BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR.

Appeal No. 844/2018

Date of Institution ...

29.06.2018

Date of Decision

16.07.2020

Obaid-ur-Rehman son of Zahoor-ur-Rehman R/O Ithehad Colony, Peshawar. Ex-Constable No. 1607 FRP Hqrs, Peshawar. (Appellant)

VERSUS

Deputy Commandant, FRP Khyber Pakhtunkhwa Peshawar and two others. ... (Respondents)

Arbab Saiful Kamal,

Advocate.

For appellant

Mr. Usman Ghani, District Attorney

For respondents.

MR. HAMID FAROOQ DURRANI, Mr. MUHAMMAD JAMAL KHAN,

.. Chairman.

... Member (Judicial)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

- 1. The appellant was proceeded against departmentally and was awarded the penalty of removal from service through order dated 10.05.2018, passed by respondent No. 1. It is noted in the order that Zahir Shah and Akbar Ali had submitted complaint against the appellant, wherein, it was also mentioned that the latter was involved in illegal business of money laundering etc. Aggrieved from the order the appellant preferred a departmental appeal before respondent No. 2 on 19.05.2018. The same was rejected being barred by time on 20.06.2018. Consequently, service appeal in hand was submitted on 29.06.2018.
- 2. We have heard learned counsel for the appellant, learned District Attorney on behalf of the respondents and have also gone through the available record.



3. Learned counsel for the appellant argued that the enquiry report was not attached with the show cause notice when it was served upon the appellant. This irregularity, therefore, rendered the proceedings against him as void. He relied on a judgment of this Tribunal passed in appeal No. 1014/2012. It was also the contention of learned counsel that during the enquiry proceedings the appellant was not extended any opportunity to cross examine the witnesses appearing in the matter. In that manner, the appellant was denied the right to participate in the enquiry proceedings in true sense. Reliance was placed on 1997-SCMR-1073 and judgment in service appeal No. 1208/2017, decided by this Tribunal.

Learned District Attorney, on the other hand, attempted to refute the arguments addressed on behalf of the appellant and referred to the reply to show cause notice. He was of the view that the appellant had admitted charges levelled against him, therefore, there was no need for the enquiry officer to allow him cross examination of the witnesses. He also referred to the statements of Rukhsar Ali and Sajjad Ali and contended that the allegations against the appellant stood proved. Learned District Attorney relied on the judgment delivered in Service Appeal No. 584/2016 decided by this Tribunal on 30.08.2017, and upheld by the Apex court in Civil Appeal No. 1841 of 2019.

4. The record transpires that the very basis of proceedings against the appellant i.e. the contents of complaint by Zahir Shah and Akbar Ali, provided that the appellant was alleged to have misappropriated certain amount in foreign currency. The amount was purportedly handed over to him in different currencies for onward paying the same to Akbar Ali on behalf of complainant. It was also noted in the complaint that the appellant

was engaged in the business of "Hundi". Pertinently, no date of transaction was given in the complaint.

In furtherance to the complaint, departmental proceedings started against the appellant and he was charge sheeted on 05.01.2018, wherein, charges of money laundering and also owing the amount of foreign currency were pressed into service. It was also noted in the charge sheet that to settle the issue several local jirgas were also held. The factum of jirgas was, however, not noted in the written complaint.

- 5. During the proceedings the statements of several witnesses as well as that of appellant were recorded. Akbar Ali, Sajjad Ali, Rukhsar Ali and Zahir Shah were examined while all of them were cross examined but by the enquiry officer. None of the witnesses were exposed to the appellant for cross examination nor any date of their respective examination, except Sajjad Ali, was provided. It was blatant violation of law on the part of respondents and the act was also against the norms of natural justice. In the said context the judgment relied upon by the learned District Attorney is distinguishable in the facts and circumstances of the case. In the referred judgment it was held that it was not necessary in every case to examine the witnesses during the formal enquiry. In the case in hand examination of witnesses was though made part of the record but they were never subjected to cross-examination by the appellant.
- 6. We are also not in agreement with the arguments of learned District Attorney regarding admissions by the appellant through his statement. The copy of statement of appellant as available on the file suggests that it was undated, besides, it was not taken as whole but the enquiry officer chose to pick portion thereof. The factum of money laundering was never admitted



in the statement, however, certain transactions of money with Akbar Ali complainant were acknowledged.

- 7. It is also required to be noted that the findings of departmental appellate authority, regarding the appeal being barred by time, appears to be misconceived. The impugned order by respondent No. 1 was passed on 10.05.2018, where-against, departmental appeal was submitted on 19.05.2018 and was decided on 20.06.2018. The respondents could not refute the submission of appeal on the given date. Needless to note that the Service Appeal in hand was preferred on 29.06.2018.
- 8. For what has been stated above, we are of the firm view that the departmental proceedings against the appellant were not conducted in the mode and manner as required by law/rules. The impugned orders are, therefore, set aside hereby upon acceptance of appeal. Resultantly, the appellant is reinstated in service. The respondents may, however, conduct denovo enquiry against the appellant but only in accordance with law. The exercise shall be completed within ninety days of the receipt of copy of instant judgment. The appellant shall be entitled for participation in the proceedings by putting forth his defence and also cross-examining the witnesses. The resolution of issue of back benefits shall depend on the outcome of denovo enquiry.

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

record room.

(HAMID FAROOQ DURRANI) Chairman

(MUHAMMAD JAMAL KHAN)

Member (Judicial)

ANNOUNCED 16.07.2020

S.No.	'	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.		
	proceedings			
1	2	3		
		Present.		
	16.07.2020	Arbab Saiful Kamal, For appellant Advocate		
		Mr. Usman Ghani, District Attorney, For respondents		
		Vide our detailed judgment, the impugned orders are		
		set aside upon acceptance of appeal. Resultantly, the appellant		
		is reinstated in service. The respondents may, however,		
		conduct denovo enquiry against the appellant but only in		
		accordance with law. The exercise shall be completed within		
	94 - 1	ninety days of the receipt of copy of judgment. The appellant		
-		shall be entitled for participation in the proceedings by putting		
		forth his defence and also cross-examining the witnesses. The		
		resolution of issue of back benefits shall depend on the		
-		outcome of denovo enquiry.		
		Parties are left to bear their respective costs. File be		
		consigned to the record room.		
		(Hamid Farooq Durrani) Chairman		
		(Muhammad Jamal Khan) Member (Judicial)		
		ANNOUNCED 16.07.2020		

<u>5-5</u> 2020

Due to COVID19, the case is adjourned to

16 7 /2020 for the same as before.

Realier

Appellant in person present. Addl: AG for respondents present. Appellant seeks adjournment due to general strike of the Bar. Adjourned. To come up for arguments on 22.01.2020 before D.B.

Member

Member

20.01.2020

Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Usman Ghani learned District Attorney for the respondents present. Adjourned to 06.03.2020 for arguments before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

06.03.2020

Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 05.05.2020 before D.B.

Member

Member

09.08.2019

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come for arguments on 20,09.2019 before D.B.

Member

Member

20.09.2019

Learned counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 04.11.2019 before D.B.

Member

Member

04.11.2019

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 09.12.2019 before D.B.

Member

Member

23.01.2019 Junior to counsel for the appellant present. Written reply submitted. Ihsanullah SI representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written

reply/comments on 12.02.2019 before S.B

12.02.2019

Learned counsel for the appellant andMr. Kabir Ullah Khattak learned Additional Advocate General alongwith Ihsan SI representative of respondents present. Written reply submitted on behalf of respondent department. Adjourn. To come up for rejoinder/arguments on 29.03.2019 before D.B.

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Brown and all

Replication on behalf of the appellant has been submitted which is placed on record. To come up for arguments before the D.B on 24.06.2019.

24.06.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 09.08.2019 before D.B.

Member

Member

04.10.2018

Appellant with counsel and Mr. Ziaullah, Deputy Attorney for the respondents Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply positively on the next date. Adjourned. To come up for written reply/comments on 30.10.2018 before S.B.

(Muhammad Amin Khan Kundi)

Member

30-10-18 Due to Relieve t of Honorable chairman the Tribural is non furthernal therefore the case is adjourned to come up for the Same on

14.12.2018

Counsel for the appellant present. Mr. Ihsanullah, ASI alongwith Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply not submitted. Learned Additional AG requested for further adjournment. Last opportunity is granted for filing of written reply. Adjourned. To come up for written reply/comments on 23.01.2019 before S.B.

> **Muhammad Amin Khan Kundi** Member

31.01.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Disciplinary proceedings were initiated against him and upon finalization major penalty of removal from service was imposed on him vide impugned order dated 10.05.2018. Feeling aggrieved he preferred departmental appeal on 19.05.2018 which was rejected on 20.06.2018, hence, the instant service appeal. Enquiry was not conducted in accordance with the procedure laid down in Police Rules 1975, hence, the appellant was condemned unheard.

