

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

SERVICE APPEAL NO. 182/2018

Date of institution ... 07.02.2018

Date of judgment ... 09.10.2018

Kashif Akbar, Ex-Constable, No. 1341
Police Line Charsadda.

... (Appellant)

VERSUS

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

... (Respondents)

**SERVICE APPEAL UNDER SECTION-4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER
DATED 15.01.2018 WHEREBY THE REVISION OF THE
APPELLANT UNDER POLICE RULES 1975 AMENDED IN
2014 AGAINST THE ORDER DATED 09.10.2017 OF THE RPO
MARDAN HAS BEEN REJECTED FOR NO GROUND
WHEREIN THE RPO MARDAN UPHELD THE ORDER
DATED 13.09.2017 OF THE DPO CHARSADEA.**

Mr. Taimur Ali Khan, Advocate.

.. For appellant.

Mr. Riaz Ahmad Paindakhel, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: -

Counsel

for the appellant present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General alongwith Mr. Shah Jehan, ASI for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Constable. He was dismissed from service

vide impugned order dated 13.09.2017 by the competent authority on the allegation that he while posted at Police Lines Charsadda, on 07.03.2017 one Gohar Ayub son of Muhammad Ayub resident of Turangzai Charsadda submitted a written complaint to the District Police Officer Charsadda against the appellant wherein he stated that the appellant took Rs. 500,000/- from him in the year of 2012 for giving him job in F.I.A but after the lapse of 4/5 years the appellant return only 295,000/- to him and Rs. 205,000/- is still payable. The appellant filed departmental appeal which was rejected on 09.10.2017 thereafter, the appellant filed revision petition under Section-11-A of Police Rules, 1975 which was also rejected on 15.01.2018 hence, the present service appeal.

3 Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the appellant was dismissed from service on the aforesaid allegation of misconduct. It was further contended that the complainant Gohar Ayub has patched up the matter with the appellant. It was further contended that in this regard statement of the complainant has also been recorded by the inquiry officer. It was further contended that the inquiry officer has also recommended minor punishment of censure. It was further contended that the competent authority has also admitted in the impugned order dated 13.09.2017 that the inquiry officer has recommended the appellant for minor penalty of censure but in the meanwhile another person namely Jehangir Asad also submitted application against the appellant that the appellant took Rs. 110000/- from him in which Rs. 50000/- is still payable. It was further contended that no departmental proceedings regarding the application submitted by the Jehangir Asad was initiated and the

complainant Gohar Ayub has patched up the matter therefore, imposing of major penalty of dismissal from service upon the appellant is illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was charge sheeted on the aforesaid allegation. It was further contended that the inquiry officer has recorded the statement of appellant wherein he stated that he has patched up the matter with the complainant Gohar Ayub due to intervention of the elder of the locality and in this regard has also produced agreement deed regarding compromise, copy of the same is available on record. It was further contended that in the said agreement deed he had admitted that he has taken the amount from complainant Gohar Ayub. It was also contended that the said agreement also bear the signature of the appellant and had not denied the allegation leveled against him therefore, charge of taking amount from the complainant for providing job was proved against the appellant and the competent authority has rightly imposed major penalty of dismissal from service.

6. Perusal of the record reveals that the appellant was imposed major penalty of dismissal from service on the allegation of misconduct. That he has taken Rs. 500,000/- from complainant Gohar Ayub for giving him job in F.IA but after a lapse of 4/5 years, he only return 295,000/- and Rs. 205,000/- was still outstanding against him. The record further reveals that the said allegation has never denied by the appellant in reply to the charge sheet rather he has stated in his reply that he had patched up the matter on 29.03.2017 with the complainant Gohar Ayub on the intervention of elder of the locality and has also submitted a compromise deed, copy of the same is also available on record, wherein he admitted that he has taken the amount from the complainant and Rs.

2,00,000/- was still outstanding against him, the said agreement also bear the signature of the appellant and the complainant. Meaning thereby that the appellant has admitted the charge and it is a well settled law that facts admitted need not be proved. As such, the competent authority has rightly imposed major penalty of dismissal from service therefore, the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED

09.10.2018

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

(AHMAD HASSAN)
MEMBER

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 182/2018

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Police Line Charsadda.

... (Appellant)

VERSUS

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

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 15.01.2018 WHEREBY THE REVISION OF THE APPELLANT UNDER POLICE RULES 1975 AMENDED IN 2014 AGAINST THE ORDER DATED 09.10.2017 OF THE RPO MARDAN HAS BEEN REJECTED FOR NO GROUND WHEREIN THE RPO MARDAN UPHELD THE ORDER DATED 13.09.2017 OF THE DPO CHARSADEA.

Mr. Faimur Ali Khan, Advocate.

.. For appellant.

Mr. Riaz Ahmad Paindakhel, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel

for the appellant present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General alongwith Mr. Shah Jehan, ASI for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Constable. He was dismissed from service

M. Amin
8/10/2018

vide impugned order dated 13.09.2017 by the competent authority on the allegation that he while posted at Police Lines Charsadda, on 07.03.2017 one Gohar Ayub son of Muhammad Ayub resident of Turangzai Charsadda submitted a written complaint to the District Police Officer Charsadda against the appellant wherein he stated that the appellant took Rs. 500,000/- from him in the year of 2012 for giving him job in F.I.A but after the lapse of 4/5 years the appellant returned only 295,000/- to him and Rs. 205,000/- is still payable. The appellant filed departmental appeal which was rejected on 09.10.2017 thereafter, the appellant filed revision petition under Section-11-A of Police Rules, 1975 which was also rejected on 15.01.2018 hence, the present service appeal.

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M. Afroz
9.10.2018

complainant Gohar Ayub has patched up the matter therefore, imposing of major penalty of dismissal from service upon the appellant is illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was charge sheeted on the aforesaid allegation. It was further contended that the inquiry officer has recorded the statement of appellant wherein he stated that he has patched up the matter with the complainant Gohar Ayub due to intervention of the elder of the locality and in this regard has also produced agreement deed regarding compromise, copy of the same is available on record. It was further contended that in the said agreement deed he had admitted that he has taken the amount from complainant Gohar Ayub. It was also contended that the said agreement also bear the signature of the appellant and had not denied the allegation leveled against him therefore, charge of taking amount from the complainant for providing job was proved against the appellant and the competent authority has rightly imposed major penalty of dismissal from service.

6. Perusal of the record reveals that the appellant was imposed major penalty of dismissal from service on the allegation of misconduct. That he has taken Rs. 500,000/- from complainant Gohar Ayub for giving him job in F.IA but after a lapse of 4/5 years, he only return 295,000/- and Rs. 205,000/- was still outstanding against him. The record further reveals that the said allegation has never denied by the appellant in reply to the charge sheet rather he has stated in his reply that he had patched up the matter on 29.03.2017 with the complainant Gohar Ayub on the intervention of elder of the locality and has also submitted a compromise deed, copy of the same is also available on record, wherein he admitted that he has taken the amount from the complainant and Rs.

M. Amin
9.10.2018

2,00,000/- was still outstanding against him, the said agreement also bear the signature of the appellant and the complainant. Meaning thereby that the appellant has admitted the charge and it is a well settled law that facts admitted need not be proved. As such, the competent authority has rightly imposed major penalty of dismissal from service therefore, the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED

09.10.2018



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

09.10.2018

Learned counsel for the appellant and Mr. Riaz Ahmad Paindakhel, Assistant Advocate General alongwith Mr. Shah Jehan, ASI for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED

09.10.2018


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


(AHMAD HASSAN)
MEMBER

[Faint handwritten notes at the bottom of the page, possibly in Urdu or Hindi, including the date 09.10.2018.]

