

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 922/2018

Date of Institution ... 23.07.2018

Date of Decision ... 05.07.2021

Haz Ali Shah, Ex-Constable No. 654, Police Lines Peshawar District.

... (Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar and two others.

... (Respondents)

Mr. ZAHID GUL,
Advocate

--- For appellant.

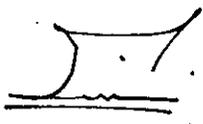
MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN ---
MR. ATIQ-UR-REHMAN WAZIR ---

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

 **SALAH-UD-DIN, MEMBER:-** The appellant has filed the instant Service Appeal against the impugned order dated 02.02.2018 passed by the competent Authority, whereby he was dismissed from service, as well as against the order of the appellate Authority, whereby the departmental appeal of the appellant was rejected.

2. Precise facts are that the appellant while serving as Traffic Warden Peshawar, was charged in case FIR No. 872 dated 28.10.2017 under sections 335/367-A/148/149 PPC registered at Police Station Mathra, therefore, disciplinary action was taken against him and on the conclusion of inquiry he was dismissed from service. The departmental

appeal of the appellant was also turned down, hence the instant Service Appeal.

3. Respondents submitted reply, wherein it was mainly alleged that as the appellant was charged in a criminal case, therefore, proper inquiry was conducted against him under Police Rules, 1975 and the allegations against him stood proved, hence he was dismissed from service.

4. Learned counsel for the appellant has argued that after charging of the appellant in criminal case, the respondents were required to have suspended him and should have waited for conclusion of trial of the appellant, however the respondents dismissed the appellant in a hasty manner, without complying the relevant provisions of inquiry as prescribed in Police Rules, 1975. He next argued that the appellant was falsely implicated in the criminal case and has been acquitted by a competent court. He further contended that the appellant was proceeded against on the ground of his involvement in the criminal case, however the acquittal of the appellant has vanished the very ground, which provided base for disciplinary action against the appellant. In the last he argued that the impugned order of dismissal of the appellant is wrong and illegal, hence liable to be set-aside. Reliance was placed on 2019 PLC (C.S) 255, 2003 PLC (C.S) 514, 2001 PLC (C.S) 667, 2013 SCMR 752, PLD 2010 Supreme Court 695, 1998 SCMR 1993 and PLJ 2015 Tr.C (Services) 152.

 5. On the other hand, learned Additional Advocate General has contended that the appellant was involved in a criminal case, therefore, disciplinary action was taken against him in accordance with Police Rules, 1975 and after conducting of proper inquiry, he was rightly dismissed from service. He further contended that the acquittal of the appellant in criminal case cannot entitle him to be exonerated in disciplinary action taken against him by the competent Authority. Reliance was placed on 2010 SCMR 1982, 2006 SCMR 554, 2006 SCMR 453, 2013 SCMR 911 and 2013 PLC (C.S) 1071.

6. Arguments heard and record perused.

7. The appellant was serving as Traffic Warden Peshawar, when he was charged in case FIR No. 872 dated 28.10.2017 under sections

335/367-A/148/149 PPC registered at Police Station Mathra. Disciplinary action was initiated against the appellant on 07.11.2017 and he was dismissed from service vide order dated 02.02.2018 passed by the competent Authority. The appellant was charged for a criminal offence, therefore, the department was required to have followed the procedure as laid down in Article-194 of Civil Service Regulations, which is reproduced as below:-

"A Government Servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a Government servant is not arrested or is released on bail, the competent Authority may suspend him, by specific order, if the charge against him is connected with his position as government servant or is likely to embarrass him in the discharge of his duties or involves moral turpitude. During suspension period the Government servant shall be entitled to the subsistence grant as admissible under F.R-53".

A perusal of record would show that upon receipt of the inquiry report, opinion of DSP/Legal was sought, whose opinion was in the nature that as the criminal case was still sub-judice in the court, therefore, the outcome of the inquiry may be based on the decision of the court. The competent Authority, however did not wait for the outcome of the criminal case and dismissed the appellant by ignoring Article-194 of Civil Service Regulations.

8. The department had initiated disciplinary action against the appellant on the sole ground that he was charged in case FIR No. 872 dated 28.10.2017 under sections 335/367-A/148/149 PPC registered at Police Station Mathra, however the appellant has already been acquitted in the said case vide order dated 19.07.2019 passed by learned Additional Sessions Judge-XIV Peshawar. Nothing is available on the record, which could show that the acquittal of the appellant has been challenged by the respondents through filing of appeal before the higher forum, therefore, the order of acquittal of the appellant has gain finality. It is now well settled that acquittal of an accused in a criminal

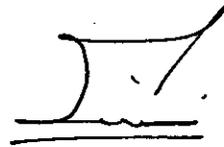
case, even if based on benefits of doubt, would be considered as honourable. The appellant was dismissed from service on the sole ground of his charging in criminal case, however upon acquittal of the appellant, the very ground on the basis of which disciplinary action was taken against him, has vanished away, therefore, the order of dismissal of the appellant cannot remain in field.

9. In view of the above discussion, the instant appeal is accepted by setting-aside the order of dismissal of the appellant and he is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
05.07.2021



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



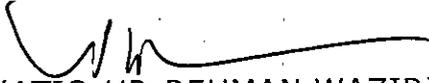
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

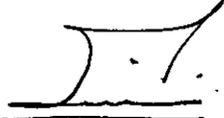
ORDER
05.07.2021

Appellant alongwith his counsel Mr. Zahid Gul, Advocate, present. Mr. Muhammad Raziq, Reader alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

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

ANNOUNCED
05.07.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

05.02.2021

On account of Public Holiday (Kashmir Day), the case is adjourned to 05.04.2021 for the same.


Reader

05.04.2021

Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 5/7/2021 before D.B. Notice be issued to appellant/counsel for the date fixed.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

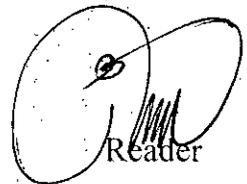
13.5.2020

Due to COVID19, the case is adjourned to
5/8/2020 for the same as before.


Reader

05.08.2020

Due to summer vacation case to come up for the same on
06.10.2020 before D.B.


Reader

06.10.2020

Nemo for appellant.

Mr. Kabir Ullah Khattak learned Additional Advocate
General for respondents present.

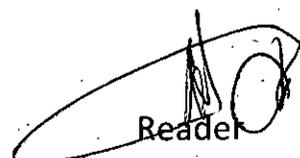
Lawyers are on general strike, therefore, the case is
adjourned to 24.11.2020 for arguments, before D.B.
Appellant/counsel be put to notice for the date fixed.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

24.11.2020

Due to non-availability of D.B, the case is adjourned to
05.02.2021 for the same as before.


Reader

23.01.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 13.03.2020 for rejoinder and arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

13.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA alongwith Mr. M. Raziq, Reader for respondents present. Representative of the respondents submitted copy of departmental appeal filed by the appellant which is placed on file. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 13.05.2020 before D.B.


Member


Member

12.07.2019

Counsel for the appellant and Addl. AG alongwith Muhammad Raziq, H.C for respondent present. Written reply submitted. The appeal is assigned to D.B for arguments. ^{on 26/09/19} The appellant may submit rejoinder, within a fortnight, if so advised.


Member

26.09.2019

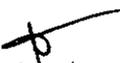
Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 28.10.2019 for rejoinder and arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

28.11.2019

Clerk to counsel for the appellant present and submitted rejoinder. Due to general strike of the Pakistan Bar Council, the case is adjourned. To come up on 23.01.2020 before D.B.


Member


Member

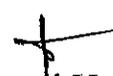
27.03.2019

Clerk to counsel for the appellant present. Written reply not submitted. Muhammad Raziq H.C representative of the respondent department present and seeks time to furnish written reply/comments. Granted. Adjourn. To come up for written reply/comments on 25.04.2019 before S.B.


Member

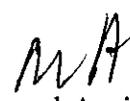
25.04.2019

Counsel for the appellant present. Addl: AG alongwith Mr. M. Raziq, H.C for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 19.06.2019 before S.B.


(Ahmad Hassan)
Member

19.06.2019

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further adjournment. Adjourned but as a last chance. Case to come up for written reply/comments on 12.07.2019 before S.B.


(Muhammad Amin Khan Kundi)
Member

Service Appeal No. 922/2018

12.12.2018

Appellant in person present. Security and process fee not deposited. The appellant is directed to deposit security and process fee within 3 days, thereafter, notice be issued to the respondents for written reply/comments for 04.02.2019 before S.B.

Appellant Deposited
Security & Process Fee




Muhammad Amin Khan Kundi
Member

04.2.2019

Appellant in person and Addl. AG for the respondents present.

Learned AAG requests for adjournment as he has not been contacted by the representative of respondents regarding preparation of requisite reply. Adjourned to 27.03.2019 before the S.B.


Chairman

~~27.03.2019~~

~~(Appellant in person) and Mr. Kabir Ullah Khattak (learned Additional Advocate General) along with (Salman HC) Representative of the respondent department submitted written reply/comments. Adjourn To come up for rejoinder/arguments on 16.03.2019 before D.B)~~

AJA

~~Member~~

29.08.2018

Counsel for the appellant Haz Ali Shah present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Police Department as Constable. It was further contended that the appellant was dismissed from service vide impugned order dated 02.02.2018 on the allegation that he was involved in a criminal case. It was further contended that that the appellant filed departmental appeal which was rejected vide order dated 07.03.2018 hence, the present service appeal. It was further contended that the appellant has been granted pre-arrest bail by the competent court of law on the basis of compromise and the trial of the accused has not been concluded so far. It was further contended that neither proper inquiry was conducted nor opportunity of cross examination was afforded to the appellant therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 26.10.2018 before S.B.

MA
(Muhammad Amin Khan Kundi)
Member

26-10-18

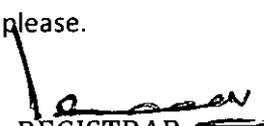
*Due to Retirement of Honorable
Chairman the Tribunal is non functional
Therefore the case is adjourned to come
up for the same on 17-12-2018*

*Sp. J. J.
Reddy*

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 922/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/07/2018	<p>The appeal of Mr. Haz Ali Shah presented today by Mr. Zahid Gul Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	24-7-2018	<p>This case is entrusted to the S. Bench for preliminary hearing to be put up there on <u>29-8-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	29.08.2018	<p>None present on behalf of the appellant. Adjourned. To come up for preliminary hearing on 04.10.2018 before S.B.</p> <p style="text-align: right;">(Muhammad Amin Khan Kundli) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal 922 /2018

Mr. Haz Ali Shah

VERSUS

The inspector General of Police Khyber Pakhtunkhwa
Peshawar etc

INDEX

S.no	Description	Annexure	Pages
1.	Service Appeal		1-4
2.	copy of FIR, Application of BBA and judgment ASJ-XI dated 08/11/2017	"A" and "B"	5-14
2.	Copy of application to SSP Office and Disciplinary action on dated 07/11/2017	"C" and "D"	15-17
3.	copy of charge sheet and order in dated 09/11/2017 along with impugned order 2-2-18	"E" and "F"	18-20
4.	Copy of Show Cause Notice	"G"	21
4.	Copy Departmental appeal and rejection order	"H"	22-23
7.	Copy of Application and Rejection Order dated 04/07/2018	"I"	24-25

Dated 18/07/2018

Through

Appellant 

ZAHID GUL ADVOCATE HIGH COURT
PESHAWAR
Cell No 0301-8870932 

Office Address: Near Labour Court Judicial Complex Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 922 2018

Diary No. 1186

Dated 23-7-2018

Mr. Haz Ali Shah, Ex Constable No. 654, Police Lines Peshawar
District

Appellant

VERSUS

1. The inspector General of Police Khyber Pakhtunkhwa Peshawar
2. The Superintendent of Police Head Quarters Peshawar.
3. The Capital City Police Officer, Peshawar.

Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED
ORDER DATED 02/02/2018 WHEREBY THE APPELLANT
DEPARTMENTAL APPEAL DATED 07/03/2018 HAS BEEN
REJECTED ON NO GOOD GROUNDS.

Filed to-day

Registrar

23/5/19

PRAYER

THAT ON ACCEPTANCE OF THIS APPEAL THE IMPUGNED
ORDER DATED 02/02/2018 AND DATED 07/03/2018 MAY
VERY KINDLY BE RE-INSTATED ON SERVICE WITH ALL
BACK BENEFITS ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE
AWARDED IN FAVOUR OF THE APPELLANT

Respectfully Sheweth:-

On Facts:

1. That appellant was appointed as constable No 654 in the respondent department and right from appointment the appellant served the respondent departmental quite efficiently and up to the entire stratification of this superiors.
2. That during performing duty an FIR No 872 dated 28/10/2017 U/s 355-367A-148-149 PPC in P.S mathra was registered against appellant and appellant moved an application for Pre-Arrest Bail to Concerned Court and learned ASJ-XI has granted ad interims pre-arrest bail to appellant and then it was confirmed on basis of compromise dated 08/11/2017 by the learned ASJ-IX. (Copy of FIR, BBA, and Judgment dated 08/11/2017 are Annexure "A" and "B")
3. That in the above mentioned case the appellant moved an application to SSP office for his innocence in the above mentioned case but it was vain and Disciplinary action was taken against the appellant dated 07/01/2017) (Copy of application to SSP Office and Disciplinary action are annexure ("C" and "D")
4. That in the criminal case the appellant was charge sheeted vide dated 09/01/2017 (Copy of Charge Sheet and order is annexure "E") and appellant was dismissed ^{impugned} in the above mentioned criminal case vide order dated 2.2.2018.

