the recover not effected on the spot as disclosed in the FIR.

n

Signature

(vi) PW-6 is Syed Tasveer Hussain SHO. He is complainant of the instant case. His performance has been highlighted in opening para of this judgment.

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5. On conclusion of prosecution evidence, statements of accused facing trial were recorded u/s 342 Cr.PC on 7.12.2018 wherein they denied the allegation of the prosecution leveled against them and claimed to be innocent. They neither wished to be examined on oath nor . desired to produce defence evidence.

6. Arguments heard from both sides and record gone through. .7. Perusal of case record would reveal that the accused facing trial were found transporting contraband charas weighing 2440 grams in motorcar bearing registration No.145/ABG which was recovered from underneath the front and rear seats of the car wrapped in a shopping bag that was taken into possession vide recovery memo Ex.PW-1/1. The recovery memo (Ex.PW-1/1) transpired that it bore the number and date of the FIR despite the fact that recovery was effected prior to the registration of FIR which casts doubt on the prosecution case. The marginal witness PW-1 of the recovery memo admitted in crossexamination that when he signed the recovery memo then at that time it bore the date, time and section of law. He also stated that the search of the motorcar was conducted by constable Faisal. When the complainant (PW-6) appeared in the witness-box then he disclosed that the sec

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- (i) PW-1 is Shafique ASI. He was companion of complainant at the time of occurrence, so he provided ocular account of the occurrence. He also stood marginal witness to recovery memo (Ex.PW-1/2) vide which parcels of recovered contraband, mobiles phones, CNICS and vehicle were taken into possession by complainant.
- (ii) PW-2 is Amjid Ali ASI. He on receipt of Murasila chalked out instant FIR (Ex.Pw-2/1).
- (iii) PW-3 is constable Fiaz No.646. He took parcels No.1 and3 to FSL vide receipt No.76/21.
- PW-4 is Saleem Khan Sub-Inspector. Investigation of (iv)instant case was entrusted to him after registration of case. He visited the spot on 14.05.18 and prepared site plan (Ex.PW-4/1) at the instance of complainant. On 15.05.2018 he produced all the three accused before court for police custody vide my application Ex.PW-4/2 upon which one day police custody was allowed. On 16.05.2018 he again produced them before the court for further custody vide his application Ex.PW-4/3 which was refused and accused were sent to judicial lock up. He recorded statements of PWs and accused u/s 161 Cr.PC. he also received and placed on file FSL report which is in positive and is Ex.PW-4/4. After completion of investigation he handed over case file to SHO for submission of challan.
- (v) PW-5 is LHC Sabir Siddique No.290. he sent parcels
   No.1 and 3 to FSL through Fiaz No.646 vide receipt
   (Ex.PW-5/1). He also exhibited extract of register No.19.
   as Ex.PW-5/2.

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namely Imdad Ullah one touch mobile of black color and NIC card and Rs.120/- from pocket were recovered, while from possession of person sitting on rear seat namely Shams-ul-Haq on Q-mobile of black color and NIC were recovered. All the parcels of recovered substance and articles alongwith vehicle were taken into possession through recovery memo (Ex.PW-1/1) prepared by him in presence of marginal witnesses. He then drafted Murasila Ex.PW-6/1 in this respect and sent the same to Police Station through constable Saqib 1214 for registration of FIR. He issued card of arrest Ex.Pw-6/2 of the accused. Recovery sketch was prepared on his pointation. He drafted application for sending parcels to FSL which is Ex.PW-6/3. On completion of investigation he submitted complete challan.

3. On completion of investigation, complete challan was submitted against the accused before the court of learned Sessions Judge Mansehra on 07.07.2018 from where the same was entrusted to this court for disposal. On receipt of file, accused was summoned and in response thereto he appeared on 13.09.2018, copies of relevant documents were delivered to him in terms of section 265-C Cr.PC, while charge was framed against him on 08.10.2018 to which he pleaded not guilty and claimed trial which commenced.

4. Prosecution in order to prove its case against the accused examined as many as six witnesses. The narrations of PWs, in brief are as under:

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ing gninis besuces to noissesson mort has OIN has noted personal search of driver Najeeb Ullah one Q-mobile phone of black property. He affixed 3/3 seals of monogram C.H. on the parcels. On remaining 1215 grams was sealed into parcel No.4 (Ex.P2) as case grams was separated and scaled into parcel No.3 for PSL analysis while c hough electronic scale and came out to be 1220 grams out of which 5 tap wrapped over it was recovered, which was weighed on the spot seat of person sitting on front seat, one packet of charas having scotch property. Similarly on further search of the vehicle from beneath the remaining 1215 grams was sealed into parcel No.2 (Ex.P1) as case separated and sealed into parcel No.1 for FSL analysis whereas scale and came out to be 1220 grams out of which 5 grams was was found in it. The charas was weighed on the spot through electronic one yellow colour packet of charas having scotch tap wrapped over it one shopper of sky blue color was recovered which was checked and vehicle was searched and during search from beneath the driver seat Battagram. They were alighted from the vehicle on suspicion and son of Gul Samar Khan caste Gullar resident of Kooza Banda peH-lu-smear sear of the vehicle disclosed his identity as Shams-ul-Had caste Akhoon Khail resident of Kooza Banda Battagram and one person seat of vehicle disclosed his identity as Imdad Ullah son of Mian Jamal resident of Koora Banda Battagram, while one person sitting on front his identity as Najeeb Ullah son of Gul Jamal caste Akhoon Khail from Galli Badral side which was stopped and on query driver disclose

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# BEFORE THE COURT OF LUBNA ZAMAN, ADDITIONAL SESSIONS JUDGE-III, MANSEHRA. <u>CASE NO.19/SPL OF 2018.</u> <u>DATE OF INSTITUTION: 07.07.2018</u> <u>DATE OF DECISION: 13.12.2018.</u> THE STATE THROUGH SYED TASVEER HUSSAIN SHAH (THE) SHO POLICE STATION PHULRAS.

#### VERSUS.

- 1. NAJEEB ULLAH SON OF MIAN JAMAL,

#### CHARGE U/S 9-C CNSA, VIDE FIR NO.116 DATED 14.05.2018 POLICE STATION PHULRA MANSEHRA.

#### JUDGMENT

Accused Najeeb Ullah son of Mian Jamal, Imdad Ullah son of Mag Jamal and Shams-ul-Haq son of Gul Samar residents of Kooza Banda were challaned to face trial in case registered against them vide FIR No.116 dated 14.05.2018 u/s 9-C CNSA police station Phulra Mansehra.

2. Brief facts of the case according to FIR (Ex.Pw-2/1) and other available record are that on 14.05.2018 Syed Tasveer Hussain Shah (PW-6) alongwith Muhammad Shafique Khan ASI (PW-1), Faisal Rafique IHC, Sadiq No.1214 and other Nafari in connection with Gasht and Nakabandi was present at Oghi road near Thakar Mera stop. Meanwhile one motorcar bearing No.145/ABG of green colour came

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