

Service Appeal No. 962/2018
Ali Khan (Head Constable)
Vs

The Provincial Police Officer Government of
Government of Khyber Pakhtunkhwa & 2 others.

Judgment/Order:

11.03.2020

MUHAMMAD HAMID MUGHAL, MEMBER (J) Learned


counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney present.


Appellant (Head Constable) has filed the present service appeal against the order dated 04.07.2018 whereby while keeping in view long service of 23 years, 04 months and 05 days of the appellant the board further modified the punishment awarded to the appellant and converted the same into stoppage of increments for three years with cumulative effect.

During the course of arguments, learned counsel for the appellant assailed the impugned orders mainly on the ground that penalty of withholding of increments with cumulative effect is in violation of FR-29 rather the authority should have mentioned the period for which the penalty was to remain effective.

Learned DDA remained unable to rebut the contention of the learned counsel for appellant, on the touchstone of FR-29.

Consequently while considering the circumstances of the case, the present service appeal is partially accepted in terms that the penalty of withholding of three annual increments awarded to the appellant vide order dated 04.07.2018, shall remain effective for a period of three years. No order as to costs. File be consigned to the record room.


(Hussain Shah)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

ANNOUNCED.


11.03.2020

13.01.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Shah Jehan S.I (Legal) present. Due to general strike of the Bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 11.03.2020 before D.B. Appellant be put to notice for the date fixed.


Member


Member



02.07.2019 Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Adjourned. To come up for further proceeding on 28.08.2019 before D.B


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

28.08.2019 Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. Case to come up for arguments on 12.11.2019 before D.B.


Member


Member

12.11.2019 Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Mr. Shah Jehan SI for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 13.01.2020 before D.B.


Member


Member

05.03.2019

Learned counsel for the appellant Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant submitted rejoinder and request for adjournment. Adjourn. To come up for arguments on 19.04.2019 before D.B.


Member


Member

19.04.2019

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Shah Jehan, ASI (Legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 11.06.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

11.06.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Shah Jehan, SI(Legal) for the respondents present.

In view of contents of Section 4 (b)(ii) of Khyber Pakhtunkhwa Service Tribunal Act, 1974 the maintainability of instant appeal shall have to be argued by both parties. The appeal is, therefore, adjourned to 02.07.2019 on which date other cases involving similar proposition are fixed.


Member


Chairman

19.09.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that on account of charges of willful absence from duty, he was proceeded departmentally and finally major penalty of removal from service was awarded to him vide impugned order dated 03.01.2018. He filed departmental appeal on 09.03.2018 which was rejected on 05.07.2018, hence, the instant service appeal. As his departmental appeal was filed during the pendency of previous service appeal so learned counsel for the appellant withdrew the same and filed fresh service appeal. Appellant was not treated according to law and rules, rather condemned unheard. Punishment with cumulative effect lacks the backing of law and rules and is not sustainable in the eyes of law.

21/12/18
Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 09.11.2018 before S.B.

(AHMAD HASSAN)
MEMBER

09.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 27.12.2018. Written reply not received. Mr. Hameed Ur Rehman AD representative absent.

READER

27.12.2018

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Shah Jehan SI legal present. Representative of respondent department submitted written reply. Adjourn. To come up for rejoinder if any and arguments on 05.03.2019 before D.B.-11

Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 962/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/08/2018	<p>The appeal of Mr. Ali Khan resubmitted today by Mr. Taimur Ali Khan 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;"><i>[Signature]</i> REGISTRAR 2/8/18</p>
2-	15.08.2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15-8-2018</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p> <p>Mr. Taimur Ali Khan, Advocate counsel for the appellant present. As lawyers community is on strike due to killing of an advocate at D.I.Khan, preliminary arguments could not be heard. Case to come up for preliminary hearing on 19.09.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p>
	11-	

The appeal of Mr. Ali Khan Head Constable No. 488 Police Line Shah Mansoor Swabi received today i.e. on 26.07.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of enquiry report mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Memorandum of appeal may be got signed by the appellant.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1499 /S.T,

Dt. 26/7 /2018.

Taimur
REGISTRAR 26/7/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sir

- 1- removed as Enquiry report is attached as Annexure C - page 6
- 2- removed
- 3- removed
- 4- removed
- 5- removed

Resubmitted after
compliance
2/8/18 *[Signature]*

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 962 /2018

Ali Khan

V/S

Police Deptt:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	01-03
2.	Copies of charge sheet and statement of allegations	A&B	04-05
3.	copies of inquiry report, show cause notice and reply to show cause notice	C,D&E	06-08
4.	Copies order dated 21.03.2018 departmental appeal and order dated 19.04.2018	F,G&H	09-13
5.	Copies of revision and order dated 04.07.2018	I&J	14-16
6.	Vakalat Nama	-----	17

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,


(ASAD MAHMOOD)
ADVOCATE HIGH COURT.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 962/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12100

Dated 26/7/2018

Ali Khan, Head Constable, No.488,
Police Line Shah Mansoor, District, Swabi.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Regional Police Officer, Mardan Region Mardan.
3. The District Police Officer, Charsadda .

