

Order

21.11.2019

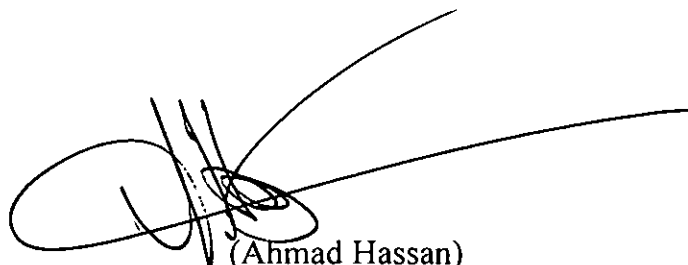
Appellant with counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Shamraiz Khan, ASI for respondents present. Arguments heard and record perused.

This appeal is also accepted as per detailed judgment of today placed on file in service appeal No. 966/2018 titled "Mohammad Younas -vs- Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and one other." Parties are left to bear their own cost. File be consigned to the record room.

Announced:
21.11.2019



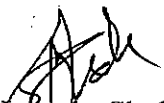
(Muhammad Hamid Mughal)
Member



(Ahmad Hassan)
Member
Camp Court Abbottabad

16.09.2019

Counsel for the appellant and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Adjourned to 19.11.2019 for arguments before D.B at Camp Court Abbottabad.



(Hussain Shah)

Member
Camp Court Abbottabad



(Muhammad-Amin Khan Kundi)

Member
Camp Court Abbottabad

19.11.2019

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Shamraiz Khan, ASI for respondents present. Representative of the respondents present but without relevant record. Learned District Attorney seeks adjournment to produce copy of the complaint as well as record of ^{preliminary} enquiry. Adjourn. To come up for such record and arguments on 21.11.2019 before D.B at Camp Court, Abbottabad.




Member



Member
Camp Court Abbottabad


19.03.2019

Counsel for the appellant present. Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Shamraiz Khan, ASI for the respondents present. Written reply on behalf of respondents not submitted. Learned Deputy District Attorney requested for further adjournment. Adjourned. To come for written reply/comments on 21.05.2019 before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad


21.05.2019

Counsel for the appellant and Mr. Shamraiz Khan, ASI alongwith Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for adjournment. Adjourned to 09.07.2019 for written reply/comments before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

09.07.2019

Counsel for the appellant and Mr. Shamraiz Khan, ASI alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Representative of the department submitted written reply on behalf of respondents No. 1 & 2. Case to come up for rejoinder and arguments on 16.09.2019 before D.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

19.10.2018

Appellant Aurangzebin person alongwith his counsel Mr. Muhammad Aslam Tanoli, Advocate present and heard in limine.

Contends that no departmental enquiry was conducted by the respondents and even then imposed major punishment on the appellant.

The points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections, if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 15.01.2019 before S.B at Camp Court Abbottabad.

Appellant Deposited
Security & Process Fee



Chairman

Camp court, A/Abad

15.01.2019

Learned counsel for the appellant and Mr. Muhammad Bilal learned Deputy District Attorney alongwith Shamrez Khan ASI present. Written reply not submitted. Representative of the respondent department seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 19.03.2019 before S.B at camp court Abbottabad.



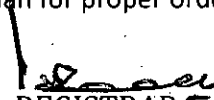

Member

Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 967/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/08/2018	<p>The appeal of Mr. Aurang Zeb presented today by Mr. Muhammad Aslam Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	16-8-2018	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>19-10-2018</u>.</p> <p> CHAIRMAN</p>

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 967/2018

Aurang Zeb, Sub. Inspector No.125/H, (Investigation Wing),
P.S. Havelian District Abbottabad.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad

(Respondents)

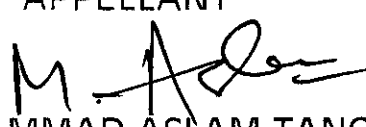
SERVICE APPEAL

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APPELLANT

THROUGH


(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

Dated: 6-08-2018

①

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 967/2018

Aurang Zeb, Sub. Inspector No.125/H, (Investigation Wing),
P.S. Havelian District Abbottabad.

Khyber Pakhtunkhwa
Service Tribunal

(Appellant)

VERSUS

Diary No. 1231

Dated 06-8-2018

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad

(Respondents)

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL
ACT 1974 AGAINST ORDER NO. 54/PA DATED 05-01-2018 PASSED
BY THE REGIONAL POLICE OFFICER, HAZARA REGION
ABBOTTABAD WHEREBY APPELLANT HAS BEEN AWARDED WITH
PUNISHMENT OF "REDUCTION IN PAY FOR 03 YEARS" AND ORDER
DATED 09-07-2018 OF THE D.I.C. HQRS FOR IGP KPK PESHAWAR
WHEREBY APPELLANT'S PUNISHMENT HAS BEEN MODIFIED TO
"REDUCTION IN PAY BY 03 STAGES FOR 03 YEARS".

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL BOTH
THE ORDERS DATED 05-01-2018 AND 09-07-2018 MAY
GRACIOUSLY BE SET ASIDE AND APPELLANT BE RESTORED HIS
PAY TO THE POSITON AS IT WAS BEFORE AWARD OF
PUNISHMENT WITH ALL CONSEQUENTIAL SERVICE BACK
BENEFITS ON RENDITION OF ACCOUNT.

