

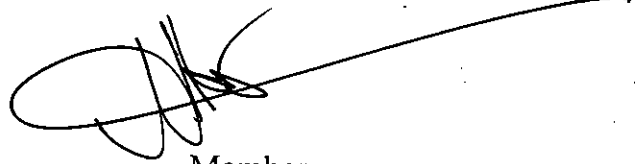
05.03.2019

Counsel for the appellant and Mr. Mian Amer Muhammad, District Attorney alongwith Mr. Khawas Khan, SI for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, the appeal is accepted, the impugned order dated 15.02.2018 and 31.07.2018 are set aside and the appellant is reinstated in service. The respondents are directed to conduct proper enquiry under the Police Rules 1975 within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry.. Parties are left to bear their own costs. File be consigned to the record room.



Chairman



Member
Camp court, Swat

ANNOUNCED
05.03.2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT.

Service Appeal No. 968/2018

Date of Institution ... 06.08.2018

Date of Decision ... 05.03.2019

Taimoor Khan S/o Muhammad Gul R/o Shawkalay R/o Koper, Tehsil Dargai,
District Malakand (Ex-constable no. 1680). ... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

MR. SHABIR AHMAD KHAN,
Advocate

--- For appellant.

MIAN AMIR QADAR,
District Attorney

--- For respondents

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

--- MEMBER(Executive)
--- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the
parties heard and record perused.

ARGUMENTS.

2. Learned counsel for the appellant argued that on the basis of a complaint received from SDPO, a show cause notice was served on him and thereafter major penalty of dismissal from service was awarded vide impugned order dated 15.02.2018. He preferred departmental appeal which was dismissed on 24.04.2018 followed by review petition under Rule-11(A) of Police Rules 1975 and was also turned down vide order dated 31.07.2018, hence, the instant service appeal. Though charges leveled against the appellant were frivolous and baseless but for the purpose

of ensuring justice, proper enquiry was required to be conducted. In the present circumstances, the appellant was condemned unheard.

3. Learned District Attorney argued that the appellant was found guilty of having illicit relations with a girl and was proceeded under Police Rules 1975. Major punishment was awarded to him after observance of codal formalities.

CONCLUSION.

4. We would like to first highlight that the allegations of illicit relations with a local girl were leveled against the appellant in a report of SDPO and resultant show cause notice was served under Sub-rule-3 of Rule-5 of Police Rules 1975 on 01.02.2018. However, copy of the said complaint is not annexed with the parawise comments of the respondents. In these circumstances, it is really difficult for this Tribunal to give any clear findings on the veracity/contents of the above reference. We are also unable to comprehend as to what abtained the respondents from holding formal enquiry. Perusal of the show cause notice further revealed that no reason has been recorded for dispensing with regular enquiry. As major penalty was awarded to the appellant so the principle of natural justice supported by numerous judgments of the superior courts demanded that for the proper dispensation of justice regular ^{inquiry} should have been conducted in the case in hand. Action taken by the respondents appeared to be harsh, arbitrary and against the laid down procedure.

5. As a sequel to above, the appeal is accepted, the impugned order dated 15.02.2018 and 31.07.2018 are set aside and the appellant is reinstated in service. The respondents are directed to conduct proper enquiry under the Police Rules 1975

within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROOQ DURRANI)
Chairman



(AHMAD HASSAN)
Member
Camp court Swat

ANNOUNCED
05.03.2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
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--- For appellant.

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District Attorney

--- For respondents

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

--- MEMBER(Executive)
--- CHAIRMAN

JUDGMENT

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parties heard and record perused.

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05.11.2018


Due to retirement of the Hon'ble Chairman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 04.12.2018 at camp court Swat.



Reader

04.12.2018

Appellant in person and Mr. Usman Ghani learned District Attorney alongwith Mr. Khawas Khan Inspector present. Representative of the respondents submitted written reply/comments which is placed on file. Adjourn. To come up for rejoinder if any and arguments on 09.01.2019 before D.B at Camp Court Swat.




Member
Camp Court, Swat

07.01.2019

Appellant in person present. Mr. Khawas Khan, S.I (Legal) alongwith Mr. Mian Amir Qadir, District Attorney for the respondents present. Appellant submitted rejoinder and requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 05.03.2019 before D.B at Camp Court Swat.



(Ahmad Hassan)
Member

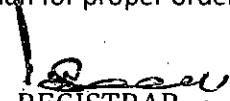




(M. Amin Khan Kundi)
Member
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 968/2018

| 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. Taimoor Khan presented today by Mr. Shabir Ahmad 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;"> REGISTRAR</p> |
| 2- | 16-08-2018 | <p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>07-09-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| 07.09.2018 | | <p>Appellant Taimur Khan in person alongwith his counsel Mr. Shabir Ahmad Khan, Advocate present and heard preliminary.</p> <p>Contends that major penalty of dismissal from service has been imposed but without conducting regular inquiry-vis-affording opportunity of hearing to the appellant.</p> <p>Points urged need consideration. Admit. Appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 05.11.2018 before S.B at camp court Swat.</p> <p style="text-align: right;"> Chairman Camp Court Swat</p> |