Service Appeal No. 182/2018

02.05.2018

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Jehan, ASI for the respondents present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 25.06.2018.


Reader

25.06.2018


Appellant absent. However his counsel present. Mr. Muhammad Jan, DDA alongwith Mr. Shah Jehan, ASI for the respondents present. Written reply submitted on behalf of respondents which are placed on file. To come for rejoinder, if any and arguments on 15.08.2018 before D.B.


Chairman

15.08.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 21.09.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

21-9-2018

Since 21-9-2018 has been declared as public holiday, therefore the case is adjourned for the same on 9-10-2018.



26.02.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant was working as Constable in Police Department since 2009. On the allegations of accepting illegal gratification disciplinary proceedings were initiated against him and upon conclusion major penalty of dismissal was imposed vide impugned order dated 13.09.2017. He filed departmental appeal copy of which is not attached with the instant appeal but was rejected on 09.10.2017. Thereafter he filed review petition on 30.10.2017 which was rejected on 15.01.2018, hence, the instant service appeal. Learned counsel for the appellant when confronted on the point of limitation/successive departmental appeal was unable to give a plausible explanation. The appellant has not been treated according to law and rules. Present appeal is time barred.

Points urged need consideration. Admit, subject to limitation. The 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 16.04.2018 before S.B.

Appellant Deposited
Security & Process Fee

~~16.04.2018~~ Appellant along with counsel and Addl: AG along with Mr. Shah Jehan, S.I for the respondents present. Written reply not submitted. Requested for adjournment. Adjoined. To come up for written reply/comments on ~~02.05.2018~~ before S.B.

(AHMAD HASSAN)
MEMBER



16.04.2018 Appellant alongwith counsel and Addl: AG alongwith Mr. Shah Jehan, S.I for the respondents present. Written reply not submitted. Requested for adjournment. Adjoined. To come up for written reply/comments on **02.05.2018** before S.B.

Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 182/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	08/02/2018	<p>The appeal of Mr. Kashif Akbar resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	08/02/18.	<p>This case is entrusted to S. Bench for preliminary hearing, to be put up there on <u>26/02/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Kashif Akbar Ex-Constable No. 1341 Police Line Charsadda received today i.e. on 07.02.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of departmental appeal is not attached with the appeal which may be placed on it.

No. 286 /S.T,

Dt. 08/02 /2018


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respect Sir,

The appellant did not keep the copy of departmental appeal which may requisite from the Deptt.

Resubmitted after
compliance



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 182 /2018

Kashif Akbar

V/S

Police Deptt:

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S.NO.	DOCUMENTS	ANNEXURE	PAGE
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4.	Copy of statement of allegations	B	06
5.	Copy of reply to charge sheet	C	07
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APPELLANT

THROUGH:


(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT,

& 
(ASAD MAHMOOD)

ADVOCATE HIGH COURT.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 182/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 181

Dated 07-2-2018

Kashif Akbar, Ex- Constable, No.1341.
Police Line Charsadda.

(APPELLANT)

VERSUS

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

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 15.01.2018, WHEREBY THE REVISION OF THE APPELLANT UNDER POLICE 1975 AMENDED IN 2014 AGAINST THE ORDER DATED 09.10.2017 OF THE RPO MARDAN HAS BEEN REJECTED FOR NO GROUNDS WHEREIN THE RPO MARDAN UPHELD THE ORDER DATED 13.09.2017 OF THE DPO CHARSADDA.

Filed to-day

Registrar

7/2/18

PRAYER:

Re-submitted to -day
and filed.

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 15.01.2017, 09.10.2017 AND 13.09.2017 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE 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.

Registrar

8/2/18

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the police force in the year 2009 and completed all his due trainings and performed his duty upto the entire satisfaction of his superiors.
2. That while serving in the said capacity, charge sheet along with statement of allegation were served to the appellant in which the appellant was charge as, *that you, while posted at Police Line Charsadda on 07.03.2017, one Gohar Ayab S/O Muhammad Ayab R/O Turangzai submitted compliant to the DPO Charsadda against you wherein he stated that you took Rs. 500000/- from the him in the year 2012 for giving him job in F.I.A Department and after lapse of 4/5 years, you return only Rs.295000/- to him and Rs.205000/- is still payable to your side.* The appellant submitted his reply to the charge sheet in which he stated that matter has been patched up between them by the elder of the locality and in this regard he submitted written stamp paper to the inquiry officer which is endorsed by the complaint through his statement. **(Copies of charge sheet, statement of allegation, reply to charge sheet, stamp paper and statement of the compliant are attached as Annexure-A,B,C,D&E)**
3. That inquiry was conducted against the appellant on 10.4.2017, in which the inquiry officer endorsed that the issue between them has been patched up by the elder of the locality and in this respect the appellant produced a written stamp paper wherein it was decided that appellant will pay fifty thousand will pay fifty thousand upto 29.06.2017 while the remaining amount will pay to compliant, on installment i.e Rs.5000/- rupees per month. The applicant Guhar Ayab also agreed with the decision. The inquiry officer recommended that departmental inquiry against the appellant is warranted to be filed, however , for non submission of reply to show cause notice well in time is violation of police rules and also against the decorum of force and recommended that the appellant may be awarded minor punishment of censure. **(copy of inquiry report is attached as Annexure-F)**
4. That after about the lapse of 5 months of inquiry report, the appellant was dismissed from service on 13.9.2017 by the DPO Charsadda on the basis that although the inquiry officer has recommended him for minor punishment of censure, but in the mean while another person

namely Jehangir Asad S/O Asad khan R/O Faqer Abad Charsadda has submitted his application against the appellant that he took Rs.110000/- from his him in which Rs.Rs.50000/- is still payable at his side and awarded him major punishment of dismissal from service with serving without issuing charge sheet, conducting inquiry and show cause notice on the 2nd complaint. **(Copy of order dated 13.9.2017 is attached as Annexure-G)**

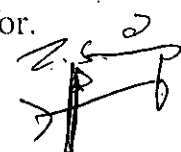
5. That the appellant filed departmental appeal against the dismissal order which rejected for no good ground on dated 09.10.2017, however the appellant did not keep the copy of departmental appeal which may be requisite from the department. The appellant then filed revision to the PPO under Rule 11-A of Police Rules 1975 amended in 2014 on 30.10.2017 which was also rejected on dated 15.01.2018 **(Copy of rejection order, revision and rejection of revision are attached as Annexure-H,I & J)**
6. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUND:


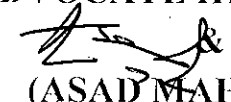
- A) That the impugned orders dated 15.01.2018, 09.10.2017 and 13.09.2017 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the issue has also been pitched between the appellant and the complaint by the elder of the locality which is endorsed by the inquiry officer and recommended him minor punishment, but despite that major punishment of dismissal from service has been imposed upon the appellant.
- C) That in dismissal order it was mentioned by the DPO Charsadda that although the inquiry officer has recommended him for minor punishment of censure, but in the mean while another person namely jehangir Asad S/O Asad khan R/O Faqer Abad Charsadda has submitted his application against the appellant that he took Rs.110000/- from his him in which Rs.Rs.50000/- is still payable at his side and awarded him major punishment of dismissal from service without issuing charge sheet, conducting regular inquiry and show cause notice on the 2nd complaint, which is violation of law and rules and the impugned order is liable to be set aside on this ground alone.

- D) That the inquiry officer in his inquiry report submitted that for non submission of reply to show cause notice well in time is the violation of police rules and also against the decorum of force but no show cause notice was served to the appellant even after the inquiry proceeding.
- E) That no show cause notice has been issued to the appellant before imposing the major punishment of dismissal from service which is violation of law and rules.
- F) That the issue between the appellant and the complainant Muhammad Guhar Ayab has been patched up and there remain no ground to penalize the appellant on that complaint.
- G) That the appellant has been condemned unheard and has not been treated according to law and rules.
- H) That the penalty of dismissal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- I) 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
Kashif Akbar

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

(ASAD MAHMOOD)
ADVOCATE HIGH COURT.