Respectfully Sheweth:

Filed to-day

Registrar

6/8/18

1. That appellant while posted as Sub. Inspector (OII) at Police Station Havelian (District Abbottabad) was served with a Show Cause Notice under No. 3336/PA dated 16-08-2017 by the Regional Police Officer, Hazara Region, Abbottabad alleging therein that:

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"Applicant Raheel Ahmed S/O Mukhtiar Ahmed R/O Havelian complainant of the case vide FIR, 254 dated 30-04-2017 u/s 302/34 PPC PS Havelian submitted application wherein he stated that the accused party of the above case had registered a fake case against him vide FIR No.255 dated 30-04-2017 u/s 324 PPC PS Havelian in their defense to weaken the murder case of applicant's father.

During course of investigation, you being a OII/IO of the said case (FIR No.255) did not recovery any empty shell as well as blood stained article etc from the spot which seemed to be dubious case. You being IO of the case submitted challan in the case against applicant party (Raheel Ahmed etc) putting their names in column No.2 instead of canceling the case. It seems that you have deliberately favoured the accused party involved in murder case of applicant for ulterior motives. It is further transpired that you have also failed to recover the weapon of offence in murder case of applicant. This acts tantamount to gross misconduct on your part". **(Copy of Show Cause Notice dated 16-08-2017 is attached herewith as annex-"A").**

2. That the appellant in response to the Show Cause Notice a detail reply explaining all facts and circumstances of the matter and straightaway denying the allegations leveled therein against him was submitted but could not retain its copy which is in possession of the respondent No.1 therefore could not be produced/attached by appellant with this appeal.
3. That no proper departmental enquiry was conducted. Appellant was never served upon with a Charge Sheet and without considering the appellant's detailed reply to the Show Cause Notice, the Regional Police Officer Hazara Region Abbottabad through his order dated 05-01-2018 awarded the appellant with major punishment

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of "Reduction in pay for three years". Even the appellant was not provided the opportunity of personal hearing. **(Copy of the order dated 05-01-2018 of RPO A/Abad is attached as Annex-"B")**.

4. That aforementioned order of the Regional Police Officer, Hazara Region, Abbottabad was appealed against by the appellant before the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar vide appeal dated 01-02-2018. **(Copy of departmental appeal dated 01-02-2017 is attached as annex-"C")**.
5. That according to order No. 2704/18 dated 09-07-2018 passed by the Dy. Inspector General of Police, Headquarters, Peshawar, (for Inspector General of Police, KPK Peshawar) the Appellate Board held at CPO Peshawar on 27-06-2018 has decided the appellant's departmental appeal modifying the punishment of reduction in pay for three years into "Reduction in pay by 03 stages for 03 years". Though the order was passed on 09-07-2018 but its copy was issued to the appellant on 29-07-2018 that too on his specific written request. **(Copy of order dated 09-07-2018 of the DIG H/QS Peshawar is attached as annex-"D")**.
6. That in fact an occurrence took place at 08:30 hours on 30-04-2017 wherein cross FIRs No. 254 and 255 dated 30-04-2017 were got registered by the parties with Police Station Havelian (District Abbottabad).

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7. That FIR No. 254 dated 30-04-2017 U/S-324/34 PPC was registered at the instance of one Mukhtiar Ahmed Khan (injured) wherein he stated that he was fired at by Niaz, Meherban sons of Ali Asghar and Ali Sarwar and he was wounded seriously. The very complainant Mukhtiar Ahmed Khan subsequently succumbed to the injuries and died due to which section-302 PPC was added in FIR No. 254. **(Copy of FIR No. 254 dated 30-04-2017 is attached as Annex-"E")**.

8. That similarly Niaz (accused of FIR No. 254) reported that he was fired at by Mukhtar Ahmed (Complainant of FIR No. 254) and Gul Waseem & Gul Raheem and was injured whereupon an FIR No. 255 dated 30-04-2017. Both the FIRs No. 254 & 255 dated 30-04-2017 were handed over to the appellant's predecessor SI Mohammad Younas Oll for investigation. **(Copy of FIR No. 255 dated 30-04-2017 is attached as Annex-"F")**.

9. That predecessor of the appellant. SI Mohammad Younus Oll arrested the accused of case FIR No. 254 dated 30-04-2017 U/S-302/34 PPC, got recorded evidence of the witnesses, took blood stained earth from the spot and blood stained clothes of the deceased Mukhtiar Ahmed. Appellant also recovered 08 crime empties from the spot as well as one Kalashnikov from accused Niaz through recovery memo dated 19-05-2017. **(Copy of recovery memo dated 19-05-2017 is attached as Annex- "G")**.

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10. That similarly appellant's predecessor SI Mohammad Younus Oll arrested accused of FIR No. 255 dated 30-04-2017 U/S-324/34 PPC, prepared site plan and recovered blood stained clothes of injured Niaz through Constable Almas No. 579 which were produced to him in the DHQ Hospital Abbottabad through recovery memo dated 30-04-2017. **(Copy of recovery memo dated 30-04-2017 is attached as Annex-"H").**

11. That during the course of investigation on 19-06-2017 SI Mohammad Younus was transferred from Police Station Havelian to PS Cantt Abbottabad and the appellant was handed over with the investigation of both the cases FIRs No. 254 & 255 dated 30-04-2017. *(Copy of Transfer order dated 19-6-17 is annex-'I')*.