**Appellant Deposited
Security & Process Fee**



**BEFORE KHYBER PAKHTUNKHWAH
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 968 of 2018

Taimoor Khan

VERSUS

Inspector General of Police Khyber Pakhtunkhwa at Peshawar
and others

SERVICE APPEAL

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Appellant *Taimoor Khan*
Through Counsel *Shabir Ahmad Khan*
Shabir Ahmad Khan
Advocate, High Court
Office Address: Hamza Law Chamber,
Allah - o - Akbar Building, Makan
Bagh Chowk, Mingora, District Swat
Cell: 0341-5666363 , 0333-9499466

Dated: 03/08/2018

(1)

**BEFORE KHYBER PAKHTUNKHWAH
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 968 of 2018

Taimoor Khan S/o Muhammad Gul R/o Shawkalay R/o
Koper, Tehsil Dargai, District Malakand (Ex-constable
No. 1680)

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1234
...Appellants

Dated 6/8/2018
VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa at Peshawar
2. Regional Police Officer Malakand Range - III at Saidu Sharif Swat.
3. District Police Officer Swat.

.....Respondents

SERVICE APPEAL U/S 4 OF THE KPK SERVICE
TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDER OF RESPONDENT NO. 3 DATED 15/02/2018,
WHEREBY APPELLANT WAS DISMISSED FROM
SERVICE WITH IMMEDIATE EFFECT AGAINST
WHICH APPELLANT FILED DEPARTMENTAL
APPEAL ON 17/02/2018 WHICH WAS ALSO FILED BY
RESPONDENT NO. 2 THEN THE APPELLANT
PREFERRED AN APPLICATION TO THE REVIEW
COMMITTEE OF RESPONDENT NO. 1 BUT THE
SAME WAS ALSO REJECTED BY REVIEW

Filed to-day
Registrar
6/8/18

(2)

COMMITTEE BOARD VIDE ORDER NO. 3158-64 / 18

DATED 31/07/2018.

Respectfully Sheweth:

Facts arising to the present appeal are as under;

- 1) That appellant was initially recruited in police department on 15/12/2008 as Constable.
- 2) That on 01/01/2018 a Show cause notice vide no. 71/PA was issued to the appellant in which allegation leveled against the appellant that appellant developed illicit relation with a married girl at Mohallah Spiro Gato and visiting her house by motorbike and persuading her to get divorce from her husband. Therefore, the appellant submitted reply of the show cause notice issued by respondent No. 3 but without conducting proper inquiry and without reaching to the real facts, the respondent No. 3 straight away dismissed the appellant from service. (Copy of dismissal order of respondent No.3 is attached herewith as annexure "A" and photocopy of

(3)

written statement of show cause notice is annexed as annexure "B")

- 3) That the appellant aggrieved from the order of respondent No.3 preferred departmental appeal to respondent No. 2 but the same was also filed by the respondent No. 2 without giving opportunity of hearing to appellant. (Copy of departmental appeal and order of respondent No. 2 is attached herewith as annexure "C & D")
- 4) That the appellant aggrieved from the order of respondent No. 2 preferred an application to the review committee board of respondent No.1 for reinstatement to the service but the same was also rejected by the review committee board on 31/07/2018, hence the instant appeal is filing before this Honorable Tribunal. (Copy of application and order of respondent No. 1 is attached herewith as annexure "E&F")
- 5) That no proper opportunity of being fairly heard, was given to appellant by respondent No. 3 and illegally dismissed the appellant from service which is against law and service rules and norms of natural justice.

(4)

Hence the present appeal is submitted on the following amongst other grounds.

GROUND:-

- i. That the appellant was not treated in accordance with law and rules on the subject and the impugned order has been passed in flagrant violation of law and rules tainted with mala-fide intention and is therefore not sustainable and is liable to be set aside.
- ii. That the allegations leveled against the appellant are baseless, frivolous and not sustainable and untenable under the law and rules on the subject.
- iii. That neither proper inquiry of the appellant was conducted nor proper opportunity of hearing was given to the appellant.
- iv. That the universal cannon of natural justice have been set aside and no ample opportunity of presenting the delinquent stance / version has been given.
- v. That the constitutional and fundamental requirements of "Equal protection and

(5)

equality before law" have bluntly been violated.

vi. The impugned order is unreasonable, arbitrary and is liable to be set aside.

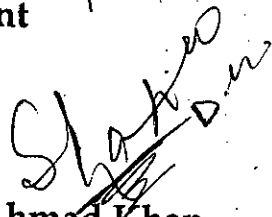
vii. That other important points will be raised during the course of arguments with prior permission of this Honorable Tribunal.

It is therefore, humbly prayed that on acceptance of this service appeal, the impugned order of respondents may graciously be set aside and appellant may be reinstated in service with all back benefits.

Any other relief as deemed appropriate in the circumstances of the case and not specifically asked for may also be granted to appellant.