A (5)


CHARGE SHEET UNDER KPK POLICE RULES 1975

I Sohail Khalid, District Police Officer Charsadda, as competent authority hereby charge you Constable Kashif Akbar No. 1341 as follows.

That you Constable Kashif Akbar No. 1341, while posted at Police Lines Charsadda, On 07.03.2017 One Gohar Ayub s/o Muhammad Ayub r/o Turangzai Charsadda submitted a written complaint to the undersigned against you wherein he stated that you took Rs. 500,000/= from him in the year of 2012 for giving him job in F.I.A. But after the lapse of 04/05 years you return only Rs. 295,000/= to him and Rs. 205,000/= is still payable at your side. You are hereby strictly directed to explain that being a low category government employee how could you provide such a job to the individual or either you have opened a bureau for jobless peoples. A Show Cause Notice had already been issued to you in this regard but you did not bother to submit your reply. Your act is highly objectionable and against the rules and regulations of the discipline 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


دستور العمل کے مطابق
مقررہ وقت میں
مقررہ جگہ پر
مقررہ طریقے سے
مقررہ وقت میں
مقررہ جگہ پر
مقررہ طریقے سے

کارج سہیل باپی

B (6)

Government of Khyber Pakhtunkhwa
Office of the District Police Officer
Charsadda


DISCIPLINARY ACTION UNDER KPK POLICE RULES -1975

I, Sohail Khalid, District Police Officer Charsadda, as competent authority am of the opinion that Constable Kashif Akbar No. 1341, 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 Constable Kashif Akbar No. 1341, while posted at Police Lines Charsadda, On 07.03.2017 One Gohar Ayub s/o Muhammad Ayub r/o Turangzai Charsadda submitted a written complaint to the undersigned against him wherein he stated that he took Rs. 500,000/= from him in the year of 2012 for giving him job in F.I.A. But after the lapse of 04/05 years he return only Rs. 295,000/= to him and Rs. 205,000/= is still payable at his side. He was strictly directed to explain that being a low category government employee how could he provide such a job to the individual or either he had opened a bureau for jobless peoples. A Show Cause Notice had already been issued to him in this regard but he did not bother to submit his reply. his act is highly objectionable and against the rules and regulations of the discipline force. This shows his inefficiency and lack of interest in the performance of his official duties. This amounts to grave misconduct on his part, warranting Departmental action against him.

For the purpose scrutinizing the conduct of the said official Mr. Saeed Khan DSP Legal 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. Constable Kashif Akbar No. 1341, is directed to appear before the enquiry officer on the date, time and place fixed by the later (enquiry officer) a statement of charge sheet is attached herewith.


District Police Officer,
Charsadda

No. 452-53 /HC, dated Charsadda the 28/03 /2017.

Copies for Information to the:

- 1. Mr. Saeed Khan DSP Legal
- ✓ 2. R.I Lines

ATTESTED


03133635844

1341 کاشف اکبر

دستور العمل کے مطابق
مقررہ وقت میں پیش ہونا
مقررہ وقت میں پیش ہونا
مقررہ وقت میں پیش ہونا

7

بیان اذان مائتف اللہ لہری 1341 . کوالہ حاجی سیدنا جواد
 قرض 28⁰³/₀₁₇ قرضوں میں سے کسی گدی پر ایوب سیدنا سترنگی
 رقم رقم ہے اور جس میں میرا اور کسی گدی پر ایوب کا
 مفصلہ قرض 29⁰³/₀₁₇ کو گدی پر میرا ہے ساتھ ہی میرا ہے جہاں عالی
 مفصلہ رقم ہے اور رقم ہے رہا میں اسکا سائل کا بیان درست
 اور سیدنا جواد میں ہے

خزائن کی حالت ہے حاجی سیدنا جواد اصل دستخطی ہے

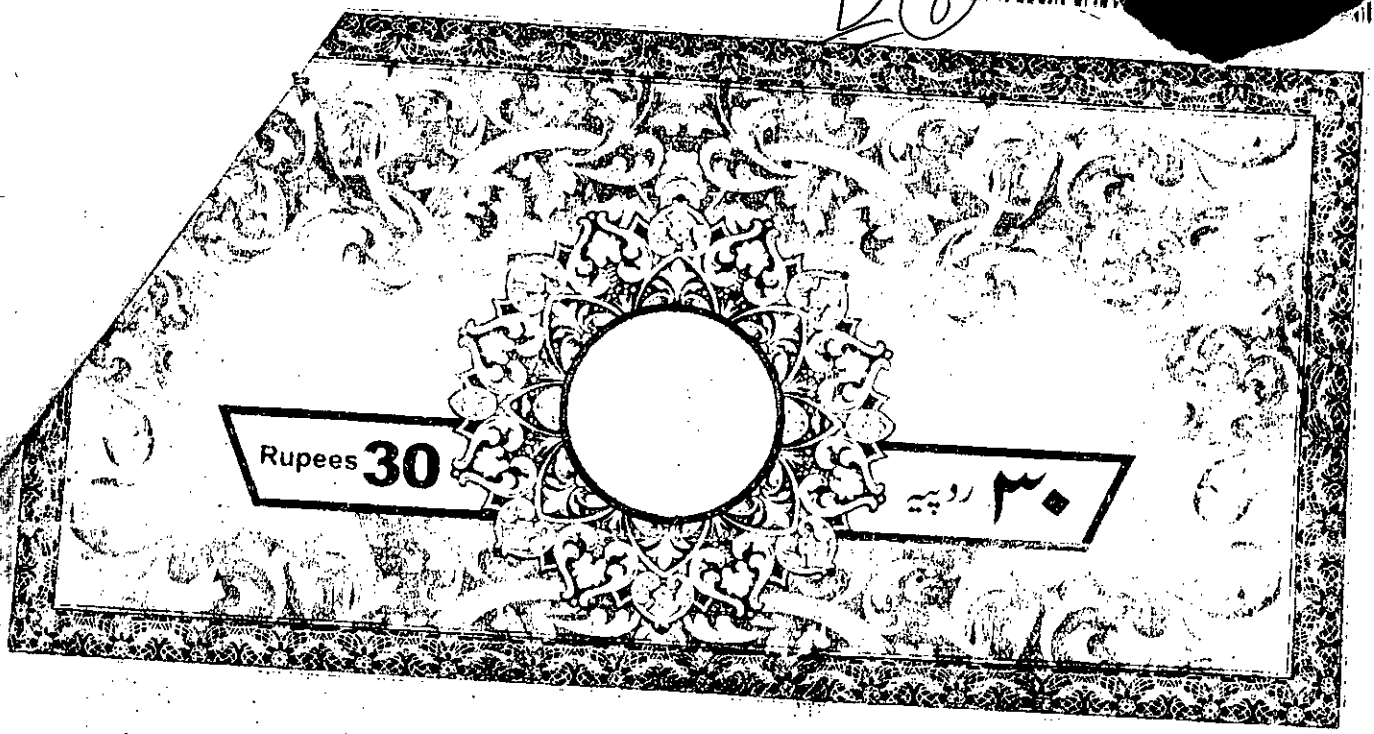
مائتف اللہ لہری 1341 متفقہ کو لیں لہری جواد