(3)

5. That final show cause notice was issued to appellant by respondent No 2 but the notice was not served upon the appellant (copy of Show Cause notice is annexure "F").
6. That being aggrieved from the impugned order dated 02/02/2018 the appellant moved departmental appeal to respondent No 3 but it was rejected on no good grounds. (Copy of departmental appeal and rejection order are attached as annexure "G")
7. That appellant also moved application to the respondent No 1 but it was also rejected dated 04/07/2018 (Copy of application and rejection order are attached as annexure "H")
8. That appellant having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A. That impugned order dated 02/02/2018 is against the law, facts and norms of natural justice hence not tenable and liable to be set aside.
- B. That appellant has not been treated by the respondent department according with law and rules in subject noted above and as such the respondents violated

(4)

articles 4 and 25 of constitution of Islamic republic of Pakistan 1973.

C. That there is no evidence available whereby it could have been proved that the petitioner has willfully misconducted himself in department.

D. That appellant is jobless since his dismissed from service, therefore entitled to be reinstated with all service benefits.

E. That appellant seeks the permission of the honourable tribunal to rely on additional grounds at the time of hearing of appeal.

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

Dated 18/07/2018

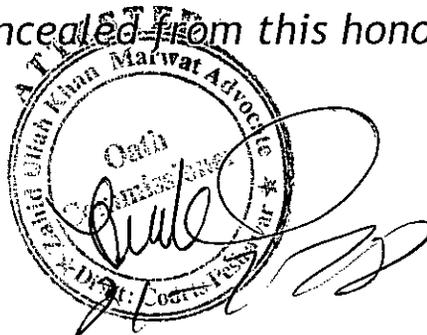
Appellant 

Through

ZAHID GUL 
ADVOCATE PESHAWAR

AFFIDAVIT

I, Mr. Haz Ali Shah, Ex Constable No. 654, Police Lines Peshawar District, hereby solemnly affirm and declare on oath that the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.



Deponent



ابتدائی اطلاعی رپورٹ

فارم نمبر ۲۳-۵۵

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجموعہ ضابطہ فوجداری

Copying Agency (R.W.)
Legal Branch
Capital City Police Peshawar
11-04-2018

تھانہ	تاریخ و وقت رپورٹ	صفحہ	تعداد
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ابتدائی اطلاع نیچے درج کرو۔
 لوقت صدر اسم صفت مندرجہ ذیل ہے
 اور ایک سربراہ درخواست بنوں ذیل میں تھی۔ خدمت ضابطہ SHo صاحب آغا شہزاد شہزاد درویش بہادر
 کے FIR جناب عالی! یہ کہ آج صبح 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۹-۱۲۳۰-۱۲۳۱-۱۲۳۲-۱۲۳۳-۱۲۳۴-۱۲۳۵-۱۲۳۶-۱۲۳۷-۱۲۳۸-۱۲۳۹-۱۲۴۰-۱۲۴۱-۱۲۴۲-۱۲۴۳-۱۲۴۴-۱۲۴۵-۱۲۴۶-۱۲۴۷-۱۲۴۸-۱۲۴۹-۱۲۵۰-۱۲۵۱-۱۲۵۲-۱۲۵۳-۱۲۵۴-۱۲۵۵-۱۲۵۶-۱۲۵۷-۱۲۵۸-۱۲۵۹-۱۲۶۰-۱۲۶۱-۱۲۶۲-۱۲۶۳-۱۲۶۴-۱۲۶۵-۱۲۶۶-۱۲۶۷-۱۲۶۸-۱۲۶۹-۱۲۷۰-۱۲۷۱-۱۲۷۲-۱۲۷۳-۱۲۷۴-۱۲۷۵-۱۲۷۶-۱۲۷۷-۱۲۷۸-۱۲۷۹-۱۲۸۰-۱۲۸۱-۱۲۸۲-۱۲۸۳-۱۲۸۴-۱۲۸۵-۱۲۸۶-۱۲۸۷-۱۲۸۸-۱۲۸۹-۱۲۹۰-۱۲۹۱-۱۲۹۲-۱۲۹۳-۱۲۹۴-۱۲۹۵-۱۲۹۶-۱۲۹۷-۱۲۹۸-۱۲۹۹-۱۳۰۰-۱۳۰۱-۱۳۰۲-۱۳۰۳-۱۳۰۴-۱۳۰۵-۱۳۰۶-۱۳۰۷-۱۳۰۸-۱۳۰۹-۱۳۱۰-۱۳۱۱-۱۳۱۲-۱۳۱۳-۱۳۱۴-۱۳۱۵-۱۳۱۶-۱۳۱۷-۱۳۱۸-۱۳۱۹-۱۳۲۰-۱۳۲۱-۱۳۲۲-۱۳۲۳-۱۳۲۴-۱۳۲۵-۱۳۲۶-۱۳۲۷-۱۳۲۸-۱۳۲۹-۱۳۳۰-۱۳۳۱-۱۳۳۲-۱۳۳۳-۱۳۳۴-۱۳۳۵-۱۳۳۶-۱۳۳۷-۱۳۳۸-۱۳۳۹-۱۳۴۰-۱۳۴۱-۱۳۴۲-۱۳۴۳-۱۳۴۴-۱۳۴۵-۱۳۴۶-۱۳۴۷-۱۳۴۸-۱۳۴۹-۱۳۵۰-۱۳۵۱-۱۳۵۲-۱۳۵۳-۱۳۵۴-۱۳۵۵-۱۳۵۶-۱۳۵۷-۱۳۵۸-۱۳۵۹-۱۳۶۰-۱۳۶۱-۱۳۶۲-۱۳۶۳-۱۳۶۴-۱۳۶۵-۱۳۶۶-۱۳۶۷-۱۳۶۸-۱۳۶۹-۱۳۷۰-۱۳۷۱-۱۳۷۲-۱۳۷۳-۱۳۷۴-۱۳۷۵-۱۳۷۶-۱۳۷۷-۱۳۷۸-۱۳۷۹-۱۳۸۰-۱۳۸۱-۱۳۸۲-۱۳۸۳-۱۳۸۴-۱۳۸۵-۱۳۸۶-۱۳۸۷-۱۳۸۸-۱۳۸۹-۱۳۹۰-۱۳۹۱-۱۳۹۲-۱۳۹۳-۱۳۹۴-۱۳۹۵-۱۳۹۶-۱۳۹۷-۱۳۹۸-۱۳۹۹-۱۴۰۰-۱۴۰۱-۱۴۰۲-۱۴۰۳-۱۴۰۴-۱۴۰۵-۱۴۰۶-۱۴۰۷-۱۴۰۸-۱۴۰۹-۱۴۱۰-۱۴۱۱-۱۴۱۲-۱۴۱۳-۱۴۱۴-۱۴۱۵-۱۴۱۶-۱۴۱۷-۱۴۱۸-۱۴۱۹-۱۴۲۰-۱۴۲۱-۱۴۲۲-۱۴۲۳-۱۴۲۴-۱۴۲۵-۱۴۲۶-۱۴۲۷-۱۴۲۸-۱۴۲۹-۱۴۳۰-۱۴۳۱-۱۴۳۲-۱۴۳۳-۱۴۳۴-۱۴۳۵-۱۴۳۶-۱۴۳۷-۱۴۳۸-۱۴۳۹-۱۴۴۰-۱۴۴۱-۱۴۴۲-۱۴۴۳-۱۴۴۴-۱۴۴۵-۱۴۴۶-۱۴۴۷-۱۴۴۸-۱۴۴۹-۱۴۵۰-۱۴۵۱-۱۴۵۲-۱۴۵۳-۱۴۵۴-۱۴۵۵-۱۴۵۶-۱۴۵۷-۱۴۵۸-۱۴۵۹-۱۴۶۰-۱۴۶۱-۱۴۶۲-۱۴۶۳-۱۴۶۴-۱۴۶۵-۱۴۶۶-۱۴۶۷-۱۴۶۸-۱۴۶۹-۱۴۷۰-۱۴۷۱-۱۴۷۲-۱۴۷۳-۱۴۷۴-۱۴۷۵-۱۴۷۶-۱۴۷۷-۱۴۷۸-۱۴۷۹-۱۴۸۰-۱۴۸۱-۱۴۸۲-۱۴۸۳-۱۴۸۴-۱۴۸۵-۱۴۸۶-۱۴۸۷-۱۴۸۸-۱۴۸۹-۱۴۹۰-۱۴۹۱-۱۴۹۲-۱۴۹۳-۱۴۹۴-۱۴۹۵-۱۴۹۶-۱۴۹۷-۱۴۹۸-۱۴۹۹-۱۵۰۰-۱۵۰۱-۱۵۰۲-۱۵۰۳-۱۵۰۴-۱۵۰۵-۱۵۰۶-۱۵۰۷-۱۵۰۸-۱۵۰۹-۱۵۱۰-۱۵۱۱-۱۵۱۲-۱۵۱۳-۱۵۱۴-۱۵۱۵-۱۵۱۶-۱

(6)

فارم نمبر ۲۴-۵ (۱)

ابتدائی اطلاعی رپورٹ

(Better Copy)

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

تھانہ: مٹھرا
 علت نمبر: 872
 ضلع: پشاور
 تاریخ: 27/10/2017 وقت 18:30 بجے

1-	تاریخ و وقت رپورٹ:	28/10/2017 وقت 09:30 بجے
2-	نام و سکونت اطلاع دہندہ و مستغیث:	سید جلیل بادشاہ ولد نور بادشاہ عمر 55/56 سال ساکن پیر کله
3-	مختصر کیفیت جرم (مدرجہ) حال اگر کچھ پایا گیا ہو:	355 PPC , 367 A, 148, 149
3-	جائے وقوعہ فاصلہ تھانہ سے اور دست:	اراضیات دیر گزنگہ پامان از تھانہ جانب جنوب، فاصلہ 8/9 کلومیٹر
5-	نام و سکونت ملزم:	(۱) ولی اللہ شاہ، (۲) نور زین شاہ عرف جان پسران نور نبی شاہ ساکنان پیر کله۔ (۳) ہلال ولد لحاظ بادشاہ، (۴) حماد ولد عظیم شاہ، (۵) حاذ علی شاہ ساکنان پیر کله۔
۶-	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	برسیدگی تحریری مراسلہ مقدمہ درج کیا جاتا ہے
۷-	تھانہ سے روانگی کی تاریخ و وقت	بیدیل ڈاک

ابتدائی اطلاع نیچے درج کرو: بوقت صدر بجے مستغیث مندرجہ خانہ نمبر 2 تھانہ آ کر ایک تحریری درخواست بمضمون ذیل پیش کی۔ بخدمت جناب SHO صاحب تھانہ مٹھرا پشاور درخواست برائے درج کرنے FIR جناب عالی! یہ کہ آج مورخہ 27/10/17 بوقت تقریباً 6:30 بجے شام کو ہم مسمیان (۱) سید جلیل بادشاہ ولد نور بادشاہ، نمبر 2 پسران یاسین شاہ نمبر 3 پسران ناصر شاہ، نمبر 4 پسران ناصر شاہ اپنی ذاتی جہاز سٹور واقع پیر کله میں کھڑے تھے۔ کہ اس اثناء میں مسمیان نمبر 1 ولی اللہ شاہ، نمبر 2 نور زین شاہ عرف جان پسران نور نبی شاہ ساکنان پیر کله، نمبر 3 ہلال ولد لحاظ بادشاہ، نمبر 4 حماد ولد عظیم شاہ ساکنان پیر کله نمبر 5 حاذ علی شاہ ولد حسین شاہ پیر کله اسلحہ کلاشنکوف موٹر کار برنگ سرخ میں آئے مسمیان درج بالا نے جیسے ہی ہم کو دیکھا تو مسمیان مندرجہ بالا موٹر کار سے اتر کر ہم پر کلاشنکوف رکھ کر پسران ناصر شاہ کو بزور گھسیٹ کر موٹر کار میں ڈال کر لے گئے ہیں، بعد ازاں ہم خود تھانے مٹھرا پہنچ گئے اور ہم نے واقعہ کے بارے میں SHO مٹھرا کو تفصیلی بیان دیا اور ہم کمپلیٹ ایف آئی آر درج کر رہے تھے کہ اسی اثناء میں SHO صاحب کو بذریعہ موبائل فون اطلاع ہوا کہ پسران ناصر شاہ گھر خود آئے ہیں۔ لہذا ہم بمعہ SHO صاحب نفری پولیس گھر خود آ گئے ہیں۔ جہاں پر پسران ناصر شاہ نے ہمیں بتایا کہ مسمیان درج بالا یہاں سے نامعلوم مقام لیجا کر اسلحہ کی نوک پر میرے کپڑے اتار دیئے اور مسمی ولی اللہ شاہ نے میری ننگی ویڈیو بنائی اور بعد میں مجھے لاتوں مکوں اور اسلحہ کے ہٹو سے مار کر کہا کہ واقعہ کا ذکر کسی کے ساتھ نہیں کرنا ہے لہذا استدعا ہے کہ مندرجہ ذیل بالا مسمیان کے خلاف FIR بمطابق قانون درج کی جاوے۔ دستخط انگریزی درخواست کنندہ پہ جلیل بادشاہ ولد نور بادشاہ مورخہ 28/10/17 کارروائی تھانہ پیش کردہ تحریری درخواست حرف بحرف درج بالا ہو کر مضمون درخواست سے صورت جرائم بالا پائی جا کر پرچہ جرائم بالا درج رجسٹر ہو کر نقول پرچہ جات بمراد تفتیش حوالہ فرہاد خان SI/OI کیئے جاتے ہیں۔ پرچہ گزارش ہے۔

دستخط انگریزی

INS SHO PS MATHRA

7

Before

The Hon'ble Judge Peshawar

8/11/17 p.p. 2/11/17 No. 547/132A p.p. Annex B
Waliullah Shah s/o Noor Elahi Shah Pir Gkulu Chughli Mati

- 1) Hamed Ali Shah s/o Azeem Shah
- 2) Noor Zameen Shah s/o Noor Elahi
- 3) Haz Ali Shah s/o Siman Shah



Accused / petitioners

Attested

The State

Said Jilal Shah s/o Noor Badshah s/o Pir Kaly Pesh

Respondent

No. 872

Dated 29.10.17

P/S 355 - 367A - 149 - 149

P.S. Mathra

Superintendent
Sessions Court, Peshawar
2-11-17

6

APPLICATION FOR PRE-ARREST BAIL OF
ACCUSED / PETITIONERS

ATTESTED

22 OCT 2017

Respectfully sheweth

(Examiner)
Session Court Peshawar

That accused / petitioners were charged
by complainant & local police

(9)

② That compromise was effected b/w the parties.