12. That so in view of the aforementioned facts the allegations as mentioned in the Show Cause Notice dated 16-08-2017 issued by the Regional Police Officer, Hazara Region Abbottabad are totally incorrect, baseless, without any reason and proof. Because during the investigation predecessor of the appellant SI Mohammad Younus Oll had arrested the accused, recovered 08 crime empties, one Kalashnikov, blood stained earth and blood stained clothes etc in case FIR No. 254. That so far as non-recovery of empty sell and blood stained articles in the FIR No. 255 is concerned in this context it is stated that the site plan dated 03-05-2017 prepared by the predecessor of the appellant SI Mohammad Younus Oll finds mention that due to crops and grass on the spot shell empty could not be found

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and blood stained clothes of the injured Niaz were recovered from the Hospital through recovery memo dated 30-04-2017 as annexed above. It is also added in this respect that appellant was handed over with the investigation of said cases on 19-06-2017 on transfer of SI Mohammad Younas Oll i.e. after 01-month and 20 days of the occurrence. Then question arises that as to how after such a long period of 50 days blood stained articles and shell empty could be traced/found at the place of occurrence. Further, so far as the allegation of submission of challan by putting names of accused (Raheel Ahmed etc) in column of 2 instead of canceling the case is concerned in this respect it is stated that before submitting challan the matter was discussed with the concerned superior officers and in accordance with their advice the challan was submitted. For the reason aforementioned the allegations against the appellant are incorrect and baseless and the penalty awarded to the appellant on the basis of said allegations is illegal and without any justification and proof. Hence instant service appeal, inter alia, on the following:- (copy of site Plan³⁻⁵⁻¹⁷ is annex-J)

GROUNDS

- a) That both the impugned orders dated 05-01-2018 and 09-07-2018 of the authorities are void-ab-initio, illegal, unlawful, non-speaking without lawful authority and have been passed perfunctorily, arbitrarily, whimsical and slipshod in manner, against the facts and circumstances of the case, without any reason and proof, hence are liable to be set aside.

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- b) That respondents have not treated the appellant in accordance with law, departmental rules & regulations and policy on the subject and have acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- c) That no proper departmental inquiry was conducted before awarding the appellant with penalties of "Reduction in pay by 03 stages for 03 years" which conduction was mandatory under the law for dispersion of justice at preliminary stages during the course of departmental inquiries.
- d) That neither the appellant was provided with the opportunity of cross-examining the witnesses, nor was appellant confronted with any documentary proof against him, if any, nor were provided with enquiry findings, nor was the appellant served upon with a Charge Sheet even opportunity of personal hearing was not provided to him.
- e) That the appellate authority has also failed to abide by the law and even did not took into consideration the grounds taken in the memo of appeal. Thus the impugned order of the appellate authority is contrary to the law as laid down in the KPK Police (Efficiency and Disciplinary) Rules 1975 read with Section 24-A of the General Clauses Act 1897 read with Article 10A of the Constitution of Islamic Republic of Pakistan 1973.

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- f) That the appellant is innocent and has discharge his assigned duties in accordance with law, police rules and procedure in vogue with full sense of responsibility and honesty without any omission, commission or fault on his part for which he has been awarded with above referred major punishment.

PRAYER:

It is, therefore, humbly prayed that on acceptance of instant service appeal, the impugned order dated 05-01-2018 and 09-07-2018 passed by the Regional Police Officer, Hazara Region, Abbottabad and the Dy. Inspector General of Police H/Qs (for IGP KPK Peshawar) respectively whereby the appellant has been awarded with the punishment of **"REDUCTION IN PAY FOR THREE YEARS"** and on his departmental appeal the punishment has been modified to **"REDUCTION IN PAY BY THREE STAGES FOR THREE YEARS"** may graciously be set aside and the appellant be restored his pay to the position as was before awarding punishment with all consequential service back benefits on rendition of account in the interest of justice. Any other relief which this Honorable Tribunal deems fit may also graciously be awarded.

THROUGH

Azab
APPELLANT

M. Aslam
(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

Dated: -08-2018

Verification

It is verified that the contents of instant appeal are true and correct to the best of my knowledge and nothing has been concealed there from.

Dated: 6 -08-2018

Azab
Appellant

(9)

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Aurang Zeb, Sub. Inspector No.125/H, (Investigation Wing),
P.S. Havelian District Abbottabad.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad

(Respondents)

SERVICE APPEAL

AFFIDAVIT

I, Aurang Zeb do hereby solemnly declare and affirm on oath that the contents of the instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Service Tribunal.



Deponent/Appellant

Dated: 6-08-2018

Identified By:

M. Aslam Tanoli
Advocate High Court
At Haripur,

Appellant

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**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Aurang Zeb, Sub. Inspector No.125/H, (Investigation Wing),
P.S. Havelian District Abbottabad.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad

(Respondents)

SERVICE APPEAL

CERTIFICATE

It is certified that no such Appeal on the subject has ever
been filed in this or any other court prior to the instant
one.