Appellant Deposited

Points urged need consideration. Admit. The appellant is directed Security & Process Fee to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 07.09.2018 before S.B.

15/11/61

07.09.2018

Appellant with counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply a second by respondents not submitted. Learned Additional AG made a request for adjournment for filing of written reply. Adjourned. To come up for written reply/comments on 04.10.2018 before S.B.

> (Muhammad Amin Khan Kundi) Member

Form- A FORM OF ORDER SHEET

Court of			Y.
Case No		844 /2018	

	Case No	844 /2018		
S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
. 1-	29/06/2018	· · · · · · · · · · · · · · · · · · ·		
•		Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Learned Member for proper order pleases		
		REGISTRAR 29 16 18		
2-	3	This case is entrusted to S. Bench for preliminary hearing to be put up there on $18/7/18$.		
		MEMBER		
	, ,	MI.		
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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 844 /2018

Ubaid-ur-Rehman

versus

Dy. Commandant & Others

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Appellant

Through

Saadullah Khan Marwat Advocate.

21-A Nasir Mansion, Shoba Bazaar, Peshawar.

Ph: 0300-5872676 0311-9266609

Dated.28-06-2018

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 844/2018

Ubaid-ur-Rehman
S/O Zahoor -ur- Rehamn
R/O Ithehad Colony Peshawar
Ex- C.No. 1607
FRP, Hqrs, Peshawar

. . Appellant

VERSUS

Rhyber Pakhtukhwa Service Tribunai

Deputy Commandant, FRP,
 KP, Peshawar.

Diary No. 1077

Commandant, FRP, KP,Peshawar

3. Provincial Police Officer,

KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 1343-47 / PA, DATED
10-05-2018 OF R. NO. 01 WHEREBY APPELLANT WAS
REMOVED FROM SERVICE OR OFFICE ORDER NO.
7325-26 / EC DATED 20-06-2018 OF R. NO. 02
WHEREBY REPRESENTATION OF APPELLANT WAS
REJECTED:

Fledto-day

⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

- 1. That appellant was enlisted as constable on 29-11-2011 and was serving the force with great deal and zeal.
- 2. That complainant Zahir Shah and Akbar Ali resident of district Mardan submitted complaint before R. No. 03 that appellant is involved for taking illegal business of money laundering etc, so on the aforesaid allegation appellant was served with Charge Sheet on 05-01-2018 by R. No. 01. (Copy as annex "A")

- 3. That the said Charge Sheet was replied by denying the allegations. (Copy as annex "B"")
- 4. That enquiry into the matter was initiated but the same was not conducted as per the mandate of Law. However, he was served with Final Show Cause Notice on 27-02-2018 which was also replied in the aforesaid manner. (Copies as annex "C" & "D")
- 5. That on 10-05-2018, R. No. 01 imposed major penalty of removal from service. (Copy as Annex "E")
- 6. That on 19-05-2018, appellant submitted department appeal before R. No. 02 for reinstatement in service which was rejected on 20-06-2018 by him. (Copy as Annex "F" & "G")

Hence this appeal, inter alia, on the following grounds:

GROUNDS:

- a. That enquiry was not conducted as per the mandate of Law as no statement was recorded in presence of appellant as is written by the I.O in his report, nor appellant was provided opportunity of cross examination, personal hearing and self defense.
- b. That appellant never made any misconduct within the ambit of the department. No complaint exists regarding official duty and behavior of the appellant with the department.
- c. That private transaction, if any, has no bearing upon the conduct of appellant, being civil nature issue.
- d. That recommendations of the IO in enquiry report dated 16-02-2018 against Akbar Ali and Zahir Shah were thrown to waste box as no action, till date, has been taken against them, despite the fact that the Inquiry Officer recommended them for drastic action.
- e. That the impugned order dated 10-05-2018 and 20-06-2018 of the respondents is against all norms of justice, so are of no legal effect, based on malafide and discrimination.

It is, therefore, most humbly prayed that on acceptance of appeal, the impugned office order dated 10-05-2018 and 20-06-2018 of the respondents be set aside and appellant be reinstated in service with all consequential / back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Appellant

Through

Saadullah Khan Marwat

Amjad Nawaz Advocates.

Dated 28-06-2018

CHARGE SHEET U/S 6(1) (A) POLICE RULES 1975

You Constable Ubaid-ur-Rehman No.1607 of FRP/ HQrs: Peshawar is hereby charged for committing the following omission/commissions.

Mr. Zahir Shah and Akbar Ali R/o district Mardan was preferred complaint before the worthy Provincial Police Officer Peshawar that Constable Ubaid-ur-Rehman No.1607 of FRP HQrs: Peshawar is involved for taking illegal business of money laundering etc. The complaint was marked to DSP FRP Admn: for preliminary enquiry. After completed of enquiry the Inquiry Officer submitted hins findings, stating therein that you constable has taken Rs. 1,51,000/- Malaysian Currency (Ringgit) and 30000 Saudi Rial from the complainant which are still in your possession/custody. In this regard several locally "Jarga" were also held, but no fruitful result has been received up till now. At the end the DSP FRP Admn: narrated that constable is being a member of discipline force is involved illegally in money laundering and recommended for departmental action.

You are hereby called upon to submit your written defense against the above charges before the enquiry officer.

Your reply should reach the Enquiry Officer within seven (7) days from date of receipt of this Charge Sheet, failing which ex-parte action shall be taken against you.

Summary of allegations is enclosed herewith.

Deputy Commandant Frontier Reserve Police Khyber Pakhtunkhwa Peshawar

101/18

Aarto

SUMMARY/STATEMENT OF ALLEGATIONS U/S 6(1) (A) POLICE RULE 1975

Mr. Zahir Shah and Akbar Ali R/o district Mardan was preferred complaint before the worthy Provincial Police Officer Peshawar that Constable Ubaid-ur-Rehman No. 1607 of FRP HQrs: Peshawar is involved for taking illegal business of money laundering etc. The complaint was marked to DSP FRP Admn: for preliminary enquiry. After completed of enquiry the Inquiry Officer submitted hins findings, stating therein that you constable has taken Rs. 1,51,000/- Malaysian Currency (Ringgit) and 30000 Saudi Rial from the complainant which are still in your possession/custody. In this regard several locally "Jarga" were also held, but no fruitful result has been received up till now. At the end the DSP FRP Admn: narrated that constable is being a member of discipline force is involved illegally in money laundering and recommended for departmental action.

The act falls within the purview of misconduct as contained u/s 2 (iii) of Police Rule 1975."

Deputy Commandant Frontier Reserve Police Khyber Pakhtunkhwa Peshawar

minto

عادر (ال كنشيل عبيد إلر طن نمبر 1607 FRP/HQ پياور أ

ناب عالي!

جو کیٹل پاکتانی رقم تقریبا-4555600 بنتے ہیں۔ تواکبرنے پاکتانی-1500000 روپے بھے سے واپس لے کرکھا کہتم صرف 30 لا کھر دیے اپ ہے۔ رئھواور جب کشم والاسلم طل ہوجائے تو باتی رقم بھی دے دونگا۔

اب كري جوك مراكزن بحق ہے نے ظاہر شاہ جوك ملا يختيات والي آيا ہے كيما تھالى كر ميزے خلاف درخواست گزارى ہے تاكہ ميں فلاہر شاہ كواس كى رقم والت كر الكون ہے كہ على الله على الله

جِنَدُ الْبَرِقُ وَعَنَا الْمَن لار ذَر عَک کام اور لوگوں کے پاسپورٹ پرغیر قانونی گاڑی بھی نکا لتا ہے۔اور رستم بازار میں اس کی دوکان ہے۔وہی اس سار ن کہری مرز کی کردار ہے اور برطرف دھوکا وی سے کام لے بھے بھی تقریبا 34 لا کھر دیے کا نقصان پہنچا چکا ہے۔اور اب جاد کی کیس ختم ہونے تک 34 لا کھر دیے نہائے کے کہر ہاہے۔ میں اس کو کہتا ہوں کہ بیست تھارے کام ہیں تم جانو اور تمھارے کیس جانیں۔ جھے اپی رقم واپس کرو۔ای وجہ ہے اب اس سے بھے تن الاعثر مگ میں پھنسانے ااور نوکری ہے تکا لئے جھوٹی درخواست بیش کی ہے۔اکبر علی نے ہی جھے اور شریک درخواست کنندہ ظاہر شاہ کو دھوکا دیا۔ جنب نائی ا

شی وظری یا تنی اغر رنگ کاکام نیس کرتا اور نہ ہی میرا کاروبارے میں اس کام سے تا واقف ہوں اس وجہ سے اکبر علی نے جھے دھوکا دیا ہے۔ اب میں اس سے بارقم والی ما تکیا ہوں اس جہ پر جموثی درخواس آفسران بالا صاحبان کو پیش کی ہے۔ استدعا ہے کہ میرے خلاف جموثی دوخواست کو خارج کر سے اورا کو اگری عدا فائل کر کے محکور فرا کا تیں۔ بس بھی میرامیان ہے جو کہ بچ ہے۔

> آنگاتعبدار کنسٹیل عبیدالرمش نمبر 1607 FRP/HQ بیشادر

AND

FINAL SHOW CAUSE NOTICE UNDER POLICE RULES 1975.