Appellant 

Through Counsel


Shabir Ahmad Khan

Advocate, High Court

Dated: 03/08/2018

(6)

**BEFORE KHYBER PAKHTUNKHWAH
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. _____ of 2018

Taimoor Khan

VERSUS

Inspector General of Police Khyber Pakhtunkhwa at Peshawar
and others

SERVICE APPEAL

MEMO ADDRESSES

ADDRESS OF THE APPELLANT:

Taimoor Khan S/o Muhammad Gul R/o Shawkalay R/o
Koper, Tehsil Dargai, District Malakand (Ex-constable
No. 1680)

ADDRESSES OF THE RESPONDENTS:

1. Inspector General of Police Khyber
Pakhtunkhwa at Peshawar
2. Regional Police Officer Malakand Range – III at
Saidu Sharif Swat.
3. District Police Officer Swat.

Appellant

Through Counsel

Shabir Ahmad Khan

Advocate, High Court

(7)
BEFORE KHYBER PAKHTUNKHWAH
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ of 2018

Taimoor Khan

VERSUS

Inspector General of Police Khyber Pakhtunkhwa at Peshawar
and others

SERVICE APPEAL

Affidavit

I Taimoor Khan S/o Muhammad Gul R/o Shawkalay R/o
Koper, Tehsil Dargai, District Malakand (Ex-constable No.
1680), do hereby states on oath that all the contents of this
Service appeal are correct and true to the best of my belief
and knowledge and nothing has been concealed from this
Honorable Tribunal.

ATTESTED

Deponent

Taimoor Khan


Fazal Amin Advocate,
Oath Commissioner,
S/O: 1008 Date: 3/8/18
District Courts Gulakada Swat.

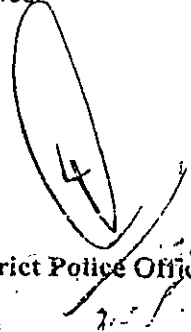
ORDER

This order pertains to Show Cause Notice served on Constable Taimcor No. 1680. He while posted as DFC Shah Dherai developed illicit relations with a local girl in Asharay locality. The complaints about his misconduct were received his SDPO, therefore, he was transferred and posted to Police Station Kalam on complaint basis. Later on he was posted in Police Post dewlai as DFC and developed illicit relation with a married girl in Mohallah Spiro Gato. He was in the practice of visiting her house by motorbike and persuading her to get divorce from her husband by doing so he was bringing a bad name to Police department and stigmatizing the reputation of the force.

He was issued Show Cause Notice vide this office No. 71/PA, dated 01-01-2018 to explain his position. The delinquent Constable was called to appear before the undersigned in connection with the allegations leveled against him. He was heard in person but he failed to produce any plausible defence against the leveled allegations. Due to creating illicit relations/moral turpitude in all areas where he is posted, he brought a big bad name to Police department.

By exercising the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Capt: (R) Wahid Mehmood, PSP, District Police Officer, Swat as a competent authority, am constrained to award him major punishment of dismissal from service.

Order announced.


District Police Officer, Swat

O.B. No. 2785

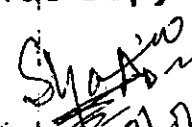
Dated 15.2.18.

Copies to:-

- 1. Establishment Clerk
- 2. OASI

For necessary action.

ATTESTED
To be:
True Copy


3/8/18

Better copy - A (9)

Order

This order pertains to show cause Notice served on Constable Taimoor No. 1680. He while posted as DFC Shah Dherai developed illicit relations with a local girl in Asharay locality. The complaints about his misconduct were received his SDPO, therefore, he was transferred and posted to police station with a married girl in Mohallah Spiro Gato. He was in the practice of visiting her house by motorbike and persuading her to get divorce from her husband by doing so he was bringing a bad name to Police department and stigmatizing the reputation of the force.

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By exercising the powers vested in the undersigned under Rules 2 (iii) of police disciplinary Rules-1975, I, Capt: (R) Wahid Mehmood, PSP, District Police Officer, Swat as a competent authority, am constrained to award him major punishment of dismissal from service.

Order Announced.

O.B.No. 27
Dated: 15.02.2018

- Sd -
District Police Officer, Swat

- Copies to: -
1. Establishment Clerk
 2. OASI
- For necessary action.

ATTESTED
To be:
True Copy

Shah
31/2/18

خون دہوش

ملاو گات

Annexure

B

خواج شجاع شوکار ٹولس ہری 71/1A 2018 جاریہ عاب DPہ سے عبادت عبادت
 معوض نہیں ہوں۔ عاب DPہ سے عبادت نے یہ فراہم ہوگا ٹولس
 کاری کی ہے۔ یہ عاب DPہ سے عبادت نے یہ فراہم ہوگا ٹولس ہے
 جو سپرو گٹ و دربار ڈیپریٹیشن رکتی ہے۔ اور یہ میں وضاحت
 مانگی ہے۔ کہ میں نے یہ شاہ ڈیپریٹیشن سے تقاضا ہے دوران
 شہادت پر کالاج سے ملے گی ہے