حاجی سیدنا

ATTESTED

Handwritten mark

28



اقرار نامہ بابت ادا میں رقم فرغ نہ ہونے پر
 منیہ کاشف اکبر ولد اکبر بی بی خان ساکن مزہندی اقامت میں سعادت آباد کشمیر میں چار سہ
 اقرار کر کے لکھدیتا ہوں کہ من مقرر مبلغ (2,00,000/-) دو لاکھ روپیہ منی موہر ایوب ولد محمد
 ایوب گل ساکن سکول کورونہ ترنگڑی کا بقایا سے رقم مذکورہ میں مبلغ پچاس ہزار روپیہ مورخہ
 29-06-2017 تک اور مزید مکمل بقایا رقم (1,50,000/-) روپیہ ماہوار قسط وار مبلغ پانچ
 ہزار (5000) روپیہ ہر ماہ یکم تاریخ پر ادا کریگا جو کہ پہلا قسط مورخہ 01-5-2017 کو
 واجب ادا ہوگا من مقرر سہی مذکور کو ادا کروں گا اگر من مقرر نے رقم ادا نہ کی یا قسط شارٹ کی تو
 سہی مذکورہ کو اختیار ہوگا کہ میرے جائیداد منقولہ و غیر منقولہ سے اپنا وصولی کرے اور قانونی

کارروائی کرے میرا کوئی عذر قابل قبول نہ ہوگا فقط تحریر 29-03-2017

محمد علی

محمد علی صاحب منقولہ

کاشف اکبر ولد اکبر بی بی

17101-0240156-9

محمد علی صاحب
17101-7983333-9

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ATTESTED

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لواہ

لواہ

محمد علی صاحب منقولہ

3607

بیان اذکار توفیق ایوب ولد محمد الیوس ولد سکول کورونہ
تحصیل و ضلع چارسدہ - شناختی کارڈ نمبر 9-6783333
قومی شناختی کارڈ نمبر 9301644-0333 -

(9)

بدرمانت پولیس بیان لیا کہ کسٹیشن کاشف الکر ولد الکر علی کند
مٹروندی انٹرنی کے ذمے میرے تقریباً دو لاکھ روپیہ تقابلاً
جس کے بابت بیمار نے درمیان ایک لکھ روپیہ نامہ لکھا ہے
جس کے مطابق کاشف مجھے پانچ ہزار روپیہ جائیداد چھپا
رکھا اس لئے بیمار دو ماہ بعد یعنی 17-06-29 کو ادا کر دیا۔
ر نقل شایب میر (نفس خدمت ہے) - اگر مذکورہ کاشف
رحم دینے میں لیتے لال کر دیا تو میں دو ماہہ افسران بیان
کے خدمت میں حاضر ہو لیتا۔ یہی میرا بیان ہے۔

الکر
توفیق ایوب

ATTESTED
A

360

سرپرست خانہ و اعمال خانہ
ڈی 17152-6134686

انوار الہی ریورٹ

F (10)

U/S 6(5) OF K.P.K POLICE RULES 1975, AGAINST CONSTABLE
KASHIF AKBAR NO.1341

he said enquiry was referred to this office vide office order No. 452-53/HC 28.03.2017, in order to ascertain the charge of misconduct against accused constable Kashif Akbar No. 1341.

Short facts are that Constable Kashif Akbar No. 134, while posted at Police Lines Charsadda, on 07.03.2017 One Gohar Ayub s/o Muhammad Ayub r/o Turangzai submitted a written complaint to the worthy DPO Charsadda against the accused constable wherein it was stated that the accused constable has taken Rs. 500000/- from the complainant in the year 2012 for providing him job in F.I.A department. After lapse of 4/5 years the accused constable returned on 295000/- to the applicant and Rs. 205000/- was still payable. Accused constable was strictly directed to explain that being a low category government employee how could he provide such a job to the individual or either he had opened a bureau for jobless peoples. A show cause notice had already been issued to accused constable but he did not bother to submit his reply.

In this regard charge sheet and summary of allegations were issued to him, who submitted his detailed reply, wherein it was contended that the issue between them has been patched up by the elders of the locality.

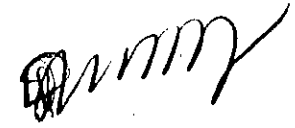
Accused Constable also appeared before the undersigned and produced a written stamp paper wherein it was decided that accused constable will pay fifty thousand upto 29.06.2017 while the remaining amount will pay to complaint, on installment i.e 5000/- rupees per month. The applicant Gohar Ayub also agreed with the decision.

Applicant Gohar Ayub s/o Muhammad Ayub was also summoned and recorded his statement. He also supported the contents of the stamp paper.

In view of available record, departmental enquiry against Constable Kashif Akbar No.1341, is warranted to be filed, however, for non submission of reply of Show Cause notice well in time, is the violation of Police Rules and also against the decorum of force. The enquiry officer, therefore, recommends that he may be awarded the minor punishment of "Censure".

Relevant record is enclosed herewith.

Enquiry Officer



(Saeed Khan)

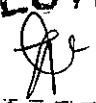
Acting DSP Legal, Charsadda,

No- 82/LB
10-04-17

Issue F.S.C-N

By
DPO Chd
11-04-017

ATTESTED



سید سجاد علی خان

3607

ORDER

This order will disposed off the departmental enquiry against **Constable Kashif Akbar No. 1341**, while posted at Police Lines Charsadda, On 07.03.2017 One Gohar Ayub s/o Muhammad Ayub r/o Turangzai Charsadda submitted a written complaint to the undersigned against him wherein he stated that he took Rs. 500,000/= from him in the year of 2012 for giving him job in F.I.A. But after the lapse of 04/05 years he return only Rs. 295,000/= to him and Rs. 205,000/= is still payable at his side. He was strictly directed to explain that being a low category government employee how could he provide such a job to the individual or either he had opened a bureau for jobless peoples. A Show Cause Notice had already been issued to him in this regard but he did not bother to submit his reply. His act is highly objectionable and against the rules and regulations of the discipline force. This shows his inefficiency, lack of interest in the performance of his official duty.

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. Saeed Khan the then DSP Legal** was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings.

Subsequently Constable Kashif Akbar No. 1341, was issued Final Show Cause Notice, reply to which was not received so far.

After perusal of enquiry papers and recommendation of the enquiry officer the undersigned reached to the conclusion that although the enquiry officer has recommended him for Minor Punishment of censure, but in the mean while another person namely Jehangir Asad s/o Asad Khan r/o Faqer abad Charsadda also submitted his application against him that he took Rs. 110,000/- from him in which Rs. 50,000/- is still payable at his side. Keeping in view all the circumstances, I, being a competent authority hereby take lienent view and awarded him **Major punishment of Dismissal from service** with immeaite effect.

O.B No 575

Date 13/9/2017

No 6272-75/HC, dated Charsadda the 13/09 /2017

Copy for information and necessary action to the:-

1. Pay Officer/OASI
2. EC/FMC Enclose (27) Pages


District Police Officer,
Charsadda

ATTESTED



Q

H (12) 7997 11/11

ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Kashif Akbar No. 1341 of Charsadda District Police against the order of District Police Officer, Charsadda, whereby he was awarded Major punishment of dismissal from service vide OB No. 575 dated 13.09.2017.