③ Complainant admitted that accused / petitioners were falsely implicated by him and accused / petitioners are innocents in the instant case.

④ That it is the case of further inquiry.

Attended
OR-1
Superintendent
Sessions Court, Peshawar
02-11-17

It is therefore most humbly prayed to accept BBA and their BBA may kindly be confirmed accordingly.

Accused / petitioners
through
Counsel / Advocates

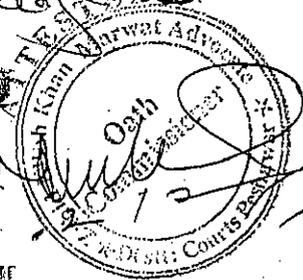
Date → 2-10-17

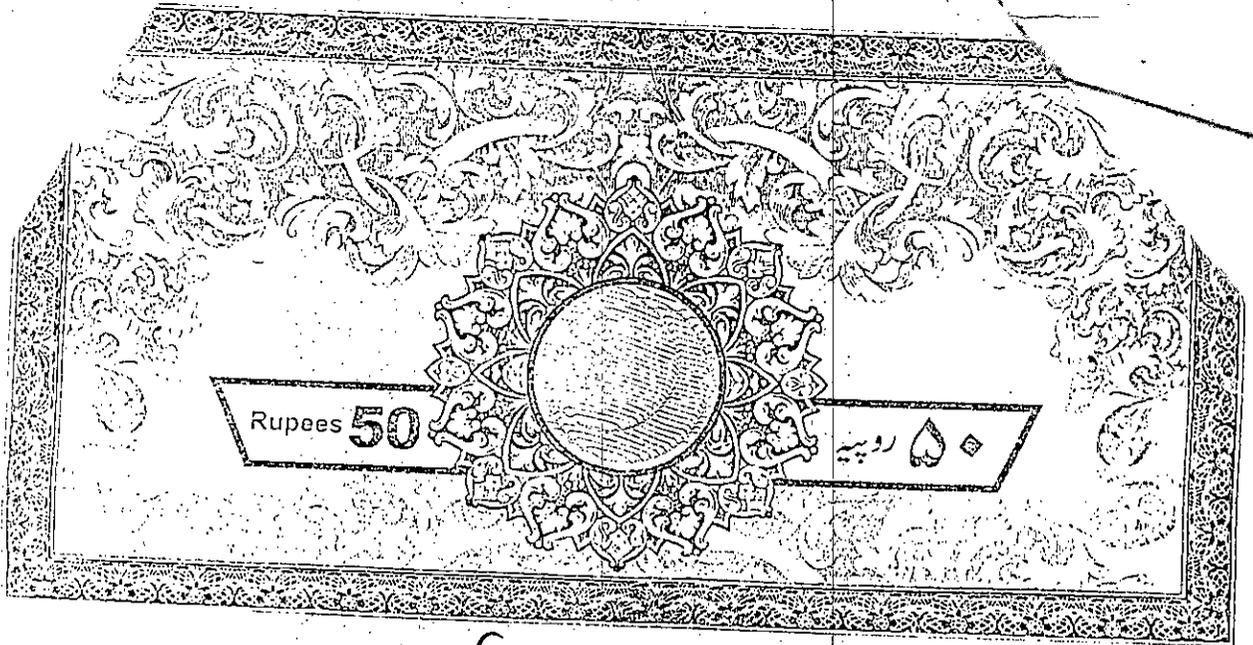
AFFIDAVIT

We, waliullah, Hamad Ali, Noor Zameen Shah, Hazalisha are solemnly affirmed and declared that contents of BBA are correct to the best of knowledge and belief.

- ① waliullah
- ② Hamad Ali
- ③ Noor Zameen Shah

Attended
2-2-17 2017
(Examiner)
Sessions Court Peshawar





(11)

-- 2 --

A. H. ...
AM

WHATEVER STATED ABOVE IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF AND THAT NOTHING HAS BEEN KEPT CONCEALED FROM THIS HON'BLE COURT AND MIS-STATED.

DATED:- 04-11-2017

DEPONENTS

1) SYED JAIL SHAH
17301-6108456-5
S. J. ...

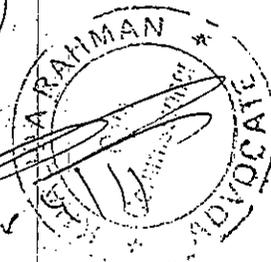
2) SYED NASIR SHAH
17301-9387455-5
S. N. ...

WITNESSES

1) ESSA KHAN SON OF SAMANDAR KHAN
17301-0829875-5
O. G. ...

2) SHAH JEHAN SHAH S/O ISLAM SHAH
17301-8148158-7
Shah

~~ATTORNEY~~



(12)

AKSHEP
AM

Joint statement of

1. Syed Jalal Shah
2. Syed Nisar Shah both sons of Noor Badhshah resident of Pir Kalay Askhab Baba Charghar Mitti, Peshawar on oath:

We are complainant party in case FIR No. 872 dated 28/10/2017 under section 355/367-A/148/149 PPC registered at police station Mathra, Peshawar. The report was lodged by Syed Jalal Shah regarding the abduction of Syed Nisar Shah.

Now, with the intervention of elders of locality, I have effected a genuine compromise with the accused/petitioners Wali Ullah Shah, Haaz, Noor Zamin Shah and Hamaad Ali Shah as they have stratified us regarding their innocent in this case. Thus we have pardoned them in the name of almighty Allah and have got no objection on confirmation of their BBA in the instant case. In this regard, the written affidavit Ex:PA is correct and correctly bears out thumb impression/signatures. R.O.&A.C

Dated: 04/11/2017

Syed Jalal Shah
CNIC No. 17301-6108456-5

Complainant

S. Jalal Shah

(5)

Syed Nisar Shah
CNIC No. 17301-9387455-5

abductee

S. Nisar Shah

Muhammad Saeed Amjad,
Additional Sessions Judge -XI,
JSC, Peshawar

ATTENDED

22/10/2017

(Signature)
Sessions Judge Peshawar

Order:
04/11/2017

13

Attest

APP for the state present. Accused/petitioners on ad interim pre arrest bail with counsel present. Syed Jalal Shah and Syed Nisar Shah, the complainant party present and submitted affidavit Ex:PA and their statement recorded and placed on file. Record not received, the same be requisitioned for 08/11/17

Muhammad Saeed Amjad,
AD&SJ-XI/ISC, Peshawar

IN THE COURT OF MUHAMMAD SAEED AMJAD,
ADDL. DISTRICT & SESSIONS JUDGE-XI, PESHAWAR.

BBA petition No: 547 of 2017

"Wali Ullah etc vs the State"

OR
08.11.2017

Accused / petitioner on ad interim pre arrest bail with counsel present. Syed Jalil Shah and Syed Nisar Shah (complainant party) present in person. Record received and placed on file.

The accused / petitioner Wali Ullah Shah s/o Noor Elahi Shah, Hainad Ali Shah s/o Azeem Shah, Noor Zameen Shah s/o Noor Elahi and Naz Ali Shah s/o Samen Shah seek confirmation of their pre arrest bail in case FIR No. 872 dated 28.10.2017, U/S 355/3657-A/148/149 PPC PS Mathra on the basis of compromise.

On previous date of hearing i.e. 04.11.2017, the complainant, namely Syed Jalil Shah and victim Syed Nisar Shah appeared before the court and recorded their statement for compromise, wherein they stated that through the

22 NOV 2017

(14)

Arrested
7/11

Contd: order dt: 08.11.2017 547/BBA of 2017

intervention of the elders of locality, they have patched up the matter with the accused / petitioners named above and have pardoned them as accused / petitioners have satisfied them regarding their innocence in this case. They have got no objection on confirmation of instant BBA petition.

Though offence 367-A is not compoundable in nature U/S 345 PPC but it is settled principle as laid down by the Hon'ble Superior Courts that bail can be granted even in non-compoundable offences as the fate of prosecution case would ultimately end on acquittal. The remaining sections of law are compoundable in nature. Moreover, complainant and victim have got no objection on confirmation of ad interim pre arrest bail on the basis of compromise already granted to the accused/ petitioners by this court. The accused / petitioners have joined investigation and not required for further investigation.

Hence, in view of above, ad interim pre arrest bail already granted to accused/petitioners is hereby confirmed on the basis of compromise on existing bail bonds. Record requisitioned be returned to the quarter concerned while file of this court, after necessary completion and compilation, be consigned to record room.

Announced
08.11.2017

Muhammad Saeed Anjad
Addl: Sessions Judge-XI, Peshawar

(5)

No:	16884
Date:	22-11-17
Rate:	2600
Time:	16, 17, 18
By:	8-6
For:	
By:	22-11-17
For:	22-11-17

CERTIFIED TO BE TRUE COPY

22/11/2017

(Examiner)
Copying Agency Session Court
Peshawar

یہاں جائزہ شہادت فارم جاہ ^{AP} کی رکنیت لیکچر اور صورتوں کو۔

کم رکنیت کے لیکچر سے ان دنوں لکھیے۔ اور ذرا لیں خوش
اسٹوڈنٹ لکھیے اور تمام کر رہا ہے۔

سائل پر قواعد عدالت 872 درجہ 10/28 فرم 355, 367A کا نام لیکچر
148-149 PD میں دلوں سے لیکچر کا اندازہ ہے۔

Annex C

(i) یہ کہ سائل کی ڈیوٹی عملی ڈیوٹی رولز کے تحت ڈیوٹی میں جمع 08:00 تا 16:00 تک ہوتی ہے۔

(ii) یہ کہ سائل کی ڈیوٹی جیڑو آفس پارکنگ ٹاؤن میں لگائی گئی ہے۔

(iii) یہ کہ سائل کی ڈیوٹی پر جانے والے پیرسٹونٹ گاڑیوں کی ندر سے بیٹھا ہے۔

(iv) یہ کہ لکچر میں جو نظام تبدیل کرنے کے بعد از تیار ڈیوٹی لکچر
06:30 بجے روانہ ہوا ہے اور عورت 07:55 بجے پورٹ پر گھر میں پہنچا ہے۔

(v) یہ کہ لکچر ڈیوٹی لکھیے 16:00 سائل پیرسٹونٹ گاڑی کے ذریعے ٹرنک
17:35 بجے پورٹ پر پہنچا ہے اور تقریباً 17:35 بجے پورٹ پر پہنچا ہے۔

(vi) یہ کہ سائل کے خلاف FIR لکھیے 18:30 بجے پورٹ کی ہے۔

(vii) یہ کہ سائل جمع 08:00 سے شام 17:35 بجے ڈیوٹی سرکاری میں منسوخ کیا ہے۔

(viii) یہ کہ سائل گاؤں جیڑو سے تقریباً 15 ڈیوٹی کے فاصلہ پر ہے۔

(ix) یہ کہ سائل کا گاؤں جیڑو سے تقریباً 15 ڈیوٹی کے فاصلہ پر ہے۔

(x) یہ کہ سائل رولز تقریباً 18:40 بجے تمام سے گھر پر پہنچا ہے۔

حاجی عالی! درجہ 10/28 فرم 355, 367A کا نام لکچر میں گھر پر پہنچا ہے۔

رہنمائی لکچر کے سائل کی ہے۔ مافی واقعہ عینا کا فضل اور
درست لکچر کے سائل کی ہے۔ تمام جاری۔

17

Annex D

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Haz Ali Shah No.654-T/1245 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That Constable Haz Ali Shah No.654-T/1245 while posted at Traffic Warden (on loan), Peshawar was involved in a criminal case vide FIR No.872 dated 28.10.2017 u/s 335,367-A/148/149-PPC PS Mathra. This amounts to gross misconduct on his part and against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and Insp. Sardar Ali PAL is appointed as Enquiry Officer

Attested
[Signature]

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

[Signature]
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 255 /E/PA, dated Peshawar the 07/11 /2017

- 1. _____ is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
- 2. Official concerned

(18)
Annex E
CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Haz Ali Shah No.654-T/1245 of Capital City Police Peshawar with the following irregularities:

"That you Constable Haz Ali Shah No.654-T/1245 while posted at Traffic Warden (on loan), Peshawar were involved in a criminal case vide FIR No.872 dated 28.10.2017 u/s 335,367-A/148/149-PPC PS Mathra. This amounts to gross misconduct on your part and is against the discipline of the force."