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 04.07.2018 WHEREBY RESPONDENT NO.1 ON THE REVISION UNDER 11-A OF THE POLICE RULES 1975 AMENDED IN 2014 OF THE APPELLANT CONVERTED THE PUNISHMENT OF REDUCTION FROM HEAD CONSTABLE TO CONSTABLE AND REMOVAL FROM LIST "D" INTO STOPPAGE OF INCREMENT FOR THREE (03) YEARS WITH CUMULATIVE EFFECT.

Filed to day

Registrar

26/7/18 PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 04.07.2018 MAY BE SET ASIDE TO THE EXTENT TO STOPPAGE OF INCREMENT FOR THREE (03) YEARS WITH CUMULATIVE EFFECT AND THE RESPONDENTS MAY PLEASE BE DIRECTED TO RESTORE HIS INCREMENT FOR THREE (03) YEARS WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Re-submitted to day
and filed.

Registrar

2/8/18

RESPECTFULLY SHEWTH:


FACTS:

1. That the appellant joined the police force in the year 1995 as constable and promoted to the rank of Head constable with the passage of time. The appellant completed all his due training etc and also have good service record throughout.
2. That the appellant while posted as in-charge Police Post Munda Head Police Station Tangi, charge sheet along with statement of allegations were issued to the appellant. The appellant submitted his detail reply to the charge sheet and denied the all the allegations therein. However he did not keep the copy of that with himself which may be requisite from the department. **(Copies of charge sheet and statement of allegations are attached as Annexure-A&B)**
3. That inquiry was conducted against the appellant and show cause notice was issued to the appellant which was duly replied by the appellant in which he once again denied the allegations. **(copies of inquiry report show cause notice and reply to show cause notice are attached as Annexure-C,D&E)**
4. That the appellant was dismissed from service vide order dated 21.03.2018 against which he preferred departmental appeal on which respondent No.2 reinstated the appellant into service and the punishment of dismissal from service was converted to reduction in rank from head constable to constable and also removed from list 'D' and transferred to Swabi District for one year and the period he remain out of service was treated as leave without pay vide order dated 19.04.2018. **(Copies order dated 21.03.2018, departmental appeal and order dated 19.04.2018 are attached as Annexure-F,G&H)**
5. That then the appellant filed revision under Rule 11-A of the Police Rules 1975 amended in 2014 on which respondent No.1 converted the punishment of reduction in rank from head constable to constable and removal from list "D" into stoppage of increment for (03) years with cumulative effect vide order dated 04.07.2018. **(Copies of revision and order dated 04.07.2018 are attached as Annexure-I&J)**
6. That now the appellant come to this august tribunal on the following grounds amongst others.



GROUNDS:

- A) That the impugned order dated 04.07.2018 to the extent of stoppage of increment for three (03) years with cumulative effect is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside to the extent of stoppage of increment for three (03) years with cumulative effect.
- B) That the increment of the appellant was stopped for three (03) years with cumulative effect, but increment cannot be stopped with cumulative effect as per different Courts/Tribunals judgments.
- C) That punishment of stoppage of increment for three (03) years with cumulative effect is against the norms of justice and liable to be set aside.
- A) That the punishment of stoppage of increment for three years with cumulative effect is very harsh which was passed in violation of law and rules, therefore, not sustainable and liable to set aside.
- B) That the appellant has been treated according to law and rules and has been punished for no fault on his part.
- C) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


APPELLANT
Ali Khan

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT.

A 4

CHARGE SHEET UNDER KPK POLICE RULES 1975

I Zahoor Babar Afridi, District Police Officer Charsadda, as competent authority hereby charge you IHC Ali Khan as follows.

That you IHC Ali Khan, while posted as I/C PP Munda Head PS Tangi, it came to light through reliable sources that your activities during your posting at PP Munda Head were suspicious and also immoral. Which is against the discipline force and also earns bad name for the force.

This amounts to grave misconduct on your part, warranting Departmental action against you as defined in section-6(I) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section 02(III) of the KPK Police Rules 1975 and has render your self liable to all or any of the penalties as specified in section 04 (I) a & b of the said rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.
3. Your written defense, if any should reach to the enquiry officer within the specified period, in case of failure, it shall be presumed that you have no defense to put-in and in that case an ex-parte action shall follow against you.
4. Intimate, whether you desired to be heard in person.


District Police Officer,
Charsadda

ATTESTED



Government of Khyber Pakhtunkhwa
Office of the District Police Officer
Charsadda

B 5

DISCIPLINARY ACTION UNDER KPK POLICE RULES -1975

I, **Zahoor Babar Afridi**, District Police Officer Charsadda, as competent authority am of the opinion that IHC Ali Khan, has rendered himself liable to be proceeded against as he has comitted the following acts/omissions within the meaning of section -02 (iii) of KPK Police Rules-1975:

STATEMENT OF ALLEGATIONS

That he **IHC Ali Khan**, while posted as I/C PP Munda Head PS Tangi, it came to light through reliable sources that his activities during his posting at PP Munda Head were suspicious and also immoral. Which is against the discipline force and also earns bad name for the force.

This amounts to grave misconduct on his part, warranting Departmental action against him.