Brief facts of the case are that, the appellant while posted at Police Lines, Charsadda on 7.03.2017 one Gohar Ayub s/o Muhammad Ayub r/o Turangzai submitted a written complaint to District Police Officer, Charsadda against him for taking Rs. 500,000/- from him in the year 2012 for giving him job in FIA. But after lapse of 4/5 years he return only Rs. 295,000/- to him and Rs. 205,000/- is still outstanding on his part. A Show Cause Notice has already been issued to him in this regard but he did not bother to submit his reply. So he was served Charge Sheet alongwith statement of allegation and Mr. Saeed Khan the then DSP/Legal Charsadda was appointed as Enquiry Officer for conducting departmental enquiry against him. The Enquiry Officer after fulfilling necessary process submitted his findings and recommended him for Minor Punishment, therefore he was issued Final Show Cause Notice to which his reply was not received so far. After perusal of Enquiry papers and recommendation of the Enquiry Officer the District Police Officer, Charsadda reached to the conclusion that although the Enquiry Officer has recommended him for Minor Punishment of censure but in the meantime another person namely Jehangir Asad s/o Asad Khan r/o Faqir Abad also submitted an application against him that accused Constable has taken Rs. 110000/- from him in which Rs. 50000/- is still outstanding on his part. Therefore, he was dismissed from service

He was called in orderly room held in this office on 04.10.2017 and heard him in person, but he did not produce reasonable explanation about his innocence. Therefore, I find no grounds to intervene the order passed by District Police Officer, Charsadda. Appeal is rejected.

ORDER ANNOUNCED.

(Muhammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

No. 7516 /ES, Dated Mardan the 08/10/2017.

Copy to District Police Officer, Charsadda for information and necessary action w/r to his office Memo: No. 4283/EC dated 27.09.2017. The Service Record is returned herewith.

(*****)

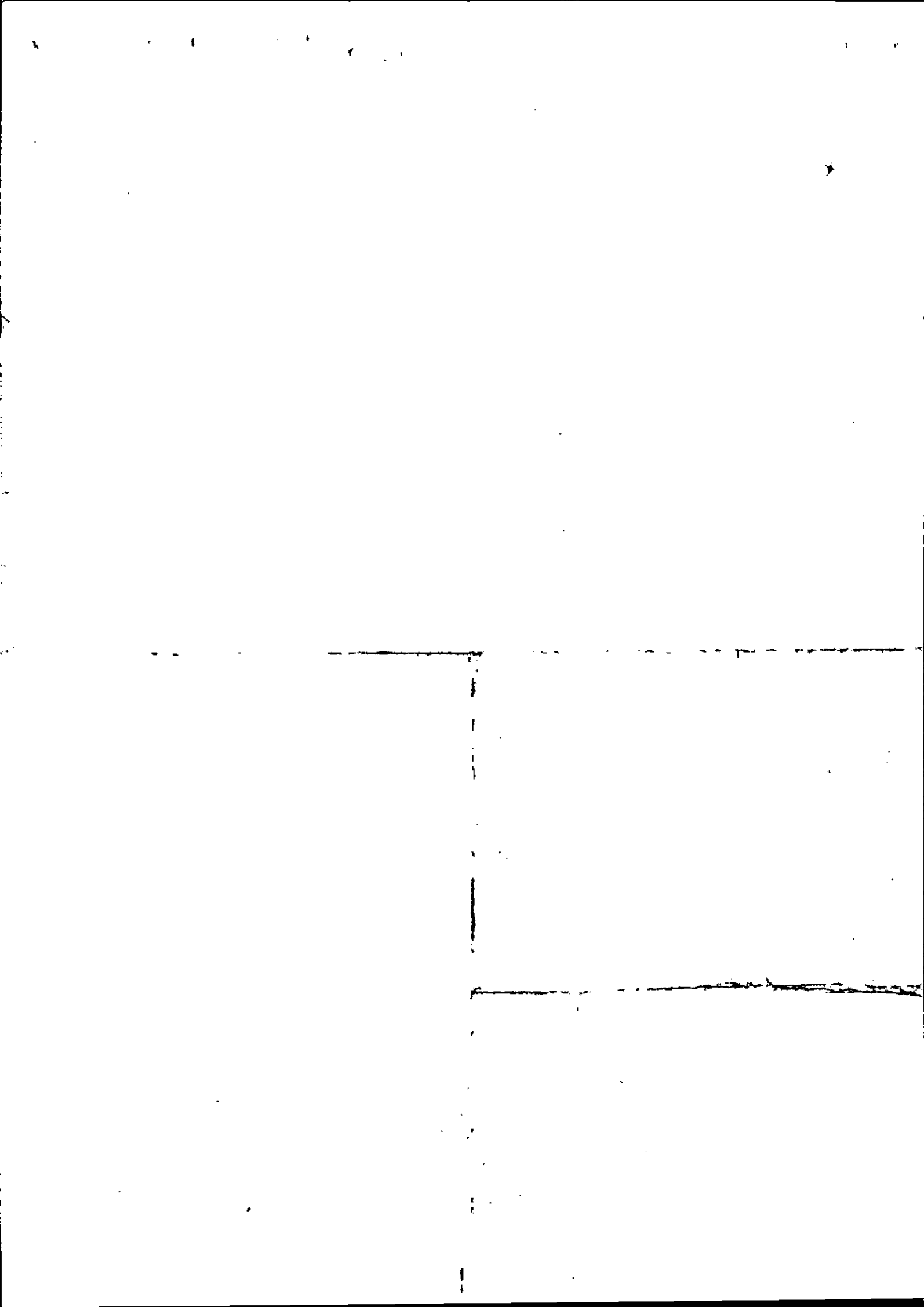
DSP/Legal
EC

For M. Saeed

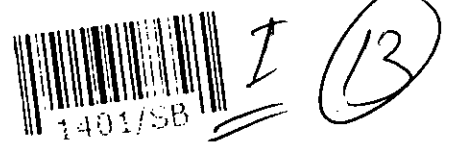
W
D. Saeed
10-10-2017

ATTESTED

[Signature]



① بدین حساب ہونے کی وجہ سے اس کے لئے ایک نوٹس جاری کیا گیا ہے۔



درخواست نمبر: جی ایم ایف 13

درخواست نمبر: جی ایم ایف 13
جو کہ نامعلوم ہو چکی ہے۔ اب اس کے لئے ایک نوٹس جاری کیا گیا ہے۔
جو کہ نامعلوم ہو چکی ہے۔ اب اس کے لئے ایک نوٹس جاری کیا گیا ہے۔
جو کہ نامعلوم ہو چکی ہے۔ اب اس کے لئے ایک نوٹس جاری کیا گیا ہے۔

سائل تا احیان دعا و دعا

العارضی

آپ کا تابع فرمان EX - سنٹریل کانسٹیبل کانسٹیبل ایئر 1241
جسٹس جارج

SS
739

Office of the PPO KPK, Peshawar
(Secret Branch)
By: No. Sl. 3214/17
Dated: 30.10.2017

ATTESTED
[Signature]



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 267 /18, dated Peshawar the 15/10/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 117A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Kashif Akbar No. 1241. The petitioner was dismissed from service by DPO, Charsadda vide OB No. 575, dated 13.09.2017 on the charge that he while posted at Police Lines Charsadda, on 07.03.2017 one Gohar Ayub s/o Muhammad Ayub r/o Turangzai, Charsadda submitted a written complaint to the DPO, Charsadda against him for taking Rs. 5,00,000/- from him in the year 2012 for giving him job in FIA. But after a lapse of 4/5 years he return only Rs. 2,95,000/- to the complainant and Rs. 2,05,000/- is still outstanding on his part.

Another person namely Jehangir Asad s/o Asad Khan r/o Faqir Abad Charsadda also submitted application that he took Rs. 1,10,000/- from him in which Rs. 50,000/- is still outstanding on his part.

Meeting of Appellate Board was held on 28.12.2017 wherein petitioner was heard in person. During hearing petitioner contended that he has not taken amount from the complainant Gohar Ayub and Jehangir Asad.