APPELLANT

Dated: 6 -08-2018

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**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No.....

Aurang Zeb, Sub. Inspector No.125/H, (Investigation Wing),
P.S. Havelian District Abbottabad.

(Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.

(Respondents)

SERVICE APPEAL

APPLICATION FOR CONDONATION OF DELAY.

Respectfully Sheweth:

1. That the above captioned appeal is fixed for today for preliminary arguments before this Honourable Tribunal.
2. That the facts and grounds in the accompanying memo of appeal may please be treated as an integral part of this application, so preferred, today.
3. That the appellant is pursuing his grievance with due diligence for no commission or omission on his part towards the performance of his lawful duty with every honesty, sincerity and punctuality with bright previous service record.

4. That the delay in filing instant appeal (if any) is neither deliberate nor intentional, as the appellant's departmental appeal was decided by appellant authority on 09-07-2018 and then copy of the same was delivered to him on 29-07-2018 as such the instant appeal, so filed is within time. Apart, the valuable rights of the appellant are involved in the matter with far reaching repercussions on his family and children. Otherwise, also the law favors judgments delivered and justice done on the basis of proper adjudication of the issue in question rather than discarding the same on the grounds of technicalities.

It is, therefore, very humbly prayed that the delay (if any) may please be condoned in the high interest of justice.

THROUGH

Azib
APPELLANT
M. Adnan
(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

Dated: 6-08-2018

AFFIDAVIT:

I, Aurang Zeb do hereby solemnly declare and affirm on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Service Tribunal.

Azib
Deponent/Appellant

Dated: 6-08-2018

(13)

OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD
SHOW CAUSE NOTICE

Annex - A

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

that you SI Aurangzeb while posted as OII at PS Havelian Abbottabad has rendered liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 following misconduct:-

Applicant Raheel Ahmed s/o Mukhtiar Ahmed r/o Havelian complainant of the vide FIR No: 254 dated 30.04.2017 u/s 302/34 PPC PS Havelian submitted application wherein he stated that the accused party of the above case had registered a fake case against him. vide FIR No: 255 dated 30.04.2017 u/s 324 PPC PS Havelian in their defence to weaken the murder case of applicant's father.

During course of investigation, you being a OII/IO of the said case (FIR No: 255) did not recover any empty shell as well as blood stained articles etc: from the spot which seemed to be dubious case. You being IO of the case submitted challan in the case against the applicant party (Raheel Ahmed etc) putting their names in column No: 2 instead of canceling the case. It seems that you have deliberately favoured the accused party involved in murder case of applicant for ulterior motives. It further transpired that you have also failed to recover the weapon of offence in murder case of applicant. This acts tantamount to gross misconduct on your part.

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

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

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

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

6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 for the misconduct referred to above.

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

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

(MURAD SAIED KHAN)
Regional Police Officer
Hazara Region (Abbottabad)

No: 3336 /PA, dated Abbottabad the 16-8-2017. Copy of above (in duplicate) is forwarded to SP in RTD with the direction to serve the original copy upon SI Aurangzeb & the duplicate copy of the same after obtaining proper signature of the said SI may be returned to this office as a token of receipt.

Attested
Superintendent of Police
Investigation Abbottabad

29-7-18

FM

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ORDER

Annex-B

This is an order against SI Aurangzeb while posted as OII Police Station Havelian Show Cause Notice issued by the Regional Police Officer, Hazara Region, Abbottabad vide Endst: No: 3336/PA, dated 16.08.2017.

Brief facts of the case are that applicant Raheel Ahmed s/o Mukhtiar Ahmed r/o Havelian complainant of the case vide FIR No: 254 dated 30.04.2017 u/s 302/34 PPC PS Havelian submitted application wherein he stated that the accused party of the above case had registered a fake case against him vide FIR No: 255 dated 30.04.2017 u/s 324 PPC PS Havelian in their defence to weaken the murder case of applicant's father.

During course of investigation, he being an OII/IO of the said case (FIR No: 255) failed to recover any empty shell as well as blood stained article etc: from the spot which seemed to be dubious case. He being IO of the case submitted challan in the case against the applicant party (Raheel Ahmed etc) putting their name in column No: 2 instead of canceling the case. It seems that he has deliberately favoured the accused party involved in murder case of applicant for ulterior motives. He has also failed to recover the weapon of offence in murder case of applicant. This acts tantamount to gross misconduct on his part.

On the application of complainant, DSP Havelian conducted preliminary enquiry and submitted his findings in which he stated that the above mentioned fake cross case u/s 324 PPC was registered in PS Havelian to weaken the murder case which must be cancelled by the IO SI Aurangzeb. He further stated that the IO Aurangzeb also attached the affidavits with case file of murder case supporting accused without direction of his superiors for ulterior motives.

He was called in OR and heard in person on 03.01.2018 where he failed to convince the undersigned regarding above mentioned allegation leveled against him. Therefore, the undersigned is constrained to award him major punishment of "Reduction in pay for three years" under Khyber Pakhtunkhwa Police Rules 1975.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. 54 /PA Dated Abbottabad the 5-1-2018.