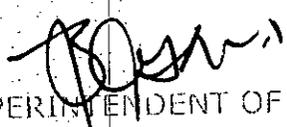
AHes ked
AH

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be:

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

(19)

Akhter
AM

ORDER

Constable Haz Ali Shah No.654-T/1245 of Capital City Police Peshawar while posted at Traffic Warden (on loan) is hereby placed under suspension & closed to Police Lines with immediate effect due to involvement in criminal case vide FIR No.872 dated 28.10.2017 U/S 355/367-A/148/149-PPC PS Mathra.

Charge sheet & summary of allegations is being issued to him separately.


SUPERINTENDENT OF POLICE
HEADQUARTER PESHAWAR.

O.B No 4078
Dated 9/11/2017

No. 5019-25 /PA/SP/H.Qrs: dated Peshawar, the 9/11/2017

Copy to:

1. The Capital City Police Officer, Peshawar
2. The SSP Operations, Peshawar
3. DSP H.Qrs: Peshawar.
4. CRC 5.OASI.
6. FMC 7. Official concerned.

27

60

Annex F

Attended

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Haz. Ali Shah No.654-T/1245 on the allegations/charges that he while posted at Traffic Warden (on loan), Peshawar involved in criminal case vide FIR No.872 dated 28.10.2017 u/s 335/367-A/148/149-PPC PS Mathra.

In this regard, he was placed under suspension & issued charge sheet & summary of allegations as per letter of SSP Traffic Peshawar vide No.3269/GC dated 01.11.2017. Departmental enquiry was initiated & conducted by Inspector Sardar Ali (Incharge PAL). He conducted the enquiry and submitted his report/finding that alleged official was directly charged in the instant case along with his cousin & the alleged official found partially guilty. The E.O further recommended for stoppage of increment for period of 01-year without cumulative effect vide enquiry report NO.203/LB dated 2.01.2018.

Upon which the DSP legal opinion was sought. He opined that the accused constable was charged for his criminal misconduct, which is presently subjudice in the court. Hence it will appropriate to left the instant enquiry at the mercy of court decision.

On receiving the finding of E.O & DSP Legal opinion, he was issued final show cause notice which he received & replied.

On 02.01.2018, another enquiry file conducted by the Traffic authorities in the same charges against FC Haz Ali Shah which received through W/CCPO wherein the Enquiry Officer recommended him for major punishment, wherein, the opinion of DSP Legal was again sought.

He opined that the traffic unit is also under the direct subordinate of W/CCPO Peshawar. Hence question of lending and borrowing authorities do not arise. Therefore, SSP Traffic is competent to dispose of the enquiry please".

In the light of recommendation of both E.O, DSP Legal opinion & other material available on record, the undersigned came to conclusion that the alleged official found guilty of this misconduct. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect.

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[Signature]
**SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR**

OB. NO. 482 / Dated 2-1-2018

No. 356-62/PA/SP / dated Peshawar the 2/2/2018

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

- ✓ The Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Budget Officer

(2)

AKH
2017

Annex 67

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, Constable Haz Ali Shah No.654-T/1245 the final show cause notice.

The Enquiry Officer, Inspector Sardar Ali I/C PAL, after completion of departmental proceedings, has recommended you for minor punishment for you Constable Haz Ali Shah No.654-T/1245 as the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you Constable Haz Ali Shah No.654-T/1245 deserve the punishment in the light of the above said enquiry reports.

I, competent authority, have decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 28574/PA, SP/HQrs: dated Peshawar the 29/1/2018.

Copy to official concerned

خدمت جناب۔ لیسٹن ہٹی پولیس افسر صاحب مہاراجہ پشاور
فقو حکماء اسل بر حلف حکم جاریہ کو ال آر ڈر 22
نمبر 482 جو 22.2.2018ء کی تاریخ پر سائل کو افسر
نوٹری سے درخواست کیا ہے

جناب عالی! سائل ایسی گواہی کے اثبات میں ذیل عرض رسا ہے:

1۔ یہ کہ سائل سال 2009ء کو قلم پولیس میں بطور کانسٹیبل مقرر ہو کر پولیس
سٹیشن مانجھنڈو سے ترقی کر کے کورس پاس کیا ہے

2۔ یہ کہ سائل نے دوران ملازمت کئی کوئی اسٹیشن انجام نہیں دیا ہے اور کوئی
پولیس فورس کی بدنامی یا عداوت بنا ہے۔ اور یہی کوئی غیر ڈسپلن
ذلت کیا ہے

3۔ یہ کہ صرف 10/28 سائل نے کتب پوسٹ میں پور ڈانس مارکنگ میں
ڈیوٹی پر مامور تھا۔ اور بعد احتیاج ڈیوٹی کتب حیدر آباد میں اود پر مامور
ہوا ہے۔ یہ حلف مقدم لاڈ 872 صوف 10/28 (7) 335/367-A/148/149
تھانہ پشاور میں لکھا ہے

4۔ یہ کہ معلوم ہو رہا ہے سائل نے حال حاضر پر مقدم عنوان بالا میں مقرر کیا گیا ہے
معلقہ کے لئے مقرر کر کے عدلیہ مقدم کے لئے مقرر کیا گیا ہے اور اس کے معاملہ کو
توجہ دینا ہے۔ اور لوگ سائل کے الزامات سے بری رہے ہوتے

5۔ یہ کہ بعد میں مقرر حلف اسٹیشن نے مقدم میں قلم پشاور کی مامور کو بھی مامور
مقرر کر کے مہر سماعت کے لئے مقرر مقرر سے درخواست کیا ہے اور سائل کے ساتھ
مہر مامور مامور ہے

اس لئے درخواست حضور العالیہ کے درج بالا حلف کو پیش نظر رکھ کر
کوئی نوٹری پر دوبارہ بحال ہو جائے اور مامور مامور مامور مامور



23

Attested
AM

OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR,

Phone No. 091-9210989
Fax No. 091-9212597

ORDER

This order will dispose off departmental appeal preferred by ex-constable **Haz Ali Shah No. 1245/654-T** who was awarded the major punishment of **dismissal** from service under PR-1975 by SP-HQrs: Peshawar vide OB No. 482 dated 2.2.2018:

2. Short facts of the case are that the appellant while posted at Traffic Warden (on loan) Peshawar involved in criminal case vide FIR No. 872 dated 28.10.2017 U/S 335/367-A/148/149-PPC PS Mathra.

3. Proper departmental proceedings were initiated against him and Mr. Sardar Ali, I/C P.A.I., Peshawar was appointed as enquiry officer, who conducted a detailed enquiry. On receipt of the findings of the enquiry officers, the SP-HQrs: Peshawar issued him a Final Show Cause Notice to which he replied. The same was perused and found unsatisfactory by the SP-HQrs., Peshawar and as such awarded him the major punishment of dismissal from service.

4. He was heard in person in O.R. on 7/3/2018. The relevant record perused along with his explanation. He was provided full opportunity to defend himself but he failed to offer any plausible explanation in his favour. He was charged in a criminal case. Besides, he was not honorably acquitted by the court of law rather he was acquitted on the basis of compromise. Therefore, his appeal for re-instatement in service could not be accepted. Hence his appeal is hereby **rejected /filed.**

(MUHAMMAD TAHIR) PSP
CAPITAL CITY POLICE OFFICER,
7/3 PESHAWAR

No. **273-78** /PA, dated Peshawar the **7.3.2018**

Copies for inf and n/a to the:-

- 1/ SP/HQrs: Peshawar.
- 2/ PO/O/ASI/CRC for making necessary entry in his S.Roll.
- 3/ FMC along with FM
- 4/ Official concerned.

حکومت ضابطہ التسلیم کے تحت آف ٹوکس صحت و صیغہ صحت کو فراہم کیا گیا ہے۔

معدن - حکام نے اس پر خلاف حکم جاری کیا اور ڈیڑھ لاکھ 482 روپے 28/18

تیار ہونے کے لئے درخواست کیا گیا ہے۔

(24)

Annex 1

سابقہ سال 2008 میں اس کے اشتباہات میں ذیل عرض کیا گیا ہے۔

(1) یہ کہ اس سال 2008 کو فیکٹوریوں میں بطور پیش قدمی کارڈز کو فراہم کیا گیا ہے۔

سے ترقی کو جس میں کیا گیا ہے۔

(2) یہ کہ اس سال دوران ملازمت کو کوئی ایسا شخص نہیں کیا جو کارڈز کو فراہم کیا گیا ہے۔

(3) یہ کہ اس سال 28/10/2017 کو اس کے فیکٹوریوں میں بورڈ آف مینجمنٹ کے ذریعے فراہم کیا گیا ہے اور اس کے اختتام کے ذریعے اس کے فیکٹوریوں میں آؤٹ پورٹ فراہم کیا گیا ہے۔

335/367-A/148-149
872 روپے 28/17
AHS

(4) یہ کہ اس سال کو جب جلا وطنی کے دوران اس کے فیکٹوریوں میں فراہم کیا گیا ہے۔

(5) یہ کہ اس کے فیکٹوریوں میں اس کے فیکٹوریوں میں فراہم کیا گیا ہے۔

اس کے فیکٹوریوں میں فراہم کیا گیا ہے۔

حاج علی شاہ
Hajj Ali Shah



25

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

No. SI/2662/18, dated Peshawar the 04/07/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Haz Ali Shah No. 1245/654-T. The petitioner was dismissed from service by SP/HQrs: Peshawar vide OB No. 482, dated 02.02.2018 on the charge of involvement in criminal case vide FIR No. 872, dated 28.10.2017 U/S 335/367A/148/149-PPC Police Station Mathra.

His appeal was rejected / filed by Capital City Police Officer, Peshawar vide order Endst: No. 273-78/PA, dated 07.03.2018.

Meeting of Appellate Board was held on 21.06.2018 wherein petitioner was heard in person. During hearing petitioner contended that the case is under trial in the Session Court and he has been released by court on bail.

Perusal of record revealed that Haz Ali Shah Ex-Constable No. 1245/654-T was dismissed from service by SP/HQrs: Peshawar vide order dated 02.02.2018 and his appeal was rejected / filed by CCPO, Peshawar vide order dated 07.03.2018. Petitioner failed to advance any plausible explanation in rebuttal of the charges. His case is under trial in the court, therefore, the Board decided that his petition is hereby rejected.

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

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

No. SI/2663-69/18.

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar. Service record of the above named Ex-Constable received vide your office Memo: No. 9517/CRC, dated 09.05.2018 is returned herewith for your office record.
2. Supdt: of Police, HQrs: Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

بعدالت سروس ٹریبونل جسٹس ہائبرائیڈ



مورخہ 2018ء پنجاب
 مقدمہ
 دعویٰ
 جرم

Service Appeal

بنام 14/8
 ہزار علی

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام شہید جہ کیلئے راجہ راجہ راجہ
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
 اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
 مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
 تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
 اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
 سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
 گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سدر ہے۔

ہزار علی شہید راجہ راجہ راجہ

Attested
 accepted

المرقوم 2/ ماہ جولائی 2018ء

مقام شہید جہ کے لئے منظور ہے۔

BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.922/18.

Haz Ali Shah Ex- Constable No.654 CCP, Peshawar..... Appellant

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. SP/HQrs: Capital City Police, Peshawar.
3. Capital City Police Officer, Peshawar..... Respondents

Reply on behalf of respondents No.1, 2, & 3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.
7. That the appellant got no locus standi and cause of action to file the instant appeal.

FACTS:-

- 1- Para No.1 pertains to record, hence needs no comments.
- 2- Second part of Para No.2 pertains to court while first part of para is correct to the extent that the appellant while posted at Traffic Warden Peshawar involved in a Criminal Case vide FIR No. 872 dated 28.10.2017 u/s 335-367-A-148-149-PPC PS Matthra. In this regard a proper departmental enquiry was conducted against him, and Inspector Sardar Ali (I/C PAL) was appointed as enquiry officer. He conducted a detail enquiry. On receipt of finding of enquiry officer, the competent authority issued him final show cause notice, to which he submitted his reply. After fulfillment all codal formalities he was awarded major punishment of dismissal from service. Furthermore compromise in criminal cases admits guilt of accused. (copy of charge sheet, statement of allegations, enquiry report and final show cause notice as annexed "A" "B" "C" "D")
- 3- Para No.3 is incorrect. In fact the appellant involved in a Criminal Case vide FIR No. 872 dated 28.10.2017 u/s 335-367-A-148-149-PPC PS Matthra. The charges leveled against him were stand-proved. After fulfilling all codal formalities, he was awarded major punishment of dismissal from service.
- 4- Para No.4 is correct to the extent that charge sheet, statement of allegation were issued to appellant. Proper enquiry was conducted and a final show cause notice was issued before passing the punishment order.

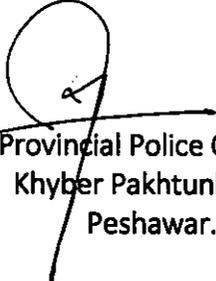
- 5- Para No.5 is incorrect. In fact a final show cause notice was issued to the appellant on completion of enquiry proceedings, and reply submitted in response to the final show cause notice was found un-satisfactory. (Reply of final show cause notice is annexed "E")
- 6- Para No.6 is correct to the extent that the appellant filed departmental appeal which after due consideration was rejected/filed on the ground that the allegation levelled against him were proved.
- 7- Para No.7 is correct to the extent. The appellant filed mercy petition before the appellate authority, which after due consideration was also filed/rejected on the ground that the appellant failed to advance any plausible explanation in rebuttal of the charges.
- 8- That appeal of the appellant being devoid of merits may kindly be dismissed.