Perusal of record revealed that Kashif Akbar Ex-Constable No. 1241 was dismissed from service on charges of involvement in extra departmental activities of grabbing money from innocent fellows on the pretext of provision of jobs. His departmental appeal was rejected vide order dated 09.10.2017 of RPO Mardan. Perusal of the record reveals that he received Rs. 5,00,000/- from Gohar Ayub and Rs. 1,10,000/- from Jehangir Asad respectively. Involvement of Police Officer in nefarious game of grabbing money from innocent fellows tarnish the image of Police before public. Therefore, the Board decided that his petition is hereby rejected.

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

(AHISAN SAIFULLAH)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 268-74 /18,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
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.

ATTESTED
DOP/Deputy
EE

For n/accu

DOP/End:

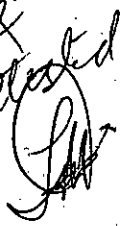
گروپس ٹریڈ سوسائٹی

کاشف اسیر 2 منجانب (ایڈیشنل)
کاشف اسیر بنام محکمہ ٹولیس

موردہ
مقدمہ
دعوی
جرم

باعث تحریر آنکہ

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

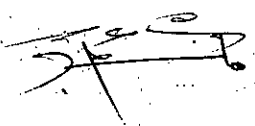
Accepted
&
Attested


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ماہ

المرقوم

العبد گواہ العبد

کے لئے منظور ہے۔


مقام

BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 182/2018

Kashif Akbar, Ex- Constable No. 1341, Police Lines CharsaddaAppellant

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 court with clean hands.
2. That appellant has suppressed actual facts/factual position from this Hon'ble Court.
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 enlistment of appellant in Police department and subsequent training, hence needs no comments.
2. Para correct. Appellant himself admits that he owed money to complainant and for repayment of amount an agreement was written between him and the complainant on a stamp paper. It means that allegations leveled against the appellant were true.
3. Correct to the extent of enquiry report.
4. Incorrect. After recommendation of enquiry officer, appellant was issued final show cause notice but he did not bother to submit his reply to the show cause notice. Punishment order had not been passed against the appellant yet, when in the meantime another person namely Jehangir Asad s/o Asad Khan r/o Faqir Abad Charsadda also submitted application against appellant that he (appellant) took Rs. 110000/- from him, out of which Rs. 50000/- was still payable by the appellant, hence keeping in view these circumstances, appellant was dismissed from service.
5. Incorrect. That departmental appeal as well as revision to PPO under rules 11-A of Police Rules 1975 were rejected on solid grounds.
6. Respondents submit that appeal of the appellant may be dismissed on the following grounds.

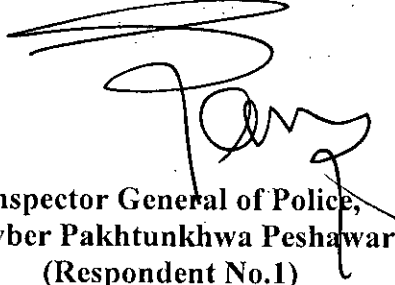
GROUND:

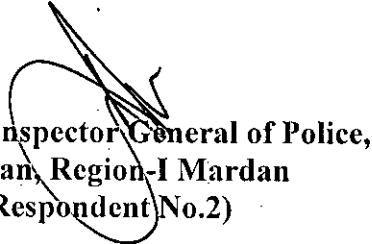
- A. Incorrect. Orders passed by the respondents are in accordance with law, facts and norms of justice, hence are liable to be maintained.
- B. Incorrect. Though appellant had patched up matter with one complainant but another complainant submitted complaint that appellant had received an

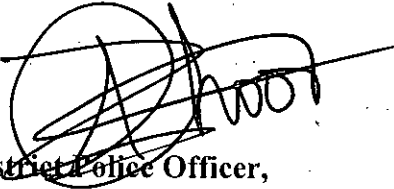
amount of Rs. 110000/- from him out of which Rs. 50000/- was payable by the appellant, hence on this ground he was dismissed from service as his this act, receiving/collecting money from people on the pretext of providing them job, was earning bad name for the department.

- C. Incorrect. Though with one complainant appellant had patched up the matter and on the same ground lenient view was taken by the enquiry officer, however before passing of the punishment order another complainant submitted complaint against the appellant regarding taking money Rs. 110000/- from him for providing him job. This fact reflected that appellant was a habitual cheater, hence he was awarded major punishment of dismissal from service which is in accordance with law and rules.
- D. Para already explained.
- E. Incorrect. Before passing order of major punishment, appellant was issued final show cause notice but he did not bother to submit his reply to the show cause notice (**copy of show cause notice is annexed as annexure A**).
- F. Para already explained.
- G. Incorrect. Ample opportunity was provided to the appellant but he failed to defend his stance.
- H. Incorrect. Penalty imposed on the appellant does commensurate with the gravity of his misconduct, hence liable to be maintained.
- I. That respondents also seek permission of this Honorable Tribunal to advance additional grounds at the time of hearing.

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)



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 Minor Penalty.

AND


Whereas, I am satisfied with the recommendation of the enquiry officer that you **Constable Kashif Akbar No. 1341**, while posted at Police Lines Charsadda, On 07.03.2017 One Gohar Ayub s/o Muhammad Ayub r/o Turangzai Charsadda submitted a written complaint to the undersigned against you wherein he stated that you took Rs. 500,000/= from him in the year of 2012 for giving him job in F.I.A. But after the lapse of 04/05 years you return only Rs. 295,000/= to him and Rs. 205,000/= is still payable at your side. You are hereby strictly directed to explain that being a low category government employee how could you provide such a job to the individual or either you have opened a bureau for jobless peoples. A Show Cause Notice had already been issued to you in this regard but you did not bother to submit your reply. This shows your inefficiency, lack of interest in the performance of official duty, thus the act amounts to gross misconduct and renders you liable for punishment, under Police Rules 1975.

Therefore, I, Sohail Khalid, 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 ex-parte action will be taken against you.

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

Dated 13/04 /2017


District Police Officer,
Charsadda



BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 182/2018

Kashif Akbar, Ex- Constable No. 1341, Police Lines CharsaddaAppellant

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. 182/2018

Kashif Akbar

Vs

Police Department

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

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1to 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 service record of the appellant is present with the respondents department.
- 2 It is correct that the the matter was patched up between the appellant and complainant by the elder of the locality and this regard the appellant submitted written stamp paper to the inquiry officer which was endorsed by the the complainant through his statement and the same was also endorsed by the inquiry officer and the departmental inquiry was also filed by the inquiry officer on the basis of above mentioned reason, but they appellant was dismissed from service on another complaint without conducting regular inquiry on that another complaint. It means that the allegation of another complaint was not proved by conducting regular inquiry on that another complaint and the appellant was punished without any guilt.
- 3 Admitted correct hence no comments.
- 4 Incorrect. Show cause notice was not issued to the appellant and the respondent department in its reply admitted that on the recommendation of the inquiry officer punishment order has not been passed against the appellant yet, when in mean while another person namely Jehangir Asad S/O Asad khan R/O Faqer Abad Charsadda has submitted his application against the appellant that he took Rs.110000/- from his him in which Rs.Rs.50000/- is still

payable at his side and rules, law and justice demand that on another complaint regular inquiry should be conducted on the issue by the respondents to dig out the reality, but the respondent department did not conduct inquiry on that complaint and dismissed the appellant from service on that complaint which is violation of law, rules and against the norms of justice and the impugned orders are liable to be set aside on this ground only. It is pertinent to mention here that after inquiry report submitted by the inquiry officer the salary of the appellant was also released by the competent authority which was stopped during the inquiry proceeding and after about the lapse of 5 months the impugned order of dismissal was passed by the respondent No.3.

- 5 Incorrect. The departmental appeal as well as revision was rejected without any solid grounds.
- 6 Incorrect the appeal of the appellant is liable to be accepted on the following grounds.