DEVAY Commandant, FRP, KPK as competent authority do hereby serve 17.1 John Common Mo. 1807 of FRP/HQrs, Peshawar.

That consequent upon the completion of enquiry conducted against you by DSP/FRP/HOLS for which you were given full opportunity of hearing.

On going through the findings/recommendations of the Enquiry Officer, the material available on record and other connected papers I, am satisfied that you have committed the following acts/omissions per Police Rules 1975.

Mr. Zahir Shah and Akbar Ali R/o district Mardan was preferred complaint before the worthy Provincial Police Officer Peshawar that Constable Ubaid-ur-Rehman No.1607 of FRP HOrs: Peshaviar is involved for taking illegal business of money laundering etc. The complaint was marked to DSP FRP Admn: for preliminary enquiry. After completed of enquiry the Inquiry Officer submitted his findings, stating therein that you constable has taken Rs. 1,51,000/- Malaysian Currency (Ringgit) and 30000 Saudi Rial from the complainant which are still in your possession/custody. In this regard several locally "Jarga" were also held , but no fruitful result has been received up till now. At the end the DSP FRP Admn: narrated that constable is being a member of discipline force is involved illegally in money laundering and recommended for departmental action. After that you were properly charge sheeted and DSP FRP HQrs: Peshawar was appointed as Enquiry Officer. After enquiry the EO submitted his findings stating therein that you have bartering with the complainant, also involved in the business of money laundering directly or in-directly and recommended you for severe punishment.

- Therefore, I, Deputy Commandant, FRP, KPK as competent authority has (2)tentatively decided to impose upon you Major/Minor penalty including dismissal from service under the said Rules.
- You are, therefore, required to Show Cause as to why not the aforesaid penalty (3)should not be imposed upon you.

If no reply to this Final Show Cause Notice is received within the fifteen days of it delivery in the normal course of circumstances, it shall be presumed that you have no dolence to put in and consequently ex-parte action shall be taken against you.

Frontier Reserve Police,

.Khyber Pakhtunkhwa Peshawa

بيان آزال كنشيل عبيدالرحن نمبر 1607 FRP/HQ بيثاور

بحواله شموله فائل منتسب كانر المنتشس مجارية جناب في كما نذن صاحب FRP معزوض خدمت ول كيمن سائل FRP 1 HQ تعلق رکھ کرسکورٹی پونٹ میں ڈیوٹی سرانجام دے رہا ہے۔ درخواست کنندہ اکبرنلی میراکزن ہے پہیم کرصائی کے بیکھیے کال کرتے کہا کہ آیک ایک دین د ائے جگہ ہے وصول کراورایک لا کھیں بزارسعودی ریال مسی ظفرعلی ولدنلی حیدر سے نسلع مردان میں وصول کرو کی ملیت پاکستانی رویے بیل آتھ یہ -/6400000 وي بنتے ہيں ميں نے وصول كيئے اورائي كرن اكبرعلى كے كہنے برستى سجاد على ولد شمشير كودينے كاكہا۔ ميں نے وہ رقم مسمى سجاد على سے دينياو ائیر بورٹ پر جملد تم کیزی گئی۔ چونکہ جملہ تم میں نے اپنی ذ مدداری پر وصول کی تھی۔ چونکہ میں ونڈی اسٹی لانڈ رنگ کا کام نہیں کر تا اس لئے ان تمام تر فمر لیت ے اواقت تھا۔ میں نے این کرن اکبرعلی سے کہا کہ میں نے بیرتم اپن ذمدداری پر دصول کی تھی اب میں بیرتم کہاں سے داہی کرونگا۔ اس برمبر مے تمزل ۔ كما كما يخيات ميرادوست فابرشاهم كوتفورت تعورت يبي بحبوائ كاروه اينياس ركهت جاؤه ملا ينتيات فابرشاه في دوبارتصورت تعورت بياسي الميسا من في المرمى كورية -اورا كرمل ني كها كم جب وه ذيار ورتم بجوائة واسينا ياس ركه لوباتي ميس تم كويبان سعودي ريال 30 بزار دينا بور _ طا برشاه نے ملائمیا سے ایک لاکھا کاون برار-/151000 رینک بجوائے اورا کرمل نے 30 براور یال دے دیئے۔ جو كنفل ياكتانى رقم تقريبا-4555600 سنة بين يواكبرن ياكتانى-1500000 دويه جھے داپس كے كركباكة مرف 30 لا كار دو ب ب باسي

ركنواور جب كشم والاسلاط بوجائة وباتى رتم بهى درودنا

اب كميران جوك ميراكزن بھي ہے نے ظاہر شاہ جوك ملائيشيا ہے واپس آيا ہے كيما تھال كرميز ہے خلاف درخواست گزاري ہے تا كہ ميں طاہر شاہ كواس في رقبول بين كر جيك وورقم اكبري ي كي كين بريس في الينياس ركل بي ادراكبريل بجيه كهتاب كه ظاهر شاه كي ساته ثال مول كرو يونكه ظاهر شاه في أكبري كي سين . بجصلاتشا سرقم سلخ-151000 رينك جوك ياكتاني-37,15000 روي بنة بي بجوائي تقراب ظاهر شاه كوياية - كدوه ايني رقم أجرت س ختب کرے۔ کیونکہ اس کے کہنے پر بچھوائے تھے۔ میں طاہر شاہ کو جانتا بھی نہیں تھا۔ جس طرح میں نے اکبرعلی کے کہنے پر سجادعلی کورقم دی تھی اب میں د درتم اسمبر على المنطب مرد ما موں ویسے بی طاہر شاہ نے اکبرعلی کے کہنے پر بھے رقم دی تھی تو اس کو جا ہے کہ اکبرعلی سے طلب کرے۔

چیر میں اور میں اور اور میں اور اور اور اور اور اور اور اور کی میں تا نونی کا زی بھی نکالتا ہے۔ ادر سے بازار میں اس کی دوکان ہے۔ وہی اس سارت کیمانی کا مرکزی کردارے اور برطرف دحوکا دی سے کام لے کے مجھے بھی تقریبا 34 لا کھروپے کا نقصان پہنچا چکا ہے۔ اور اب سجاد کل کیس ختم ہونے تک 34 لاکھ روسین المنتے کا کھد ماہے۔ میں اس کو کہتا ہوں کہ بیستمھارے کام ہیں تم جانوا درتمھارے کیس جانیں۔ مجھے اپنی رقم واپس کرو۔ اس وجہ ہے۔ معین لانڈری میں پینسانے ااورنوکری ہے تکالنے کیلئے جھوٹی درخواست پیش کی ہے۔ اکرعل نے ہی مجھے اور شریک درخواست کنندہ ظاہر شاہ کودھو کا دیا ۔۔۔

من وتذى امنى لا تذرك كاكام بين كرتا اورندى سيميرا كاروبار بي مين اس كام سة نا واقف مون اى وجد سه اكبرى في جمعة وهوكا ديا ب-السام المان كويش كى ب-استدعاب كدير عظاف جمولُ معظامت و عارات كرنسادرا كوائرى مذا فائل كر م مكاور فريا كي _بس يمي ميراميان ب جوكري ب-

كنشيل مبيدالرحن نمبر FRP/HQ 1607 بشادر

DO 160

Q.R.D.E.R.

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10-5-18

This order will dispose off on the Departmental Enquiry against Constable Ubaid-us-Rehman No. 1607 of FRP/HQrs: Peshawar.

Brief facts of the case are that the CPO Peshewar has endorsed an application/complaint of Zahir Shah and Akbar Ali against Constable Ubald-ur-Rehman No. 1807 of FRP HOrs: Peshawar, wherein it has been mentioned that is involved in lilegal business of money laundering etc. The complaint was marked to DSP FRP Admn: for preliminary enquiry. After completion of enquiry, the inquiry Officer submitted his findings, stating therein that the above constable has taken Rs. (Thirt I have act)

1,51,000/- Malaysian Currency (Ringgit) and 30000 Saudi Rial from the complainant which are still in his possession/custody. In this regard several locally "Jarga" were also held, but no fruitful result has been received up till now. At the end the DSP FRP Admn: narrated that constable is being a member of discipline force is involved illegally in money, laundering and recommended for proper departmental action.