GROUNDS:-

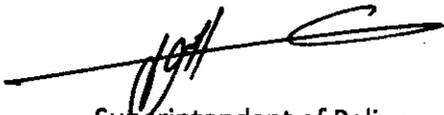
- A. Incorrect. The punishment order is in accordance with law/rules and liable to be upheld.
- B. Incorrect. The appellant was treated as per law/rules, and no provision of law has been violated.
- C. Incorrect. The appellant was not honorably acquitted rather he was acquitted on the basis of compromise. The allegations leveled against him were proved.
- D. Incorrect. The appellant himself is responsible for the situation by committing gross misconduct.
- E. Respondents also seeks permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

In view of the above, and keeping in view the gravity of slackness, willful negligence and misconduct of appellant, it is prayed that his appeal being devoid of any legal force may kindly be dismissed.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQrs: Peshawar.

BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.922/18.

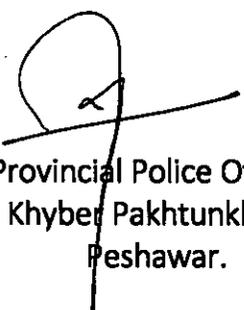
Haz Ali Shah Ex- Constable No.654 CCP, Peshawar..... Appellant.

Versus

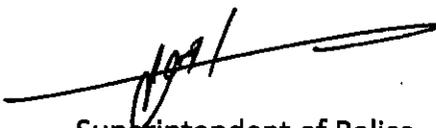
1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. SP/HQrs: Capital City Police, Peshawar.
3. Capital City Police Officer, Peshawar..... Respondents.

AFFIDAVIT

We respondents No. 1 ,2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQrs: Peshawar.

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Haz Ali Shah No.654-T/1245 of Capital City Police Peshawar with the following irregularities.

"That you Constable Haz Ali Shah No.654-T/1245 while posted at Traffic Warden (on loan), Peshawar were involved in a criminal case vide FIR No.872 dated 28.10.2017 u/s 335,367-A/148/149-PPC PS Mathra. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

DISCIPLINARY ACTION

1. Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Haz Ali Shah No.654-T/1245 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules- 1975 -

STATEMENT OF ALLEGATION

"That Constable Haz Ali Shah No.654-T/1245, while posted at Traffic Warden (on loan), Peshawar was involved in a criminal case vide FIR No.872 dated 28.10.2017 u/s 355,367-A/148/149-PPC PS Matra. This amounts to gross misconduct on his part and against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and *Mr. Sardar H. M. L.* is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

No. *255* /E/PA, dated Peshawar the *07/11* /2017

1. _____ is directed to

finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

15

SUBJECT: FINDINGS OF ENQUIRY CONDUCTED AGAINST CONST: HAZ ALI SHAH NO. 654-T/1245, CCP, PESHAWAR

RESPECTED SIR,

✓ No. 255-2
12-1-18

I was nominated as an Enquiry Officer vide order No. 255/E/PA dated 07.11.2017 issued from the office of the Superintendent of Police Hqrs: Peshawar to unearth the facts of misconduct on the part of charged constable Haz Ali Shah No. 654-T/1245. Statement of Allegations & Charge Sheet vides at "F/A" was served upon the alleged Constable accordingly.

No 203-4
12-1-2018

STATEMENT OF ALLEGATION:

"That Const: Haz Ali Shah No.654-T/1245 while posted at Traffic Warden (on loan), Peshawar was involved in a criminal case vide FIR No. 872 dated 28.10.2017 u/s 335,367-A/148,149 PPC PS Mathra. This amounts to misconduct on his part and is against the discipline of the force".

28

PROCEEDINGS:

To dig out the fact, statements of the alleged constable and the following concerned were recorded. The alleged constable was also cross-examined and the relevant record was scrutinized.

1. SI/OII Farhad Hussain PS Mathra. (statement at annexed "F/B")
2. Const: Haz Ali Shah No.654-T/1245 (Statement at annexed "F/C")
3. Report Of DSP/Traffic Hqrs; (annexed at "F/D")
4. Call Data Record of Mobile # 0346-9206177 of Const: Haz Ali Shah (annexed at "F/E")

Statement of SI/OII Farhad Hussain PS Mathra:

SI/OII Farhad Hussain stated that On 28.10.2017, Complainant Syed Jalil Bacha s/o Noor Bacha r/o Pir Kalay (Chagar Matti) submitted an application in PS Mathra that on 27.10.2017 at 0630 hrs: (1830 hrs evening) he along with his sons Yaseen Shah, Yasir Shah and Nasir Shah were present in his General Store, situated in Pir Kalay . In the meantime, Wali ullah shah, Noor Zameen Shah sons of Noor Nabi Shah, Hilal s/o Lihaz Bacha, Hamad s/o Azeem Shah, Haz Ali Shah s/o Sameen Shah duly armed with SMGs on gun point abducted his son Nasir Shah in a Motor Car. In this context, a case FIR No. 355/ 367-A/148/149 PPC in PS Mathra vide at "F/F" was registered and investigation entrusted to him. Site plan was prepared on the indication of complainant Syed Jalil Bacha, eye witnesses Syed Yaseen Shah and Yasir Shah. In light of the statements of eye witnesses all the charge accused were found guilty in the instant case but due to unavailability neutral eye witness and recovery of naked video storage device were not found in the case to verify whether the naked video of abductee Nasir Shah was really recorded or otherwise. During investigation process, no memory card or USB of naked video was recovered. Later on, due to intervention of elders, the matter was patched up among the parties and the Honorable Court confirmed BBA on the basis of compromise in favor of the charge accused.

Statement of Constable Haz Ali Shah:

The alleged constable stated that, he was deployed for parking duty at Board Office (BISE, Peshawar) and as per Traffic Duty Roaster, the Duty Timing is 0800 hrs: to 1600 hrs:. On 28.10.2017 at 0630 hrs:, he departed from home for duty and arrived) at 0755 hrs: on duty point (BISE Parking) and remained there at 1600 hrs: till the end of duty. Then he returned back to Traffic Hqrs: by private vehicle, changed his uniform and departed from Traffic Hqrs: Peshawar around 1735 hrs: and reached home

Issue Pinal Show
Cant nalia
BBA
Shah

(village Pir Kalay/Chagar Matti) around 1840 hrs: Moreover, he stated that a few months ago, Nasir Khan s/o Jalil Bacha r/o Pir Kalay Chaghar Matti recorded naked video of his cousin Ameerullah Shah aged 19. In reprisal, brothers of Ameerullah Shah (cousins of alleged constable) severely beaten Nasir Shah and warned him to be careful in future. Similarly, exchange of harsh words also took place between Haz Ali Shah and Nasir Shah. The alleged constable warned Nasir Shah not to commit such deed again otherwise; he would be handed over to Police. Nasir Shah also reacted in the same manner. In the meantime, the elders of village Pir Kalay intervened and settled down the matter for the moment.

Furthermore, the alleged constable stated that on 28.10.2017, while he was present in Traffic Hqrs: Peshawar, his cousin Noor Zameen Shah informed him about registration of FIR against him and his cousins. Furthermore, stated that neither, he was an abettor in the said case nor such deed being committed. He is innocent and was falsely involved in the case FIR No 872 dated 28.10.2017 u/s 335,367-A, 148,149 PPC, PS Mathra.

Answering to a cross-question, the delinquent constable stated that complainant Nasir Shah & Ameer ullah Shah have family relations. A few months ago, Nasir Shah recorded naked mobile video of Ameer ullah Shah. This disgraceful act of Nasir Shah distressed him and his cousins namely Azhar Ali Shah, Hamad Ali Shah sons of Azeem Shah, Hilal Bacha s/o Lihaz Bacha, Niaz Amin Shah s/o Niaz Ali Shah and Noor Zameen Shah s/o Noor Zameen Shah r/o Pir Kalay/Chaghar Matti, Peshawar.

To take revenge of such dishonorable act, his cousins Noor Zameen Shah, Wali ullah Shah, Hilal bacha & Hamad Ali Shah abducted Nasir Shah nearby the mosque of Pir Kalay in a red Suzuki Mehran car and fled towards Khan Gul Ghari kalay. Owner of the said Red Colour Car is his relative one Asghar Shah s/o Zewar Shah r/o Pir Kalay. Further stated that, he was continuously online through mobile phone with his Cousin Niaz Amin shah s/o Niaz Ali Shah r/o Pir Kalay, who informed him to come towards Gul Abad Kalay, he reached there. In the meantime, naked video of victim Nasir Shah was recorded through mobile by Wali ullah Shah. He regained Nasir Shah from his cousins Noor Zameen Shah, Wali ullah shah etc, called Muhammadi Shah r/o Pir Kalay and handed over abductee Nasir Shah to him, who further produced him to the elders of village Pir Kalay. The elders of village patched up the matter and this compromise was duly approved by the Court.

Report Of DSP/Traffic Hqrs;

As per Special Report (Urdu Version) of DSP Gohar Ali Traffic HQrs: Peshawar, the delinquent constable was deployed in Board Office Parking duty (Duty Timing: 0800 hrs: to 1600 hrs:) After duty hours, the deployed constables departed for their homes on daily basis. Moreover, explained that on 29.10.2017, he was on weekly leave (Shabashi) and on 30.10.2017 remained absent from duty point vide DD report No.04 dated 30.10.2017.

On 30.10.2017 at 1040 hrs: SI Hussain Khan Moharrar Traffic Lines, Peshawar was informed by SI/OH Farhad Khan through mobile number 0315-9901699 that Const: Haz Ali Shah (Warden Police) is charged in FIR No.872 dated 28.10.2017 u/s 355/367-A/148/149 PPC PS Mathra.

CDR of Mobile# 0346-9206177 of Const: Haz Ali Shah

Perusal of the CDR revealed that, on 27.10.2017 at 17:17:20 hrs, location of Chagar Matti (adjacent to the home village of Pir Kalay of alleged constable). The delinquent constable called from his mobile No. 0346-9206177 to mobile No. 3429093465 of his Uncle Alam Shah r/o Ali Muhammad Ghari and talked him for 51 seconds. Likewise, on 27.10.2017 at 17:18:54, Alam Shah contacted Const: Haz Ali Shah and talked him for 130 seconds. This shows his presence in the village Pir Kalay/ Chagar Matti, While the occurrence

took place on 27.10.2017 at 1830 hrs: The alleged constable falsely stated that he reached his home village Pir Kalay/Chagar Matti around 1840 or even late on daily basis.

Const: Haz Ali Shah was continuously on line through his mobile # 03469206177 with his cousin Niaz Amin Shah (0314-9705930) & Ijaz Ali Shah (03149151229) sons of Niaz Ali Shah. r/o Pir Kalay from 18:38:54 hrs: to 22:34:09 hrs: on different times. At last, he met him at Khan Gul Ghari Kalay where abductee Nasir Shah was in the possession of his cousins Noor Zamin Shah, Wali ullah shah, Hilal Bacha, Hamad Ali Shah and Niaz Amin Shah etc.. He handed over the abductee to Muhammadi Shah s/o Noor Muhammad Shah r/o Pir Kalay who further handed over to the elders of locality. The elders of village patched up the matter between the parties and BBA of the accused Const: Haz Ali Shah along with others accused was confirmed on the basis of compromise on existing bail bonds at vide "F/G"

CONCLUSION / RECOMMENDATION:

In view of the above circumstances, recorded statements, cross-questions and relevant record, it is presumed that the alleged constable was directly charged along with his cousins by the complainant Syed Jalil Bacha s/o Noor Bacha r/o Pir Kalay (Chagar Matti) and eye witnesses in the instant case and considered them guilty. The alleged constable accepted in a cross- question that he reached at Khan Gul Ghari Kalay on the call of Niaz Amin Shah where other cousins Noor Zamin Shah, Wali ullah shah, Hilal Bacha, Hamad Ali Shah were also present there. At that time Abductee Nasir Shah was present in the possession of above mentioned cousin. The delinquent constable called to Muhammadi Shah s/o Noor Muhammad Shah r/o Pir Kalay and handed over the abductee to him who further proceeded him to the elders of locality. The naked video was recorded by his cousin Wali ullah Shah in the instant case.

Keeping in view the above circumstances, it is concluded that, the delinquent constable found partially guilty in the instant case. He revealed his interest in the instant case for joining the real accused mentioned above on one of his cousin's mobile call at village Khan Gul Khari Kalay. Being a member of discipline force, he must avoid joining his accused cousins at Khan Gul Ghari Kalay where an offence of naked video recording was also committed by Wali ullah Shah.

Therefore, it is recommended that he may be awarded minor punishment of "Stoppage of increment for period of 01 year without cumulative effect" if approved please.

Approved as recorded by DSP/Cag

Encl: (28)

Sir,

I/C Police Assistance Lines
Capital City Police, Peshawar.

Perusal of enquiry reveals that the accused Constable was charged for his Criminal misconduct which is presently subjudice in the Court. Hence it will be appropriate to left the instant enquiry at the mercy of Court decision.

DSP/legals opinion-Pl

S/Asst

DSP/legals

Pl
S/Asst
11/1



(4)

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, Constable Haz Ali Shah No.654-T/1245 the final show cause notice.