Copy of above is forwarded to the DPO Abbottabad & SP Investigation, Abbottabad for necessary action.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

Attested

[Signature]

Superintendent of Police
Investigation Abbottabad

29-7-18

بمقتور جناب IGP صاحب خیبر پختون خواہ

بمقدمہ علت نمبر 255 مورخہ 30.04.2017 جرم 324/34 PPC تھانہ حویلیاں، ضلع ایبٹ آباد۔

بیانہ

(1) مختیار احمد ولد دوست محمد (2) گل وسیم ولد محمد اقبال (3) رحیم گل ولد گل وسیم اقوام پٹھان ساکنان حال محلہ ضامن شاہ حویلیاں۔

بذریعہ :- محمد نیاز ولد علی اصغر قوم اعوان سکنہ بازار حویلیاں۔

عنوان :- اپیل برائے بحالی اینکریمنٹ

جناب عالی!

مدعی مقدمہ نے مورخہ 30.04.2017 کو چوکی DHQ میں اپنی مضروبیت کی رپورٹ نوید شاہ IHC کو کی کہ وہ مکاں گاؤں میں اپنی زمیں کی دیکھ بھال کے لئے گیا، مختیار احمد ولد دوست محمد، گل وسیم ولد محمد اقبال ساکنان محلہ ضامن شاہ حویلیاں اور گل وسیم کا بیٹا جس کا نام نہیں آتا ہے، اس کی اراضی کو گندم کی فصل کاٹ رہے تھے اس نے منع کیا، مذکوران نے اس کی بات نہ سنی اور اس پر مختیار اور گل وسیم نے پتھر اور شروع کر دیا۔ ہردو بمسلسل پستول تھے مختیار نے پستول نکالا اور بولا بھاگ جاو ورنہ ختم کر دیں گئے ملک مختیار نے ہوائی فائر کیا اور دوسری گولی سیدھی مجھے ماری جو مختیار کی گولی سے دائیں ٹانگ سوخ کے نزدیک لگنے سے زخمی ہوا اور گل وسیم سے بھی فائر کیا جو دائیں بازو کی کوئی سے تھوڑا اوپر زخمی ہوا میں نے بھی اپنی جان بچانے کی خاطر ہسپتال سے فائر کیا۔ مختیار گندم میں گر گیا میں نے مذکوران سے بھاگ کر جان بچائی وقوع ہذا گاؤں کے لوگوں نے دیکھا۔ رپورٹ پر مقدمہ قائم ہو کر تفتیش محمد یونس SI/OH نے کی ملاحظہ موقعہ گواہان چشم دید کی نشان دہی پر مرتب کیا، گواہان چشم دید کے بیانات زیر دفعہ 161 ض ف قلمبند کیا۔ جب کہ بالقابل مقدمہ علت 254 مورخہ 30.04.2017 کی تفتیش کر رہے تھے۔ مقدمہ ہذا کے مدعی مقدمہ ملک مختیار احمد جو کہ ATH میں گولی لگنے سے زخمی ہو کر زیر علاج تھا، اس مقدمہ میں بھی گواہان چشم دید گل وسیم اور محمد اقبال کی نشان دہی پر نقشہ موقع مرتب کیا، 8 عدد خول کارتوس کلاشنکوف دوران موقع ملاحظہ برآمد کئے۔ ملزم نیاز مدعی مقدمہ کو DHQ ہسپتال سے گرفتار کیا۔ اسی طرح ملک مختیار کو ATH ہسپتال سے گرفتار کیا جو حراست پولیس میں جان بحق ہوا۔ جرم 302/34 PPC کی مقدمہ میں آیزوگی کی۔ ملزم محمد نیاز کو بعد صحت یابی جیل سے طلب کر کے حراست پولیس حاصل کر کے آلہ قتل کلاشنکوف ملزم کی نشان دہی پر برآمد کی، خول کارتوس 8 عدد برآمدہ از موقعہ اور کلاشنکوف آلہ قتل برائے FSL پشاور نیچوئے جن کارزلٹ مثبت موصول ہوا۔ ڈائری نمبر 364 مورخہ 11.07.2017 لف ہے۔ اسی طرح ضمنی نمبر 11 مورخہ 24.05.2017 ملزمان مہربان اور ملزم علی سرور اور نگرزیب کی وقوعہ میں ملوث نہ ہونے کے اثاب پیپر لف کئے ہیں جو ضمنی بھی لف ہذا ہے۔ ملزمان گل وسیم اور اس کا بیٹا رحیم گل کی بھی عبوری ضمانتیں کروائیں، جس نے مورخہ 27.06.2017 تک تفتیش کی اس کے بعد تھانہ ہذا سے تھانہ کینٹ تبدیل ہوئے۔ ملزمان کی عبوری ضمانتیں مورخہ 11.07.2017 کو عدالت سے