In this regard formal departmental proceedings were initiated against him as he was issued Charge Sheet/Statement of allegation and DSP FRP/ HQrs: was nominated as Enquiry Officer. After proper enquiry, the EO, submitted his findings, wherein he stated that Constable Ubaid-ur-Rehman No. 1607 of FRP HQrs: Peshawar has been found involved directly or indirectly in Hondai/Money laundering business illegally and recommended for severe punishment. The Enquiry officer further added that to approach FIA against the complainant along-with constable being both are found involved in illegal business. Upon the findings of Enquiry Officer he was issued Final Show Cause Notice to which he replied but his reply has been found not satisfactory. He was heard in person by the undersigned, but he failed to advance any solid proof which support his virtue. The case was entrusted to Legal Branch FRP HQrs: Peshawar, who after thoroughly enquired submitted his report, stating therein that the delinquent constable be awarded major punishment and the FIA authority may also be addressed to take further legal action against the above named constable including complainants.

Keeping in view the recommendations of the Enquiry Officers as well as opinion of legal branch and other material available on record it has come crystal clear that the said Constable found guilty of the charges leveled against him. Therefore, Constable Ubaid-ur-Rehman No. 1607 of FRP/HQrs is hereby Removed from Service under Police Rules 1975 amended 2014 with immediate effect.

Order announced.

Deputy Commandant, Frontier Reserve Police Khyber Pakhtunkhwa Peshawar

No. 1343-47 __/PA dated Peshawar, the

101 05

2018.

Copy of above is forwarded for information & n/action to the:-

- 1. Worthy Commandant, FRP Khyber Pakhtunkhwa Peshawar
- 2. Accountant /FRP/HQrs: Peshawar.
- SRC/OSI/FRP HQrs: Peshawar.
 FMC/ FRP/HQrs: Peshawar with original Enquiry file.
 - Enc (61) Paper 1- orfal

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To,

The Commandant, FRP, KP, Peshawar

Subject:

APPEAL AGAINST OFFICE ORDER NO. 1343-47/PA, DATED 10-05-2018 OF WORTHY DEPUTY COMMANDANT, FRP KP, PESHAWAR, WHEREBY APPELLANT WAS REMOVED FROM SERVICE FOR NO LEGAL REASON:

Respected Sir,

- 1. That appellant was enlisted as constable on 29-11-2011 and was serving the force with great deal and zeal.
- That M/s Zakir Shah and Akbar Ali submitted joint application before the worthy IGP for taking penal action against appellant, Ubaid-ur-Rehman Constable regarding non payment of their money vide application dated 16-08-2017.
- That inquiry into the matter was initiated which was termed as business transaction with further direction to dealt him under the Law vide so called enquiry report dated 28-12-2017.

On the said enquiry report of DSP, Nisar Khan, the worthy Deputy Commandant, FRP, Peshawar wrote remarks,

"Issue Charge Sheet and Statement of allegation" and Yasir Aman, DSP was appointed as Enquiry Officer.

Sd/ Dy Commandant FRP, Peshawar

- 4. That on 05-01-2018, appellant was served with Charge Sheet and Statement of allegation which was replied and denied the allegations.
- 5. That enquiry into the matter was initiated by DSP, Yasir Aman which was not conducted in accordance with Law by him, yet on 16-02-2018, report was submitted before the authority wherein it was recorded that strict disciplinary action be taken against applicant Akbar Ali and Zakir Shah be also dealt with by FIA regarding their illegal transaction vide report dated 16-02-2018.

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On this report, the worthy Dy Commandant wrote that appellant be issued Final Show Cause Notice.

Sd/ Dy Commandant FRP, Peshawar 20-02-18

 That on 27-02-2018, appellant was served with Final Show Cause Notice by Dy Commandant FRP, Peshawar which was replied and denied the allegations.

Hence this departmental appeal, inter alia, on the following grounds:-

- a. That enquiry was not conducted as per the mandate of Law as no statement was recorded in presence of appellant as is written by the I.O in his report, nor appellant was provided opportunity of cross examination, personal hearing and self defense.
- b. That appellant never made any misconduct within the ambit of the department. No complaint exists regarding official duty and behavior within the department.
- c. That private transaction, if any, has no bearing upon the conduct of appellant, being civil nature issue.
- d. That recommendations of the IO in enquiry report dated 16-02-2018 against Akbar Ali and Zahir Shah were thrown to waste box as no action, till date, has been taken against them.
- e. That the impugned order dated 10-05-2018 of the worthy Dy.

 Commandant, FRP, Peshawar is against all norms of justice, so is of no legal effect, based on malafide and discrimination.

It is, therefore, most humbly requested that order dated 10-05-2018 of the worthy Deputy Commandant, FRP, KP, Peshawar be set aside and appellant be reinstated in service with all back benefits.

Appellan

Baid-ur-Rehman

S/O Zahoor –ur- Rehamn R/O Ithehad Colony

Peshawar.

Ex- C.No. 1607

FRP, Hqrs, Peshawar.

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ORDER

This order will dispose of the departmental appeal preferred by Ex- constable Ubaid Ur Rehman No. 1607 of FRP HQrs, against the order of Deputy Commandant FRP, KP, wherein he was removed from service on 10.05.2018. The applicant was proceeded against on the allegations that the CPO Peshawar has endorsed an application/complaint of Mr.Zahir Shah and Mr. Akbar Ali against him, wherein it has been mentioned that he (above named constable) is involved in illegal business of money laundering etc.

In this regard DSP FRP Admn was deputed to conduct preliminary enquiry against him. After completion of preliminary enquiry, the Enquiry Officer submitted his findings, stating therein that the above named constable has been received Rs. 1,51,000/- Malaysian Currency (Ringgit) and 30,000/ Saudi Rial from the complainant, which is still in his possession/custody. In this regard several locally "Jarga" were also held, but not fruitful result has been received up till now. At the end the Enquiry Officer narrated that the said constable is being a member of discipline force is involved in illegal activities of money laundering and recommended for taking proper departmental action against him.

Proper departmental enquiry was initiated against him. He was issued Charge Sheet and Statement of Allegations and DSP FRP HQrs: Peshawar was nominated as Enquiry Officer to conduct enquiry against him. After completion of all codal formalities the Enquiry Office submitted his finding, wherein the delinquent constable found involved directly or indirectly in Money laundering business illegally and recommended for severe punishment. The Enquiry Officer further added that to approach FIA authority for further legal action against the complainant alongwith delinquent constable as both are found involved in illegal business of money laundering.

Upon the findings of Enquiry Officer and other material available on record, he was issued Final Show Cause Notice which was served upon him on his home address; his reply to Final Show Cause Notice has been received, which was found unsatisfactory. He was heard in person by the competent authority, but he failed to advance any solid proof regarding to his innocence.

Feeling aggrieved against the impugned order of Deputy Commandant FRP. KP, the applicant preferred the instant appeal. The applicant was summoned and heard in person in orderly room held on 05.06.2018.

From perusal of the enquiry file and the service record of the applicant, it is abundantly clear that the delinquent official being a member of discipline force has been found involved in a illegal business of money laundering which was subsequently proved against him during the course of departmental enquiry. During the course of personal hearing he could not present any cogent justification for his innocence.

Based on the findings narrated above, I, Tahir Ayub Khan PSP Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected and filed being badly time barred and meritless.

Order Announced.

Rrontier Reserve Police 📇 Khyber Rakhtunkhwa, Peshawar

F) λ /EC, dated Peshawar the λ^{ϱ} /2018.

Copy of above is forwarded for information and necessary action to theta-

Deputy Commandant FRP, KP, Peshawar. His service record alongwith D file sent.