For the purpose scrutinizing the conduct of the said official **Mr. Inam Jan Khan DSP Shabqadar** is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section -6 (I) (a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within stipulated period of (10) days. IHC Ali Khan, is directed to appear before the enquiry officer on the date, time and placed fixed by the later (enquiry officer) a statement of charge sheet is attached herewith.


District Police Officer,
Charsadda

No. 334-35 /HC, dated Charsadda the 02/03 /2018

Copies for Information to the:

1. Mr. Inam Jan Khan DSP Shabqadar
2. IHC Ali Khan (Police Lines)

ATTESTED





GOVERNMENT OF KHYBER PAKHTUNKHWA,
OFFICE OF THE DY. SUPERINTENDENT OF POLICE,
SHABQADAR

PH: 091-6281302

No. 577 /S, dated Shabqadar the 12-3 /2017

6
C6

To,

**The District Police Officer,
Charsadda.**

Subject: DEPARTMENTAL ENQUIRY AGAINST IHC ALI KHAN I/C PP
MUNDA HEAD PS TANGLI.

Respected Sir,

Reference attached.

In enquiry against IHC Ali Khan with the allegation that he while posted as I/C PP Munda, PS Tangi, it came to light through reliable sources that his activities during his posting at PP Munda Head were suspicious and also immoral. This is against the discipline force and also earns bad name for the force.

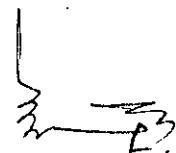
With reference to the above allegations, he was Charge sheeted, served upon summary of allegations and the undersigned has been appointed as enquiry officer to scrutinize the conduct of the official.


Enquiry was conducted. During enquiry video of the immoral and indisciplined act of suspended IHC Ali Khan was watched. IHC Ali Khan was called to the office. He was heard in detail. He also admitted that he has conducted the same program in PP Munda Head.

From the circumstances it is proved that IHC Ali Khan has committed an illegal, immoral and indisciplined act in police post, and has caused defamation for police department.

It is therefore, suggested that FIR may be registered against him and major punishment of dismissal may be awarded.

Submitted please.


Dy: Superintendent of Police,
Shabaqaddar

ATTESTED




D (7)

FINAL SHOW CAUSE NOTICE

Whereas, the charge of absence was referred to enquiry officer for General Police Proceedings, contained u/s 5(3) Police Rules 1975.

AND

Whereas, the enquiry officer has submitted his findings, recommending you for Major Penalty.

AND

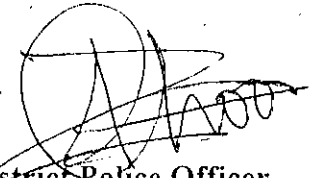
Whereas, I am satisfied with the recommendation of the enquiry officer, that you **IHC Ali Khan**, while posted as I/C PP Munda Head PS Tangi, it came to light through reliable sources that your activities during your posting at PP Munda Head were suspicious and also immoral. Which is against the discipline force and also earns bad name for the force. thus the act amounts to gross misconduct and renders you liable for punishment, under Police Rules 1975.

Therefore, I, Zahoor Babar Afridi, District Police Officer, Charsadda in exercise of the powers vested in me under rules 5(3) (a) (b) of Police Rules 1975, call upon you to explain as to why the proposed punishment may not be awarded to you.

Your reply should reach the undersigned within 07-days of receipt of this notice, failing which disciplinary action pertaining to your dismissal from service will be taken ex-parte.

You are at liberty to appear in person before the undersigned for personal hearing.

Dated 14/05 /2018


District Police Officer,
Charsadda

ATTESTED



ضلع چارسدہ

پولیس لائن

جناب عالی!

بحوالہ شوکا ڈبیری 276/HC مورخہ 26-02-2018 مجاریہ دفتری DPO صاحب چارسدہ بشمولہ معروض خدمت ہوں

کہ سائل محکمہ پولیس میں 26-01-1995 میں بھرتی ہوا ہوں۔ اور محکمہ پولیس میں A1 , B1 لوٹرانٹرمیڈیٹ کورس پاس کر چکا ہوں۔
مختلف ڈیوٹیاں جنرل ڈیوٹیاں، مدد محرر، محرر وغیرہ ڈیوٹیاں کر چکا ہوں۔

اور دوران ڈیوٹی مختلف چوکیا بات میں بطور انچارج رہ چکا ہوں اور اب بطور انچارج مورخہ 05-07-2017 سے منڈاھیڈ

میں تعینات ہوں اور اپنے دوران تعیناتی اچھی کارکردگی اور بہتر ڈیوٹی سے افسران بالا کی حوصلہ افزائی کی ہے۔

اور تاحال محکمہ پولیس سے کسی قسم سزا یا شکایت کا موقع افسران بالا کو نہیں دیا گیا ہے۔

جہاں تک میرے خلاف مشکوک حرکات وغیرہ ڈسپلن ہو سکی اطلاع ہے تو کوئی ایسی غیر اخلاقی یا غیر ڈسپلن حرکت کی ہے۔ اور نہ ہی