صفحہ: 1

Accepted
Date

منسوخ ہوئیں۔ ملزمان اور مقدمہ کے بارے میں افسران بالا سے ڈسکس ہوئی، میڈیکل رپورٹ مدعی کے مقدمہ کے متعلق افسران بالا سے ڈسکس ہوئی جنہوں نے ہدایت کی کہ ملزمان گل و سیم اور رحیم گل کو خانہ نمبر 2 میں رکھ کر چالان دیا جاوے۔ میں نے ملزمان کو خانہ نمبر 2 میں رکھ کر چالان کے لئے منسل مقدمہ حوالہ SHO صاحب کی اسی دوران ملزم مختیار احمد کالز کاراجیل احمد جناب DIG صاحب پر پیش ہو کر درخواست گزارہی جناب DIG صاحب نے سائل کو طلب کر کے SHOW CAUSE NOTICE جاری کیا اور انکو آڑی کے لئے DSP صاحب جو بلیاں کو مقرر کیا اسی دوران میرا ایکٹیوینٹ ہو کر بائیاں پاؤں ٹوٹ گیا۔ مجھے انکو آڑی کے لئے طلب نہ کیا گیا جملہ الزامات میرے اوپر عائد کر کے رپورٹ انکو آڑی جناب DIG صاحب کو بھجوائی جنہوں نے اردلی روم میں طلب کر کے تین اینٹکر سینٹ سٹاپ کئے سائل نے انصاف کے تقاضوں کو پورا کرتے ہوئے اور افسران بالا کے حکم پر ملزمان کو خانہ نمبر 2 میں چالان کے لئے منسل مقدمہ چالان کے لئے حوالہ SHO صاحب کی۔ DIG صاحب کے حکم پر اب مقدمہ خارج ہو چکا ہے۔ تفتیش میں میں نے کوئی غلطی کوتاہی نہ برتی ہے، جملہ غلطی کوتاہی سابقہ IO کی ہے جملہ حقائق جناب DIG صاحب کے نوٹس میں لگانے کی وجہ سے سابقہ IO کو بھی اس کوتاہی کی وجہ SHOW CAUSE NOTICE جاری ہے۔ جس میں میں بے گناہ ہوں۔

لہذا استدعا ہے کہ جناب سے اپیل کی جاتی ہے کہ سائل کے 3 اینٹکر سینٹ بے گناہ سٹاپ کئے گئے ہیں، بحال کرنے کے

احکامات صادر فرمائے جائیں۔

عین نوازش ہوگی۔

المرقوم: 01/02/2018

العارض

طرحہ
اورنگزیب SI تھانہ حویلیاں، ایبٹ آباد۔۔۔ سائل
1-2-18
موبائل نمبر: 0302-5619047

Alleged
A...



17

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

Annex-D

No. S/ 2704 /18, Dated Peshawar the 09/07/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by ASI Aurang Zeb (the then SI). The appellant was awarded penalty of reduction in pay for three years by Regional Police Officer, Hazara vide order Endst: No. 54/PA, dated 05.01.2018 on the charges that the applicant Raheel Ahmed s/o Mukhtiar Ahmad r/o Havelian, complainant of the case vide FIR No. 254, dated 30.04.2017 u/s 302/34 PPC Police Station Havelian, submitted application wherein he stated that the accused party of the above case had registered a fake case against him vide FIR No. 255, dated 30.04.2017 u/s 324 PPC PS Havelian in their defence to weaken the murder case of applicant's father.

During course of investigation, he being an OI/IO of the said case (FIR No. 255), failed to recover any empty shell as well as blood stained article etc: from the spot which seemed to be a dubious case. He being IO of the case submitted challan in the case against the applicant party (Raheel Ahmad etc) putting their name in column No. 2 instead of cancelling the case. It seems that he has deliberately favoured the accused party involved in murder case of applicant for ulterior motives. He also failed to recover the weapon of offence in murder case of applicant.

On 27.06.2018, the meeting of Appellate Board held at CPO Peshawar, wherein the petitioner was heard in person in length.

The Board endorsed the order of Regional Police Officer, Hazara. However, stages of reduction in pay had not been mentioned; therefore, the Board decided that penalty of reduction in pay for three years is hereby modified into reduction in pay by three stages for three years.

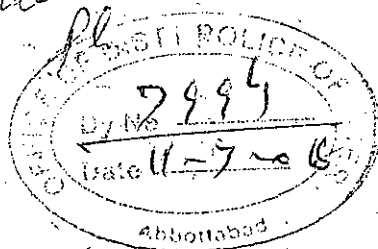
This order is issued with the approval by the Competent Authority.

By Officer IA
EA

(SHER AKBAR)
PSP, S.SU

Deputy Inspector General of Police, HQrs:
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

For necessary action



No. S/ 2705-12 /18.

11/7

Copy of the above is forwarded to the:

1. Regional Police Officer, Hazara at Abbottabad. Service Record alongwith Fauji Missal containing enquiry file of the above named ASI received vide your office Memo: No. 2450, dated 01.06.2018 is returned herewith for your office record.
2. District Police Officer, Abbottabad.
3. Supdt. of Police, Investigation, Abbottabad.
4. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
8. Office Supdt: B-III, CPO, Peshawar.

Attested

Superintendent of Police
Investigation Abbottabad

29-7-18

24

Annex-9

Phone: 05
Fax: 05



Office of the Superintendent of Police, Investigation, Abbottabad

ORDER

The following transfers/posting among subordinates are hereby ordered with immediate effect.

S. No	Name & Rank	From	To
1.	SI Younis Khan	OII PS Havelian	OII PS Cantt.
2.	SI Anwar Khan	Inv: HQrs.	OII PS Havel

OB No: 47
dt 19-6-17

No: 3534-35 /Inv: 20-6-17

Superintendent of Police
Investigation, Abbottabad

- 1. Copy of above is submitted for favour of information to Regional Police Officer, Hazara Region Abbottabad.
- 2. District Police Officer Abbottabad.