The Enquiry Officer, Inspector Sardar Ali I/C PAL, after completion of departmental proceedings, has recommended you for minor punishment for you: Constable Haz Ali Shah No.654-T/1245 as the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you Constable Haz Ali Shah No.654-T/1245 deserve the punishment in the light of the above said enquiry reports.

I, competent authority, have decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 255/4/PA, SP/HQrs: dated Peshawar the 29/1/2018

Copy to official concerned

واقعہ کچھ اس طرح ہے کہ مسائل کے گاؤں پر ایک لڑکا ناصر شاہ جو کہ کچھ بڑھاپے
 سے میرے بیٹا اور بھائی امیر النساءہ جو کہ عمر میں تقریباً ۱۴ سال کوئی لڑکا تھا جس
 سبق اور آئندہ لکھے البتہ ضرورت نہ پڑے لیکن میرے بیٹا اور بھائیوں اس لڑکے کو جو
 ماہ ایسا اور بعد میں اس شرط پر چھوڑ دیا۔ کہ وہ سارے العین بڑی مہرت کرنے پر آپ
 کو فالون کے سوالہ بیجا بیٹا جو کہ مسائل کو بہت جلد لوتھام وقت مسائل کے مزید لڑے
 کو بعد پر چھوڑیں۔ اور محبت الفاظ میں سنوئے بیٹے کیا کہ میزان مت سمجھو البتہ
 مہرت چھریں میزان آب کے خلاف فالون کا ردائی کرونگا جس پر وہ میرے ساتھ
 محبت تکرار پر شروع کیا۔ اور موصوفہ پر موجود مشران کے درمیان صلوات لڑائی
 اور مزید لڑے مجھے دعویٰ دیا کہ آپ لوگوں کے مجھے بے مہرت کی میں آپ لوگوں کے
 بے مہرت بھی نہ ہوں گا۔ اور فالون کا ردائی بھی نہ کرونگا دیکھا دیکھا

موضوع 28 کو مسائل لڑکے لائن میں موجود تھا۔ کہ مجھے بیٹا اور بھائی لوزہ میں شاہ
 کے مجھے اطلاع دی کہ آپ اور دیگر بیٹا اور بھائیوں کے خلاف ناصر شاہ نے ۱۴ فرج
 کو ہا میں گاؤں روانہ کیا۔ چونکہ مسائل اس قسم میں شریف نہ تھا۔ اور نہ ایسا کوئی
 فعل سرزد ہوا تھا۔ کہنا ہے کہ ۱۵ بجے ورتہ گاؤں کے مشران نے دلوں پر العین
 کے درمیان راضی کیے دلوں پر العین طلب کیا۔ اور چونکہ دلوں کی داری چھوٹ کے بنیاد
 پر محض تھی۔ کہنا فریق اول ناصر شاہ لے کر شراہ راضی نامہ لکھے راضی ہو گئے۔
 اور مشران کے سامنے بند لیدہ تمام پیر راضی کا کئی۔ چونکہ بعد میں لو لیس تھانہ کو اللہ
 دانی جلد بعد مسائل نے BBA کیے درخواست دیا۔ اور تیرے دن مسائل کی
 BBA منظور ہوئی۔ اور موضوع 17 کو مسائل کی BBA لے کر ہوئی۔ اور کہیں مستحق ہوئی
 اور موضوع 17 جو کہ مسائل اس سارے واقع میں بے گناہ تھے۔ البتہ بھری ہوئی
 مہرت نہ نہ ملے گی۔ اور نہ آئندہ نہ ہوگا۔ اور مسائل کے بے گناہی کو دیکھتے ہیوں
 کچھ الہ ما بٹل متور مار لے لکھن ما بٹل کرنے کی اقامات صادر کرنا نہ ہوگا فرما میں

1245
 29/1/18
 2745
 ہاڈ علی شاہ

BEFORE THE HON'BLE KYBER PUKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

In service Appeal no.922/2018

Haz Ali Shah EX CONSTABLE

.....Appellant

VERSUS

PROVINCIAL POLICE OFFICER KHYBER PUKHTUNKWA &
OTHERS

.....Respondents

REJOINDER ON BEHALF OF APPELLANT
TO THE PARAWISE REPLY/ COMMENTNS
SUBMITTED BY REPENDENTS.

RESPECTFULLY SHEWETH,

Reply to preliminary objections:

1. All preliminary objections raised by the respondents are false, incorrect and frivolous. The appellant is having a genuine cause of action to file the instant appeal.

ON FACTS: -

1. Para No.1 is admitted by respondents as service record is in possession of the respondents and they are not disclosing the current actual facts of the case to this Honourable Tribunal.
2. Para No.2 is incorrect the appellant was falsely charged in case Fir No. 872 Dated 28/10/2017 U/S 355/376-A/148, 149 PPC P.S Mathra Peshawar and honourable ASJ XIV Peshawar acquitted the appellant of in the case dated 19/07/2019 and appellant is entitle to be reinstated with all back benefits. (Order is attached).
3. Para No.3 in incorrect in fact the appellant was charged in false case and honourable ASJ-XIV Peshawar honorably acquitted the appellant.
4. Para No.4 is incorrect that no proper opportunity of self defence has given to appellant by the respondents and all the allegation of respondent are baseless.
5. Para No.5 is incorrect, that no proper enquiry proceeding was conducted by the respondents and mere FIR does not mean that appellant has committed the offence.
6. Para No.6 is incorrect that department proceeding is against the law and justice and

appellant was acquitted in the case by ASJ-XIV Peshawar.

7. Para No.7 is incorrect that appellant cleared himself in this case for honorable court of ASJ-XIV Peshawar.
8. Para No. 8 is incorrect the appeal of appellant is full of merits and appellant may kindly be re-instated with all back benefits.

Grounds:-

- A. Para No. A is of the ground of comments is incorrect the major punishment order is improper in such case.
- B. Para No. B is incorrect appellant was not treated as per law/rules.
- C. Para No. C is incorrect the appellant was acquitted in the instant case.
- D. Para No. D is incorrect the appellant did not committed gross misconduct.
- E. Para No. E of the Ground of comments in incorrect the respondents have no grounds to agitate rather to re-instate the appellant with all back benefits.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of appellant as prayed for may kindly be accepted and the appellant may please be re-instate with all back benefits.

Dated: 28/11/2019

Appellant

Through

ZAHID GUL 

Advocate High Court

Peshawar

انڈکس

5

بعدالت محترمہ زیبارشید صاحبہ، ایڈیشنل ڈسٹرکٹ اینڈ سیشن جج - XIV پشاور

مقدمہ نمبر	رجوعہ	اصل رجوعہ	فیصلہ	قطعات
457/8C	20-2-18	-	19-07-2019	66-494-17

بنام علی اللہ ولد سید محمد

نمبر شمار	صفحات	قطعات	نوعیت کاغذات
1	1-13	13	ایڈیشنل ڈسٹرکٹ اینڈ سیشن جج - بعدالت محترمہ
2	14-17	54	فاریغ رجوعہ برائے سید محمد علی اللہ ولد سید محمد
3			
4			
5			
6			
7			
8			
9			
10		17	قطعہ ایڈیشنل ڈسٹرکٹ اینڈ سیشن جج
11		49	قطعہ ایڈیشنل ڈسٹرکٹ اینڈ سیشن جج
12		66	قطعہ دراصل رجوعہ
13			
14			
15			

زیبارشید

ایڈیشنل ڈسٹرکٹ اینڈ سیشن جج - XIV پشاور

ATTESTED

3 SEP 2019

(Examiner)
Session Court Peshawar

محمد علی اللہ

(16)

PW-1: Statement of Syed Jalil Badshah s/o Syed Noor Badshah r/o Asohab Baba Road Pir Kalay Chaghar Matti, Peshawar (complainant), on oath.

Stated on oath that on 27/10/2017 at 6:30 PM, I alongwith Yaseen Shah, Nasir Shah and Yasir Shah were present in our general store shop situated at Pir Kalay that in the meanwhile, accused Wali Ullah Shah, Noor Zameen Shah, Haz Ali Shah, Hilal and Himad r/o Pir Kalay duly armed with deadly weapons came there in motorcar of red colour when they saw us, deboarded from the motorcar in question and aimed their weapons at us and took my son namely Nasir Shah on gun point in the motorcar in question. After the occurrence, I at once rushed to the Police Station Mathra for lodging the FIR and reported the matter, when the local police was scribing the FIR, in the meanwhile SHO concerned received information on his mobile that my son Nasir Shah came back to the house. I alongwith police official and officers came to my house, where my son Nasir Shah (victim) narrated the story that on their gun point the accused named above has took off his clothes and made his bare video and also beat him by fists, kicks through magazine of their weapons. I submitted application ExPW-1/1 which is duly signed by me for lodging the FIR against the accused. I charge the accused for the commission of offence.

Cross..... It is correct that we have patched up the matter privately out of the court and we being complainant party do not want to prosecute the accused facing trial any further. At the time of occurrence I was present in my shop.

RO and AC
16/05/2019

(Tanveer Iqbal)
ASJ-XIV, Peshawar.

ATTESTED

25 SEP 2019

(Examiner)

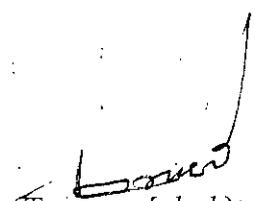
Session Court Peshawar

PW-2: Statement of Syed Nasir Shah s/o Syed Jalil Badshah r/o Asohab Baba Road Pir Kalay Chaghar Matti, Peshawar (victim), on oath. (17)

Stated on oath that on 27/10/2017 at 6:30 PM, I alongwith my father and brothers were present in our general store shop situated at Pir Kalay that in the meanwhile, accused Wali Ullah Shah, Noor Zameen Shah, Haz Ali Shah, Hilal and Himad r/o Pir Kalay duly armed with deadly weapons came there in motorcar of red colour when they saw us, deboarded from the motorcar in question and aimed their weapons at all of us and then took me on gun point in the motorcar, where the accused named above has took off my clothes and made my bare video and also beat me by fists, kicks through magazine of their weapons. My father / complainant lodged the report accordingly.

Cross..... It is correct that we have patched up the matter privately out of the court and we being complainant party do not want to prosecute the accused facing trial any further.

RO and AC
16/05/2019


(Tanveer Iqbal)
ASJ-XIV, Peshawar.

ATTESTED

25 SEP 2019

(Examiner)
Session Court Peshawar

The charge has been read over and explained to the accused in their maternal languages Pashto.

Q1: Have you heard and understood the charge?
Ans: Yes.
Q2: Do you plead guilty or claim trial?
Ans: No, we plead not guilty and claim trial.

RO&AC
22/11/2018

Accused		Accused	
	Wali Ullah		Himad
Accused		Accused	
	Noor Zamin Shah		Hiday Ali


Tanveer Iqbal
ASJ-XIV, Peshawar.
22/11/2018.

ATTESTED
25 SEP 2019
(Examiner)
Session Court Peshawar

11

CHARGE

State Vs Wali Ullah etc

FIR No. 872 dated 28/10/2017 u/s 355/376-A/148/149 PPC Police Station

Mathra Peshawar

I, Tanveer Iqbal, Additional Sessions Judge-XIV, Peshawar do hereby charge you accused:

1. Wali Ullah s/o Noor Nabi Shah, aged about 27 years
2. Himad s/o Azeem Shah, aged about 22/23 years
3. Noor Zamin Shah s/o Noor Nabi Shah, aged about 29 years
4. Haz Ali Shah s/o Samin Shah, aged about 28 years

All r/o Pir Kalay, Peshawar, as follows:

Firstly: That on 27/10/2017 at 18:30 hours in the field Deh Garanga Payan falling within the criminal jurisdiction of Police Station Mathra, you accused named above alongwith absconding co-accused Hilal Badshah, while duly armed formed an unlawful assembly used force and in furtherance of common object of unlawful assembly. Thus committed an offence punishable u/s 148/149 PPC within the cognizance of this court.

Secondly: That on same date, time and place of occurrence, you accused named above alongwith absconding co-accused Hilal Badshah, in furtherance of common object of unlawful assembly abducted Nasir Shah (son of the complainant) in order to subject him to grievous hurt. Thus you committed an offence punishable U/S 367 PPC, within the cognizance of this court.

Thirdly: That on the same date, time and place of occurrence, you accused named above alongwith absconding co-accused Hilal Badshah, in furtherance of common object of unlawful assembly abducted Nasir Shah (son of the complainant) and undressed him to dishonor. Thus you committed an offence punishable U/S 355 PPC, within the cognizance of this court.

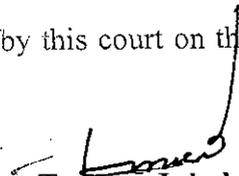
And I hereby direct that you shall be tried by this court on the said charges.

22/11/2018

ATTESTED

25 SEP 2019

(Registrar)
Sessions Court Peshawar


Tanveer Iqbal
ASJ-XIV, Peshawar.

IN THE COURT OF MS ZEB A RASHEED,
ADDITIONAL SESSIONS JUDGE-XIV, PESHAWAR

ORDER
19/07/2019

1. Accused facing trial Wali Ullah, Hammad, Noor Zaman and Haaz Ali Shah on bail present. Accused Hilal Badshah is absconding. SPP for the State present.

2. This order is intended to disposed off the application of accused facing trial u/s 265-K Cr.P.C seeking their acquittal in case FIR No.872 dated 28/10/2017 U/S 367/355 PPC of Police Station Mathra Peshawar.