میرے ماتحتان کے غیر ڈسپلن حرکات کے ہیں۔

تاہم ڈارمہ نگار جلال الدین ساکن عمر زئی واقعی منڈاھیڈ اپنے فنکاری کے سلسلے میں ہمراہ اپنے ٹیم منڈاھیڈ آئے تھے جو کہ روٹین

کے مطابق مختلف لوگ سیر و تفریح کیلئے آئے جاتے ہیں۔

اور بطور ذمہ دار پولیس افسر میری ذمہ داری ہے کہ منڈاھیڈ سے جانب غرب شمال علاقے مہمند ایجنسی واقع ہے۔ تو ان پر نظر رکھنا

اور انکے سفید پارچا جات میں خیال رکھنا تاکہ کوئی ناخوشگوار واقعہ پیش نہ آئے۔

جہاں تک متذکرہ فنکاروں کیساتھ اٹھنے بیٹھنے اور وقت دینے کا شکایت شاید افسران بالا کو موصول ہوئی ہے۔ تو میں نے اپنے سوچ

اور دانشی کے مطابق نیک نیتی اور فرائض منصبی انجام دی ہے۔

اگر افسران بالا کو اس پر ناراضگی ہے تو آئندہ محتاط رہو گا۔ سائل کا شوکاڈنوٹس بلا کاروائی داخل دفتر فرمایا جاوے۔

مورخہ: 28-02-2018

آپکا تابع فرمان علی خان ASI

متعینہ پولیس لائن چارسدہ

ATTESTED



ORDER

F 9

This Order will disposed off the departmental enquiry against IHC Ali Khan, while posted as I/C PP Munda Head PS Tangi, it came to light through reliable sources that his activities during his posting at PP Munda Head were suspicious and also immoral. Which is against the discipline force and also earns bad name for the force.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub-Section 3, Section 5 of Police Rules 1975. Enquiry Officer Mr. Inam Jan Khan DSP Shabqadar was nominated for conducting departmental enquiry against him and he after conducting proper departmental enquiry submit his findings & recommend him for Major punishment.

Subsequently, IHC Ali Khan, was issued Final Show Cause Notice U/S 5(3) Police Rules 1975 reply to which was received but found un-satisfactory.

After perusal of the enquiry papers and recommendation of the enquiry officer as well keeping in view the whole matter the delinquent official is hereby awarded the **Major Punishment of dismissal from service** with immediate effect to set an example for others.


District Police Officer,
Charsadda

O.B No 278

Date 20/3 /2018

No. 407-12 /HC, dated Charsadda the 21/03 /2018

Copy for information and necessary action to the:-

1. Pay Officer/OASI
2. EC/FMC

ATTESTED



Appeal

G (10)

BEFORE THE REGIONAL POLICE OFFICER MARDAN, REGION
MARDAN

Subject: **Departmental Appeal against the order dated 21/03/2018 of District Police Officer Charsadda whereby I have been dismissed from service with immediate effect.**

Respectfully Sheweth:

1. That I joined Police Department as Constable on 26/01/1995 and since then performed my duties with honesty, full devotion and to the entire satisfaction of the superior officers and was then promoted as Head Constable.
2. That while posted as Incharge Police post Munda police station Tangi was issued charge sheet on the allegation of suspicious and immoral activities which was replied in detail.
3. That thereafter an illegal inquiry was conducted whereafter show cause notice

ATTESTED

[Handwritten signature]

was issued which was also replied refuting the allegation.

- 4. That finally, I was dismissed from service vide order dated 21/03/2018 with immediate effect. (Copy of order is attached as Annexure "A").
- 5. That the impugned order dated 21/03/2018 as against the law facts and principles of justice on grounds inter alia as followed:

G R O U N D S:

- A. That the impugned order is illegal and void-ab-initio.
- B. That I have not been treated according to law and rules and my rights guaranteed in constitution and law are badly violated.
- C. That no proper inquiry was conducted, no evidence was collected and no one was examined in my presence.
- D. That even the nature of alleged suspicious and immoral activities is not specified, so I

ATTESTED



12

couldn't be punished on the basis of such allegations.

- E. That I was not provided opportunity of personal hearing.
- F. That even in case of awarding major penalty regular inquiry is mandatory which has not been conducted in my case.
- G. That the I did nothing that would amount to misconduct.
- H. That I have more then 23 years of service with unblemished service record.

It is, therefore, requested that on acceptance of this Appeal, the impugned order dated 21/03/2018 of District Police Charsadda may kindly be set aside and I may be reinstated in service with all back benefits.

27
Dated: ~~27~~ March-2018

Appellant



Ali Khan

IHC No. 126

ATTESTED


ORDER.

3599
23/4/18

5
H
13

This order will dispose-off the appeal preferred by Ex-IIC Ali Khan of Charsadda District Police against the order of the District Police Officer, Charsadda whereby he was awarded major punishment of dismissal from service vide District Police Officer, Charsadda OB No. 278 dated 20.03.2018.