ماتھالا

یہ حلفاً بیان کرتا ہوں۔ کہ عبادت سپرو گٹ دربار ڈیپریٹیشن سے یہ عبادت
 عبادت نے یہ فراہم ہوگا ٹولس ہے۔ عبادت نے یہ فراہم ہوگا ٹولس ہے
 کا کالاج کرتا ہے۔ کہ عبادت نے یہ فراہم ہوگا ٹولس ہے۔ عبادت نے یہ فراہم ہوگا ٹولس ہے
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 31/8/18

مذکورہ عبادت نے یہ فراہم ہوگا ٹولس ہے۔ عبادت نے یہ فراہم ہوگا ٹولس ہے۔ عبادت نے یہ فراہم ہوگا ٹولس ہے
 دہوشی اور عبادت سپرو گٹ دربار ڈیپریٹیشن سے عبادت نے یہ فراہم ہوگا ٹولس ہے۔ عبادت نے یہ فراہم ہوگا ٹولس ہے
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DFE. DP. Dawlag 1600
 7/2/2018

11

To:

The Deputy Inspector General
Malakand Division
Saidu Sherif, Swat

Annexure

C

Subject: ORDER OF NO 27 DATED 15.02.2018/RE-INSTAEMENT

R/Sir,

With due respect and humble submission that I have performed my duty on full honesty, whereas the cause mentioned in the above order is totally illegal, due to I have never been contact with any lady at any where, nor divorce to any girls upto no.

If any doubt arises regarding me, may kindly be detail a suitable ka board to inquire the circumstances from the said family of the said house, hence all the situation will cleared.

Submitted for your further necessary action, please.

Your's Obediently,

Taimoor

Constable Taimoor No 1680

Date; 17.02.2018.

ATTESTED

To be:
True Copy

Shahid
17/2/2018

12



**OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND**

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-83 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com

Annexure

D

ORDER:

This order will dispose off appeal of Ex-Constable Taimoor No. 1680 of Swat District for reinstatement in service.

Brief facts of the case are that Ex- Constable Taimoor No. 1680 while posted as DFC Police Station Shah Dherai developed illicit relations with a local girl in Ashary locality. The complaints about his misconduct were received by SDPO, therefore, he was transferred and posted to Police Station Kalam on complaint basis. Later on he while posted in Police Post Dewlai as DFC he developed illicit relation with a married girl in Mohallah Spiro Gato. He was in the practice of visiting her house by motorbike and persuading her to get divorce from her husband by doing so which brought bad name for Police Department and stigmatized the reputation of the force. Consequently he was issued Show Cause Notice to explain his position. The delinquent Constable was called and heard in person by District Police Officer, Swat but he failed to produce any cogent reasons in his defense. Being found guilty of the Charges the District Police Officer, Swat dismissed him from service vide his office OB No. 27 dated 15/02/2018 under Rule 2(ii) of Police Disciplinary Rules 1975..

He was called in Orderly Room on 17/04/2018 and heard him in person. The appellat could not produce any cogent reason in his defense. His service record was thoroughly perused and found that there are 23 bad entries of absence at various occasions in his service record and he is in practice to develop illicit relation to the girls which bring a bad name for the Police Force. Therefore, his appeal for reinstatement in service is hereby filed.

Order announced.

**ATTESTED
To be:
True Copy**

(Signature)
(AKHTAR HAYAT KHAN)
Regional Police Officer,
Malakand, at Saidu Sharif Swat
Naqi

(Signature)
31/04/18

No. 3990 /E,

Dated 24-04- /2018.

Copy to District Police Officer, Swat for information and necessary action with reference to his office Memo: No. 5758/E, dated 06/03/2018. His Service Roll, Fauji Missal and complete enquiry file are sent herewith for record in your office.

*Acc
Make entry in
his S-Record.*

(Signature)
EC/OASI
(Signature)
Not in action

District Police Officer

dy No: S/1167/18
dt: 3-5-2018

Annexure

13



Registrar C.P.O

Please process as per rule.

بجانب کردہ لوٹس کمنٹریل ٹیمور خان نمبر 1680
مقامی نامہ پٹی پٹی کل سوان ... سائل / اپیل انٹ

نیام

1. DIQ صاحب ملائمت ریجسٹر الا مقام سروس فری سوان
2. DPO صاحب سوان سوان مقام سروس فری سوان
سوال الہم ریجسٹریشن

APSO 03/5/18

AS
For. 07. act

مخبر سوان
مقامی نامہ پٹی بلڈ دوبارہ کالی لوری

3/5

اپیل بنا راضی حکم و مفاد 3990B نمبر 3990 از دفتر
24-4-18
ریجسٹریشن ریجسٹر روہ رجسٹریشن
نیاہ ... اپیل انٹ کی رجسٹریشن سے بابت، ریجسٹریشن
27B نمبر 27 بل اجراء حکم و مفاد
15-02-18
نوٹیفور ملاد ظلم لغیر، تحقیقات و معلومات
کے بغیر ریجسٹریشن قائم ریجسٹریشن کا آرڈر، حال کے
یوٹی ریجسٹریشن و مفاد ریجسٹریشن
اپیل سائل داخل دفتر کرالیا۔