2. Ex-constable Ubaid Ur Rehman No. 1607 S/O Zahoor Ur Rehman village Rustam ซีistrict Mardan.

المالم المالية بستارسه مندر صعنوان بالامين ابني المرفسسي واسط بيروي وجواب دميي وكل كاروا في متعلفة أن مقام لبناور كيسك المفدا وللب خان سون اليوكيط إني كورظ كووكي مفركرك إفرارك والزركيا جانا ي كرمام تموضوف كومقديس كأل كاروائ كاكابل ابغة يار مبوكا نبيز وكميل صاحب كوكرنے راحنى الروتور ثالث وانبھا. برطف مين توابد المي اور قبال دموى اوربعتور لأري كرني ابراء اوروصولي بيك وروميه اوروضي دعوى اور درخوا ميت ہوشم کی تعاملی اوران میرستخط کرلیے کا اختیار کو آپیر بھوترز عدم بیروی یا داگری کیطرفہ یا اپلی کی مرامدگی ما مند من اور اس میرستخط کرلیے کا اختیار کو آپیر بھوترز عدم بیروی یا داگری کیطرفہ یا اپلی کی مرامدگی ا در شری ایر دار کرنے ایک مگرانی د نظرتانی و تبریزی ترین کو اختیار مردی اور بھورت فرور بیٹے مقدر مذکور کے کُل یا جُرَدِی کاردائی کے واسٹے اور وکیل یا گنار قانونی کوسایتے بمراہ یا اپنی بجائے کنور کا اصیار میرگا، ا درصائعه بمفرر شداء كروعي وسي جمله مذكوره بالا اختيارات عامل مول سير ا وراس كاساخة برواخته مناورة قبول بركاء دوران مقدم ب جو مرحير و برجانه النوا مقديم سيب سيوكا ال ستون وكبل ها حب توسوف مول کے نیز لفایا و خرج بری وصولی مرند کا بھی اختیار بھا اگر کوئی تاریخ بیشی مفام روره ير يمو يا مدس ابر بولتو وكل صاحب يا بندنه بول كدير بروى مذكور كري. لہٰذا وکالت نامہ مکھ دیا کہ سند سے۔ 26-06-18 Po-06-18 م الله الله المستعال العبد سقالتم فان مرقت المات المال by By the state of the s Jen/me المرابعة الم · Que 1/19/31

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 844/2018.

Ubaid Ur Rehman Ex-constable No. 1607/FRP, HQrs......Appellant

VERSUS

	Total	11	
5.	Memo	G	01
4.	Enquiry report	F	02
3.	Written complaint	E	01
2.	Witness statements	A, B, C & D	04
1.	Para-wise Comments		03
S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 844/2018.

VERSUS

- Deputy Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar.

PRELIMINARY OBJECTIONS

- 1. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- 2. That the appellant has no cause of action to file the instant appeal.
- 3. That the appellant has not come to this Honorable Tribunal with clean hands.
- 4. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
- 5. That the appellant is trying to conceal material facts from this Honorable Tribunal.

WRITTEN REPLY ON BEHALF OF RESPONDENTS

FACTS

RESPECTED SHEWETH:-

- 1. Para No. 1 admitted to the extent that the appellant being a member of disciplined force has been involved in illegal business of money laundering.
- 2. Para No. 2 is admitted to the extent that a written complaint was received to the respondents against the appellant that he is involved in illegal business of money laundering. The matter was dealt with proper enquiry and the allegations were proved against the appellant without any shadow of doubt.
- 3. Para No. 3 is admitted to the extent that on the allegations of involvement in illegal business of money laundering, the appellant was issued Charge Sheet, which served upon him by the Enquiry Officer. He submitted the reply of Charge Sheet, but his reply was found unsatisfactory by the Enquiry Officer.
- 4. Incorrect and denied. As proper departmental enquiry was already initiated against the appellant under Police Rules 1975 and during the course of enquiry he was found guilty of the charges leveled against him. Upon the findings of Enquiry Officer the appellant was served with Final Show Cause Notice, to which he replied but his reply was found unsatisfactory by the competent authority.

- Para No. 5 is admitted to the extent that after fulfillment of the codal formalities the appellant was awarded major punishment of removal from service. (copy of impugned order is attached as annexure "A").
 - Para No. 6 is admitted to the extent that departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds by respondent No. 2 being the appellate authority. (copy of departmental appeal is attached as annexure "B").

GROUNDS:-

- a. Incorrect and rejected. As proper departmental enquiry was initiated against the appellant as per law. Moreover, during the course of enquiry the statements of all concerned witnesses were recorded by the Enquiry Officer, wherein they stated that the appellant is involved in illegal business of money laundering and in this regard the complainants Akbar Ali has disclosed in his written statement that in September 2015, the appellant (ex-constable Ubaid Ur Rehman) was trying to sent amounting Rs. 1,20,000/- Saudi Riyal and Rs. 99,000/- UAE Darham, (64,00000/- Pakistani Rupees) to UAE illegally through his agents Sajad Ali S/O Shamsher, Mr. Israr and Bakht Rasool resident of Rustam, District Mardan, which they were arrested at the Airport by the Custom Authority and in this regard a criminal case vide FIR No. 205/2015, dated 11.09.2015 was registered against them. The statement of agent Mr. Sajad Ali was also recorded to which he testified the involvement of the appellant in illegal business of money laundering. (Copies of all witnesses are attached as annexure "C, D,E & F").
- b. Incorrect and rejected. A written complaint preferred by Mr. Zahir Shah S/O Hukumat Shah and Akbar Ali S/O Sham UI Tabraiz against the appellant. (copy attached herewith as annexure ""). The matter was dealt with proper departmentally and the allegations of the illegal business of money laundering were proved against the appellant. (copy of enquiry report is attached herewith as annexure "").
- c. Incorrect and rejected. As the appellant being a member of discipline force was found involved in the illegal business of money laundering, which subsequently proved against him and he also violated section No.118 of Khyber Pakhtunkhwa, Police Act 2017.
- d. Incorrect and rejected. In the light of recommendation of Enquiry Officer the complainant Akbar Ali and Zahir Shah were recommended for legal action vide office memo No. 1370/PA, dated 14.05.2018 (copy is attached herewith as annexure (27)).
- e Incorrect and rejected. That proper departmental enquiry was initiated against the appellant as per law and after fulfillment the due codal formalities the order of his removal from service was passed, which is legally justified and in

accordance to law. Moreover, departmental appeal of the appellant was thoroughly examined as he was heard in person in orderly room by the appellate authority, but the appellant failed to present any justification regarding to his innocence. The enquiry file of the appellant was also perused and thereafter his departmental appeal was rejected.

PRAYERS:-

It is therefore, most humbly prayed that in the light of aforesaid facts/submission the instant service appeal may kindly be dismissed with cost.

Deputy Commandant, FRP, Khyber Pakhtunkhwa, Peshawar (Respondent No. 1) Commandant, FRP, \
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 2)

Provincia Police Officer, Khyber Pakhtunkhwa, Peshawar. (Respondent No. 3) nued)

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This order will dispose off on the Departmental Enquiry against Constable Ubaid-ur-Rehman No. 1607 of FRP/HQrs: Peshawar.

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Brief facts of the case are that the CPO Peshawar has endorsed an application/complaint of Zahir Shah and Akbar Ali against Constable Ubaid-ur-Rehman No. 1607 of FRP HOrs: Peshawar, wherein it has been mentioned that is involved in illegal business of money laundering etc. The complaint was marked to DSP FRP Admn: for preliminary enquiry. After completion of enquiry, the Inquiry Officer submitted his findings, stating therein that the above constable has taken Rs. 1,51,000/- Malaysian Currency (Ringgit) and 3000 Saudi Rial from the complainant which are still in his possession/custody. In this regard several locally "Jarga" were also held, but no fruitful result has been received up till now. At the end the DSP FRP Admn: narrated that constable is being a member of discipline force is involved illegally in money laundering and recommended for proper departmental action.

In this regard formal departmental proceedings were initiated against him as he was issued Charge Sheet/Statement of allegation and DSP FRP/ HQrs: was nominated as Enquiry Officer. After proper enquiry, the EO, submitted his findings, wherein he stated that Constable Ubaid-ur-Rehman No. 1607 of FRP HQrs: Peshawar has been found involved directly or indirectly in Hondai/Money laundering business illegally and recommended for severe punishment. The Enquiry officer further added that to approach FIA against the complainant along-with constable being both are found involved in illegal business. Upon the findings of Enquiry Officer he was issued Final Show Cause Notice to which he replied but his reply has been found not satisfactory. He was heard in person by the undersigned, but he failed to advance any solid proof which support his virtue. The case was entrusted to Legal Branch FRP HQrs: Peshawar, who after thoroughly enquired submitted his report, stating therein that the delinquent constable be awarded major punishment and the FIA authority may also be addressed to take further legal action against the above named constable including complainants.

Keeping in view the recommendations of the Enquiry Officers as well as opinion of legal branch and other material available on record it has come crystal clear that the said Constable found guilty of the charges leveled against him. Therefore, Constable Ubaid-ur-Rehman No. 1607 of FRP/HQrs is hereby Removed from Service under Police Rules 1975 amended 2014 with immediate effect.

Order announced.

Deputy Commandant, Frontier Reserve Police Khyber Pakhtunkhwa Peshawar

No. 1343 - 47 /PA dated Peshawar, the

10,09

-√ -//2018.