Brief facts of the case are that he while posted as Incharge Police Post Munda Head PS Tangi it came to light through reliable sources that his activities during his posting at PP Munda Head PS Tangi were suspicious and also of immoral nature. Involvement in such activities is against the norms of disciplined force and also earns bad name for the force. In this regard departmental enquiry was initiated against him and charge sheet along with summary of allegations were issued to the accused official. Mr. Inam Jan Khan, DSP Shabqadar was appointed as enquiry officer with the direction to conduct proper departmental enquiry into the allegations and submit his findings report. The enquiry officer after fulfillment of all codal formalities, recommended him for major punishment. Therefore he was awarded major punishment of dismissal from service by the District Police Officer, Charsadda.

He was called in orderly room held in this office on 18.04.2018 and heard him in person. I have gone through the enquiry file as well as Service documents of the appellant and his poor family circumstances, the appellant is re-instated in Service the punishment of dismissal from service is converted into reduction in rank from HC to Constable and also removed from list "D". He his transferred to Swabi District for one year, with immediate effect. The period he remain out of Service should be treated as leave without pay.

ORDER ANNOUNCED

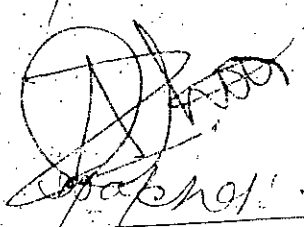
(Muhammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

No. 2561 /ES. Dated Mardan the 18-4-2018.

Copy to District Police Officer, Charsadda for information and necessary action w/r to his office Memo No. 477/LB dated 09.04.2018. The Service Record is returned herewith.

(*****)

PO/EC/OAS/IEC Inquest
by Waqar

M

33-4-018

ATTESTED



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(4)

2018

19/11/2018

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بیرکہ ہال 1995 سے ایک ایک (2018) تک کی تمام تر

خدمت کو ایک جہتی علم سے جڑ لیا گیا ہے

بیرکہ میں عیال دار ہیں اور شہدائوں اور حلقہ ادیان میں

کسی ایسا کافی اثر پڑ گیا ہے

اس توفیق کی برکت سے ساتھ ساتھ کامیابی ہے

کہ میرا اس میں اپنی پوری توانائی لگا کر (کوشش سے

لگانے اور دوسرے امور میں / فلاح میں تیرا کام

حکم ہو گا فرمایا جا

126

(A)

ATTESTED

[Signature]



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 2638 /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 **Constable Ali Khan No. 126 (the then Head Constable)**. The petitioner was dismissed from service by DPO, Charsadda vide OB No. 278, dated 20.03.2018 on the charges that he while posted as Incharge Police Post Munda Head Police Station Tangi, it came to light through reliable sources that his activities during his posting at Police Post Munda Head were suspicious and also of immoral nature. Involvement in such activities is against the norms of disciplined force and also earns bad name to the force. He preferred appeal to Regional Police Officer, Mardan. Regional Police Officer, Mardan re-instated him in service and the punishment of dismissal from service was converted into reduction in rank from Head Constable to Constable and also removed from list "D" & transferred to Swabi District for one year and the period he remain out of service was treated as leave without pay vide order Endst: No. 2561/ES, dated 19.04.2018.

Meeting of Appellate Board was held on 21.06.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him.

Perusal of record revealed that petitioner was dismissed from service by DPO, Charsadda vide order dated 20.03.2018 on the charges of involvement in suspicious and immoral activities. The appellant authority i.e. RPO, Mardan re-instated him in service and the punishment of dismissal from service was converted into reduction in rank from Head Constable to Constable and also removed from list "D" & transferred to Swabi District for one year and the period he remained out of service was treated as leave without pay by RPO, Mardan vide order dated 19.04.2018.

Keeping in view long service of 23 years, 04 months and 05 days at the credit of petitioner, the Board decided that punishment of reduction in rank from Head Constable to Constable and removal from list "D" is hereby converted into stoppage of increment for three (03) years with cumulative effect.

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

(IRFAN BILAL KHAN)

AIG/Establishment,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 2639-45 /18.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. Service Roll alongwith Fuji Missal of the above named Constable received vide your office Memo: No. 3010/ES, dated 07.05.2018 is returned herewith for your office record.
2. District Police Officer, Charsadda.
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.

ATTENDED

GA

1815499
130312-6645181

بعدالت

سروس ٹریڈ ہونٹل لکشاؤر

علی خان سید، منجانب ایس ایس ایف
علی خان بنام محکمہ پولیس

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی دکن کاروائی متعلقہ
آن مقام لکشاؤر کیلئے تمغہ ملی خان اور امجد محمود اور دیگر

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور دکیل 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 داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا دواکالت نامہ لکھ دیا کہ سندر ہے۔

Tested
&
accepted


المرقوم _____ ماہ _____ 20 _____

بمقام A. Khan کے لئے منظور ہے۔
واہ الب

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.962/2018

Ali Khan Head Constable No.488 of District Swabi

VS

Inspector General of Police, Khyber Pakhtunkhwa

INDEX

S.No	Documents	Annexure	pages
1	Reply		02
2	Copy of enquiry Report	A	01
3	Copy of Final Show Cause Notice	B	01
4	Copy of Reply of Final Show Cause Notice	C	01
5	Copy of Police Rules 1975	D	02

RESPONDENTS

Through



Inspector Legal Charsadda

BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 962/2018

Ali Khan, Head Constable No.488, Police Lines Shah Mansoor District
Swabi.....Appellant

VERSUS

IGP/KPK etc:Respondents

REPLY/PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 TO 3.