ATTESTED
To be:
True Copy
Shahou
28/5/18

مقامی نامہ پٹی اپیل : منظور اپیل مفاد حکم و مفاد
3990 از دفتر ریجسٹریشن
24-4-18
موصوفیہ حقوق اپیل انٹ بر غیر موثر کا الہم
وہ سوخ و وارد باجاس من اپیل انٹ کو دوبارہ مارنٹ
پر کال کرنے کے احکامات کے بارے میں

صاحب عالی اپیل انٹ ذیل حضور سائل
کار کے بغیر

بیرفلائی ایبلانٹ متعلقہ ایجنسی SHC ریٹائرڈ
بالا تو کوئی شکایات نہیں تھیں۔ اور نہ اس قسم
کے کوئی شکایات بیڈ فلائی سائلز کے بارے میں
میں نام ایبلانٹ موجود ہیں۔

لا۔ ۱۰۔ یہ ریٹائرڈس وقتے سائلز سے
مضبوط تھیں۔ یہ شکایات تو حقیقت سے
سائلز سے گناہ شخص کو توڑ کر ازمیت
سے انڈوسٹری، تحفظات رکھنے نفسیہ بظاہر دیکھ
بیرفلائی کے لئے ازمیت ریٹائرڈ
صوفیہ سائلز کے لئے ازمیت ریٹائرڈ
صوفیہ سائلز کے لئے ازمیت ریٹائرڈ
کالی نے اور قابل مسوئیت ہیں

۱۱۔ ایبلانٹ کو بے گناہ طور پر من گھڑت
شکایات کی بناء پر ازمیت سیکرٹری سے بظاہر
روزگار سے باگلیہ، سائلز کے
صوفیہ سائلز والی ازمیت ریٹائرڈ اور
ایبلانٹ کے لئے ازمیت ریٹائرڈ کے لئے
حوالت نگاری اور حقائق بال ایبلانٹ کو
ملازمیت سیکرٹری دوبارہ بحال کرنا تو بے گناہ ہیں۔
اور ایبلانٹ کے لئے ازمیت ریٹائرڈ

ATTESTED
To be
True Copy

Signature
21/8/18

بہ ذرا اس کے لئے منظور
ایبلانٹ کے لئے ازمیت ریٹائرڈ
3990 ازمیت ریٹائرڈ
24.4.18
صوفیہ سائلز کے لئے ازمیت ریٹائرڈ کے لئے
وہ سائلز کے لئے ازمیت ریٹائرڈ کو دوبارہ
ملازمیت سیکرٹری بحال کر کے حکامات
بہ ذرا اس کے لئے منظور

9346509
0345

تو

سائلز کے لئے ازمیت ریٹائرڈ کے لئے
۱۶۸۵
خانہ شاہ ڈیوٹی بل سوائس
الموضوع :-
02-05-2018

میا قمر خان

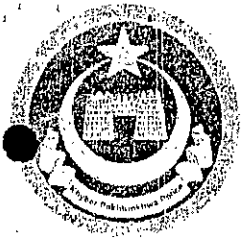
0333-9207012

0333 9207012

قمر خان

15

Annexure



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 3157 /18, dated Peshawar the 31/07/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Taimoor No. 1680. The petitioner was dismissed from service by DPO, Swat vide OB No. 27 dated 15.02.2018 on the charge that he while posted as DFC Police Station Shah Dherai developed illicit relations with a local girl in Asharay locality. The complaints about his misconduct were received by SDPO, therefore, he was transferred and posted to Police Station Kalam on-complaint basis. Later on he while posted in Police Post Dewlai as DFC he developed illicit relation with a married girl in Mohallah Spiro Gato. He was in the practice of visiting her house by motorbike and persuading her to get divorce from her husband by doing so he brought bad name for Police Department and stigmatized the reputation of the force.

His appeal was filed by Regional Police Officer, Malakand vide order Endst: No. 3990/E dated 24.04.2018.

Meeting of Appellate Board was held on 19.07.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegations leveled against him.

Petitioner failed to advance any plausible explanation in rebuttal of the charges. He earned 23 bad entries of absence at various occasions in his service and he was in practice to develop illicit relation to the girls which brought a bad name for the Police Force. Therefore, the Board decided that his petition is hereby rejected.

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

ATTESTED
To be
True Copy

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

31/07/2018

No. S/ 3158-64 /18.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat. Service Roll, Fauji Missal alongwith complete enquiry file of the above named Ex-Constable received vide your office Memo: No. 5659/15, dated 20.06.2018 is returned herewith for your office record.
2. District Police Officer, Swat.
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 صلح سروس ٹریبونل کوئی ایف جی ایف سروس

2018ء منجانب ایس ایف جی ایف

مورخہ 31/8/2018

مقدمہ شہود خان بنام مختار علی

دعوئی سروس ایف جی ایف
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کارروائی متعلقہ آن مقام مختار علی کے لئے شہید الحسن امجد ولد علی نور مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک نہ روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرا میں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمد اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہے تو وکیل صاحب پابند نہ ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

الرقوم 03 ماہ اگست 2018ء

العبد گواہ شہود العبد

ATTESTED
&
ACCEPTED

شہود خان
ایڈووکیٹ ہائی کورٹ

بقام مختار علی کے لئے منظور ہے۔

مختار علی
دعویٰ

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 968/2018.