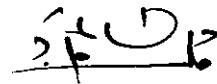
GROUND:

- A) Incorrect. The orders of respondents are not in accordance with law and fact, norms of justice and material on record therefore not tenable and liable to be set aside.
- B) Incorrect. The respondent department should conduct regular inquiry in another complaint to dig out the reality, but without conducting inquiry on that complaint, the appellant was dismissed from service which is violation of law, rules & Principle of natural justice.
- C) incorrect as justice demand that on another complaint against the appellant, regular inquiry should be conducted on the issue by the respondents to dig out the reality, but the respondent department did not conduct inquiry on that another complaint and dismissed the appellant from service on that complaint which is not permissible under the law and rules, therefore, the impugned orders are liable to be set aside on this ground only.
- D) Not replied according to Para-D of the appeal. moreover the Para-D of the appeal is correct.
- E) Incorrect the show cause notice was not communicated to the appellant before passing the major punishment of dismissal from service, which is violation of law and rules.
- F) Incorrect. matter has been patched up between them by the elder of the locality and in this regard he submitted written statement to the inquiry officer which was endorsed by the complaint through

his statement and due to that reason the inquiry officer also recommended minor punishment, and after lapse of about 5 months appellant was dismissed from service on another complaint without conducting regular inquiry on that another complaint, which is against the norm of justice and fair play.

- G) Incorrect while Para-G of the appeal is correct.
- H) Incorrect. The penalty of dismissal from service was imposed upon the appellant without conducting regular inquiry on another complaint which shows that the appellant was punished for no fault.
- I) Legal.

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



APPELLANT

Through:-



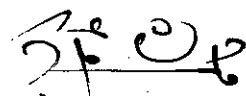
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

& 

(ASAD MAHMOOD)
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 and nothing has been concealed from Hon'able Tribunal.



DEPONENT

ATTESTED



15-8-28

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: 182/2018

Kashif Akbar

Vs

Police Department

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

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1to 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 service record of the appellant is present with the respondents department.
- 2 It is correct that the the matter was patched up between the appellant and complainant by the elder of the locality and this regard the appellant submitted written stamp paper to the inquiry officer which was endorsed by the the complainant through his statement and the same was also endorsed by the inquiry officer and the departmental inquiry was also filed by the inquiry officer on the basis of above mentioned reason, but they appellant was dismissed from service on another complaint without conducting regular inquiry on that another complaint. It means that the allegation of another complaint was not proved by conducting regular inquiry on that another complaint and the appellant was punished without any guilt.
- 3 Admitted correct hence no comments.
- 4 Incorrect. Show cause notice was not issued to the appellant and the respondent department in its reply admitted that on the recommendation of the inquiry officer punishment order has not been passed against the appellant yet, when in mean while another person namely Jehangir Asad S/O Asad khan R/O Faqer Abad Charsadda has submitted his application against the appellant that he took Rs.110000/- from his him in which Rs.Rs.50000/- is still

payable at his side and rules, law and justice demand that on another complaint regular inquiry should be conducted on the issue by the respondents to dig out the reality, but the respondent department did not conduct inquiry on that complaint and dismissed the appellant from service on that complaint which is violation of law, rules and against the norms justice and the impugned orders are liable to be set aside on this ground only. It is pertinent to mention here that the after inquiry report submitted by the inquiry officer the salary of the appellant was also released by the competent authority which was stopped during the inquiry proceeding and after about the lapse of 5 months the impugned order of dismissal was passed by the respondent No.3.

5 Incorrect. The departmental appeal as well as revision was rejected without any solid grounds.

6 Incorrect the appeal of the appellant is liable to be accepted on the following grounds.

GRUNDS:

- A) Incorrect. The orders of respondents are not accordance with law and fact, norms of justice and material on record therefore not tenable and liable to be set aside.
- B) Incorrect. The respondent department should conduct regular inquiry in another complaint to dig out the reality, but without conducting inquiry on that complaint, the appellant was dismissed from service which is violation of law, rules & Principle of natural justice.
- C) incorrect as justice demand that on another complaint against the appellant, regular inquiry should be conducted on the issue by the respondents to dig out the reality, but the respondent department did not conduct inquiry on that another complaint and dismissed the appellant from service on that complaint which is not permissible under the law and rules, therefore, the impugned orders are liable to be set aside on this ground only.
- D) Not replied according to Para-D of the appeal, moreover the Para-D of the appeal is correct.
- E) Incorrect the show cause notice was not communicated to the appellant before passing the major punishment of dismissal from service, which is violation of law and rules.
- F) Incorrect. matter has been patched up between them by the elder of the locality and in this regard he submitted written stamp paper to the inquiry officer which was endorsed by the complaint through

his statement and due to that reason the inquiry officer also recommended minor punishment, and after lapse of about 5 months appellant was dismissed from service on another complaint without conducting regular inquiry on that another complaint, which is against the norm of justice and fair play.

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2/10/20

APPELLANT

Through:-

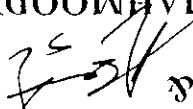


(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT

(ASAD MAHMOOD)

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 and nothing has been concealed from Hon'able Tribunal.

2/10/20

DEPONENT

Kashif Akbar Vs Police Department

REJOINER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

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FACTS:

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2 It is correct that the matter was patched up between the appellant and complainant by the elder of the locality and this regard the appellant submitted written stamp paper to the inquiry officer which was endorsed by the complainant through his statement and the same was also endorsed by the inquiry officer and the departmental inquiry was also filed by the inquiry officer on the basis of above mentioned reason, but they appellant was dismissed from service on another complaint without conducting regular inquiry on that another complaint. It means that the allegation of another complainant was not proved by conducting regular inquiry on that another complaint and the appellant was punished without any guilt.

3 Admitted correct hence no comments.

4 Incorrect. Show cause notice was not issued to the appellant and the respondent department in its reply admitted that on the recommendation of the inquiry officer punishment order has not been passed against the appellant yet, when in mean while another person namely Jehangir Asad S/O Asad Khan R/O Fager Abad Charasadda has submitted his application against the appellant that he took Rs.110000/- from his him in which Rs.50000/- is still

- payable at his side and justice demand that on another complaint regular inquiry should be conduct on the issue by the respondents to dig out the reality, but the respondent department did not conduct inquiry on that complaint and dismissed the appellant from service on that complaint which is violation of law, rules and against the norms justice and the impugned orders are liable to be set aside on this ground only. It is pertinent to mention here that the after inquiry report submitted by the inquiry officer the salary of the appellant was also released by the competent authority which was stopped during the inquiry proceeding and after about the lapse of 5 months the impugned order of dismissal was passed by the respondent No.3.
- 5) Incorrect. The departmental appeal as well as revision was rejected without any solid grounds.
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(I) Legal.

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

2/10/20

APPPELLANT



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

&
(ASAD MAHMOOD)
ADVOCATE HIGH COURT

Through:-

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'ble Tribunal.

2/10/20

DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 182/2018

Date of institution ... 07.02.2018

Date of judgment ... 09.10.2018

Kashif Akbar, Ex-Constable, No. 1341
Police Line Charsadda.

... (Appellant)

VERSUS

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

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER
DATED 15.01.2018 WHEREBY THE REVISION OF THE
APPELLANT UNDER POLICE RULES 1975 AMENDED IN
2014 AGAINST THE ORDER DATED 09.10.2017 OF THE RPO
MARDAN HAS BEEN REJECTED FOR NO GROUND
WHEREIN THE RPO MARDAN UPHELD THE ORDER
DATED 13.09.2017 OF THE DPO CHARSADDA.

Mr. Taimur Ali Khan, Advocate.

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel

for the appellant present. Mr. Muhammad Jan, Deputy District Attorney
alongwith Mr. Shah Jehan, ASI for the respondents present. Arguments heard
and record perused.