Respectfully Sheweth:

Preliminary Objections:

1. That appellant has not approached this Hon'ble tribunal with clean hands.
2. That appellant has suppressed actual facts/factual position from this Hon'ble tribunal.
3. That the appeal of appellant is not based on facts.
4. That the appeal of appellant is bad for non-joinder of necessary parties.
5. That the appellant is estopped by his own conduct to file the present appeal.


REPLY ON FACTS:

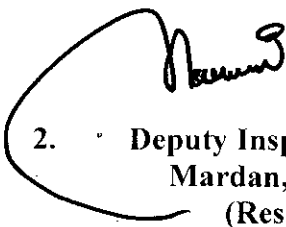
1. Para pertains to the service record of the appellant, hence, needs no comments.
2. Correct to the extent that Charge sheet along-with statement of allegation was issued to the appellant, wherein it was alleged that appellant while posted as I/C PP Munda Head PS Tangi, it came to light through reliable sources that appellant's activities during his posting at PP Munda Head were suspicious and also immoral. Appellant submitted his reply which was found unsatisfactory.
3. Correct to the extent that a proper departmental enquiry was conducted through DSP Inam Jan. Enquiry officer recommended the appellant for major punishment. Before passing punishment order final show cause notice was issued to the appellant, to which he submitted his reply but the same was found unsatisfactory. Hence appellant was awarded major punishment of dismissal from service (**copy of enquiry, FSC and reply to FSC are annexed as annexure A,B &C**).
4. Para pertains to record.
5. Para correct to the extent of filing revision petition under Rule-11 (A) of the Police Rules 1975, whereupon punishment of reduction in rank from Head Constable to Constable and removal from list "D" was converted into stoppage of increment for 03 years with cumulative effect.
6. That respondents approach this Hon'able Tribunal to dismiss appeal of the appellant on the following grounds:

GROUNDS:

- A. Incorrect. Keeping in view long service of 23 years, 04 months and 05-days of the appellant, lenient view was taken and his punishment of reduction in rank and removal from list "D" was converted into stoppage of increment for 03 years with cumulative effect. Hence punishment order is in accordance with law, facts and norms of justice.
- B. Incorrect. Appellant was awarded punishment according to Police Rules 1975 wherein the said punishment has been mentioned. **Copy is attached as annexure D.**
- C. Incorrect. Punishment of stoppage of increment for 03 years with cumulative effect is in accordance with law, rules and norms of justice. Therefore, liable to be maintained.
- A. Incorrect. As discussed earlier by keeping in view long service of appellant lenient view was taken and his punishment of reduction in rank and removal from list "D" was converted into stoppage of increment for 03 years with cumulative effect, which was passed in accordance with law, therefore liable to be maintained.
- B. Incorrect. The appellant was treated in accordance with law and rules.
- C. That the respondents also seek permission of this Honorable Tribunal to advance additional grounds at the time of arguments.

Keeping in view the above facts, it is most humbly prayed that appeal of appellant being without merit and substance, may be dismissed with cost.

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

2. 
**Deputy Inspector General of Police,
Mardan, Region-I Mardan
(Respondent No.2)**

3. 
**District Police Officer,
Charsadda
(Respondent No.3)**



Annexure 'A'

GOVERNMENT OF KHYBER PAKHTUNKHWA,

OFFICE OF THE DY: SUPERINTENDENT OF POLICE,

SHABDADAR

PH: 091-6281302

No. 577 /S, dated Shabqadar the 12-3 /2017

To,

The District Police Officer,
Charsadda.

Subject:

DEPARTMENTAL ENQUIRY AGAINST IHC ALI KHAN I/C PP
MUNDA HEAD PS TANGI.

Respected Sir,

Reference attached.

In enquiry against IHC Ali Khan with the allegation that he while posted as I/C PP Munda, PS Tangi, it came to light through reliable sources that his activities during his posting at PP Munda Head were suspicious and also immoral. This is against the discipline force and also earns bad name for the force.


With reference to the above allegations, he was Charge sheeted, served upon summary of allegations and the undersigned has been appointed as enquiry officer to scrutinize the conduct of the official.

Enquiry was conducted. During enquiry video of the immoral and indisciplined act of suspended IHC Ali Khan was watched. IHC Ali Khan was called to the office. He was heard in detail. He also admitted that he has conducted the same program in PP Munda Head.

From the circumstances it is proved that IHC Ali Khan has committed an illegal, immoral and indisciplined act in police post, and has caused defamation for police department.

It is therefore, suggested that FIR may be registered against him and major punishment of dismissal may be awarded.

Submitted please.


Dy: Superintendent of Police,
Shabqaddar

(5)

Annexure 'B'



FINAL SHOW CAUSE NOTICE

Whereas, the charge of absence was referred to enquiry officer for General Police Proceedings, contained u/s 5(3) Police Rules 1975.

AND

Whereas, the enquiry officer has submitted his findings, recommending you for Major Penalty.