Taimoor Khan (Ex-Constable No. 1680) S/O Muhammad Gul R/O Shawkalay Koper
Tehsil Dargai District Malakand.

.....Appellant

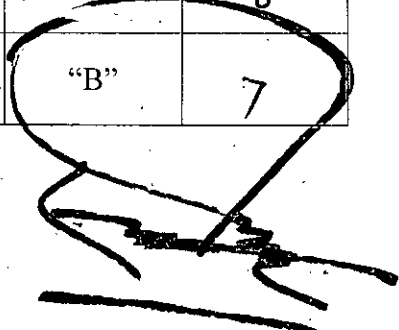
VERSUS

Inspector General of Police. Khyber Pakhtunkhwa, Peshawar & 02 others

.....Respondents

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District Police Officer, Swat
(Respondent No.03)

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 968/2018.

Taimoor Khan (Ex-Constable No. 1680) S/O Muhammad Gul R/O Shawkalay Koper Tehsil
Dargai District Malakand.

.....Appellant

VERSUS

Inspector General of Police. Khyber Pakhtunkhwa, Peshawar & 02 others

.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Shewith,

The comments on behalf of Respondents are submitted as below.

Preliminary Objections.

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come to the Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

Facts:

1. Para No.1 of appeal pertains to service record, hence needs no comments.
2. Correct. The Show Cause Notice was issued to the appellant by the Respondent No.03 vide No.71/PA dated 01/02/2018 on the basis of complaint received from the SDPO that the appellant had developed illicit relation with a local girl of Asharay while he was posted as DFC Police Station Shah Dherai Tehsil Kabal District Swat (Copy of the Show Cause Notice is enclosed as annexure-"A"). Later on the present appellant was transferred from P.S Shah Dherai to P.S Kalam on complaint due to his soil character. Later on the appellant was posted

2

to Police Post Dewlai Tehsil Kabal on humanitarian grounds but there he again developed illicit relation with a married girl in Mohallah Spiro Gato. The appellant used to visit her house by motorbike and was persuading her to get divorce from her husband. This act of the appellant had a bad impact upon the Police Department and had stigmatized the reputation of Police force. The reply of the appellant to the Show Cause Notice was not based on cogent grounds and the respondent No.03 was not satisfied from his reply having no weight, therefore Respondent No.03 awarded him major punishment and dismissed the appellant from the service vide OB No.27 dated 15/02/2018 (Copy enclosed as Annexure-“B”)

3. Departmental Appeal of the appellant was filed by the Appellate Authority, being devoid of merits.
4. Correct. The application of the appellant was filed by the Review Committee Board.
5. Incorrect. The present appellant was called by the Respondents and was heard in person. He was given ample opportunity of hearing but the appellant failed to produce any plausible defense in his favor regarding allegations leveled against him. The appellant was clearly guilty due to his conduct and his applications were also rejected by all forums, therefore he was dismissed from service due to his poor character and development of illicit relations in all areas where he was posted. He brought a bad name for Police Department due to his moral turpitude.

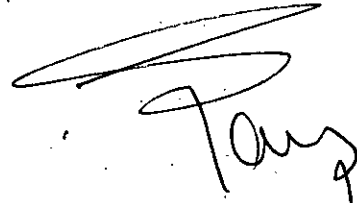
Grounds:

- i. Incorrect. The appellant was treated in accordance with Law and Rules. The impugned order has been passed correctly and no violation of Law/Rules has been committed by the Respondents No.03 while passing such order.
- ii. Incorrect. The allegations leveled against the present appellant are not baseless and frivolous and are totally based on facts.
- iii. Incorrect. As already been explained in para No.05 above in details.
- iv. Incorrect. As already been explained above that the appellant was given opportunity of hearing by the Respondents in person but he failed to produce any cogent defense, therefore he was awarded major punishment of dismissal from service.
- v. Incorrect. No violation of provisions of the constitution and Law has been committed in this regard.
- vi. Incorrect. The impugned order is legal.

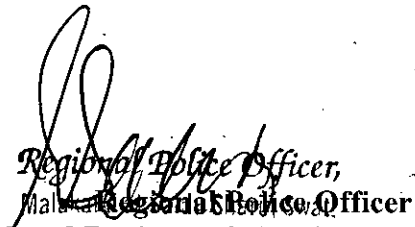
vii. No comments.

Prayer

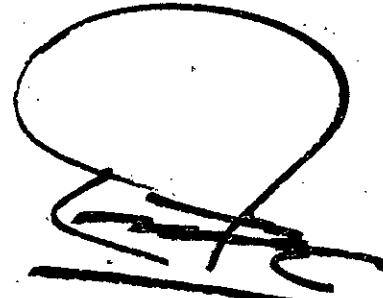
It is therefore, requested that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.