Copy of above is forwarded for information & n/action to the:-

- 1. Worthy Commandant, FRP Khyber Pakhtunkhwa Peshawar
- 2. Accountant /FRP/HQrs: Peshawar.
- 3. SRCIØSI/FRP HQrs: Peshawar.
- 5. FMC/ FRP/HQrs: Peshawar with original Enquiry file.

This order will dispose of the departmental appeal preferred by Ex- constable Ubaid Ur Rehman No. 1607 of FRP HQrs, against the order of Deputy Commandant FRP, KP, wherein he was removed from service on 10.05.2018. The applicant was proceeded against on the allegations that the CPO Peshawar has endorsed an application/complaint of Mr. Zahir Shah and Mr. Akbar Ali against him, wherein it has been mentioned that he (above named constable) is involved in illegal business of money laundering etc.

In this regard DSP FRP Admn was deputed to conduct preliminary enquiry against him. After completion of preliminary enquiry, the Enquiry Officer submitted his findings, stating therein that the above named constable has been received Rs. 1,51,000/- Malaysian Currency (Ringgit) and 30,000/ Saudi Rial from the complainant, which is still in his possession/custody. In this regard several locally "Jarga" were also held, but not fruitful result has been received up till now. At the end the Enquiry Officer narrated that the said constable is being a member of discipline force is involved in illegal activities of money laundering and recommended for taking proper departmental action against him.

Proper departmental enquiry was initiated against him. He was issued Charge Sheet and Statement of Allegations and DSP FRP HQrs: Peshawar was nominated as Enquiry Officer to conduct enquiry against him. After completion of all codal formalities the Enquiry Office submitted his finding, wherein the delinquent constable found involved directly or indirectly in Money laundering business illegally and recommended for severe punishment. The Enquiry Officer further added that to approach FIA authority for further legal action against the complainant alongwith delinquent constable as both are found involved in illegal business of money laundering.

Upon the findings of Enquiry Officer and other material available on record, he was issued Final Show Cause Notice which was served upon him on his home address; his reply to Final Show Cause Notice has been received, which was found unsatisfactory. He was heard in person by the competent authority, but he failed to advance any solid proof regarding to his innocence.

Feeling aggrieved against the impugned order of Deputy Commandant FRP, KP, the applicant preferred the instant appeal. The applicant was summoned and heard in person in orderly room held on 05.06.2018.

From perusal of the enquiry file and the service record of the applicant, it is abundantly clear that the delinquent official being a member of discipline force has been found involved in a illegal business of money laundering which was subsequently proved against him during the course of departmental enquiry. During the course of personal hearing he could not present any cogent justification for his innocence.

Based on the findings narrated above, I, Tahir Ayub Khan PSP Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected and filed being badly time barred and meritless.

Order Announced.

25-X

Commandant

Frontier Reserve Police

Khyber Pakhtunkhwa, Peshawar.

/EC, dated Peshawar the ____20 /__6__/2018

Copy of above is forwarded for information and necessary action to the Deputy Commandant FRP, KP, Peshawar. His service record alongwith D file sent herewith.

2. Ex- constable Ubaid Ur Rehman No. 1607 S/O Zahoor Ur Rehman village Rustam District Mardan.

ما زان المل ولا عنى المراسات أسم عمران الله U63 of lis on por 3 cits of a Com De Cie Cie 1606 Le sol se corre Old Ine o an li com e due /2 en i oling le con a Colin Ope Ou Just 2 (9 0) (1) (1) (1) (1) (1) (1) (1) (1) (1) Lon-UN 6 ciss & E), (2) 6 6 cip , el & e), (2) 6. (1) 9/19/1 / 16/00 30,000 /- que i au os the 2 2 9145,55600/00/12 & 2 1/0 4 1 1 1 gg Ep wis on of in wil 191 and a with the & John 6 , of & 2 1 14, 87000 on per - Cor per 1 20 ispre j'en fuls 1 8 2 9 1 30,68600 vai - 6 20 1 94 99 ال سول اور د می و نیم و سام می می یا ۔ یک ریم ع Ding, El Groff Of Jourson Co Color 0744-9198711 16101-6640661-9. مواديد سرے مامورا د جے سوال : آب ظامرتهاه کی سام کی سرد حج موار به س غظاه شاد مدلخ موه 8 آه در و بالمای در هم این اور آهم جمید کا معار بر بر نظاه می از در الرحل سے مدعا رف الما اور آهم جمید کا بیما

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19113, 1 101 - 6 - 10 Eg. رونوان: درنواست مراد دادری. کاروانی برخانی FRP کنیل میسالرفتر.» الله مون وس به وس به ال ظار شا د ولده وس شاء ادر اکبر علی ولد شمس التمریز کا منتروکی کاروبار می جواریک سائمی ظار شامی ماشاه میرون مل می موتا به ادر دو سا تعالیمیال باکتان میں کارونار حل تا جال آر باہ ادر ایک در ایک در ایم وناری روس ومری ارسال کرتے ہی ۔ 18-8-2017 اور سال کرتے ہی ۔ 18-8-2017 اور کرتا ہے ۔ 18 کاروبار کا ہے ۔ 18 کاروبار کا ہے ۔ روسم وغيرة إرسال كرغيس مركة من ظاهر شاء في كشيل مسيد الرصين كو ملشاء كرسى رسك /151,000 - . وكم باكنان ريد ساخ مواجد من من والرسوار الج ما تعلى الحراج المعلى المراج المعلى المراج المعلى المراج الم حودام کرنے کو کہا لیکن تحییل عبید الرحلی کی وج روس مل کر اکیم ملی کو وال لیک م أم الم الر وقي FRP كنال في سرى ما له أكسر على مع نام فيع ووقيا سعرى رال جامع ما رس سرون مل كى كو . مدى دول و راك كان روي الله يما سنة بن تو ميره سائق اكسرسان ف ساي اكسرسان و بال يا ماك كسال مين وال يما جن من مسرالرض نے عم کومیل 14,8000 14, روبے یاکستان فوائم ہے جاہ بقامار م 2068600/ مان د نه من ال منول مع کالناء. 1607 jaly en 23 2 50 ja 160 jan 11/00 jan 160 jan 1 ى ظارِ شاء ولد هومت شاء @ احمد على ولاسمس التمريز MUH 0343 5143583 MOHU 0344 9198711 eNIC# 1610/1/1428013 CARC# 1610186406619

جناب عالى!

"یہ مصدق ظاہر ہوا کہ تشییل عبیدالرحمٰن نمبر 1607 مسمی ظاہر شاہ (درخواست کنندہ) کے ساتھی اکبر علی کا خونی رشتہ دار ہے۔ اکبر علی کے ساتھ عرصہ دراز سے ان کے (ہونڈی / حوالہ / منی لانڈرنگ) کے کاروبار سے بلواسطہ یا بلاواسطہ نسلک رہے ہیں جسکی تصدیق اہل علاقہ اوراہل خانہ کرتے ہیں۔ نیز کنشلیل کا جرگہ میں اقر اراور قبل ازیں پچھر قم کی ادائیگی ثابت کرتی ہے کہ ظاہر شاہ درخواست کنندہ کی رقم اس کو واجب الا داہے۔ جو کہ اس نے بلاوجہ رو تھی ہے۔ لیکن کنشلیل عبیدالرحن کا ڈسپلن فورس کا ملازم ہوتے ہوئے تھکمہ کے لئے اسکایہ غیر تانونی کاروباراوراقد ام بدنا می اور جرم کا سبب بنتا ہے دیگر معاملہ مالی لین دین کا ہے۔ پس باضابطہ تکھانہ کاروائی کرنے کی سفارش کیجاتی ہے۔ دیگر احکام افسران بالا افضل ہے "۔

ابتدائی انگوائری رپورٹ پر جناب ڈپٹی کمانڈنٹ صاحب ایف آرپی خیبر پختو نخواہ پیٹاور نے مذکورہ کنٹیبل کے خلاف چارج شیٹ وسمری آف الگیشن جاری کر کے کاغذات برائے انگوائری من DSP ہیڈ کواٹر ایف آرپی پیٹا ورکو مارک کئے۔ دوران انگوائری جارج شیٹ مذکورکنٹیبل پرحسب ضابط تقسیم کی گئی اور دفتر ہذا طلب کر کے یو چھے کچھی گئی مذکورہ نے

جارج شیٹ کے جواب میں تحریری بیان پیش کیا جس کا خلاصہ درج ذیل ہے۔

خلاصه بیان تنشیل عبیدالرحن نمبر 1607 ایف آر بی میڈکواٹریشاور:

" مسى اکبرعلی جو کہ میر ارشتہ دار ہے کہ کہنے پر میں نے پچھر تم ایک جگہ سے اور پچھر تم ظفر علی ولد حیدرعلی سے شلع مردان میں وصول کی جو کہ کل پاکتانی روپے میں مبلغ-/64,00000 روپے بنتے ہیں جو کہ میں نے سجادعلی ولد شمشیر کو دی جو کہ مسی سجادعلی سے بیٹا ورائیر پورٹ پر سلم والوں نے بکڑلی چونکہ بیر تم بین نے اپنی ذمہ داری پر وصول کی تھی اس لئے اکبرعلی نے مجھے کہا کہ اُسکاایک دوست مسی ظاہر شاہ ملائشاء سے رقم بجوائے گا وہ تم روک لینا۔ ظاہر شاہ نے الکشاء ایک لاکھاکاون ہزار رینک بجھوائے اور اکبرعلی نے مجھے مرف مرف ہزار ریال دیے۔ جو کہ کل -/4555600 ویے بنتے شخے اکبرعلی نے -/1500000 پندرہ لاکھروپے واپس لے کر کہا کہ تم صرف مرف کے بیر اور ایکر کہا کہ تم صرف مرف کے بیر اور ایکر کہا کہ تم صرف کے بیر اور ایکر کہا کہ تم صرف کے بیر اور ایکر کہا کہ تم صرف کے بیر اور ایکر کہا کہ تم میں دے دونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی مجھے بقایا نہیں دے دونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی مجھے بقایا نہیں دے دونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی مجھے بقایا نہیں دے دونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی مجھے بقایا نہیں دے دونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی مجھے بقایا نہیں دے دونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی میکھے بقایا نہیں دے دونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی میکھے بقایا نہیں دے دونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی میکھے بقایا نہیں دیونگا۔ کافی عرصہ گز رجانے کے بعدا ب اکبرعلی میکھے بقایا نہیں دیونگا۔ کافی عرصہ گزار دونگا۔ کافی عرصہ کو بھی دونگا۔ کافی عرصہ کو بھی دونگا۔ کافی عرصہ کو بھی بقایا نہیں دونگا۔ کافی عرصہ کو بھی بھی دونگا۔ کافی عرصہ کو بھی بھی دونگا۔ کافی عرصہ کو بھی بھی دونگا۔ کافی عرصہ کو بھی دونگا۔ کافی عرصہ کو بھی دونگا۔ کافی میکھی بھی دونگا۔ کافی عرصہ کو بھی دونگا۔ کافی عرصہ کو بھی بھی دونگا۔ کافی عرصہ کو بھی دونگا۔ کافی میکھی بھی دونگا۔ کافی عرصہ کو بھی دونگا۔ کافی عرصہ کو بھی دونگا۔ کافی میکھی بھی دونگا کے دونگا۔ کافی عرصہ کو بھی دونگا کی دونگا۔ کافی عرصہ کو بھی دونگا کے دونگا کی دونگا کے دونگا کے دونگا کے دونگا کے دونگا کے دونگا کے دونگا کی دونگا کے دونگا کی دونگا کے دونگا کے

ر ہا بلکہ جورتم اُس کے دوست ظاہر شاہ نے ملائشاء سے بھجوائی تھی وہ بھی طلب کررہا ہے۔ نیز میں ہنڈی یامنی لانڈرنگ کا کامنہیں کر نااور میں اس کام سے ناواقف ہوں۔ اکبرعلی نے دھوکا دیا ہے اور اس سے اپنی رقم واپس مانگتا ہوں مذید مذکورہ نے اپنے خلاف جاری انکوائزی فائل کرنے کی استدعا کی ہے "۔ بیان ہمراہ لف اور قابل ملاحظہ ہے۔

دوران انکوائری مسمیان سجاد علی ولد شمشیر علی سکنه بادام کلے رستم ،اکبرعلی ولد شمس التر یز رستم مردان ،رخسارعلی ولد درویش خان اور ظاہر شاہ ولد حکمت شاہ سکنه پیتاؤ ملازئی رستم ضلع مردان کو دفتر نذاطلب کر کے بوچھ کچھ کی گئی اور تحریری بیانات لئے گئے جمله کسان نے ابتدائی انکوائری کے دوران لئے گئے بیانات کے خلاصہ و چیدہ چیدہ فیاری نے ابتدائی انکوائری کے دوران لئے گئے بیانات کے خلاصہ و چیدہ چیدہ نکاری نامی میں نامی کے دوران میں کی اور کی کے دوران کے گئے بیانات کے خلاصہ و چیدہ پیدہ نامی میں نامی میں نامی کی میں نامی کی میں نامی کے دوران کے گئے بیانات کے خلاصہ و چیدہ پیدہ نامی میں نامی کی میں نامی کے دوران کئے گئے بیانات کے خلاصہ و چیدہ پیدہ کی میں نامی کی میں نامی کے دوران کئے گئے بیانات کے خلاصہ و چیدہ پیدہ کی میں نامی کی میں نامی کی میں نامی کی کہ کی کی کاری کی کے دوران کئے گئے بیانات کی تصدیق و تا کی کی کی دوران کے گئے بیانات کی تصدیق و تا کی کی کی دوران کے گئے بیانات کی تصدیق و تا کی کی دوران کے گئے بیانات کی تصدیق و تا کی کی دوران کے گئے بیانات کی تصدیق و تا کی دوران کے گئے بیانات کی تصدیق و تا کی دوران کی کی دوران کے گئے بیانات کی تامین کی خلاص کی دوران کے گئے بیانات کے خلاح میں کی کی دوران کے گئے بیانات کے خلاح کے دوران کے گئے بیانات کے خلاص کے دوران کے گئے بیانات کے خلاصہ کی دوران کے گئے بیانات کے خلاصہ کی کی کی دوران کے گئے بیانات کے خلاصہ کی دوران کے خلاصہ کی دوران کے خلاصہ کی دوران کے خلاصہ کی دوران کی دوران کے خلاصہ کی دوران کی دوران کی دوران کی دوران کے خلاصہ کی دوران کی

1:۔ درخواست کنندہ اکبرعلی ولد شمسلتمریز سکندر تنم مردان کنسٹیل عبیدالرحمٰن کا کزن ہے اور علاقہ میں عام الفیل بیرون ملک جانے والے افراد کوغیر قانونی طور پر قم ارسال کرنے کا کام بھی کرتا ہے کنسٹیل عبیدالرحمٰن بھی اسی غیر قانونی طریقے ہے رقم بیرون ملک بھیجوانے کے دھندے میں عرصہ دراز سے شامل رہا ہے۔ کنسٹیل عبیدالرحمٰن نمبر 1607 کا والداور بھائی UAE دوبی میں مقیم ہے جو کہ اکثر و بیشتر عبید الرحمٰن کو بھیجوا یئے رقم وصول کرتا ہے جب کوئی شخص بیرون ملک جاتا ہے تو یہ ان کوریال ار بنگٹ اسعودی ریال اور ڈالروغیرہ دیکران سے ائیر پورٹ یا مقامی جگہ بران کے افراد وصول کرتے ہیں۔

2:2 کنٹیبل عبیدالرحمٰن نے سمبر 2015 میں اپنے ایک ایجنٹ سمی سجادعلی ولد شمشیر خان سکند بادام کلے رستم مردان کے توسط ہے مبلغ 1,20,000 میں اسرار 1,20,000 (چونسٹ لاکھ پاکستانی) بنتے ہیں بدست سمی اسرار غان اور سمی بخت رسول ولد خان رسول سکندرستم کے ذریعے دبئ جیجوانے کی کوشش کی جو کہ بیٹا ورائیر پورٹ پر سلم اہمکاروں نے گرفتار کر کے خان اور سمی بخت رسول ولد خان رسول سکندرستم کے ذریعے دبئ جیجوانے کی کوشش کی جو کہ بیٹا ورائیر پورٹ پر سلم اہمکاروں نے گرفتار کر کے ان کے خلاف مقدمہ بحوالہ علت نمبر 205/2015 مورخہ 11.09.2015 سلم ہاؤس درج رجملہ کیا۔ اس ایجنٹ سمی سجاوعلی ولد شمشیر خان اور گیسی ڈرائیور رُخسارعلی ولد درویش محمد سکندرستم مردان کو طلب کر کے ان کے مفصل بیانات قامیند کر کے لف فلیگ " A" اور B" قابل ملاحظہ ہے۔ جنہوں کنٹیبل مذکور کے اقدام کے بابت مفصل حالات بیان کئے۔