Attested

Superintendent of Police
Investigation Abbottabad

30-7-2018

Superintendent of Police
Investigation, Abbottabad

19/6

Attested
Zeb

قلم 2A سے اس کے دوران وقوع حاصل ہوتا ہے۔
 اس کے وقوع سے قلم 2A سے اس کے دوران وقوع حاصل ہوتا ہے۔
 قلم 2A سے اس کے دوران وقوع حاصل ہوتا ہے۔

قلم 3A سے اس کے دوران وقوع حاصل ہوتا ہے۔
 اس کے وقوع سے قلم 3A سے اس کے دوران وقوع حاصل ہوتا ہے۔
 قلم 3A سے اس کے دوران وقوع حاصل ہوتا ہے۔

حاصل جانے والے قلم 2A سے قلم 3A کا درجہ حاصل ہوتا ہے۔
 قلم 2A سے قلم 3A کا درجہ حاصل ہوتا ہے۔
 قلم 3A سے قلم 2A کا درجہ حاصل ہوتا ہے۔
 قلم 2A سے قلم 3A کا درجہ حاصل ہوتا ہے۔
 قلم 3A سے قلم 2A کا درجہ حاصل ہوتا ہے۔

اس کے ساتھ ساتھ اس کے دوران وقوع حاصل ہوتا ہے۔
 اس کے ساتھ ساتھ اس کے دوران وقوع حاصل ہوتا ہے۔
 اس کے ساتھ ساتھ اس کے دوران وقوع حاصل ہوتا ہے۔

ST-011-RS-HVN
 3-5-2017

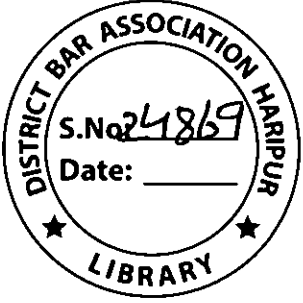
Attest
 /s/

DBA No: 206
BC No:
Name of Advocate: محمد اسلم منوئی

S.No: 24869



وکالت نامہ



بعدالت جن صاحب منوئی صاحب صدر منوئی خواہ سہ ماہی منوئی لہذا
عنوان: نام: KPK کالمنٹریٹ اور سٹریٹ آفیسر
منجانب: نوعیت مقدمہ: لہذا

باعت تحریر آنکھ
مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصنیف مقدمہ بمقام ایس ڈی منوئی لہذا

کو حسب ذیل شرائط پروکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا اور بروقت
پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری
غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب
موصوف صدر مقام پکھری کے علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ
ہوں گے اور مقدمہ پکھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے
پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا محتانہ کے واپس کرنے کے بھی صاحب
موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو
عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی
اختیار ہوگا اور اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور
اس کے ثالثی و راضی نامہ و فیصلہ بر حلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات از پکھری صدر
اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم استناع یا ترقی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب
موصوف کو بشرط ادا ایسی علیحدہ محتانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ
مذکور یا اس کے کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو
بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ
التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کر دے گا تو صاحب
موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے
برخلاف نہیں ہوگا۔

Acceptance
M. Adil
2018 08 06
مورخہ: دن 06 / ماہ 08 / سال 2018

Azib
(Aurangzeb)
- Dillal

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

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

Service Appeal No. 967/2018.

Aurangzeb, Sub-Inspector No. 125/H, (Investigation wing) PS Havelian
District Abbottabad.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Hazara Region, Abbottabad.

(Respondents)

Respectfully Sheweth

Parawise Comments on behalf of Respondents are as under:-

Preliminary Objections.

1. That the appellant has no cause of action.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appeal is bad for miss-joinder and non-joinder of necessary parties.
4. That the appellant is estopped by his own conduct.
5. That the appeal is barred by law & limitation, hence liable to be dismissed without any further proceeding.
6. That the appellant has suppressed the material facts from this Honourable Tribunal hence, not entitled for any relief and the appeal is liable to be dismissed.

UP ON FACTS:-

1. Pertains to record. However, appellant, being OII/I.O in case vide FIR No. 255 did not recover any empty shell as well as blood stained articles from the spot which seemed to be dubious case. Furthermore, appellant submitted challan against the accused by putting his name in column No. 2 instead of cancelling the case which shows that

appellant deliberately favoured the accused party hence, extreme level of in-efficiency and non-professionalism.

2. That the reply furnished by the appellant was not satisfactory, hence the appellant was proceeded against departmentally.
3. Para No. 3 is incorrect. That proper departmental enquiry was conducted after fulfilling all codal and legal formalities; he was awarded punishment in accordance with law.
4. Para No. 4 is correct. That the appellate authority modified the punishment of Reduction in pay for three years into Reduction in pay by three stages for three years in accordance with law/rules. (Copy of order dated 09.07.2018 is attached as Annexure "A").
5. Para No. 5 is incorrect, that the appellant was heard in person by the appellate board held at CPO Peshawar on 27.06.2018 and written order was also communicated to him accordingly.
6. That being IO of the case he deliberately favoured the accused party involved in murder case vide FIR No. 254 dated 30.04.2017 u/s 302/34 PPC PS Havelian. He failed to recover the weapon of offence. He registered a fake case against the complainant of murder case and instead of cancelling case and kept the name of accused party in column No. 2 which shows that appellant favoured the accused party.
7. Para No. 7 pertains to record.
8. Para No. 8 correct to the extent that cross FIR was registered but as I.O it was his duty to dig out the real facts, and investigate the case

from all angles. The investigation conducted by appellant in case FIR No. 255 shows malafide and ulterior motive on his part.