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



**Regional Police Officer,
Malakand Region at Saidu Sharif Swat
(Respondent No. 2)**



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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 968/2018.

Taimoor Khan (Ex-Constable No. 1680) S/O Muhammad Gul R/O Shawkalay Koper
Tehsil Dargai District Malakand.

.....Appellant

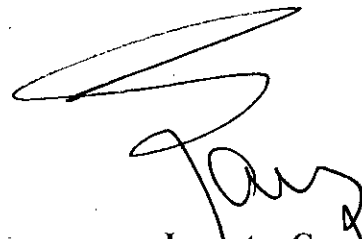
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & 02 others

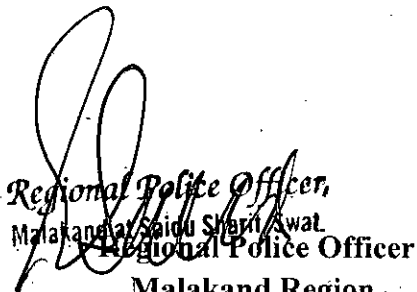
.....Respondents

AFFIDAVIT

We, the above respondents do hereby solemnly affirm and declare on oath that the accompanying Para-wise comments submitted in reply to above cited Service Appeal are correct to the best of our knowledge and nothing has been concealed from this Honorable Tribunal.



**Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)**



**Regional Police Officer
Malakand/Saidu Sharif Awal
Regional Police Officer
Malakand Region
(Respondent No. 02)**



**District Police Officer, Swat
(Respondent No. 03)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

5

Service Appeal No. 968/2018.

Taimoor Khan (Ex-Constable No. 1680), S/O Muhammad Gul R/O Shawkalay Koper
Tehsil Dargai District Malakand.

.....Appellant

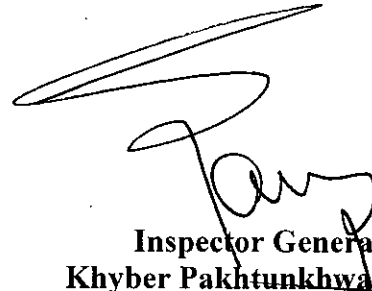
VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & 02 others

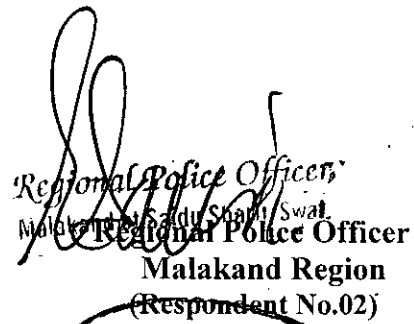
.....Respondents

AUTHORITY LETTER

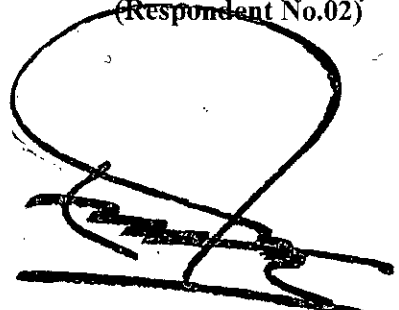
We, the above respondents do hereby authorize Mr. Khawas Khan SI Legal Swat to appear in the Service Tribunal on our behalf on each date fixed in connection with titled case and do whatever is needed.



**Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
(Respondent No.01)**



**Regional Police Officer
Malakand Region Swat
Regional Police Officer
Malakand Region
(Respondent No.02)**



**District Police Officer, Swat
(Respondent No.03)**

sd
OFFICE OF THE DISTRICT POLICE OFFICER, SWAT.

No. 71 /PA, Dated Gulkada the 01-02-2018

SHOW CAUSE NOTICE.

(Under Rule 5 (3) K.P.K Police Rules, 1975)

1. You Constable Taimoor No. 1680 while posted as DFC Police Station Shah Dherai have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct/s;

Whereas, you while posted as DFC Police Station Shah Dherai developed illicit relations with a local girl in Asharay locality. The complaints about your misconduct were received by your SDPO and you were transferred and posted to Police Station Kalam on complaint basis. Now you are posted in Police Post Dewlai since one year as DFC and have developed illicit relations with a married girl in Mohallah Spiro Gato. You are in the practice of visiting her house by motorbike and persuading her to get divorce from her husband. By doing so you are bringing a bad name to Police department and stigmatizing the reputation of the force. Thus issued show cause notice.

2. That by reason of above, as sufficient material is placed before the undersigned, therefore, it is decided to proceed against you in general Police proceeding without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
4. that your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officer;
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 the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice with 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.
9. Grounds of action are also enclosed with this notice.

(6) 22
Anwar-A

District Police Officer, Swat

Received by _____

Dated _____/2018.