AND


Whereas, I am satisfied with the recommendation of the enquiry officer, that you **IHC Ali Khan**, while posted as I/C PP Munda Head PS Tangi, it came to light through reliable sources that your activities during your posting at PP Munda Head were suspicious and also immoral. Which is against the discipline force and also earns bad name for the force. thus the act amounts to gross misconduct and renders you liable for punishment, under Police Rules 1975.

Therefore, I, Zahoor Babar Afridi, District Police Officer, Charsadda in exercise of the powers vested in me under rules 5(3) (a) (b) of Police Rules 1975, call upon you to explain as to why the proposed punishment may not be awarded to you.

Your reply should reach the undersigned within 07-days of receipt of this notice, failing which disciplinary action pertaining to your dismissal from service will be taken ex-parte.

You are at liberty to appear in person before the undersigned for personal hearing.

Dated 14/03 2018


District Police Officer,
Charsadda

ضلع چارسدہ

پولیس لائن

جناب عالی!

بحوالہ شوکا ز نمبری 276/HC مورخہ 26-02-2018 بجاریہ دفتری DPO صاحب چارسدہ بشمولہ معروض خدمت ہوں کہ سائل محکمہ پولیس میں 26-01-1995 میں بھرتی ہوا ہوں۔ اور محکمہ پولیس میں B1 , A1 لوئر انٹرمیڈیٹ کورس پاس کر چکا ہوں۔ مختلف ڈیوٹیاں جنرل ڈیوٹیاں، مدد محرم، محرم وغیرہ ڈیوٹیاں کر چکا ہوں۔

اور دوران ڈیوٹی مختلف چوکیا یا ت میں بطور انچارج رہ چکا ہوں اور اب بطور انچارج مورخہ 05-07-2017 سے منڈا اھیڈ میں تعینات ہوں اور اپنے دوران تعیناتی اچھی کارکردگی اور بہتر ڈیوٹی سے افسران بالا کی حوصلہ افزائی کی ہے۔

اور تا حال محکمہ پولیس سے کسی قسم سزایا شکایت کا موقع افسران بالا کو نہیں دیا گیا ہے۔

جہاں تک میرے خلاف مشکوک حرکات وغیرہ ڈسپلن ہوئی کی اطلاع ہے تو کوئی ایسی غیر اخلاقی یا غیر ڈسپلن حرکت کی ہے۔ اور نہ ہی میرے ماتحتان کے غیر ڈسپلن حرکات کے ہیں۔

تاہم ڈارمہ نگار جلال الدین ساکن عمر زئی واقعی منڈا اھیڈ اپنے فکاری کے سلسلے میں ہمراہ اپنے ٹیم منڈا اھیڈ آئے تھے جو کہ روٹین کے مطابق مختلف لوگ سیر و تفریح کیلئے آئے جاتے ہیں۔

اور بطور ذمہ دار پولیس افسر میری ذمہ داری ہے کہ منڈا اھیڈ سے جانب غرب شمال علاقے مہمند ایجنسی واقع ہے۔ تو ان پر نظر رکھنا اور انکے سفید پارچا جات میں خیال رکھنا تاکہ کوئی نا خوشگوار واقعہ پیش نہ آئے۔

جہاں تک متذکرہ فنکاروں کیساتھ اٹھنے بیٹھنے اور وقت دینے کا شکایت شاید افسران بالا کو موصول ہوئی ہے۔ تو میں نے اپنے ہونج اور دانشی کے مطابق نیک نیتی اور فرائض منصبی انجام دی ہے۔

اگر افسران بالا کو اس پر ناراضگی ہے تو آئندہ محتاط رہوں گا۔ سائل کا شوکا ز نوٹس بلا کاروائی داخل دفتر فرمایا جاوے۔