9. Para No. 9 is incorrect. The appellant being IO failed to recover the weapon of offence and blood stained articles etc, from the spot, which shows lack of professionalism.
10. That during investigation of case vide FIR No. 255 dated 30.04.2017 U/s 324/34 PPC being investigating officer failed to investigate the case purely on merit in accordance with law, rules and deliberately extended benefit to the accused of case FIR No. 254 dated 30.04.2017.
11. Para No. 11 needs no comments.
12. Para No. 12 is incorrect, that the appellant himself admitted that in case FIR No. 255, he failed to recover empty shell and blood stained articles which shows malafide on the part of appellant.

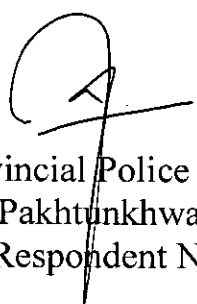
GROUND:-


- a. That orders of the appellate authority are in accordance with law and rules.
- b. That proper enquiry was initiated, show cause notice was served, personal hearing opportunity was awarded and entire proceedings were conducted in accordance with law.
- c. As explained in above Paras.
- d. That, all legal formalities have been observed and the punishment was awarded in accordance with law.

- e. That, the appellate authority constituted appellate board at CPO Peshawar, meeting held on 27.06.2018. The board also heard in person and appeal was disposed of in accordance with law.
- f. That the appellant failed to perform his assigned duty in accordance with law, rules, procedure which shows his dishonesty and malafide on the part of appellant.

PRAYER.

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


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 1)


Regional Police Officer,
Hazara Region, Abbottabad.
(Respondent No. 2)

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

Service Appeal No. 967/2018.

Aurangzeb, Sub-Inspector No. 125/H, (Investigation wing) PS Havelian
District Abbottabad.

(Appellant)

VERSUS

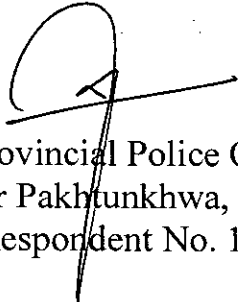
1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Hazara Region, Abbottabad.

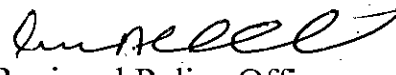
(Respondents)

AFFIDAVIT.

We, do hereby affirm on oath that the contents of written comments are true to the best of our knowledge & belief and nothing has been concealed from the Honorable Service Tribunal.

Submitted please.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 1)


Regional Police Officer,
Hazara Region, Abbottabad.
(Respondent No. 2)

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 967/2018

Auranzeb KhanV/S.....IGP & Others
(Appellant) **(Respondents)**

REJOINDER ON BEHALF OF THE APPELLANT

Respectfully Sheweth:

The appellant submits his rejoinder as under:-

Preliminary Objections:

1. Contents incorrect and misleading, appellant has illegally awarded the penalty of reversion in rank; hence he has got every cause of action and locus standi to file the instant appeal.
2. Contents incorrect & misleading, appellant has come to this Honorable Service Tribunal with clean hands as he has not committed any such act to attribute the allegation of unclean hands.
3. Contents incorrect and misleading, all necessary parties have been arrayed in the instant appeal.
4. Contents incorrect and misleading, no rule of estoppel is applicable in the instant case.
5. Contents incorrect and misleading, appellant has filed instant appeal well within prescribed period of time limitation.
6. Contents incorrect and misleading, the appellant has mentioned all material facts with proof in his instant appeal and is entitle to every relief the order of authority being illegal, unlawful and against departmental rules/regulations and norms of justice.

ON FACTS:

Contents of para No.1 to 12 of the appeal are correct and the reply submitted to these paras by respondents in para-1 to 13 is incorrect and misleading hence denied.


GROUND:

All the grounds "A" to "F" taken in the memo of appeal are legal and will be substantiated at the time of hearing of appeal and reply submitted to these paras by respondents from "A" to "F" is incorrect and misleading hence vehemently denied.

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

THROUGH


APPELLANT

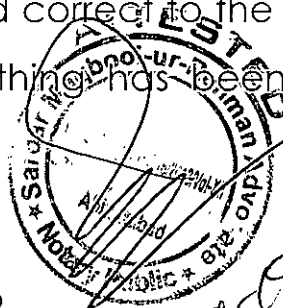

(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
AT HARIPUR

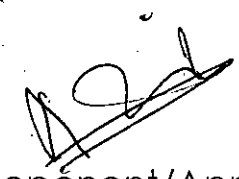
Dated: 16-09-2019

AFFIDAVIT:

I, Aurangzeb Khan Appellant do hereby solemnly declare that contents of this rejoinder as well as that of titled appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 16-09-2019




Deponent/Appellant