Annex B

5/2/18

7

ORDER

This order pertains to Show Cause Notice served on Constable Taimoor No. 1680. He while posted as DFC Shah Dherai developed illicit relations with a local girl in Asharay locality. The complaints about his misconduct were received his SDPO, therefore, he was transferred and posted to Police Station Kalam on complaint basis. Later on he was posted in Police Post dewlai as DFC and developed illicit relation with a married girl in Mohallah Spiro Gato. He was in the practice of visiting her house by motorbike and persuading her to get divorce from her husband by doing so he was bringing a bad name to Police department and stigmatizing the reputation of the force.

He was issued Show Cause Notice vide this office No. 71/PA, dated 01-01-2018 to explain his position. The delinquent Constable was called to appear before the undersigned in connection with the allegations leveled against him. He was heard in person but he failed to produce any plausible defence against the leveled allegations. Due to creating illicit relations/moral turpitude in all areas where he is posted, he brought a big bad name to Police department.

By exercising the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Capt: (R) Wahid Mehmood, PSP, District Police Officer, Swat as a competent authority, am constrained to award him major punishment of dismissal from service.

Order announced.

District Police Officer, Swat

O.B. No. 27

Dated 15.2.18.

Copies to:-

- 1. Establishment Clerk
- 2. OASI

For necessary action.

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR CAMP COURT AT
GULKADA SWAT

Service appeal No. 968/2018

*Taimur Khan Ex.Constable No. 1680 S/o Muhammad Gul R/o Shawkalay
Koper, Tehsil Dargai, District Malakand.*

.....Appellant

VERSUS

Inspector General of Police KPK and others.....Respondents

Rejoinder on behalf of appellant in response to reply submitted by
respondents

Respectfully Sheweth:

Preliminary Objections:

From 1 to 8:

1. All preliminary objections raised by answering respondents are erroneous and frivolous and real facts have been concealed so denied.

Rejoinder to reply of facts:

1. Para No.1 needs no comments.

2. Para No. 2 of the appeal has been admitted by the answering respondents is correct, but it is incorrect that the appellant had made illicit relation with a local girl of Asharay and with a married girl at Mohallah Spairogato. There is nothing on record which shows the illicit relation of the appellant with a married lady or a local girl in Mohallah Spairogato and Asharay, even not a single statement against the appellant have been given by the inhabitant of the above mentioned area nor such like statement have been placed on file by the respondent. Furthermore no charge sheet has been given to the appellant nor a regular inquiry has been conducted by the respondent against the appellant and nor a proper opportunity has been given to the appellant to defend the false case / proceeding against him. Real facts have been concealed by the respondent in the said para so denied.

3. The contents of the Para No.3 of the appeal admitted by the answering respondents so no needs of further elucidation.

4. That contents of the Para N. 4 of the appeal admitted by the answering respondents so no needs of further elucidation.

5. That the reply is totally incorrect hence denied. No proper ample opportunity of hearing was given to the appellant nor appellant was heard in person by the respondents, but the respondents acted in arbitrary manner one sided without providing the ample opportunity to appellant to defend the false case against him. The detail reply has regarding the illicit relation has already been given in the above mentioned paras.

REJOINDER TO REPLY OF GROUNDS:

i. That reply is incorrect hence denied. The appellant was not treated in accordance with law and rules. The impugned order has been passed in violation of law / rules by respondents.

ii. Incorrect, hence denied. The allegation level against the appellant are baseless and frivolous hence

denied. There is no single iota of evidence against the appellant on the available record.

iii. Incorrect, hence denied. The real facts has been concealed by the respondents in Para No. 5

iv. Incorrect, hence denied. No opportunity of hearing was given to the appellant and the respondents acted in arbitrary manner one sided without providing ample opportunity to the appellant to defend the false case / proceeding against him. Furthermore no regular inquiry has been conducted nor the procedure adopted by the respondents according to law / service rules.

v. Incorrect, hence denied. Violation of provision of the constitution and law committed by the respondents.

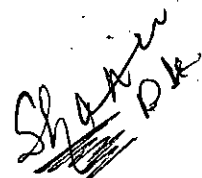
vi. Incorrect, hence denied. The impugned order is incorrect and defective.

vii. Needs no comments.

It is therefore, requested that the reply of
answering respondents may graciously be
rejected and the appeal of the appellant as prayed
may be graciously accepted.


Appellant

Through



Shabir Ahmad Khan

Advocate, High Court

Dated: 09/01/2019

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 448 /ST

Dated 20 - 3 - / 2019


To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Swat.

Subject: - JUDGMENT IN APPEAL NO. 968/2018, MR. TAIMUR KHAN.

I am directed to forward herewith a certified copy of Judgement dated 05.03.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. _____/ST

Dated 11/01/2019

To


1. The Director Education FATA,
Government of Khyber Pakhtunkhwa,
FATA Secretariat Warsak Road Peshawar.
2. Mr. Abdul Rauf Agency Education Officer,
Government of Khyber Pakhtunkhwa,
FR Peshawar.

SUBJECT: -

ORDER IN APPEAL NO. 391/2018, MST. MEIHAZ AFRIDI.

I am directed to forward herewith a certified copy of order dated 02.01.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.