3:۔ مقدمہ مذکور بالا کشم کورٹ میں اسے عرصہ سے زیر تجویز ہے پس اس دوران کنٹیبل عبیدالرحمٰن نے اپنی بکڑی گئی رقم کو برآ مد کرنے اور تاوان کو حاصل کرنے کے لئے اپنے کزن اکبرعلی سے رابطہ کرکے اپنے اس کاروباری (حوالہ امونڈی امنی لانڈرنگ) میں بڑی ٹرانز یکشن کی پیش کش کی ۔ پس اکبرعلی نے اپنے ایک دوست ظاہر شاہ ولد حکمت شاہ (درخواست کنندہ) جو کہ ملایشیاء میں مقیم تھا سے رابطہ کرکے اچھے منا فع بخش پہلے پر بڑی رقم کی ٹرانز یکشن کا کہا جس پر ظاہر شاہ (درخواست کنندہ) نے مذکورہ -/1000 ملائیشین رینکٹ جسیجوائی اوراسی طرح 30000 (تمیں ہزار سعودی ریال) اکبرعلی درخواست کنندہ سے جسیجوائی اوراسی طرح کا تاوان گردانا۔

تاہم اس بابت قبل ازیں بھی کئی جرگے ہوئے اور اس میں -1487000 روپے عبید الرحمٰن نے مسمی ظاہر شاہ اور اکبرعلی (درخواست کنندہ) کوادا کئے گئے۔ جبکہ بقایا -/30,68600 رپوے عبید الرحمٰن کو بقایا رہی جسکی ادائیگی نہ ہونے پران درخواست کنندہ نے افسر ان بالاکواس بابت درخواست ہذا پیش کی۔

بیان مسمی ظاہر شاہ اورا کبرعلی (درخواست کنندہ) مفصل قلمبند کئے جا کرلف **فلیک "C"اور "D"** قابل ملاحظہ ہے نیز درخواست کنندہ کے پیش کردہ ٹرانز یکشن ثبوت کی کا پی لف فلیگ "E" قابل ملاحظہ ہے۔

From:

The Commandant

Frontier Reserve Police

Khyber Pakhtunkhwa, Peshawar.

To:

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

No: <u>137</u>0

_/PA dated Peshawar the

14/05

/2018.

Subject:

COMPLAINT AGAINST CONSTABLE UBAID UR REHMAN FRP

AND RECOVERY OF MONEY

Memo:

Kindly refer to CPO Peshawar letter No. 3959/PAS dated 30.08.2017

on the subject cited above.

It is submitted for kind information that in this connection a preliminary enquiry was entrusted to DSP FRP Admn: who after enquiry recommended that proper departmental action be taken against the above named constable. He was issued Charge Sheet/statement of allegation and DSP FRP HQrs: Peshawar was appointed as Enquiry Officer to conduct enquiry into the matter. After completion of enquiry, the Enquiry Officer submitted his findings, wherein he stated that the charges leveled against constable Ubaidur-Rehman No. 1607 of FRP HQrs: Peshawar is established and recommend him for Major punishment being involved in illegal business of money laundering. The Enquiry Officer has further narrated that the complainant are also involved in money laundering and recommended to approach FIA against them. After observing all codal formalities the said constable has been removed from service vide this office order No.1343-47/PA dated 10.05.2018.

It is, therefore, requested that FIA authority may kindly be approached to take legal action against complainant namely Zahir Shah S/o Hikmat Shah, Akbar Ali S/o Shams-ul-Tabreez R/o district Mardan alongwith as Ex-constable Ubaid-ur-Rehman being involved in illegal business of money laundering please.

Deputy Commandant
For Commandant
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

بدوران انکوائری کنسٹیل عبید الرحمٰن نمبر 1607 اوراس کے بڑے بھائی سعید الرحمٰن ولدظہور الرحمٰن حال سکنہ اتحاد کالوفی نقیر _:4 آباد پیٹا ور کا بیان قلمبند کیا جا کرلف فلیگ"F"اور "G" قابل ملاحظہ ہے جس میں عبیدالرحمٰن تصدیق کرتا ہے ظاہر شاہ اورا کبرعلی کی رقم اس کے بھائی نے اس لئے روکی ہے کہ سجا علی ولد شمشیر خان (مُدکور بالا) اکبرعلی کا دوست ہے اوراسکی وجہ سے میری بڑی رقم جو کہ کشم نے مقدمہ بالا میں قبضہ کی ہے کا مداوا ہے۔ نیز اس کے بھائی سعیدالرحمٰن نے بھی اس بابت کی تصدیق اور قبول کیا کہ اسکا بھائی کنٹیبل عبیدالرحمٰن نوکری کے ساتھ ساتھ (حوالہ اہونڈی/منی لانڈرنگ) کا کاروبارکرتار ہا۔

دوران انکوائری خفیہ اور اعلانیہ طور پر حقائق کومنظر عام پر لانے کی غرض سے انکوائری مذاعمل میں لائی گئی جملہ بیانات و عالات کی روشنی میں اس نتیجہ پر پہنچا ہوں کہ تسلیل **عبید الرحن نمبر 1607 اورمسمیان اکبرعلی ولد منٹس التمریز سکنے رستم مروان، طاہر شاہ ولکہ** حكمت شاه سكنيه بيتياؤ ملاز كي رستم مردان (درخواست كننده كان) اورسجا على ولدشمشير خان سكنيه بإدام كليرستم مردان بلواسطه يا بلا واسطه موتذي ار الدامنی لانڈرنگ کے کام سے منسلک رہے ہیں۔ درخواست کنندگان اور کنٹیبل عبید الرحمٰن نمبر 1607 کا آپس میں معاملہ مالی لین دین کا ہے لہذا ندکور<mark>ہ کنشمیل عبیدالرحل نمبر 1607ایف آر بی ہیڈ کواٹریشاور کوسخت سے سخت محکمان میزادینے اور دیگر (درخواسٹ گنندہ گان) اکبر</mark> على ولدشس التمريز سكندرستم مردان ، ظا هرشاه ولد تحكمت شاه سكنه بيتياؤ ملاز كي رستم مردان اورمسي سجادعلي ولدشمشير خان سكنه بإدام كليرستم مردان ے خلاف بھی محکمہ FIA کوقانونی کاوائی کرنے کے لئے تحریری لیٹر بھجوانے کی سفارش کی جاتی ہے۔ ر بورٹ عرض ہے۔ DSP بیڈکواٹر

الفِ آر بي پياور

روسي نمبرند 63 موري 16/62/18 <u>موري 16/62</u> SSC Legge

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M. Comme de 20/2/18

BEFORE THE LEARNED KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Ten. Ve

A. No. 844/18

Ubaid ur Rehman

VERSUS

Deputy Commandant & others

REPLICATION

Respectfully Sheweth:

Preliminary Objection:

All the 05 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is not competent for mis and non-joinder of necessary parties, is without cause of action, with unclean hands, estoppel and concealment of material facts.

ON FACTS:

1. Admitted correct to the extent of enlistment as constable on 29.11.2011. Rest of the Para is

incorrect, which has no concern with performance of duty and departmental transactions, if any.

- 2. As above. And more so, the matter was not dealt with as per the mandate of law because Appellant was not allowed to cross examine the witnesses but the Inquiry Officer himself put question to the witnesses. More so, such statements annexed with the reply were not done by the Appellant.
- 3. Not correct. And as stated earlier, Appellant committed no illegality within the ambit of department. It was a private transaction between the brothers of Appellant namely Inayat ur Rehman and Saeed ur Rehman and the complainants.
- 4. Not Correct. No proper departmental enquiry was ever conducted as stated in paras above.
- 5. No correct. Codal formalities enumerated in the rules was ever observed. The major punishment was imposed upon Appellant favoring the Complainants.
- 6. Needs no comments regarding submission of appeal before R. No. 02 and its rejection. As far as order dated 10.05.2018 of R. No. 1, removing Appellant from service was not served upon him as is evident from the same. Representation was made on

19.05.2018 which was quite in time and it is not known that why R. No. 02 tainted the same time barred.

GROUNDS:

All the grounds of the appeal are legal and correct, while that of the reply are illegal any incorrect. The same are adopted again.

It is, therefore most humbly requested that the appeal be accepted as prayed for.

Through

Appellant

Saadullah Khan Marwat

Advocate, Peshawar

AFFIDAVIT:

It is stated on oath that the contents of the instant Replication are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.

DEPONENT

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

. No. 1939/ST

Dated 28 /7 / 2020

To

The Deputy Commandant FRP, Government of Khyber Pakhtunkhwa, Peshawar

Subject: -

JUDGMENT IN APPEAL NO. 844/2018, MR. OBAID UR RAHMAN.

I am directed to forward herewith a certified copy of Judgement dated .16.07.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.