3. Facts in brief of the case are that on 27/10/2017 complainant Syed Jalil Badshah through written application reported the matter to the local police to the effect that on the fateful day at 06:30 PM he alongwith his sons Yaseen Shah, Nasir Shah and Yasir Shah were present at their General Store situated at Pir Kalay in meanwhile accused Wali Ullah Shah, Noor Zamin Shah sons of Noor Nabi Shah, Haaz Ali Shah S/O Samin Shah, Hilal S/O Lihaz Badshah, Hammad S/O Azeem Badshah R/O Pir Kalay while duly armed with klashankove came in a red-colour motorcar. When they deboarded from the motorcar, they on gun point abducted son of complainant namely Nasir Shah by getting him into the motorcar. The complainant visited Police Station for registration of FIR in meantime complainant received a telephonic call from his home that the abductee Nasir Shah came back to the house. The complainant alongwith SHO and other police officials returned to his house where

MS ZEB A RASHEED
Additional Sessions Judge XIV
Peshawar

ATTESTED

25 SEP 2019

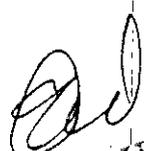
(Examiner)
Session Court Peshawar

(2)

the abductee Nasir Shah reported that he was abducted by the above accused and was taken to an unknown place where on gun point they have undressed him while accused Wali Ullah also made this video and thereafter they beaten the abductee Nasir Shah with fists, kicks and butts of weapons and threatened him not to disclose the matter to anyone. Hence, the instant FIR got registered.

4. The matter was investigated into and complete challan was put in court against the accused facing trial on 13/02/2018. Accused were summoned out of whom accused Wali Ullah, Hammad, Noor Zaman and Haaz Ali Shah had appeared, while accused namely Hilal did not appear before the court and had gone into hiding and ultimately he was declared absconding and proceedings u/s 512 Cr.P.C was initiated against him. Copies were provided to the accused facing trial Wali Ullah, Hammad, Noor Zaman and Haaz Ali Shah in compliance with Section 265-C Cr.PC. Charge u/s 355/367/148/149 PPC was framed against the accused to which they pleaded not guilty and claimed trial. Thus the prosecution's witnesses were summoned. Complainant Syed Jalil Badshah and the alleged abductee Syed Nasir Shah appeared before the court and were examined as PW1 and PW2 respectively. On 16/05/2019 counsel for accused facing trial submitted application for acquittal of accused facing trial u/s 265-K Cr.P.C.

5. I have heard learned counsel for accused facing trial and APP for the State and perused the case file.


MS ZEB A RASHEED
Additional Sessions Judge-AT
Peshawar

ATTESTED

25 SEP 2019

(Examiner)
Session Court Peshawar

6. Perusal of record reveals that complainant Syed Jalil Badshah and the alleged abductee Syed Nasir Shah appeared and were examined as PW1 and PW2 respectively, who categorically stated that they have patched up the matter privately out of the court and they being complainant party do not want to prosecute the accused facing trial any further. Keeping in view the statements of complainant and the alleged abductee the evidence is deficient enough to support the charge and there appears no probability of conviction of accused. It would yield no fruit if all the prosecution's witnesses are examined.

7. In view of these circumstances, there appears no probability of conviction of the accused facing trial. Resultantly, by allowing the application u/s 265-K Cr.P.C, the accused facing trial Wali Ullah Shah, Noor Zamin Shah sons of Noor Nabi Shah, Haaz Ali Shah S/O Samin Shah, Hammad S/O Azeem Badshah as well as absconding co-accused Hilal S/O Lihaz Badshah (in his absentia) are acquitted of the charges leveled against them. They are on bail. Their bail bonds stand cancelled and sureties are absolved from the liability of bail bonds. Case property, if any; be kept intact till the expiry period of appeal/revision. File be consigned to Record Room after its proper completion and necessary compilation.

Announced
19/07/2019



Ms. Zeba Rasheed,
Additional Sessions Judge-XIV,
MS ZEBARASHEED
Additional Sessions Judge XIV
Peshawar

CERTIFIED TO BE TRUE COPY

25 SEP 2019

(Examiner)
Copying Agency Session Court
Peshawar

No: 17065
Dated of Appl. 21-9-79
Name of Applicant P. S. Jha
Word 3200 P. S. Jha
Fee
Signature of Applicant P. S. Jha
Date of Signature 25-9-79
Dated of Preparation 25-9-79
Date of Delivery 25-9-79

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1450 /ST

Dated 29/07 / 2021

To

The Superintendent of Police Headquarters,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 922/2018, MR. HAZ ALI SHAH.

I am directed to forward herewith a certified copy of Judgement dated 05.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

حوالہ مائیل شدہ گاڈلکس ایاز صاحب کو میڈل ٹریڈنگ اور سٹریٹس میں
کہ مسائل CCP لیٹس اور سماجی خدمات آباد لفتیات ہے اور فراہمی کے طور پر اس کے
کسیا ڈیوٹی سرافنا دے رہا ہے

سائل پر مقدمہ نمبر 872 مورس 28/7/10 ص 355-367A
تعداد مہتر الیتا اور میں ملوث ہونے

کا الزام ہے جس کے لئے ذیل امر اہل قابل ہوا ہے
کہ مسائل کن ڈیوٹی بمطابق ڈیوٹی روٹر ٹریڈنگ وادڈن میں محل 08:00 تا 16:00 بجے

ترب ڈیوٹی ہے۔ یہ کہ مسائل کن ڈیوٹی بورڈ ایس پارٹنر ٹاڈن میں لائی گئی ہے

یہ کہ مسائل پر جانے کیے پرائیویٹ گاڈیلوں کو خود سے ہینا ہے

یہ کہ مسائل ٹریڈنگ لائن میں یونیفارم تبدیل کرنے کے بعد از تیار ڈیوٹی کیے گئے ہیں

روزانہ میوٹا ہے اور بوقت 07:55 بجے یونائیٹڈ پر جو جس سے ہینا ہے

یہ کہ بعد از ڈیوٹی اسٹاک 16:00 بجے مسائل پھر پرائیویٹ گاڈیلوں کے ذریعے ٹریڈ

لائن میں یونیفارم تبدیل کرنے وقت تقریباً 17:35 بجے تقریباً ڈیڑھ گھنٹہ میں ہینا ہے

یہ کہ مسائل کے خلاف 18 بجے بوقت 18:30 اور بورڈ کا گاہ ہے

یہ کہ مسائل کا گاڈن جس میں جو کہ تقریباً 18 بجے کھو میرے فاصلہ یہ ہے

یہ کہ مسائل روزانہ تقریباً بوقت 18:40 یا لیت ٹائم میں کمر جو دہی ہے

صاف پاک اور جلا گاڈنوں روزانہ کے سبب صرف اور صرف آپ کی رہنمائی

کیے عمر سیر گاڈن ہے۔ بانی واقعہ کا فصل اور دست صرف صرف ہر طرف

کہ مسائل کی تعداد 2008 بھی ہے کہ مسائل کے شیڈول ہے جو کہ

2 بیٹیاں اور ایک بیٹا ہے (جاری)

واقعہ کچھ اس طرح ہے کہ مسائل کے گاؤں پر ایک لڑکا ناصر شاہ جو کہ کچھ بڑھاپے سے میرے بیٹا اور بھائی امیر اللہ شاہ جو کہ لڑکپن میں لکھنؤ گیا ۱۹ سال کوئی لڑکا تھا جس کی سبق اور آئینہ لکھے البتہ قدرت نے نرنے لکھے میرے بیٹے اور بھائیوں اس لڑکے کو جو مارا ایسا اور بعد میں اس شرط پر چھوڑ دیا۔ کہ دوبارہ ایسی بڑی قدرت نرنے پر آپ کو فالوں کے حوالہ دیا جائیگا جو کہ مسائل کو بہت جلا لوتھام کے وقت مسائل کے مزید لڑکے کو لکھ کر چھوڑیں اور سخت الفاظ میں منو نرنے میوئے کیا۔ کہ میزان صحت سمجھو ایسی قدرت میرے بیٹا اور بھائیوں کے خلاف فالوں کا روانی نرونگا جس پر وہ میرے ساتھ بحث و تکرار پر شروع کیا۔ اور موضوع پر موجود مشران نے درمیان جھلائی نرائی۔ اور مزید نے مجھے دھمکی دی کہ آپ لوگوں کے مجھے بے عزت کی میں آپ لوگوں کے بے عزت نہیں نرونگا۔ اور فالوں کا روانی بھی نرنے دکھا دینگا۔

موضوع 28¹⁰ کو مسائل لکھنے لائن میں موجود رہا۔ کہ مجھے جیاد اور بھائی لوز میں شاہ نے مجھے اطلاع دی کہ آپ اور دیگر جیاد اور بھائیوں کے خلاف ناصر شاہ نے ۱۸۴۱۸ دہج کہا۔ میں گاؤں روانہ ہوا۔ چونکہ مسائل اس جہم میں شریف نہ تھا۔ اور نہ ایسا کوئی فعل سرزد ہو سکتا۔ کہنا ۱۵:۱۰ ہے وہی گاؤں کے مشران نے دونوں فریقین کے درمیان راہنی لکھے دونوں فریقین طلب کی۔ اور چونکہ دعویٰ داری جھوٹ کے بنیاد پر محض تھی۔ کہنا فریق اول ناصر شاہ لکھنؤ شریٹر راہنی نامہ لکھے راہنی میوئے۔ اور مشران کے سامنے بند لکھتا کہ میرا راہنی کا کئی۔ جو کہ بعد میں لو لیس عثمانہ کو اللہ کے دلائل کے بعد مسائل نے BBA لکھے درخواست دی۔ اور شہر کے دن مسائل کی BBA منظر ہوئی۔ اور موضوع 17 کو مسائل کی BBA لکھ کر ہوئی۔ اور کہیں کچھ میوئے اور موضوع 17 جو کہ مسائل اس سارے واقعے میں بے گناہ تھے۔ نہ ایسی بڑی میوئے قدرت نہ نرنے لکھا۔ اور نہ آئینہ نرنے کا۔ اور مسائل کے بے گناہی کو دیکھتے ہوئے کچھ حوالہ مابٹلی ستور مار لو لیس مسائل نرنے کی افواہات صادر نر ماہر مشکو فرمایا

29/1/18
 1245
 2445
 صاحبانہ حیات آباد

1112-8
31/10/17

﴿پیشل رپورٹ﴾

آج مورخہ 30.10.2017 کو بوقت 10:40 بجے محرر ٹریفک لائن SI حسین خان کو تھانہ مٹھرا سے SI فرہاد خان Oii بذریعہ فون نمبری 0315-9901699 اطلاع دی کہ کنشیل ہاز علیشاہ جو کہ ٹریفک وارڈن پولیس میں بطور کانٹیل تعینات ہے۔ مذکورہ کے خلاف بحوالہ مقدمہ علت 872 مورخہ 28.10.2017 مجرم 355,367A,148,149/PPC تھانہ مٹھرا میں مقدمہ رجسٹر ہو چکا ہے۔ FC ہاز علیشاہ نمبر 654 جو کہ بمطابق ڈیوٹی پرچہ بورڈ آفس پارکنگ میں تعینات ہے۔ مذکورہ پوائنٹ کی ڈیوٹی چونکہ صبح 08:00 بجے سے شروع ہوتی ہے اور دیگر ویلہ 16:00 بجے تک ہوتی ہے، اس کے بعد گھر خود روانہ ہوتے ہیں۔ اور کل مورخہ 29.10.2017 کو مذکورہ کانٹیل امیر صاحبان کی طرف سے فراہم کردہ شب باشی فہرست کے مطابق ہفتہ وار شب باشی پر تھا اور آج مورخہ 30.10.2017 کو اپنی ڈیوٹی پوائنٹ سے غیر حاضر ہے۔ جسکو بحوالہ مد 4 روز نامچ 30.10.2017 غیر حاضر کیا گیا ہے۔ FIR کی کاپی ہمراہ لف ہے۔ رپورٹ مرتب ہو کر بغرض حکم احکام آر سال خدمت ہے۔

(گوبر علی)

ڈی ایس پی ہیڈ کوارٹرز، ٹریفک پشاور

OFFICE OF THE SSP TRAFFIC PESH.	
Diary No.	3350
Dated	31/10/2017

Encl-02

Seen/OS

2
Seen
31/10/17

SPL Report

35

SSP/T
31/10/17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1049/2015

Date of Institution ... 16.09.2015

Date of Decision ... 10.07.2017

Muhammad Arif Ex-Constable No, 642 son of Naushad Khan,
R/O Khjushgi Payyan, District, Noshera.

(Appellant)

VERSUS

1. The District Police Officer, Noshera and others.

(Respondents)

MR. MUHAMMAD ARIF JAN,
Advocate

For appellant.

MR. KABIRULLAH KHATTAK,
Asstt. Advocate General

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUI ZEB KHAN

CHAIRMAN
MEMBER

JUDGMENT

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

FACTS

2. Brief facts giving rise to the present appeal are that the appellant was dismissed from service on 08.07.2015 against which he filed departmental appeal (the date of which is not known to the appellant or respondents). This departmental appeal was decided on 25.08.2015 maintaining the original order of dismissal from service. hence the appellant filed the present appeal on 16.09.2015. The reason for

dismissal of the appellant from service is his involvement in a criminal case which was the basis of the whole proceedings.