AS

آپکا تابع فرمان علی خان ASI

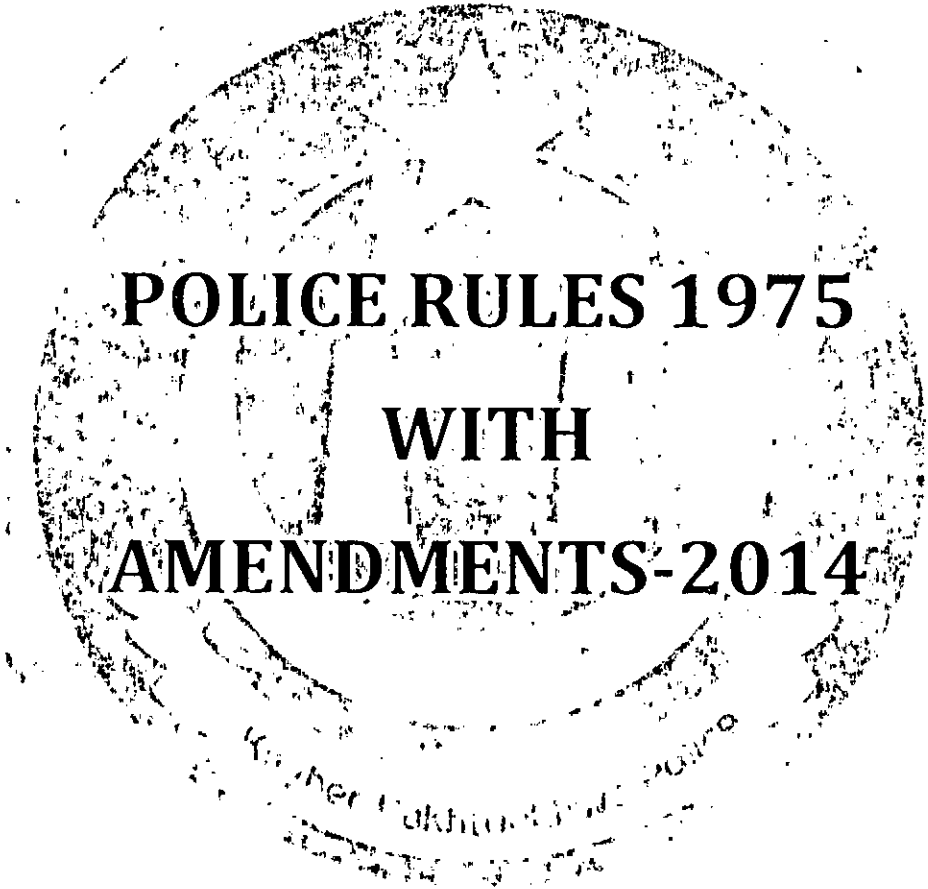
متعینہ پولیس لائن چارسدہ

20-3-2018

POLICE DEPARTMENT
KHYBER PAKHTUNKHWA
EFFICIENCY & DISCIPLINARY RULES

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Annexure 'D'



**POLICE RULES 1975
WITH
AMENDMENTS-2014**

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA,
PESHAWAR.

political or other outside influence directly or indirectly to bear on the Government or any Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police Officer.

(iv) 'Punishment' means a punishment which may be imposed under these rules by authority as indicated in Schedule I.

3. Grounds of punishment.-

Where a Police Officer, in the opinion of the authority-

- a) Is inefficient or has ceased to be efficient; or
- b) Is guilty of misconduct; or
- c) Is corrupt or may reasonably be considered corrupt because-
- (i) He is or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources of property disproportionate to his known sources of income; or
- (ii) He has assumed a style of living beyond his ostensible means; or
- (iii) He has a persistent reputation of being corrupt; or
- (d) Is engaged Or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is, therefore, prejudicial to national security, the authority may impose on him one or more punishments.

4. Punishments.-

1. The following are the minor and major punishments, namely:---

(a) Minor punishments-

- (i) Confinement of Constables and Head Constables for 15 days to Quarter Guards;
- (ii) Censure;
- (iii) Forfeiture of approved service up to 2 years;
- (iv) With holding of promotion up to one year;
- (v) Stoppage of increment for a period not exceeding 3 years with or without cumulative effect;

❖
(iv) Fine up to Rs15000/- as per schedule-I.

(b) Major punishments-

- (i) Reduction in rank/pay;
- (ii) Compulsory retirement;
- (iii) Removal from service; and
- (iv) Dismissal from service.

2. (a) Removal from service does not but dismissal from service does, disqualify for future employment.

(b) Reversion from an officiating rank is not a punishment.

BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 962/2018

Ali Khan, Head Constable No.488, Police Lines Shah Mansoor District
Swabi.....Appellant

VERSUS

IGP/KPK etc:Respondents

AFFIDAVIT

I, Ijaz Hussain, Inspector Legal (representative of the department) do hereby solemnly affirm and declare on Oath that contents of the parawise comments are true and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT:

CNIC No.17201-3070498-1



Identified by

District Attorney
Khyber Pakhtunkhwa,
Services Tribunal

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.962/2018

Ali Khan

VS

Police Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-5) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct as the service record of the appellant is present with the department.
2. It is correct that charge sheet was issued to the appellant, but he denied the allegations in his reply to charge sheet.
3. It is correct that inquiry was conducted against the appellant and show cause notice was issued to the appellant, but he denied the allegations in his reply to show cause notice.
4. Admitted correct as the service record of the appellant is present with the department.
5. Admitted correct hence no comments.
6. No comments.

GROUND:

- A. Incorrect. The punishment of stoppage of three (03) years with cumulative is too harsh which is liable to be set aside or at least modified to without cumulative effect by modifying the order dated 04.07.2018.
- B. The appellant being a low paid employee the punishment of stoppage of three (03) years with cumulative is too harsh which is liable to be

set aside or at least modified to without cumulative effect by modifying the order dated 04.07.2018.

- C. Incorrect. While para C of the appeal is correct.
- A. Incorrect. While para A of the appeal is correct.
- B. Incorrect. The appellant was not treated in accordance with law and rules as as the appellant being a low paid employee the punishment of stoppage of three (03) years with cumulative is too harsh which is liable to be set aside or at least modified to without cumulative effect by modifying the order dated 04.07.2018.
- C. Legal.

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


APPELLANT

Through:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.


DEPONENT



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1142 /ST

Dated 15-05 / 2020

To


The Provincial Police Officer,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 962/2018, MR. ALI KHAN.

I am directed to forward herewith a certified copy of Judgement dated 11.03.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.