2. Brief facts of the case as per present service appeal are that the appellant
was serving in Police Department as Constable. He was dismissed from service

The inquiry officer / committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record statements its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer / inquiry committee.

Competent Authority.

Governor
Khyber Pakhtunkhwa

ATTESTED
[Signature]

Governer

[Signature]
7/12

vide impugned order dated 13.09.2017 by the competent authority on the allegation that he while posted at Police Lines Charsadda, on 07.03.2017 one Gohar Ayub son of Muhammad Ayub resident of Turangzai Charsadda submitted a written complaint to the District Police Officer Charsadda against the appellant wherein he stated that the appellant took Rs. 500,000/- from him in the year of 2012 for giving him job in F.I.A but after the lapse of 4/5 years the appellant return only 295,000/- to him and Rs. 205,000/- is still payable. The appellant filed departmental appeal which was rejected on 09.10.2017 thereafter, the appellant filed revision petition under Section-11-A of Police Rules, 1975 which was also rejected on 15.01.2018 hence, the present service appeal.

3 Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the appellant was dismissed from service on the aforesaid allegation of misconduct. It was further contended that the complainant Gohar Ayub ^{has pitched} pitched up the matter with the appellant. It was further contended that in this regard statement of the complainant has also been recorded by the inquiry officer. It was further contended that the inquiry officer has also recommended minor punishment of censure. It was further contended that the competent authority has also admitted in the impugned order dated 13.09.2017 that the inquiry officer has recommended the appellant for minor penalty of censure but in the meanwhile another person namely Jehangir Asad also submitted ~~his~~ application against the appellant that the appellant took Rs. 110000/- from him in which Rs. 50000/- is still payable. It was further contended that no departmental proceedings regarding the application submitted by the Jehangir Asad was initiated and the

C - (11)

To:

The Enquiry Committee.

1. Mr. Sikandar Qayyum ,
Secretary Finance Department, FATA Secretariat.
2. Mr. Shakeel Qadir Khan,
Secretary Law & Order, FATA Secretariat.

Subject:- REPLY TO THE CHARGE SHEET / STATEMENT OF ALLEGATIONS

Sir,

Kindly refer to the order No. PS/FS/FATA/1-7/Inq:File/2014 dated 21-10-2014, received by the undersigned on 21-10-2014 from the office of the Secretary AI&C, FATA Secretariat, Peshawar alongwith charge sheet & statement of allegations.

Before responding to the specific charges, the undersigned submits the following points for perusal / information and consideration of the Enquiry Committee:-

- (1) Previously the purchase of medicines for the Population Welfare Department were used to be made by the Health Department as this department of the FATA Secretariat was administratively attached to that department. After separation of this department from the Health Directorate of FATA, it was for the first time that the procurement of medicines for Population Welfare setup was made by the Population Welfare Directorate.
- (2) The involvement / participation in the entire procurement proceedings was very meagre as the undersigned in the capacity of Deputy Director, PWD was only a member of the Procurement Committee comprising of the following:-

i	Secretary Social Sector Department FATA	Chairman
ii	Representative of (Admn & Co-ord) Deptt:	Member
iii	Representative of Finance Deptt: FATA	Member
iv	Representative of P&D Deptt: FATA	Member
v	Deputy Director, PWD FATA (The undersigned)	Member
vi	Assistant Director (Med) PWD FATA	Member
vii	APWO (North Waziristan) Agency PWD FATA	Member
viii	APWD Bajaur PWD FATA	Member

Attested
by

patched up

complainant Gohar Ayub has *patched up* pitched the matter therefore, imposing of major penalty of dismissal from service upon the appellant is illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was charge sheeted on the aforesaid allegation. It was further contended that the inquiry officer has recorded the statement of appellant wherein he stated that he has *patched up* pitched the matter with the complainant Gohar Ayub due to intervention of the elder *of the* and locality and in this regard has also produced agreement regarding compromise, copy of the same is available on record. It was further contended that in the said agreement *deed* he has admitted that he had *deed* taken the amount from complainant Gohar Ayub *also* therefore, it was contended that the said agreement also bear the signature of the appellant and had not denied the *allegation levelled against him* same therefore, charge of taking amount from the complainant for providing job was proved against the appellant and the competent authority has rightly imposed major penalty of dismissal from service.

6. Perusal of the record reveals that the appellant was imposed major penalty of dismissal from service on the allegation of misconduct. That he has taken Rs. 500,000/- from complainant Gohar Ayub for giving him job in F.I.A but after a lapse of 4/5 years, he only return 295,000/- and Rs. 205,000/- *was* *is* still *was* pending. *outstanding against him* The record further reveals that the said allegation has never denied by

the appellant in reply to the charge sheet rather he has stated in his reply that he had *patched up* pitched the matter on 29.03.2017 with the complainant Gohar Ayub on the intervention of elder *of* the locality and has also submitted a compromise *deed* copy of the *same* *whom* is also available on record, *deed* therein he admitted that he has taken the amount from the complainant and Rs. 200,000/- *was* *is* still *outstanding* pending.

Charge	Reply
authority.	already notified as member/ secretary of the Population Welfare Program FATA purchase committees up to 1.5m and above 1.5 m (Annex-1X), was asked to be part of this purchase committee Therefore the charge of obtaining signature from Asstt: Director (Med) PWD Dr. Naila Wadood without lawful authority is contrary to facts. It is further submitted that instead of decreasing the member of technical members, a more relevant officer was included in the process. In case, her participation was anyway against any law or exigency of services, the Purchase Committee, or the chairman would have raised objection on it, which was not done by any. The charge is therefore unfounded and may be dropped.
(d) Failed to maintain proper store record as per instructions contained at Para 148, 149, 151&152 of GFR.	(d) The stock of medicines was properly supplied by the lowest bidder except two minor items but despite the repeated verbal and written advice to the concerned storekeeper namely Mr. Fakhle-Alam to take the received items on Stock Register as the same were properly examined counted and evaluated by the technical committee constituted for the purpose (Annex-X). The Storekeeper failed in doing the needful due to which he was suspended by the

Attested
[Signature]

against him ~~(A sum of Rs. 500,000/- and the remaining amount of Rs. 295,000/- will be paid in installment of Rs. 5000/- on monthly basis, the said agreement also bear the signature of the appellant and the complainant. Meaning thereby that the appellant has admitted the charge and it is a well settled law facts admitted need not to be proved. As such, the competent authority has rightly imposed major penalty of dismissal from service and the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.~~

ANNOUNCED
09.10.2018

(AHMAD HASSAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Charge	Reply
	<p>Competent Authority vide order No.SO(SSD)FS/5-1/2012-13/5253-60 dated 3/9/2012 (Annex- X1) for the same charge on the report of the undersigned. However, the responsibility was assigned to Mr. Muhammad Kamran, (Annex-X11) who consequently took the stock of medicine on stock register accordingly and as such no instructions contained in Rule-148 of GFR have been violated. As for Rule-149 is regarding issuance of stores which is not relevant in the case at this stage as no items of the procured medicines have so far been issued / distributed from the main stores and agency stores to the service delivery outlets. Rule-151&152 have also not been deviated from as the goods are safely stocked in the store and accounts thereof shall be properly maintained as and when the stage of issuance / distribution to the service delivery outlets comes.</p>
<p>(e) Received misbranded medicines in term of Drug Labeling packing Rule 1956 & Section 23(1) a iii Drug Act 1976.</p>	<p>(e) No misbranded or the unbranded medicines have been received in stock by the storekeeper.</p> <p>However, all the medicines received by the storekeeper were properly branded and contained proper branded name, proportionate ingredients and name/ address of the manufacturing pharmaceutical firms. However, some of</p>

Attested
G.