ARGUMENTS

3. The learned counsel for the appellant argued that the appellant was acquitted in the criminal case which was the basis of disciplinary proceedings. That the enquiry officer submitted his report prior to the acquittal of the appellant in which the enquiry officer opined that the complainant of the criminal case was pressurized by the accused in criminal case and that the compromise in the criminal case was not voluntary. The learned counsel for the appellant referred to final order of criminal case dated 13.01.2016 which according to learned counsel for the appellant speaks of acquittal of the accused on merit and is a proof that no undue pressure was applied by the accused. He further argued that after the acquittal in criminal case nothing is left with the department to dismiss the appellant from service as the whole story has been washed out. The learned counsel for the appellant further argued that the principle of fair trial has not been observed by the enquiry officer as his opinion is based on his personal knowledge and no statement of witnesses have been recorded nor any chance of cross-examination was afforded to the appellant. The learned counsel for the appellant relied upon 3 judgments entitled "*Director General Intelligence Bureau, Islamabad Vs. Muhammad Javed and others*" reported as 2012-SCMR-165, "*Malik Azharul Haq Vs. Director of Food, Punjab Lahore and another*" reported as 1991-SCMR-209 and "*Habibullah Bhattu Vs. Director*" reported as 2011-SCMR-1504.

4. On the other hand learned Assistant Advocate General argued that the appellant has failed to provide copy of departmental appeal which can result in presuming that the same was time barred. He further argued that the enquiry officer has duly recorded the statements of all the concerned witnesses by affording the

opportunity of cross-examination to the appellant. That acquittal in criminal case cannot be made ground for exoneration in disciplinary proceedings. In this respect he pressed into service judgments reported in 2006-SCMR-1653 2007-SCMR-563 and 2008-SCMR-1151.

CONCLUSION.

5. After hearing arguments of the learned counsel for both the parties and perusing the record this Tribunal reaches the conclusion that it is by now settled principle of law that departmental proceedings and criminal proceedings can run simultaneously and outcome of one proceeding has got no effect on the other. So much so that a departmental enquiry on the same set of facts in those of criminal proceedings and initiated after the acquittal in the criminal can result in penalty in disciplinary proceedings. This principle has been approved in a judgment by the august Supreme Court of Pakistan in case entitled "*Mian Ghulam Sarwar Vs. Division Superintendent, Multan*" reported as 2013-SCMR-714 and also in cases relied upon by Assistant Advocate General.

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6. So far as the first judgment relied upon by the learned counsel for the appellant is concerned it relates to the payment of Diyat which was wrongly equated with conviction in crime which has got no relevancy with the present case. The second ruling is also distinguishable from the facts of the present case because in the reported case the dismissal was based on conviction which is not the present case. In the present case the dismissal was made prior to the order of the criminal court. So far as the third ruling submitted by the learned counsel for the appellant is concerned it pertains to the personal knowledge of the enquiry officer which is not relevant to the present case because the enquiry officer has based his opinion after recording of evidence of the witnesses and conducting the enquiry in disciplinary proceedings. The opinion of the Enquiry Officer regarding pressurizing of

complainant by accused was also the result of his own findings and has got no relevance to the order of the criminal court.

7. As a nutshell of the above discussion no case is made out by the appellant which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(GUL ZEB KHAN)
MEMBER


(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED

10.07.2017

خدمت جناب کیشیل میٹی پولیس افسر صاحبہ مہوش پشاور

میں حکماً اسل بر خلاف حکم جاریہ بحوالہ آرڈر ریڈ
نمبر 482 مورخہ 22.2.2018ء جسکی بناء پر سائل کو افسر محترم

V. No. 105 P.A.C.C
Date 13.2.18
Encl: -

218-18
13/2/18

1 جناب عالی، سائل اپنی بے گناہی کے اثبات میں ذیل عرض رسا ہے

یہ کہ سائل سال 2009ء کو قلم پولیس میں بطور کیشل نمبر نیوکر پولیس
ٹریننگ کالج فنگو سے تربیتی کورس پاس کیا ہے

2 یہ کہ سائل نے دوران ملازمت کبھی کوئی ایسا فعل انجام نہیں دیا ہے جو جو
پولیس فورس کی بدنامی یا عیبت بنا ہے۔ اور وہی کوئی غیر ڈسپلن
حرکت نہ ہے

3 یہ کہ مورخہ 10/28 نومبر 2017ء کو پولیس ٹریننگ پونٹ میں بورڈ آفس باؤنڈ میں
ڈیوٹی پر مامور تھا۔ اور بعد احتیاج ڈیوٹی رٹیفیکیشن بعد کو اس میں اور پر
مورخہ 10/28 نومبر 2017ء مورخہ 872 مورخہ 10/28 مورخہ 335/367-A/148/149
تھانہ پشاور میں ڈسپلن ہو گیا ہے

4 یہ کہ معلوم ہو رہا ہے کہ سائل نے حال طور پر فورم عنوان نالہ میں نامزد کیا ہے۔
معلقہ کے لئے حق قرار کے عدلی فورم نے یہ سائل کو راجی نام کر کے معاملہ کو
رفع دفعہ کیا۔ اور لوں مسائل الزامات سے بری الزم ہو گیا ہے

5 یہ کہ بعد میں صدر خلاف افسران نے فورم میں فکریت کی بناء پر حکماً مارا
شروع کر کے یہی سماعت کے بعد ججی ملازمت سے درخواست کیا ہے جو سائل نے

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اس لئے درخواست حضور الوریہ کے درجہ نالہ حقوق کو پیش نظر کو کر
جی تو ہی یہ دوبارہ بحال ہو جائے گا۔ مورخہ 13/2/18ء

خدمت جناب کیشل می پولیس افسر صاحب مہو پشاور

مہو حکماً اسل بر خلاف حکم جاریہ بحوالہ آرڈر

نمبر 482 قومی فورس 2018-2022 جسکی تیار پراسس کو افسر محترم

105
13 2.18
Encl: -

218-LB

1312118

1 جناب عالی، سائل اپنی بگناہی کے اثبات میں ذیل عرض رسا ہے

1۔ یہ کہ سائل سال 2009ء کو قلم پولیس میں بطور کیشن نمبر پی پو کر پولیس
ٹریننگ کالج ہنگو سے تربیتی کورس پاس کیا ہے

2۔ یہ کہ سائل نے دوران ملازمت کبھی کوئی اسٹاف میں انجام نہیں دیا ہے جو
پولیس فورس کی بدنامی یا عار نہ بنا ہو۔ اور نہ ہی کوئی غیر ڈسپلن
حرکت کیا ہے

3۔ یہ کہ صرف 10/28 نومبر 2017ء کو سائل نے پورڈانس مارکنگ میں
ڈیوٹی پر حاضر تھا۔ اور بعد احتیاج ڈیوٹی رٹنڈ بعد کو اس میں اور نہ صلح
ہوا ہے نہ خلاف فورم ملا 872 قومی فورس 10/28 (7) 1148/149-A/335/367

تھانہ پشاور میں ڈسپلن ہے

4۔ یہ کہ معلوم ہو رہا ہے سائل کو لے جا طور پر فورم عنوان بالاد میں نامزد کیا گیا ہے۔
معلقہ کے لئے حق قرار کے عدلی فورم نے یہ سائل کو راضی نام کر کے معاملہ کو
رفع دفعہ کیا۔ اور لوکل سائل الزامات سے بری الزم ہو گیا

5۔ یہ کہ بعد میں یہ خلاف اقتدار نے فورم میں قلمزدگی کی بنا پر حکماً مارا
شروع کر کے یہی سہولت کے بغیر ہی ملازمت سے درخواست کیا ہے جو سائل کے ساتھ

Display

For Exam

اس لئے درخواست حضور الوریہ کے درجہ بالا حقیقت کو پیش نظر رکھ کر
میں توفی پر دوبارہ بحال فرمایا گیا ہے۔ مگر (ملا کر پورے) 13/18

Pl. H
for C

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No: 922/2018

Date of Institution ... 23.07.2018

Date of Decision ... 05.07.2021

Haz Ali Shah, Ex-Constable No. 554, Police Lines Peshawar District.

... (Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa Peshawar and two others.

... (Respondents)

Mr. ZAHID GUL,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN ---
MR. ATIQU-UR-REHMAN WAZIR ---

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

The appellant has filed the instant Service Appeal against the impugned order dated 02.02.2018 passed by the competent Authority, whereby he was dismissed from service, as well as against the order of the appellate Authority, whereby the departmental appeal of the appellant was rejected.

2. Precise facts are that the appellant while serving as Traffic Warden Peshawar, was charged in case FIR No. 872 dated 28.10.2017 under sections 335/367-A/148/149 PPC registered at Police Station Mathra, therefore, disciplinary action was taken against him and on the conclusion of inquiry he was dismissed from service. The departmental

appeal of the appellant was also turned down, hence the instant Service Appeal.

3. Respondents submitted reply, wherein it was mainly alleged that as the appellant was charged in a criminal case, therefore, proper inquiry was conducted against him under Police Rules, 1975 and the allegations against him stood proved, hence he was dismissed from service.

4. Learned counsel for the appellant has argued that after charging of the appellant in criminal case, the respondents were required to have suspended him and should have waited for conclusion of trial of the appellant, however the respondents dismissed the appellant in a hasty manner, without complying the relevant provisions of inquiry as prescribed in Police Rules, 1975. He next argued that the appellant was falsely implicated in the criminal case and has been acquitted by a competent court. He further contended that the appellant was proceeded against on the ground of his involvement in the criminal case, however the acquittal of the appellant has vanished the very ground, which provided base for disciplinary action against the appellant. In the last he argued that the impugned order of dismissal of the appellant is wrong and illegal, hence liable to be set-aside. Reliance was placed on 2019 PLC (C.S) 255, 2003 PLC (C.S) 514, 2001 PLC (C.S) 667, 2013 SCMR 752, PLD 2010 Supreme Court 695, 1998 SCMR 1993 and PLJ 2015 Tr.C (Services) 152.

 5. On the other hand, learned Additional Advocate General has contended that the appellant was involved in a criminal case, therefore, disciplinary action was taken against him in accordance with Police Rules, 1975 and after conducting of proper inquiry, he was rightly dismissed from service. He further contended that the acquittal of the appellant, in criminal case cannot entitle him to be exonerated in disciplinary action taken against him by the competent Authority. Reliance was placed on 2010 SCMR 1982, 2006 SCMR 554, 2006 SCMR 453, 2013 SCMR 911 and 2013 PLC (C.S) 1071.

6. Arguments heard and record perused.

7. The appellant was serving as Traffic Warden Peshawar, when he was charged in case FIR No. 872 dated 28.10.2017 under sections

335/367-A/148/149 PPC registered at Police Station Mathra. Disciplinary action was initiated against the appellant on 07.11.2017 and he was dismissed from service vide order dated 02.02.2018 passed by the competent Authority. The appellant was charged for a criminal offence, therefore, the department was required to have followed the procedure as laid down in Article-194 of Civil Service Regulations, which is reproduced as below:-

"A Government Servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a Government servant is not arrested or is released on bail, the competent Authority may suspend him, by specific order, if the charge against him is connected with his position as government servant or is likely to embarrass him in the discharge of his duties or involves moral turpitude. During suspension period the Government servant shall be entitled to the subsistence grant as admissible under F.R-53".

A perusal of record would show that upon receipt of the inquiry report, opinion of DSP/Legal was sought, whose opinion was in the nature that as the criminal case was still sub-judice in the court, therefore, the outcome of the inquiry may be based on the decision of the court. The competent Authority, however did not wait for the outcome of the criminal case and dismissed the appellant by ignoring Article-194 of Civil Service Regulations.

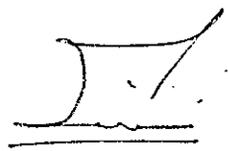
8. The department had initiated disciplinary action against the appellant on the sole ground that he was charged in case FIR No. 872 dated 28.10.2017 under sections 335/367-A/148/149 PPC registered at Police Station Mathra, however the appellant has already been acquitted in the said case vide order dated 19.07.2019 passed by learned Additional Sessions Judge-XIV Peshawar. Nothing is available on the record, which could show that the acquittal of the appellant has been challenged by the respondents through filing of appeal before the higher forum, therefore, the order of acquittal of the appellant has gain finality. It is now well settled that acquittal of an accused in a criminal

case, even if based on benefits of doubt, would be considered as honourable. The appellant was dismissed from service on the sole ground of his charging in criminal case, however upon acquittal of the appellant, the very ground on the basis of which disciplinary action was taken against him, has vanished away, therefore, the order of dismissal of the appellant cannot remain in field.

9. In view of the above discussion, the instant appeal is accepted by setting-aside the order of dismissal of the appellant and he is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
05.07.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

District No. 1186

Dated 23-7-2018

Appeal No 922 2018

Mr. Haz Ali Shah, Ex Constable No. 654, Police Lines Peshawar
District

Appellant

VERSUS

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar
2. The Superintendent of Police Head Quarters Peshawar.
3. The Capital City Police Officer, Peshawar.

Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED
ORDER DATED 02/02/2018 WHEREBY THE APPELLANT
DEPARTMENTAL APPEAL DATED 07/03/2018 HAS BEEN
REJECTED ON NO GOOD GROUNDS.

Filed to-day

Registrar

23/5/19

PRAYER

THAT ON ACCEPTANCE OF THIS APPEAL THE IMPUGNED
ORDER DATED 02/02/2018 AND DATED 07/03/2018 MAY
VERY KINDLY BE RE-INSTATED ON SERVICE WITH ALL
BACK BENEFITS ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE
AWARDED IN FAVOUR OF THE APPELLANT